



OFFICIAL GAZETTE

REPUBLIC OF SEYCHELLES

Published by Authority of the Government

Vol. XLVI

Monday 20th December 2021

No. 98

TABLE OF CONTENTS

GENERAL NOTICES

Gazette Notices No. 970 of 2021 - 983 of 2021 are published by Order.

GAZETTE SUPPLEMENT

Gazette	Description	Price
98	Cybercrimes and other Related Crimes Act, 2021. (Act 59 of 2021)	112.00
	Licences (Amendment) Act, 2021. (Act 60 of 2021)	12.00
	Custody, Management and Disposal of Seized, Forfeited or Confiscated Properties Act, 2021. (Act 61 of 2021)	44.00
	Anti-Money Laundering and Countering the Financing of Terrorism (Second Amendment) Act, 2021. (Act 62 of 2021)	36.00
	The International Business Companies Act and Other Related Laws (Amendment) Act, 2021. (Act 63 of 2021)	48.00
	Prevention of Terrorism (Second Amendment) Act, 2021. (Act 64 of 2021)	24.00
	Supplementary Appropriation Act, 2021. (Act 65 of 2021)	8.00
	Appropriation Act, 2021. (Act 1 of 2022)	16.00
	Land Reclamation Authorisation, 2021. (S.I. 100 of 2021)	12.00

GENERAL NOTICES

No. 970 of 2021

ELECTIONS ACT

(Cap 262)

Pursuant to Section 8 of the Elections Act, Applications for registration of new voters, transfer of voters, and claims and objections, to be included in the revision of the last certified registers of voters for certification on 31st March 2022, shall be accepted up to 31st December 2021 only.

As of Tuesday 4th January 2022, applications for the above-mentioned, to be included in the revision of the registers of voters for certification in March 2023 will be accepted.

Qualified persons are invited to visit the existing Registration Centres to do the needful.

Dated this 16th day of December.

Mr. Wilfred Uranie
CHIEF REGISTRATION OFFICER
ELECTORAL COMMISSION SEYCHELLES

No. 971 of 2021

INTERNATIONAL BUSINESS COMPANIES ACT*(Act 15 of 2016)***Sections 272(1)(b)(ii) and 272(2)(b)**

Notice is hereby given in accordance with section 272(2)(b) of the International Business Companies Act, 2016 (the Act), that the following companies will be struck off the register at the expiration of 60 days from the date of this publication, pursuant to section 272(1)(b)(ii) of the Act.

<u>Company Name</u>	<u>IBC No.</u>
Betapoint Ltd.	84102
SORS Digital Limited	215972
CB Global Consulting Ltd.	200002
Bourges Holding Limited	198215
BLIFIET LIMITED	169785
RNT MacLaren S.A.	69013

Financial Services Authority

No. 972 of 2021

INTERNATIONAL BUSINESS COMPANIES ACT*(Act 15 of 2016)***Sections 272(1)(a)(i) and 272(2)(b)**

Notice is hereby given in accordance with section 272(2)(b) of the International Business Companies Act, 2016 (the Act), that **Hit Tech Solutions Development Ltd - IBC No. 205153** will be struck off the register at the expiration of 60 days from the date of this publication, pursuant to section 272(1)(b)(iii) of the Act.

Financial Services Authority

No. 973 of 2021

INTERNATIONAL BUSINESS COMPANIES ACT*(Act 15 of 2016)***Section 272(4)**

Notice is hereby given pursuant to Section 272(4) of the International Business Companies Act, 2016 that the following companies have been struck off the register with effect from **09th December, 2021**.

<u>Company Name</u>	<u>IBC No.</u>
Zephyr Group Holdings Limited	221854
the Best Colour Company Inc.	181100
Pengower Limited	202581
T24 LTD	217409
BPLAY Holdings Group Limited	224676
BAM International Group Holdings Limited	209669
Bundle Technology Holdings Limited	225706
FLAGSHIP GENERAL TRADING LTD	215698
DOMINION GENERAL TRADING LTD	215697
PRINCE SHIPPING TRADING LTD	215699
Arcani Holdings Ltd	147367
GOODALL GROUP LTD.	93477
Peters Financial Investments Corporation	212553

Rochdale Management Ltd	146994
ESCADO EXPRESS LTD.	95394
G-WHT International Company Limited	178150
Axio Inc.	212891
Metatron Technology Corp	204107
K-AKY LTD	191514
Chambersfield International Inc.	174052
Jardines Corporation	149119
MANAGEMENT LINK INC.	118608
FIRST NATIONAL INVESTMENT LIMITED	8870
Univest Wealth Management Ltd.	134858
B Play Holdings Ltd	219442

Financial Services Authority

No. 974 of 2021

INTERNATIONAL BUSINESS COMPANIES ACT

(Act 15 of 2016)

Sections 297(3)(a) and 297(5)

Notice is hereby given pursuant to Section 297(5) of the International Business Companies Act, 2016 (the Act) that the following companies have been struck off the register owing to dissolution, with effect from **07th December, 2021** in accordance with Section 297(3)(a) of the Act.

<u>Company Name</u>	<u>IBC No.</u>
MODERN KIND LIMITED	227713
Hugiga International Co., Ltd.	117282
Flamant Ltd.	227617
Bloomfield Services Inc.	31339

Financial Services Authority

No. 975 of 2021

INTERNATIONAL BUSINESS COMPANIES ACT

(Act 15 of 2016)

Sections 297(3)(a) and 297(5)

Notice is hereby given pursuant to Section 297(5) of the International Business Companies Act, 2016 (the Act) that the following companies have been struck off the register owing to dissolution, with effect from **09th December, 2021** in accordance with Section 297(3)(a) of the Act.

<u>Company Name</u>	<u>IBC No.</u>
SENIPA HOLDINGS LTD	167440
Inspro Group Holdings Company Limited	217851
SJ Management Ltd.	139085
AMPLE SOURCE LIMITED 滿源有限公司	70177
DAWN SAIL VENTURES LIMITED 旭帆創投有限公司	153977

Financial Services Authority

No. 976 of 2021

LAND RECLAMATION NOTICE

Ms. Jennifer Ding acting on her own behalf has applied for authority, under **Section 2** of Land Reclamation Act to fill in and reclaim an area of the foreshore of approximately **561** square meters at **Anse Aux Pins**, (adjacent to the Parcel S2455 & S751).

The proposed area to be reclaimed is bounded on the **Northern, Eastern** and **Southern** Side by Sea, and **Western** side by Parcels S2455 & S751.

The area to be reclaimed is demarcated as follows:

POINT NAME	EASTINGS	NORTHINGS
1	336836.83	9481864.85
2	336845.07	9481886.69
3	336852.23	9481909.79
(F)	336838.83	9418916.14
W2	336834.68	9481888.08
W3	336826.88	9481870.22

All distances are approximate.

The plan of the area to be filled in and reclaimed deposited with this application, may be inspected at the Seychelles Planning Authority's Office at Independence House.

Any person having any objections to the proposed reclamation on any grounds specified in paragraph 5 of the 1st Schedule of the Act may lodge his or her objection in writing to the Chief Executive Officer Planning Authority at the Planning Authority's Office, Independence House no later than 14 days from date of the first publication of this notice.

Govin Pillay (Mr.)
Senior Engineer
FOR: CHIEF EXECUTIVE OFFICER

No. 977 of 2021

LAND RECLAMATION NOTICE

Ms. Irene Gendron acting on her own behalf has applied for authority, under **Section 2** of Land Reclamation Act to fill in and reclaim an area of the foreshore of approximately **370** square meters at **Anse Etoile**, (adjacent to the Parcel H1267).

The proposed area to be reclaimed is bounded on the **Eastern** and **Southern** Side by Sea, **Northern** Side by Parcel H13627 and **Western** side by Parcel H1267.

The area to be reclaimed is demarcated as follows:

POINT NAME	EASTINGS	NORTHINGS
LL16	328863.83	9492308.09
B	328870.89	9492307.55
C1	328867.20	9492291.72
C	328842.33	9492290.77
X	328850.50	9492307.38

All distances are approximate.

The plan of the area to be filled in and reclaimed deposited with this application, may be inspected at the Seychelles Planning Authority's Office at Independence House.

Any person having any objections to the proposed reclamation on any grounds specified in paragraph 5 of the 1st Schedule of the Act may lodge his or her objection in writing to the Chief

Executive Officer Planning Authority at the Planning Authority's Office, Independence House
no later than 14 days from date of the first publication of this notice.

Govin Pillay (Mr.)
Senior Engineer
FOR: CHIEF EXECUTIVE OFFICER

No. 978 of 2021

CHANGE OF NAME

Notice is hereby given that I have applied to the Chief Officer of the Civil Status to change my son's name from Noah Yazid Rene Hertel to Noah Rene Alphonse agreeable with sections 94-99 of Cap. 34. Any person interested may oppose such application by filing a protest in writing setting forth his/her grounds of objections.

Ms. Sapphira Alphonse
Quinssy Apartments
English River
Mahe

No. 979 of 2021

CHANGE OF NAME

Notice is hereby given that I have applied to the Chief Officer of the Civil Status to change my name from Diana Rajalakshmi Chetty to Dayana Rajalakshmi agreeable with sections 94-99 of Cap. 34. Any person interested may oppose such application by filing a protest in writing setting forth his/her grounds of objections.

Ms. Diana Rajalakshmi Chetty
Petite Parie
Cascade
Mahe

No. 980 of 2021

CHANGE OF NAME

Notice is hereby given that I have applied to the Chief Officer of the Civil Status to change my son's name from Jaheem Mosiah Marverick Mousbe to Jaheem Mosiah Marverick Freminot agreeable with sections 94-99 of Cap. 34. Any person interested may oppose such application by filing a protest in writing setting forth his/her grounds of objections.

Ms. Petrina Rockfeline Mousbe
Baie Lazare
Mahe
Seychelles

No. 981 of 2021

CHANGE OF NAME

Notice is hereby given that I have applied to the Chief Officer of the Civil Status to change my name from Alisene Bertha Rousseau to Alison Bertha Rousseau agreeable with sections 94-99 of Cap. 34. Any person interested may oppose such application by filing a protest in writing setting forth his/her grounds of objections.

Ms. Alison Rousseau
Bel Ombre
Mahe
Seychelles

No. 982 of 2021

CHANGE OF NAME

Notice is hereby given that I have applied to the Chief Officer of the Civil Status to change my name from Sheena Cheryl Sonia Saldanha to Sheena Cheryl Sonia Saldanha-Camille agreeable with sections 94-99 of Cap. 34. Any person interested may oppose such application by filing a protest in writing setting forth his/her grounds of objections.

Ms. Sheena Saldana
Apartment GA907
Perseverance condominiums
Mahe

No. 983 of 2021

CHANGE OF NAME

Notice is hereby given that I have applied to the Chief Officer of the Civil Status to change my daughter's name from Jaazielle Mary-Jona Barra to Jaazielle Mary-Jona Radegonde agreeable with sections 94-99 of Cap. 34. Any person interested may oppose such application by filing a protest in writing setting forth his/her grounds of objections.

Ms. Marie-Jona Radegonde
Fisherman's Cove Estate
Bel Ombre
Mahe
Seychelles

CYBERCRIMES AND OTHER RELATED CRIMES ACT, 2021*(Act 59 of 2021)***ARRANGEMENT OF SECTIONS****PART I - PRELIMINARY****SECTIONS**

1. Short title and commencement
2. Interpretation
3. Application of the Act

PART II - OFFENCES

4. Unauthorised access to computer system
5. Access with criminal intent
6. Unauthorised interception
7. Unauthorised interference with computer data
8. Unauthorised interference of computer system operation
9. Unlawful possession of illegal devices
10. Electronic fraud
11. Computer system related forgery
12. Unauthorised disclosure of access credentials
13. Cyber extortion
14. Cyber harassment
15. Cyber stalking
16. Offensive electronic communications
17. Pornographic or obscene material
18. Pornographic publication
19. Unlawful disclosure by electronic service provider

PART III - INVESTIGATIONS AND PROCEDURES

20. Preservation Order
21. Disclosure of preserved computer data
22. Production Order
23. Power to access, search and seizure for the purpose of investigation
24. Real time collection of traffic data
25. Deletion Order
26. Limited use of disclosed computer data and information

PART IV - MISCELLANEOUS

27. Punishment for non compliance of an order section 20, 21, 22 or 25 or contravention of section 26
28. Jurisdiction
29. Extradition
30. Forfeiture
31. Spontaneous information
32. Expedited preservation of stored computer data
33. Expeditious disclosure of preserved traffic data
34. Mutual assistance regarding accessing of stored computer data
35. Trans-border access to stored computer data with consent or where publicly available
36. Mutual assistance in real time collection of traffic data
37. Mutual Assistance regarding the interception of content computer data
38. Networking
39. Obligation to monitor transmitted or stored computer data
40. Criminal liability for providing access and transmitting information
41. Criminal liability for storing at the request of user
42. Application of certain provisions of the Penal Code
43. Regulations
44. Repeal of Cap 254
45. Savings provisions



CYBERCRIMES AND OTHER RELATED CRIMES ACT

(Act 59 of 2021)



I assent

A handwritten signature in black ink, appearing to read "Wavel".

Wavel Ramkalawan
President

15th December, 2021

AN ACT TO COMBAT CRIMINAL ACTIVITIES PERPETRATED USING COMPUTER SYSTEMS AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

ENACTED by the President and the National Assembly.

PART I - PRELIMINARY

Short title and commencement

1. This Act may be cited as the Cybercrimes and other Related Crimes Act, 2021 and shall come into operation on such date as the Minister may, by Notice in the Gazette, appoint.

Interpretation

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

“access” in relation to a computer system means to instruct, communicate with, store data in, retrieve data from or otherwise make use of any of the resources of a computer system;

“computer data” means any representation of facts, information or concepts in a form suitable for processing in a computer system, including a program suitable to cause a computer system to perform a function;

“computer system” means any computer data processing device or a group of such interconnected or related devices one or more of which pursuant to a program performs automatic processing of computer data performing logical arithmetic or storage functions and —

(a) includes any computer data storage facility or communications facility directly related to or operating in conjunction with such device or group of such interconnected or related devices, whether available in a single or distributed or decentralised form;

(b) any reference in this Act to any program or computer data held in a computer system includes a reference to any program or computer data held in any removable storage medium which is for the time being in the computer system; and a computer system is to be regarded as containing any program or computer data held in any such medium;

“Convention” means the Budapest Convention on Cybercrime adopted by the Committee of Ministers of the Council of Europe and entered into force on 1st July 2004;

“electronic service provider” means any public or private entity that provides to users of its service the ability to communicate by means of a computer system, and any other entity that processes or

stores computer data on behalf of such communication service or users of such service;

“investigatory authority” means the Police Force of Seychelles or any other body empowered to investigate any offence;

“function” includes logic, control, arithmetic, deletion, storage and retrieval and communication or telecommunication to, from or within a computer system;

“message” means a verbal, written, recorded, drawn or picture communication sent to or left for a recipient;

“Minister” means the Minister responsible for internal Affairs;

“seize” includes —

- (a) make and retain a copy of computer data, including by using on-site equipment; and
- (b) render inaccessible, or remove, computer data in the accessed computer system; and
- (c) take a printout of output of computer data;

“traffic data” means any computer data relating to a communication by means of a computer system, generated by a computer system that formed a part in the chain of communication, indicating the communication's origin, destination, route, time, date, size, duration, or type of underlying service.

Application of the Act

3. This Act applies to an act —

- (a) that occurs wholly or partly in the territory of Seychelles;
- (b) that occurs wholly or partly on a ship flying the flag of Seychelles;

- (c) that occurs wholly or partly on board an aircraft registered under the laws of Seychelles; and
- (d) directly or indirectly connected to, or affecting, a person, computer system or event within Seychelles.

PART II - OFFENCES

Unauthorised access to computer system

4.(1) A person who causes a computer system to perform a function with the intent to secure unauthorised access to any computer data held in a computer system, commits an offence and shall, on conviction, be liable to a fine of level 4 on the standard scale or to imprisonment for a term not exceeding 5 years or to both.

(2) For the purpose of subsection (1) —

- (a) access by a person to a computer system is unauthorised, where the person —
 - (i) is not entitled to control access of the kind in question; and
 - (ii) does not have consent to access of the kind in question from any person who is so entitled.
- (b) for the purposes of this section, it is immaterial that the unauthorised access is not directed at —
 - (i) any particular program or computer data;
 - (ii) a program or computer data of any kind; or
 - (iii) a program or computer data held in any particular computer system.

Access with criminal intent

5.(1) A person who causes a computer system to perform any function for the purpose of securing access to any computer data held in any computer

system, with criminal intent, commits an offence and shall, on conviction, be liable to a fine of level 5 on the standard scale or to imprisonment for a term not exceeding 20 years or to both.

- (2) For the purpose of subsection (1) —
- (a) the access referred to in subsection (1) is authorised or unauthorised;
 - (b) the further offence to which this section applies is committed at the same time when the access is secured or at any other time.

Unauthorised interception

- 6.(1) A person who —
- (a) intentionally intercepts or causes to be intercepted any function or non-public transmission to, from or within, a computer system and —
 - (i) does so by technical means; and
 - (ii) does not have authority to intercept the function or transmission or to cause the interception;
 - (b) intentionally uses or causes to be used, directly or indirectly, a computer system for the purpose of committing an offence,

commits an offence and shall, on conviction, be liable to a fine of level 4 on the standard scale or to imprisonment for a term not exceeding 5 years or both.

(2) For the purposes of subsection (1), intercepting includes listening to or viewing, by use of technical means, or recording, a function of a computer system or acquiring the substance, meaning or purport of any such function.

Unauthorised interference with computer data

7.(1) A person who, without authority, intentionally does any of the following acts —

- (a) destroys or alters computer data;
- (b) renders computer data meaningless, useless, inaccessible, ineffective, unreliable, impaired;
- (c) obstructs, interrupts or interferes with the lawful use of computer data;
- (d) obstructs, interrupts or interferes with any person in the lawful use of computer data;
- (e) denies access to computer data to any person entitled to it; or
- (f) accesses or intercepts any computer data without authority,

commits an offence and shall, on conviction, be liable to a fine of level 5 on the standard scale or to imprisonment for a term not exceeding 20 years or to both.

Unauthorised interference of computer system operation

8.(1) A person who intentionally, whether directly or indirectly, and without authority —

- (a) interferes with, or interrupts or obstructs the use of, a computer system; or
- (b) impedes or prevents access to, or impairs the usefulness or effectiveness of, any computer data in a computer system,

commits an offence and shall, on conviction, be liable to a fine of level 5 on the standard scale or to imprisonment for a term not exceeding 20 years or to both.

(2) For the purposes of subsection (1), interference, interruption, obstruction or impudence in relation to a computer system, includes —

- (a) cutting the electricity supply to a computer system;
- (b) corrupting a computer system by any means; and
- (c) inputting, deleting or altering computer data.

Unlawful possession of illegal devices

9. A person who —
- (a) intentionally, without justification, produces, sells, procures for use, imports, exports, distributes or otherwise makes available —
 - (i) a device, including computer data, that is designed or adapted for the purpose of committing an offence against section 6, 7, or 8; or
 - (ii) a computer system password, access code or similar computer data by which the whole or any part of a computer system is capable of being accessed;
 - (b) has any item mentioned in subparagraph (i) or (ii) of paragraph (a) in his or her possession with the intent that it be used by any person for the purpose of committing an offence against section 6, 7, or 8,

commits an offence and shall, on conviction, be liable to a fine of level 4 on the standard scale or to imprisonment for a term not exceeding 5 years or to both.

Electronic fraud

10. A person who intentionally and without right causes loss of property to another person by —

- (a) any input, alteration, deletion or suppression of computer data; or
- (b) any interference with the functioning of a computer system, with intent to procure for himself or herself or another person, an advantage or economic benefit,

commits an offence and shall, on conviction, be liable to a fine of level 4 on the standard scale or to imprisonment for a term not exceeding 10 years or to both.

Computer system related forgery

11. A person who causes loss of property to another person by any input, alteration, deletion or suppression of computer data resulting in inauthentic computer data with the intent to be considered or acted upon for legal purposes as if it were authentic, regardless whether or not the computer data is directly readable and intelligible, commits an offence and shall, on conviction, be liable to a fine of level 5 on the standard scale or to imprisonment for a term not exceeding 20 years or to both.

Unauthorised disclosure of access credentials

12. A person who, without lawful excuse or justification, discloses, sells, procures for use, distributes or otherwise makes available, any password, access code or other means of gaining access to a computer system or computer data —

- (a) for wrongful gain;
- (b) for any unlawful purpose;
- (c) to overcome security measures for the protection of computer data; or
- (d) with the knowledge that it is likely to cause prejudice to any person,

commits an offence and shall, on conviction, be liable to a fine of level 4 on the standard scale or to imprisonment for a term not exceeding 5 years, or to both.

Cyber extortion

13. A person who performs or threatens to perform any of the acts described under this Part, for the purposes of obtaining any unlawful advantage, by —

- (a) undertaking to cease or desist from such actions; or
- (b) undertaking to restore any damage caused as a result of those actions,

commits an offence and shall be liable, on conviction, to a fine of level 4 on the standard scale or to imprisonment for a term not exceeding 5 years or to both.

Cyber harassment

14. A person who uses a computer system or who knowingly permits a device to be used for any of the following purposes —

- (a) making any request, suggestion or proposal which is obscene, lewd, lascivious or indecent; or
- (b) threatening to inflict injury or physical harm to the person or property of any person; or
- (c) sending, delivering or showing a message, visual or otherwise, which is abusive, obscene, indecent, threatening, false or misleading, causing annoyance, inconvenience or is likely to cause distress or needless anxiety to any person,

commits an offence and shall, on conviction, be liable to a fine of level 4 on the standard scale or to imprisonment for a term not exceeding 5 years, or to both.

Cyber stalking

15. A person who willfully, maliciously or repeatedly uses electronic communication to harass another person, or makes a threat with the intent to place that person in reasonable fear for his or her safety or for the safety of his or her immediate family, commits an offence and shall, on conviction, be liable to a fine of level 4 on the standard scale or to imprisonment for a term not exceeding 5 years, or to both.

Offensive electronic communications

16. A person who wilfully, maliciously or repeatedly uses electronic communication of an offensive nature to disturb or attempt to disturb the peace, quiet or privacy of any person with no purpose to legitimate communication, whether or not a conversation ensues, commits an offence and shall, on conviction, be liable to a fine of level 4 on the standard scale or to imprisonment for a term not exceeding 5 years, or to both.

Pornographic or obscene material

17.(1) In this section —

-
- (a) “child” means a person who is under the age of 18 years;
 - (b) “child pornography” includes material that visually or otherwise depicts —
 - (i) a child engaged in sexually explicit conduct;
 - (ii) a person who appears to be a child engaged in sexually explicit conduct; or
 - (iii) realistic images representing a child engaged in sexually explicit conduct; and
 - (c) “sexually explicit conduct” means any conduct, whether real or simulated, which involves —
 - (i) sexual intercourse, including genital-genital, oral-genital, anal-genital or oral-anal, between children, or between an adult and a child, of the same or opposite sex,
 - (ii) bestiality,
 - (iii) masturbation,
 - (iv) sadistic or masochistic sexual abuse, or
 - (v) the exhibition of the genitals or pubic area of a child.
- (2) A person who —
- (a) publishes child pornography or obscene material relating to children through a computer system;
 - (b) produces child pornography or obscene material relating to children for the purpose of its publication through a computer system;
 - (c) possesses child pornography or obscene material relating to children in a computer system or on a computer data storage medium;

- (d) publishes or causes to be published an advertisement likely to be understood as conveying that the advertiser distributes or shows child pornography or obscene material relating to children; or
- (e) accesses child pornography or obscene material relating to children through a computer system,

commits an offence and shall, on conviction, be liable to a fine of level 4 on the standard scale or to imprisonment for a term not exceeding 5 years, or to both.

(3) A person who, by means of a computer system, communicates with a person who is, or who the accused believes is —

- (a) under the age of 18 years, for the purpose of facilitating the commission of the offence of child pornography under this Act, or the offences of prostitution, rape or indecent assault under the Penal Code;
- (b) under the age of 16 years, for the purpose of facilitating the commission of the offences of abduction or kidnapping of that person under the Penal Code; or
- (c) under the age of 16 years, for the purpose of facilitating the commission of any sexual offence with that person under the Penal Code,

commits an offence and shall, on conviction, be liable to a fine of level 4 on the standard scale or to imprisonment for a term not exceeding 5 years, or to both.

(4) Evidence that the person in subsection (3)(a), (b) or (c) was represented to the accused as being under the age of 18 years or 16 years, as the case may be, shall be, in absence of evidence to the contrary, proof that the accused believed that the person was under that age.

(5) It shall not be a defence to a charge under subsection (3) that the accused believed that the person he or she was communicating with was at least 16 or 18 years of age, as the case may be, unless the accused took reasonable steps to ascertain the age of the person.

(6) For the purposes of subsection (3), it does not matter that the person in subsection (3)(a), (b) or (c) is a fictitious person, represented to the accused as a real person.

Pornographic publication

18. A person who, by means of a computer system, discloses or publishes a private sexual photograph or film without the consent of the person who appears in the photograph or film commits an offence and shall, on conviction, be liable to a fine of level 4 on the standard scale or to imprisonment for a term not exceeding 5 years, or to both.

Unlawful disclosure by electronic service provider

19. An electronic service provider who, without lawful authority, discloses —

- (a) that an order under this Act has been made;
- (b) any act done under an order; or
- (c) any computer data collected or recorded under an order,

commits an offence and shall, on conviction, be liable to a fine of level 4 on the standard scale or to imprisonment for a term not exceeding 5 years, or to both.

PART III - INVESTIGATIONS AND PROCEDURES

Preservation Order

20.(1) An investigatory authority may order the expeditious preservation of computer data that has been stored by means of a computer system or any other information and communication technologies, where there are reasonable grounds to believe that such computer data is vulnerable to loss or modification.

(2) For the purposes of subsection (1), computer data includes traffic data.

(3) An order made under subsection (1) shall remain in force for a period not exceeding 90 days.

(4) Where the computer data is required to be preserved beyond 90 days, the investigatory authority shall make an application to the Court and the Court may make such order for preservation of the computer data as it may deem fit.

(5) The powers and procedures for the purposes of subsections (1), (2) and (3) shall apply to all offences under this Act.

Disclosure of preserved computer data

21.(1) The investigatory authority may, for the purposes of an investigation or the prosecution of an offence, order the disclosure of —

- (a) all preserved traffic computer data, irrespective of whether one or more electronic service providers were involved in the transmission of such computer data;
- (b) sufficient traffic computer data to identify the electronic service providers and the path through which the computer data was transmitted.

(2) The powers and procedures for the purposes of subsection (1) apply to all offences under this Act.

Production Order

22.(1) Where the disclosure of computer data is required for the purposes of an investigation or the prosecution of an offence, an investigatory authority may apply to the court for a Production Order compelling —

- (a) any person to submit specified computer data in that person's possession or control, which is stored in a computer system or computer data storage medium;
- (b) any electronic service provider offering its services to submit subscriber information in relation to such services in that electronic service provider's possession or control.

(2) Where any material to which an investigation relates consists of computer data stored in a computer system, disc, cassette, or on microfilm, or

preserved by any mechanical or electronic device, the request shall be deemed to require the person to produce or give access to it in a form in which it can be taken away and in which it is visible and legible.

Powers of access, search and seizure for purposes of investigation

23.(1) Where an investigatory authority has reasonable grounds to believe that stored computer data would be relevant for the purposes of an investigation or the prosecution of an offence, it may apply to the court for the issue of a warrant to search, access or secure computer data.

(2) To secure computer data under subsection (1), the powers of the investigatory authority shall include the power to —

- (a) search, seize or secure a computer system or any information and communication technologies medium;
- (b) make and retain a copy of such computer data or information;
- (c) maintain the integrity of the relevant stored computer data or information; or
- (d) render inaccessible or remove the stored computer data or information from the computer system, or any information and communication technologies medium.

Real time collection of traffic data

24. Where the investigatory authority has reasonable grounds to believe that any computer data would be relevant for the purposes of an investigation or the prosecution of an offence, it may apply to the court for an order —

- (a) allowing the collection or recording of traffic data, in real time, associated with specified communications transmitted by means of any computer system; or
- (b) compelling an electronic service provider, within its technical capabilities, to effect such collection and recording referred to in paragraph (a), or assist the investigatory authority to effect such collection and recording.

Deletion Order

25.(1) The court may, upon application by an investigatory authority, and being satisfied that a computer system or any other information and communication technologies medium contains indecent material of a child, order that such computer data be —

- (a) no longer stored on and made available through the computer system or any other medium; or
 - (b) deleted or destroyed.
- (2) For the purposes of this section, “indecent material” means —
- (a) any indecent or obscene writing, photograph, sketch, drawing or picture whether partly or wholly generated by computer;
 - (b) any indecent or obscene printed matter, print, painting, poster drawing, model or cinematographic film or video film, cassette or disc; or
 - (c) any other indecent or obscene object.

Limited use of disclosed computer data and information

26. No information on computer data under sections 21 to 24 shall be used for any purpose other than that for which the computer data was originally sought, except —

- (a) in accordance with any other written law;
- (b) in compliance with an order of court;
- (c) where such computer data is required for the purpose of preventing, detecting or investigating offences, apprehending or prosecuting offenders, assessing or collecting tax, duties or other monies owed or payable to the Government; or
- (d) for the prevention of injury or other damage to the health of a person or serious loss of or damage to property.

PART IV - MISCELLANEOUS

Punishment for non compliance of an order section 20, 21, 22 or 25 or contravention of section 26

27. A person who —

- (a) fails to comply with a preservation order under section 20 or an order for the disclosure under section 21, a protection order under section 22; or a deletion order under section 25; or
- (b) uses any computer data in contravention of section 26,

commits an offence and shall, on conviction, be liable to a fine of level 4 on the standard scale or to imprisonment for a term not exceeding 5 years, or to both.

Jurisdiction

28.(1) Notwithstanding any other written law, the Supreme Court shall have jurisdiction to try an offence under this Act or any regulations made thereunder and may, on conviction, impose any penalty or forfeiture provided for under this Act.

(2) The Supreme Court shall have jurisdiction where the act constituting an offence under this Act has been, wholly or partly, committed outside Seychelles —

- (a) on board a Seychelles ship; or
- (b) on board an aircraft registered in Seychelles.

Extradition

29. Any offence under this Act may, with the consent of the Attorney General, be an extraditable crime for which extradition may be granted or obtained under the Extradition Act (*Cap 78*).

Forfeiture

30. A court before which a person is convicted of an offence may, in addition to any other penalty imposed, order the forfeiture of any apparatus,

article or thing which is the subject matter of the offence or is used in connection with the commission of the offence.

Spontaneous information

31.(1) An authority may, without prior request, forward to the investigatory authority information obtained within the framework of its own investigation when it considers that the disclosure of such information might assist in initiating or carrying out investigations or proceedings concerning criminal offences established in accordance with this Act.

(2) Prior to the disclosure of computer data under subsection (1) —

- (a) the authority may request the investigatory authority to maintain the confidentiality of the information provided; and
- (b) where the investigatory authority cannot comply with such request, it shall notify the authority, which may then determine whether the information should nevertheless be provided.

(3) For the purposes of this section, “authority” means any public body, agency, organ or department established by law.

Expedited preservation of stored computer data

32.(1) An investigatory authority may order the expeditious preservation of computer data that has been stored by means of a computer system located within or outside its territory where a mutual assistance request has been obtained from another investigatory authority for the search or similar access, seizure or similar securing, or disclosure of the computer data.

(2) A request for preservation made under subsection (1) shall specify —

- (a) the investigatory authority seeking the preservation;
- (b) the offence that is the subject of an investigation or prosecution and a brief summary of the related facts;

- (c) the stored computer data to be preserved and its relationship to the offence;
- (d) any available information identifying the custodian of the stored computer data or the location of the computer system;
- (e) the necessity of the preservation; and
- (f) that the investigatory authority intends to submit a request for mutual assistance for the search or similar access, seizure or similar securing, or disclosure of the stored computer data.

(3) Upon receiving the request from another investigatory authority, the requested authority shall take all appropriate measures to preserve expeditiously the specified computer data in accordance with its domestic law.

(4) For the purposes of responding to a request under this section, dual criminality shall not be required as a condition for providing such preservation.

(5) An investigatory authority that requires dual criminality as a condition for responding to a request for mutual assistance for the search or similar access, seizure or similar securing, or disclosure of stored computer data may, in respect of offences, reserve the right to refuse the request for preservation under this Act in cases where it has reasons to believe that at the time of disclosure the condition of dual criminality cannot be fulfilled.

(6) A request for preservation may be refused where —

- (a) the compliance with the request would be contrary to the Constitution;
- (b) it is of prejudice to the sovereignty, international relations, security, public order, or other public interest of Seychelles;
- (c) there is reasonable belief that the request for assistance has been made for the purpose of prosecuting a person on account of that person's race, sex, religion, nationality, ethnic origin or political opinions, or that a person's position may be prejudiced for any of those reasons;

- (d) in the absence of dual criminality, the granting the request would require a court in Seychelles to make an order in respect of any person or property, for conduct which does not constitute an offence, nor gives rise to a confiscation or restraining order, in Seychelles;
- (e) the request relates to an offence under military law, or a law relating to military obligations, which would not be an offence under ordinary criminal law;
- (f) the request relates to a political offence or an offence of a political character;
- (g) the request relates to an offence, the prosecution of which, in the foreign State, would be incompatible with laws of Seychelles on double jeopardy;
- (h) the request requires Seychelles to carry out measures that are inconsistent with its laws and practice, or that cannot be taken in respect of criminal matters arising in Seychelles; or granting the request in whole or in part would be likely to prejudice the conduct of proceedings in Seychelles.

(7) Any preservation effected in response to the request referred to in subsection (1) shall be for a period of not less than sixty days, in order to enable the requesting party to submit a request for the search or similar access, seizure or similar securing, or disclosure of the computer data, and following the receipt of such request, the computer data shall continue to be preserved pending a decision on that request.

Expeditious disclosure of preserved traffic data

33.(1) Where, in the course of the execution of a request made to subject to Article 29 of the Convention to preserve traffic data concerning a specific communication, the requested investigatory authority discovers that an electronic service provider in another State was involved in the transmission of the communication, the requested investigatory authority shall expeditiously disclose to the requesting investigatory authority a sufficient amount of traffic data to identify that electronic service provider and the path through which the communication was transmitted.

- (2) The disclosure of traffic data under subsection (1) may be withheld where —
- (a) the compliance with the request would be contrary to the Constitution;
 - (b) it is of prejudice to the sovereignty, international relations, security, public order, or other public interest of Seychelles;
 - (c) in the reasonable belief that the request for assistance has been made for the purpose of prosecuting a person on account of that person's race, sex, religion, nationality, ethnic origin or political opinions, or that a person's position may be prejudiced for any of those reasons;
 - (d) in the absence of dual, criminality, accepting the request would require a court in Seychelles to make an order in respect of any person or property in respect of conduct which does not constitute an offence, nor gives rise to a confiscation or restraining order, in Seychelles;
 - (e) the request relates to an offence under military law, or a law relating to military obligations, which would not be an offence under ordinary criminal law;
 - (f) the request relates to a political offence or an offence of a political character;
 - (g) the request relates to an offence, the prosecution of which, in the foreign State, would be incompatible with laws of Seychelles on double jeopardy;
 - (h) the request requires Seychelles to carry out measures that are inconsistent with its laws and practice, or that cannot be taken in respect of criminal matters arising in Seychelles; or granting the request in whole or in part, on the ground that granting the request immediately would be likely to prejudice the conduct of proceedings in Seychelles.

Mutual assistance regarding accessing of stored computer data

34.(1) An investigatory authority may request another investigative authority to search or similarly access, seize or similarly secure, and disclose computer data stored by means of a computer system located within the territory of the requested Party, including computer data that has been preserved subject to Article 29 of the Convention.

(2) The requested investigatory authority may respond to the request through the application of international instruments, arrangements and laws subject to Article 23 of the Convention, and in accordance with other relevant provisions of this Act.

- (3) The request shall be responded to on an expedited basis where —
- (a) there are grounds to believe that relevant computer data is particularly vulnerable to loss or modification; or
 - (b) the instruments, arrangements and laws referred to in subsection (2) otherwise provide for expedited co-operation.

Trans-border access to stored computer data with consent or where publicly available

35. An investigatory authority may, without the authorisation of another authority —

- (a) access publicly available open source stored computer data, regardless of where the computer data is located geographically; or
- (b) access or receive, through a computer system in its territory, stored computer data located in another authority, where the investigation authority obtains the lawful and voluntary consent of the person who has the lawful authority to disclose the computer data to the investigation authority through that computer system.

Mutual assistance in the real-time collection of traffic data

36.(1) The investigatory authorities shall provide mutual assistance to each other in the real-time collection of traffic data associated with specified

communications in their territory transmitted by means of a computer system, subject to the provisions of subsection (2), this assistance shall be governed by the conditions and procedures provided for under the laws of Seychelles.

(2) The assistance under subsection (1) shall be governed by the conditions and procedures provided for under the laws of Seychelles.

(3) Each investigatory authority shall provide such assistance at least with respect to offences for which real-time collection of traffic data would be available in a similar domestic case.

Mutual assistance regarding the interception of content computer data

37. The investigatory authority shall provide mutual assistance to each other in the real-time collection or recording of content computer data of specified communications transmitted by means of a computer system to the extent permitted under their applicable treaties and the laws of Seychelles.

Networking

38.(1) A point of contact shall be established on a twenty-four hour, seven-day-a-week basis, in order to ensure the provision of immediate assistance for the purpose of investigations or proceedings concerning criminal offences related to computer systems and computer data, or for the collection of evidence in electronic form of a criminal offence and such assistance shall include facilitating, or, if permitted by its domestic law and practice, directly carrying out the measures for —

- (a) the provision of technical advice;
- (b) the preservation of computer data pursuant to Articles 29 and 30 of the Convention;
- (c) the collection of evidence, the provision of legal information, and locating of suspects.

(2) An investigatory authority's point of contact shall have the capacity to carry out communications with the point of contact of another authority on an expedited basis.

(3) Where the point of contact designated by an investigatory authority is not responsible for international mutual assistance or extradition, the point of contact shall ensure that it is able to co-ordinate with such authority or authorities on an expedited basis.

(4) An investigatory authority shall ensure that trained and equipped personnel are available, in order to facilitate the operation of the network.

Obligation to monitor transmitted or stored computer data

39.(1) When providing the services there is no general obligation on an electronic service provider to monitor that computer data which it transmits or stores; or actively seek facts or circumstances indicating an unlawful activity.

(2) The Minister may, subject to any other law, prescribe procedures for electronic service providers to —

- (a) inform the competent authorities of alleged illegal activities undertaken or information provided by recipients of their service; and
- (b) communicate to the competent authorities, at their request, information enabling the identification of recipients of their service.

Criminal liability for providing access and transmitting information

40.(1) An electronic service provider is not criminally liable for providing access and transmitting information on condition that the provider —

- (a) does not initiate the transmission;
- (b) does not select the receiver of the transmission; or
- (c) does not select or modify the information contained in the transmission.

(2) The acts of transmission and of provision of access referred to in subsection (1) include the automatic, intermediate and transient storage of the

information transmitted in so far as this takes place for the sole purpose of carrying out the transmission in the communication network, and provided that the information is not stored for any period longer than is reasonably necessary for the transmission.

Criminal liability for storing at the request of user

41.(1) An electronic service provider is not criminally liable for the information stored at the request of a user of the service, on condition that —

- (a) the electronic service provider expeditiously removes or disables access to the information after receiving an order from any public authority or court of law to remove specific illegal information stored; or
- (b) the electronic service provider, upon obtaining knowledge or awareness about specific illegal information stored by other ways than an order from a public authority, expeditiously informs a public authority to enable them to evaluate the nature of the information and if necessary issue an order to remove the content.

(2) Subsection (1), shall not apply when the user of the service is acting under the authority or the control of the electronic service provider.

(3) If the electronic service provider is removing the content after receiving an order pursuant to subsection (1), the provider is exempted from contractual obligations with his customer to ensure the availability of the service.

(4) An electronic service provider is not criminally liable for the automatic, intermediate and temporary storage of that information, performed for the sole purpose of making more efficient the information's onward transmission to other users of the service upon their request, on condition that —

- (a) the electronic service provider does not modify the information;
- (b) the electronic service provider complies with conditions of access to the information;

- (c) the electronic service provider complies with rules regarding the updating of the information, specified in a manner widely recognised and used by industry;
- (d) the electronic service provider does not interfere with the lawful use of technology, widely recognised and used by industry, to obtain computer data on the use of the information; and
- (e) the electronic service provider acts expeditiously to remove or to disable access to the information it has stored upon knowledge of the fact that the information at the initial sources of the transmission has been removed from the network, or access to it has been disabled, or that a court or an administrative authority has ordered such removal or disablement.

(5) An electronic service provider who enables the access to information provided by third person by providing an electronic hyperlink is not liable for the information if the electronic service provider —

- (a) expeditiously removes or disables access to the information after receiving an order from any public authority or court to remove the link; and
- (b) upon obtaining knowledge or awareness about specific illegal information stored by other ways than an order from a public authority, expediently informs a public authority to enable them to evaluate the nature of the information and if necessary issue an order to remove the content;

(6) An electronic service provider who makes or operates a search engine that either automatically or based on entries by others creates and index of internet-related content or make available electronic tools to search for information provided by third party is not liable for search results on condition that the provider —

- (a) does not initiate the transmission;
- (b) does not select the receiver of the transmission; and
- (c) does not select or modify the information contained in the transmission.

Application of certain provisions of the Penal Code

42. Sections 25, 30 and 30A of the Penal Code shall, unless the court determines otherwise, apply to a person convicted of an offence under this Act.

Regulations

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

Repeal of Cap 254

44. The Computer Misuse Act Cap 254 is hereby repealed.

Savings provisions

45. Notwithstanding the repeal under section 43 —

- (a) anything made, given, issued or done under the repealed Act shall have the same effect as if it was made, given, done or issued under this Act;
- (b) any application made to a court under the repealed Act shall continue to be dealt with and determined as if it was made under this Act; and
- (c) any legal proceedings which, before the coming into force of this Act were pending, shall be continued or enforced in the same manner as they would have continued or enforced before the coming into force of this Act.

I certify that this is a correct copy of the Bill which was passed by the National Assembly on 22nd November, 2021.



Mrs. Tania Isaac
Clerk to the National Assembly



LICENCES (AMENDMENT) ACT, 2021

(Act 60 of 2021)



I assent

A handwritten signature in black ink, appearing to read "Wavel".

Wavel Ramkalawan
President

16th December, 2021

AN ACT TO AMEND THE LICENCES ACT (CAP. 113)

ENACTED by the President and the National Assembly.

Short title and commencement

1. This Act may be cited as the Licences (Amendment) Act, 2021 and shall come into operation on such date as the Minister for Finance may, by notice published in the Gazette, appoint.

Insertion of new section 20A in the Licences Act (Cap. 113)

2. The Licences Act is hereby amended by inserting after section 20, the following section —

Verification of antecedents regarding criminal records etc. for certain categories of persons

“**20A.**(1) Notwithstanding anything in any other Act, the Authority, before issuing a licence to an applicant falling under the category of designated non-financial businesses or professions, shall verify the antecedents of the applicant for a licence regarding any criminal records associated with criminal activities, holding significant or controlling interest or of being a beneficial owner or holding a management function in the respective designated non-financial businesses or professions:

Provided that this subsection shall be applicable only to the designated non-financial businesses and professions which do not fall under the regulatory ambit of any other Ministry or Department or Agency or under any other law in force.

(2) The Authority shall enter into a memorandum of understanding with the Financial Intelligence Unit established under section 10 of the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020 (Act 5 of 2020) and with any other Ministry or Department or Agency, setting out the procedures to verify the antecedents of the applicants for a licence regarding the criminal records associated with criminal activities, holding significant or controlling interest or of being a beneficial owner or holding a management function in the respective designated non-financial businesses or professions.

(3) Subject to satisfactory verification under subsection (1) by the designated competent authority, the Authority shall grant professional accreditation or a licence to an applicant covered under subsection (1).

(4) For the purposes of this section, the expression “designated non-financial businesses or professions” shall have

the same meaning assigned to it in the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020 (Act 5 of 2020).

(5) For the purposes of this section, the expression “beneficial owner” shall have the same meaning assigned to it under the Beneficial Ownership Act, 2020 (Act 4 of 2020) and the determination provided under regulation 3 of the Beneficial Ownership Regulations, 2020 (S.I. 107 of 2020).

(6) For the purposes of subsection (3), “designated competent authority” means the Financial Intelligence Unit established under the under section 10 of the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020 (Act 5 of 2020) for the time being and any other Ministry or Department or Agency as may be designated by the Minister for Finance, by notice published in the Gazette.

I certify that this is a correct copy of the Bill which was passed by the National Assembly on 14th December, 2021.



Mrs. Tania Isaac
Clerk to the National Assembly

**CUSTODY, MANAGEMENT AND DISPOSAL OF SEIZED,
FORFEITED OR CONFISCATED PROPERTIES ACT, 2021**

(Act 61 2021)

ARRANGEMENT OF SECTIONS

SECTIONS

**PART 1
PRELIMINARY**

1. Short title and commencement
2. Interpretation

**PART 2
ASSET MANAGEMENT UNIT**

3. Asset Management Unit
4. Functions of Asset Management Unit
5. Taking over of properties by Asset Management Unit
6. Steps to prevent funds or assets to designated persons
7. Coordination with other countries in the seizure, forfeiture or confiscation of the properties
8. Policies and procedure for management of seized business
9. Measures to trace, identify and evaluate the property
10. Measures to manage, maintain and dispose of the properties subjected to seizure, forfeiture or confiscation

**PART 3
ASSET RECOVERY FUND**

11. Establishment of Asset Recovery Fund
12. Receipts and disbursements from the ARF

**PART 4
MISCELLANEOUS**

13. Protection of action taken in good faith
14. Regulations
15. Transitional provision



**CUSTODY, MANAGEMENT AND DISPOSAL OF SEIZED,
FORFEITED OR CONFISCATED PROPERTIES ACT, 2021**

(Act 61 of 2021)



I assent

A handwritten signature in black ink, appearing to read "Wavel".

Wavel Ramkalawan
President

17th December, 2021

AN ACT TO PROVIDE FOR THE CUSTODY, MANAGEMENT AND DISPOSAL OF SEIZED, FORFEITED OR CONFISCATED PROPERTIES AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

ENACTED by the President and the National Assembly.

**PART 1
PRELIMINARY**

Short title and commencement

1. This Act may be cited as the Custody, Management and Disposal of Seized, Forfeited or Confiscated Properties Act, 2021 and shall come into operation on such date as the Minister may, by notice in the Gazette, appoint and different dates may be appointed for different provisions of the Act.

Interpretation

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

“AMLCFT Act” means the Anti-Money Laundering the Countering the Financing of Terrorism Act, 2020 (Act 5 of 2020);

“Asset Management Unit” means the Asset Management Unit established under section 3 of this Act;

“Consolidated Fund” means the fund established by that name under article 151 of the Constitution;

“court” means a court of competent jurisdiction established by or under the authority of the Constitution;

“domestic authorities” means the authorities under different Ministries and Departments dealing with seizure, freezing, forfeiture and confiscation of the properties;

“Minister” means the Minister responsible for Finance and the term “Ministry” shall be construed accordingly;

“notified date” means a date notified by the Minister to take over the properties frozen, seized, forfeited or confiscated to the Republic under various laws in force in the Republic;

“offence” shall have the same meaning assigned to it in the AMLCFT Act (Act 5 of 2020);

“Property” shall have the same meaning assigned to it in the AMLCFT Act (Act 5 of 2020) and the term “properties” shall be construed accordingly;

“realizable property” means property liable to be taken into possession and disposed of under section 10 of this Act and includes property in the custody or possession of a person other than the beneficial owner; and

“Republic” means the Republic of Seychelles.

PART 2

ASSET MANAGEMENT UNIT

Asset Management Unit

3.(1) There shall be established a Unit to be known as the Asset Management Unit in the Ministry of Finance.

(2) The composition of the officers and staff of the Asset Management Unit shall be decided by the Minister and the same shall be notified to all the concerned Ministries and Departments.

Functions of Asset Management Unit

4. The functions of the Asset Management Unit shall be —
- (a) to collaborate with the authorities to identify, trace and evaluate realizable property that is subject to seizure, forfeiture or confiscation;
 - (b) to collaborate with all Ministries, Departments and Authorities which shall be dealing with properties seized, frozen, forfeited or confiscated to the Republic under Acts in force in the Republic;
 - (c) to take custody of realizable properties frozen, seized, forfeited or confiscated in furtherance of any law in force in the Republic;
 - (d) to maintain the properties frozen, seized, forfeited or confiscated until they are disposed of under the provisions of this Act or the regulations made hereunder;
 - (e) to take measures for the disposal of forfeited or confiscated properties and also for disposal of any property upon an order of the court;
 - (f) to take steps for filing appropriate applications before the courts for freezing or seizing properties to prevent dealing with or transfer or disposal of such properties;

- (g) to take steps to counter actions taken by other parties seeking to prevent the Republic from taking steps to freeze, seize or recover property that is liable for forfeiture or confiscation;
- (h) to support the domestic authorities in taking appropriate investigate measures to identify properties that are to be frozen or seized;
- (i) to support and administer the identification, tracing and evaluation of property that is subject to forfeiture or confiscation;
- (j) to support the administration of provisional measures, such as freezing or seizing, to prevent any dealing, transfer or disposal of property subject to forfeiture or confiscation;
- (k) to maintain proper records of the properties frozen, seized, forfeited or confiscated to the Republic;
- (l) to take steps for identifying auctioneers for the disposal of the forfeited or confiscated property;
- (m) to take steps for identifying persons, agencies or institutions to maintain frozen or seized property;
- (n) to assist the Attorney General's Office in coordinating with other countries in the freezing, seizure and forfeiture of properties and disposal of the properties between the countries when the forfeiture or confiscation is directly or indirectly a result of co-ordinated law enforcement actions;
- (o) to assist the domestic authorities to implement a coordinated mechanism for disposal of forfeited or confiscated properties;
- (p) to take all necessary measures to protect the rights of bona fide third parties;

- (q) to take all necessary steps for the proper management of frozen or seized properties;
- (r) to issues policies, procedures and guidelines related to management of properties subject to freezing, seizing, forfeiture or confiscation actions undertaken by the domestic authorities;
- (s) to act as the primary mechanism for managing, and when necessary, disposing of property frozen, seized, forfeited or confiscated; and
- (t) to have any other functions as may be necessary for the custody, management and disposal of any realizable property.

Taking over of properties by Asset Management Unit

5.(1) Every Ministry, Department and Authority upon freezing, seizure, forfeiture or confiscation of property to the Republic shall provide the data of such properties to the Asset Management Unit within 2 working days from the date of freezing, seizure, forfeiture or confiscation, as the case may be.

(2) Every Ministry, Department and Authority that has powers to freeze, seize, forfeit or confiscate properties shall appoint a liaison officer, who shall be in charge of liaising and shall be responsible to coordinate the freezing and seizing actions with the Asset Management Unit and providing the data under subsection (1).

(3) If a liaison officer knowingly fails to provide the data to the Asset Management Unit, this shall be regarded as a dereliction of duties and necessary action may be taken against the liaison officer in accordance with the provisions of Public Services Order.

(4) The Asset Management Unit established under section 3 shall take over all the properties that are frozen, seized, forfeited or confiscated under any law in force in the Republic as on the notified date.

(5) Every Ministry or Department, which is in custody of properties as on the notified date shall hand over all the properties in their possession to

the Asset Management Unit with all the relevant documents available for taking further actions against the properties.

(6) The Asset Management Unit shall continue the process started by the respective Ministry or Department for disposal of such properties without the necessity for the process to be recommenced.

(7) The Asset Management Unit shall dispose of the properties in accordance with the provisions of this Act.

(8) The Asset Management Unit shall not institute or proceed with actions and measures that are detrimental to the rights of bona fide third parties.

Steps to prevent funds or assets to designated persons

6.(1) Notwithstanding any other law in force, the Asset Management Unit shall take all necessary steps to prevent the availability of funds or assets to designated persons under the Prevention of Terrorism Act (Cap. 179) and the regulations made thereunder.

(2) The Asset Management Unit shall coordinate with the respective law enforcement agency responsible for designation of persons under the Prevention of Terrorism Act (Cap. 179) and with the Attorney General's Office, while taking any steps under subsection (1) to prevent the availability of funds or assets to the designated persons.

Coordination with other countries in the seizure, forfeiture or confiscation of the properties

7.(1) The Asset Management Unit shall act as a coordinating agency to support the Attorney General's Office in arranging for coordination with other countries for seizure and forfeiture or confiscation of properties.

(2) The Asset Management Unit shall coordinate with the Attorney General's Office and with other countries, in reaching an agreement or arrangement for disposing of properties between the countries when the forfeiture or confiscation is directly or indirectly a result of coordinated law enforcement action.

(3) The Asset Management Unit shall issue guidelines for coordination between domestic authorities for the custody, management and disposal of properties subject to this Act.

Policies and procedures for management of seized business

8. The Asset Management Unit shall, as warranted from time to time, devise policies and procedures with the approval of the Minister for the management of seized businesses.

Measures to trace, identify and evaluate the property

9. The Minister may by regulations prescribe procedures to trace, identify and evaluate properties subjected to forfeiture or confiscation.

Measures to manage, maintain and dispose of properties subjected to seizure, forfeiture or confiscation

10.(1) The Minister may by regulations prescribe the procedures to manage, maintain or dispose of properties which were subjected to seizure, forfeiture or confiscation.

(2) While disposing of the properties under regulations made under subsection (1), the Asset Management Unit shall have due regard to bona fide third parties and take measures to protect their rights.

PART 3 ASSET RECOVERY FUND

Establishment of Asset Recovery Fund

11.(1) The Asset Recovery Fund referred to in section 93 of the AMLCFT Act shall be the Asset Recovery Fund (hereinafter referred to as the ARF), established under this Act.

(2) The Ministry responsible for Finance shall be the administrator of the ARF.

(3) The Minister may by regulations regulate the administration and management of the ARF.

(4) The ARF shall be audited by the Auditor-General in accordance with the provisions of Article 158 of the Constitution.

Receipts and disbursements from the ARF

12.(1) There shall be credited to the ARF —

- (a) all moneys derived from the fulfilment of forfeiture or confiscation under any law in force;
- (b) all moneys derived from the fulfilment of pecuniary penalty orders under the AMLCFT Act;
- (c) any sums of money allocated to the ARF by the National Assembly from time to time by due appropriation of the funds;
- (d) any income derived from the investment of amounts that are credited to the ARF; and
- (e) any sharing of confiscated or forfeited property and funds received from other states.

(2) The Minister may, in accordance with regulations made under this Act, authorise payments out of the ARF to —

- (a) compensate victims who suffer losses as a result of offences under respective laws in force;
- (b) pay expenses relating to recovery, management and disposition of property under the provisions of any law in force, including mortgages and liens against relevant property, and the fees for receivers, trustees, managers, institutions or other professionals providing assistance;
- (c) allocate funds to the Attorney General's Office to meet the expenses of the prosecution division;
- (d) with the approval of the Cabinet, return assets to the original owner;

- (e) supplement the resources to any law enforcement agency, Ministry or Department, supervisory authority under AMLCFT Act or the FIU;
- (f) pay innocent third parties for any interest they have in the property, as appropriate;
- (g) authorise payment for community projects and training; and
- (h) pay compensation ordered by a Court.

(3) The Minister shall, after making adequate provisions at the end of each financial year for the application of funds and resources under subsection (2), pay out any excess funds from the ARF to the Consolidated Fund.

(4) The Minister shall, not later than three months after the end of the financial year, prepare an annual report on the activities of the Asset Management Unit during that year and submit a copy of the report to the National Assembly, and the Auditor General shall audit the accounts of the Asset Management Unit in accordance with section 158 of the Constitution (Cap 42).

PART 4 MISCELLANEOUS

Protection of action taken in good faith

13. Any suit or other legal proceedings shall not lie against any officer or other employee of the Ministry for anything done or intended to be done in good faith in pursuance of this Act.

Regulations

14.(1) The Minister may make regulations for the purpose of carrying out the provisions of this Act.

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

- (a) the procedures to trace, identify and evaluate the property, which is subjected to forfeiture or confiscation under section 9;
- (b) procedures to manage and maintain or dispose of the properties, which were subject to seizure, forfeiture or confiscation under section 10(1); and
- (c) any other matter which is required to be, or may be, prescribed for implementation of this Act.

Transitional Provision

15.(1) All the properties under seizure, forfeiture or confiscation and liable to be disposed of shall be transferred to the Asset Management Unit, on and from the date as may be notified by the Minister and shall be dealt with in accordance with the provisions of this Act.

(2) Notwithstanding any other provision of this Act, if a receiver has been appointed by the Court under any other law in force in the Republic to take custody and dispose of any property, the receiver so appointed shall coordinate with the Asset Management Unit for the disposal of such property and the proceeds of sale of such property shall be credited to the Asset Recovery Fund.

I certify that this is a correct copy of the Bill which was passed by the National Assembly on 14th December, 2021.



Mrs. Tania Isaac
Clerk to the National Assembly



**ANTI-MONEY LAUNDERING AND COUNTERING THE
FINANCING OF TERRORISM (SECOND AMENDMENT) ACT, 2021**

(Act 62 of 2021)



I assent

A handwritten signature in black ink, appearing to read "Wavel".

Wavel Ramkalawan
President

17th December, 2021

AN ACT TO AMEND THE ANTI-MONEY LAUNDERING AND COUNTERING THE FINANCING OF TERRORISM ACT, 2020 (ACT 5 OF 2020).

ENACTED by the President and the National Assembly.

Short title

1. This Act may be cited as the Anti-Money Laundering and Countering the Financing of Terrorism (Second Amendment) Act, 2021.

Amendments to Act 5 of 2020

2. The Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020 (hereinafter referred to as the principal Act) is hereby amended as follows —

(a) in section 2 of the principal Act,

(i) by repealing the definition of “beneficial owner” and therefor substituting the following definition —

‘ “beneficial owner” shall have the meaning assigned to it under the Beneficial Ownership Act, 2020 (Act 4 of 2020) and the determination provided under regulation 3 of the Beneficial Ownership Regulations, 2020 (S.I. 107 of 2020);”;

(ii) by repealing the definition of “Suspicious Transaction Report” and therefor substituting the following definition —

‘ “Suspicious Transaction Report or Suspicious Activity Report” means a report that shall be submitted by a reporting entity to the FIU under section 48, if there are reasonable grounds to suspect that an activity or a transaction or series of transactions made or attempted in the course of their activities relating to the commission or the attempted commission of criminal conduct including money laundering and terrorist financing offences;”;

(b) in section 13 of the principal Act, by inserting after paragraph (e), the following paragraph —

“(ea) direct any reporting entity which is in the possession of any record, document or information that is necessary for the discharge of the functions of the FIU to produce such record, document or information to the FIU”;

- (c) by replacing section 21 (b) of the principal Act with “any Government grants, including sums from the Asset Recovery Fund and the designated account, made to it; and”
- (d) in section 27 (1) of the principal Act —
- (i) in paragraph (d), by repealing the words “for a period not exceeding five working days”;
- (ii) in paragraph (e), by repealing the words “for a period not exceeding five working days”;
- (iii) after paragraph (e), by adding the following proviso —
- “Provided that the period for refraining the reporting entity from completing the transaction under paragraph (d) and freezing of banking or similar account of the entity or person under paragraph (e), shall not exceed ten working days.”;
- (e) in section 29 (6) of the principal Act, by repealing the words “requesting FIU's” and therefor substituting the words “requesting foreign counterpart agencies”;
- (f) in section 30A of the principal Act, by inserting after subsection (5), the following subsection —
- “(6) The designated high-risk NPO's under subsection (1) shall be regulated in accordance with the regulations, as may be prescribed by the Minister in consultation with the Committee.”;
- (g) in section 32(6) of the principal Act, by repealing the words “money laundering and the terrorist financing activities” and substituting therefor the following words “money laundering and terrorist financing activities”;
- (h) in section 34 of the principal Act —

-
- (a) in subsection (3)
- (i) by inserting after the words “management level”, the words “or employee with the same qualifications prescribed for the compliance officer,”;
- (ii) by repealing the words “absence of a compliance office” and substituting therefor the words “absence of a compliance officer”;
- (b) in subsection (4), by adding after the words “under subsection (1)” the words “or an alternate compliance officer under subsection (3)”;
- (i) in section 35 (2)(c) of the principal Act by inserting after the words “identify the beneficial owner”, the words “in accordance with the determination provided under regulation 3 of the Beneficial Ownership Regulations, 2020 (S.I. 107 of 2020);
- (j) section 45 of the principal Act —
- (a) by repealing subsection (2) and therefor substituting the following subsection —
- “(2) The following particulars shall be made available by the ordering financial institution —
- (a) in the case of domestic wire transfers, full details of the originator information within three business days from the date of request from the beneficiary financial institution or from the appropriate competent authority; and
- (b) in the case of cross-border transfers, where individual transfers from a single originator are bundled in a batch file,

the originator's account number, full beneficiary information and the unique reference number allocated for such transfer including the full details of the originator information traceable in the recipient jurisdiction.”;

- (b) in subsection (5)(b), by repealing the words “section 35” and substituting therefor the words “section 47”;
- (c) by repealing subsection 5 (c) and renumbering subsection 5 (d) as subsection 5(c);
- (d) by inserting a new subsection after subsection (5) —

“(5A) Every reporting entity receiving a wire transfer shall ensure that the identity of the beneficiary is verified, where the identity has not been previously verified and maintain the information in accordance with the provisions of section 47.”;

- (k) in section 50(1) of the principal Act, by repealing paragraphs (f) and (g) and substituting therefor the following paragraph —

“(f) an investigation has commenced concerning the circumstances that gave rise to the suspicious transaction report, the warrant or the production order,

makes any disclosure which could or may or be likely to prejudice the implementation of the warrant, the making available of the material in accordance with the production order, or the investigation, commits an offence and is liable on conviction to imprisonment up to six months or to a fine not exceeding SCR200,000 or to both.”;

- (l) in section 57 of the principal Act i —
 - (a) in subsection (1), by inserting after paragraph (g), the following paragraphs —

- “(ga) to caution a reporting entity not to repeat a non-compliant conduct;
- (gb) to direct a reporting entity to take remedial action;”;
- (b) by repealing subsection (3) and therefor substituting the following subsection —
- “(3) Every reporting entity, including a director, manager or other officer involved in the control or management of the entity, that —
- (i) obstructs or interferes with the exercise of the powers of a supervisory authority;
- or
- (ii) fails to comply with a direction or request made by the supervisory authority within such timeframe as may be specified by the supervisory authority,
- commits an offence and is liable on conviction to a fine not exceeding SCR200,000.”;
- (m) in section 58 of the principal Act, by repealing subsection (9) and therefor substituting the following subsections —
- “(9) Every supervisory authority and every other relevant authority shall when called upon to do so by the Financial Action Task Force or on the Committee's independent determination specify the countermeasures that shall apply to a high-risk country as may be necessary and proportionate to the risk, business relationship and transaction.
- (10) The countermeasures referred to in subsection (9) may be prescribed by regulations or by other enforceable ity

means as may be deemed necessary by a supervisory authority or other relevant authority.

(11) Every supervisory authority shall take measures to ensure that reporting entities are advised of concerns about weaknesses in the AMLCFT systems of other countries.

(12) For the purposes of subsection (9), “relevant authority” refers to every public authority with designated responsibilities for combating money laundering or terrorist financing, including the FIU, authorities that have the function of investigating or prosecuting money laundering, associated predicate offences and terrorist financing, and seizing or freezing and confiscating criminal assets, authorities receiving reports on cross-border transportation of currency and bearer negotiable instruments and authorities that have Anti-Money Laundering and Countering the Financing of Terrorism supervisory or monitoring responsibilities aimed at ensuring compliance by financial institutions and Designated Non-Financial Businesses or Professions with Anti-Money Laundering and Countering Financing of Terrorism requirements.

- (n) in section 60 of the principal Act —
- (a) in subsection (1), by adding after the words “directive issued under the Act” the words “,within the timeframe specified by the supervisory authority”;
 - (b) in subsection (3), by repealing paragraphs (a) and (b) and consequentially renumbering paragraphs (c), (d) and (e) as paragraphs (a), (b) and (c);
 - (c) by inserting after subsection (3), the following subsection —

“(3A) (i) Any financial penalty imposed by the supervisory authorities under this section or under any other provision of the Act shall be credited to a separate

designated account maintained by the Ministry of Finance for this purpose and the funds so accrued in the account shall be utilised only for the purpose of anti-money laundering and countering the financing of terrorism compliance awareness, education and capacity building for implementing the provisions of the Act.

(ii) The designated account shall be audited by the Auditor-General in accordance with the provisions of Article 158 of the Constitution.”

- (o) in section 61(2)(a) of the principal Act, by repealing the words “at least 10 years' experience” and therefor substituting the words “at least 3 years' experience”;
- (p) in section 67(1)(b) of the principal Act, by repealing the words “FCIU officer” and therefor substituting the words “law enforcement officer”;
- (q) in section 69 of the principal Act —
 - (i) in subsection (4), by adding after the words “Attorney General” the words “or a prosecutor on behalf of the Anti-Corruption Commission of Seychelles”;
 - (ii) in subsection (6), by adding after the words “Attorney General” the words “ or a prosecutor on behalf of Anti-Corruption Commission of Seychelles”;
- (r) in section 69A of the principal Act —
 - (i) in subsection (1), by adding after the words “Attorney General” the words “ or a prosecutor on behalf of the Anti-Corruption Commission of Seychelles”;
 - (ii) in subsection (2), by adding after the words “Attorney General” the words “ or a prosecutor on behalf of the Anti-Corruption Commission of Seychelles”;
- (s) by repealing section 74 (2) of the principal Act and substituting therefor the following subsection —

- “(2) The officers referred to in subsection (1) may seize, any cash found during a search under subsection (1) if they have reasonable grounds for suspecting that it represents proceeds of crime, or is intended by any person to be used in connection with any criminal conduct and shall have the authority to seek further information from the carrier regarding the origin of the cash and its intended use and notify the FIU regarding such cash seizure in such form and manner as may be prescribed.”;
- (s) in section 90(1) of the principal Act, by repealing the words “Asset Recovery Fund established under section 93 of this Act” and substituting therefor the words “Asset Recovery Fund established under section 11 of the Custody, Management and Disposal of Seized, Forfeited or Confiscated Properties Act, 2021.”;
- (t) in section 92 (2) of the principal Act, by repealing the words “paid into the Asset Recovery Fund.” and substituting therefor the words “paid into the Asset Recovery Fund established under section 11 of the Custody, Management and Disposal of Seized, Forfeited or Confiscated Properties Act, 2021.”;
- (u) by repealing PART XI of the principal Act; and
- (w) by repealing paragraph (f) of section 97(1) of the principal Act and renumbering subsection (g) as (f).

I certify that this is a correct copy of the Bill which was passed by the National Assembly on 15th December, 2021.



Mrs. Tania Isaac
Clerk to the National Assembly



**THE INTERNATIONAL BUSINESS COMPANIES ACT AND OTHER
RELATED LAWS (AMENDMENT) ACT, 2021**

(Act 63 of 2021)



I assent

A handwritten signature in black ink, appearing to read 'Wavel'.

Wavel Ramkalawan
President

17th December, 2021

AN ACT TO AMEND THE INTERNATIONAL BUSINESS COMPANIES ACT, 2016 (ACT 15 OF 2016), LIMITED PARTNERSHIPS ACT, 2003 (CAP. 281), THE FOUNDATIONS ACT, 2009 (CAP.270) AND THE TRUSTS ACT, 2021 (ACT 34 OF 2021).

ENACTED by the President and the National Assembly.

**PART 1
PRELIMINARY**

Short title and commencement

1. This Act may be cited as the International Business Companies Act and Other Related Laws (Amendment) Act, 2021 and, save as otherwise provided, the provisions of this Act shall come into force at once.

PART 2
AMENDMENTS TO THE INTERNATIONAL BUSINESS
COMPANIES ACT, 2016 (ACT 15 OF 2016)

2. The International Business Companies Act, 2016 (Act 15 of 2016) (hereinafter in this Part referred to as the principal Act) is hereby amended as follows —

Amendment of section 167

- (a) Section 167 of the principal Act is amended in subsection (5), by inserting after the words “under subsection (2)” the words “and the fee specified in Part II of the Second Schedule”;

Repeal of section 171

- (b) Section 171 of the principal Act is hereby repealed.

Amendment of section 173

- (c) Section 173 of the principal Act is amended in subsection (1) by repealing paragraph (d).

Amendment of section 175

- (d) Section 175 of the principal Act is amended —
- (i) in subsection (1B), in the opening paragraph, by repealing the word “not” after the words “other than a company”;
- (ii) by repealing subsection (2A) and substituting therefor the following subsection —

“(2A) Where a company —

- (a) keeps a copy of its accounting records at its registered office;
- (b) keeps its original accounting records in Seychelles at a place other than at its registered office,

the company shall notify in writing its registered agent of the physical address of the place where the original accounting records are kept.

Amendment of section 276

- (e) Section 276 of the principal Act is amended, with effect from 1st January, 2022 —
- (i) in subsection (1C), —
- (a) in paragraph (a), by repealing the word “date” and substituting therefor the words “date of striking off under section 272(1)(c) or within one year from the date”;
- (b) in paragraph (b), by repealing the words “Sub-Part II, III or IV”, and substituting therefor the words “Sub-Part I.”;
- (ii) in subsection (4), by inserting after the words “by the outgoing registered agent” the words “, unless the outgoing registered agent has resigned as registered agent of the company after the company was struck-off”;

Amendment of section 277

- (f) Section 277 of the principal Act is amended with effect from 1st January, 2022 —
- (i) in subsection (2), —
- (A) in paragraph (a), by repealing the word “date” and substituting thereof the words “date of striking off under section 272(1)(c) or within one year from the date”;
- (B) in paragraph (b), —

- (a) by repealing the words “three years”, and substituting therefor the words “five years”;
- (b) by repealing the words “Sub-Part”, and substituting therefor the words “Sub-Part I”;
- (ii) in subsection (4A), by repealing the words “the Registrar” and substituting therefor the words “the Court”;

Amendment of section 354

- (g) Section 354 (3) of the principal Act is amended by repealing the words “US\$5,000” and substituting therefor the words “US\$10,000”;

Amendment of section 361

- (h) Section 361 (3) of the principal Act is amended by repealing the words “of US\$100 and to an additional penalty of US\$25 for each day or part thereof during which the contravention continues”, and substituting therefor the words “not exceeding US\$10,000”;

Amendment of section 389

- (i) Section 389 (1) of the principal Act is amended by repealing paragraph (b).

Repeal of SIXTH SCHEDULE

- (j) The SIXTH SCHEDULE of the principal is hereby repealed.

Amendment of International Business Companies (Amendment) Act, 2021

3. Section 60(2) (*Commencement of certain provisions of this Act*) of the International Business Companies (Amendment) Act, 2021 is hereby amended with effect from the date of commencement of the International Business Companies (Amendment) Act, 2021, by repealing the words “except

paragraph (iii)” and substituting therefor the words “except subsection (1C) in paragraph (iii)”;

Retrospective provision

4. Where a company which has been incorporated, continued or converted as a company under the International Business Companies Act, 2016 (Act 15 of 2016) before the commencement of this Act, keeps its accounting records outside Seychelles, it shall lodge its accounting records relating to transactions over the past 7 years at the company's registered office in Seychelles within 6 months from the date of commencement of the International Business Companies (Amendment) Act, 2021 (Act 32 of 2021).

PART 3 AMENDMENTS TO THE FOUNDATIONS ACT (CAP.270)

5. The Foundations Act (Cap. 270) (hereinafter in this Part referred to as the principal Act) is hereby amended as follows —

- (a) Section 75 of the principal Act is hereby amended by repealing subsection (3B) and substituting therefor the following subsections —

“(3B) Where a Foundation —

- (a) keeps a copy of its accounting records at its registered office;
- (b) keeps its original accounting records in Seychelles at a place other than at its registered office,

the Foundation shall inform its registered agent in writing of the physical address of the place where the original accounting records are kept.

(3BA) Where there is a change in the place at which its original accounting records are kept, the Foundation shall, within 14 days of the change, notify in writing its registered

agent of the physical address of the place at which its original accounting records are kept.”;

Substitution of section 113

- (b) Section 113 of the principal Act is hereby repealed and replaced by the following section —

“Power of court to make orders

113.(1) This section applies where the court, on an application by a person of standing or of its own motion, is satisfied, in respect of a foundation, that a person has failed to comply with —

- (a) a requirement of this Act or of the charter or regulations of the foundation; or
- (b) an obligation imposed on a person by this Act or by the charter or regulations of the foundation.

(2) For the purposes of subsection (1), “a person of standing”, in respect of a foundation means —

- (a) the foundation;
- (b) a founder of the foundation;
- (c) a person, other than a founder of the foundation, who has endowed the foundation;
- (d) if any rights a founder of a foundation had in respect of the foundation and its assets have been assigned to some other person, that other person;
- (e) a person appointed under the regulations of the foundation;

- (f) a beneficiary of the foundation;
- (g) a councillor of the foundation;
- (h) a creditor of the foundation;
- (i) a supervisory person;
- (j) the foundation's registered agent;
- (k) the Registrar; or
- (l) the Attorney General.

(3) The court may make an order in respect of a foundation —

- (a) that a person shall comply with the requirement or obligation which that person has failed to comply with; or
- (b) otherwise facilitating compliance with the requirement or obligation which that person has failed to comply with.

(4) The court shall not make an order under subsection (3) unless it is satisfied that —

- (a) the same shall assist the foundation in the just and proper administration of its assets or the attainment of its objects; or
- (b) it is otherwise just and desirable that it should do so.

(5) Where the court makes an order under subsection (3)(b), its order shall have the same effect as if it were an action taken by the person required to comply with the requirement or obligation.

(6) An order made by the court under this section in respect of a foundation may, without limitation, provide for —

- (a) the action that the foundation or other person is required to take;
- (b) the appointment or removal of a person appointed under the charter or regulations of the foundation;
- (c) a person to make good a breach;
- (d) the foundation or other person to cease acting in such manner as may be specified by the court;
- (e) payment or distribution of an amount of money or other asset; or
- (f) directions by the court.

(7) If the court is satisfied that a foundation, acting through its council, has failed to carry out its objects or any of them, the court may, by order, require the foundation to do so.

(8) Any order made by the court under this section —

- (a) may be made on such terms; and
- (b) may impose such conditions,

as the court thinks fit.”;

Retrospective provision

6. Where a Foundation registered under the Foundations Act (Cap. 270) before the commencement of this Act keeps its accounting records outside Seychelles, it shall lodge its accounting records relating to transactions over the past 7 years at the Foundation's registered office in Seychelles within 6 months from the date of commencement of the Foundations (Amendment) Act, 2021.

PART 4
AMENDMENTS TO THE LIMITED PARTNERSHIPS ACT
(CAP.281)

7. The Limited Partnerships Act (Cap. 281) (hereinafter in this Part referred to as the principal Act) is hereby amended as follows —

Amendment of section 11A

(a) Section 11A of the principal Act is amended —

- (i) in subsection (3), in paragraph (b), by repealing the words “the company's” and substituting therefor the words “the limited partnership's”;
- (ii) by repealing subsection (4A) and substituting therefor the following subsections —

“(4A) Where a limited partnership —

- (a) keeps a copy of its accounting records at its registered office;
- (b) keeps its original accounting records in Seychelles at a place other than at its registered office,

the limited partnership shall inform its registered agent in writing of the physical address of the place where the original accounting records are kept.

(4B) Where there is a change in the place at which its original accounting records are kept, a limited partnership shall, within 14 days of the change, notify in writing its registered agent of the physical address of the place at which its original accounting records are kept.”;

Retrospective provision

8. Where a limited partnership registered under the Limited Partnerships Act (Cap. 281) before the commencement of this Act keeps its

accounting records outside Seychelles, it shall lodge its accounting records relating to transactions over the past 7 years at the limited partnership's registered office in Seychelles within 6 months from the date of commencement of the Limited Partnerships (Amendment) Act, 2021.

PART 5

AMENDMENTS TO THE TRUSTS ACT, 2021 (ACT 34 OF 2021)

9. The Trusts Act, 2021 (Act 34 of 2021) (hereinafter in this Part referred to as the principal Act) is hereby amended as follows —

Amendment of section 11

- (a) section 11 of the principal Act is amended in subsection (6), by repealing the word “section 88” and substituting therefor the words “section 87(3)”;

Amendment of section 27

- (b) section 27 of the principal Act is amended by repealing subsection (3) and substituting therefor the following subsections —

“(3) Where an approved trustee —

- (a) keeps a copy of the accounting records at its principal place of business or registered office in Seychelles;
- (b) keeps the original accounting records in Seychelles at a place other than at its principal place of business or registered office,

the approved trustee shall keep a written record of the physical address of the place where the original accounting records are kept.

(3A) Where there is a change in the place at which the original accounting records are kept, an approved trustee shall, within 14 days of the change, keep a written record of

the physical address of the place at which the original accounting records are kept.”;

Amendment of section 28

(c) section 28 of the principal Act is amended —

- (i) in subsection (1), by repealing paragraphs (a), (b), (c) and (d) and re-numbering the paragraphs (e) and (f) as paragraphs (a) and (b) respectively;
- (ii) in subsection (2),
 - (A) in paragraph (c), by repealing the words “a trustee, beneficiary, settlor, protector, enforcer, agent or service provider to the trust as the case may be, and in the case of a natural person identified under subsection (1), the date upon which such a person began exercising control over the trust” and substituting therefor the words “an enforcer, agent or service provider to the trust, as the case may be”;
 - (B) in paragraph (d), by repealing the words “a trustee, beneficiary, settlor, protector, enforcer, agent or service provider to the trust as the case may be, and in the case of a natural person identified under subsection (1), the date upon which the person ceased to exercise control over the trust” and substituting therefor the words “an enforcer, agent or service provider to the trust, as the case may be”;

Retrospective provision

10. Where a trustee of a trust registered (including every former trust deemed to have been re-registered as a registered trust) under the Trusts Act, 2021 (Act 34 of 2021) before the commencement of this Act, keeps the accounting records relating to the trust outside Seychelles, the trustee shall,

within 6 months from the commencement of the Trusts Act, 2021, lodge, in respect of that trust, the accounting records relating to transactions of the trust over the past 7 years —

- (a) at the licensed trustee's principal place of business in Seychelles, in the case where the approved trustee of the trust is a licensed trustee; or
- (b) at the private trust company's registered office in Seychelles, in the case where the approved trustee of the trust is a private trust company.

I certify that this is a correct copy of the Bill which was passed by the National Assembly on 15th December, 2021.



Mrs. Tania Isaac
Clerk to the National Assembly



**PREVENTION OF TERRORISM (SECOND AMENDMENT)
ACT, 2021**

(Act 64 of 2021)



I assent

A handwritten signature in black ink, appearing to read "Wavel".

Wavel Ramkalawan
President

17th December, 2021

AN ACT TO AMEND THE PREVENTION OF TERRORISM ACT (CAP. 179).

ENACTED by the President and the National Assembly.

Short title

1. This Act may be cited as the Prevention of Terrorism (Second Amendment) Act, 2021.

Amendments to Cap. 179

2. The Prevention of Terrorism Act (hereinafter referred to as the principal Act) is amended as follows —

- (a) in section 2 —
 - (i) in the definition of “terrorist” after paragraph (d) by adding the following paragraph —

“(e) has been designated as a designated or listed person under the regulations made under this Act.”;
 - (ii) in the definition of “terrorist act” —
 - (a) in the longline, by repealing the words “and is intended, or”;
 - (b) after paragraph (i) by adding the following paragraph —

“(j) any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a Government or an international organisation to do or to abstain from doing any act”; and
 - (c) by repealing the proviso at the end of the definition.
 - (iii) in the definition of 'terrorist group' after paragraph (b) by inserting the following paragraph —

“(c) any designated or listed person or entity under the regulations made under this Act”;

- (iv) by repealing the definition of property and therefor substituting the following definition —

‘ “property” shall have the meaning assigned to it in the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020 (Act 5 of 2020) and includes any assets, including, but not limited to financial assets, economic resources, which includes oil and other natural resources, property of every kind, whether tangible or intangible, movable or immovable, however acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such funds or other assets, including, but not limited to bank credits, travellers cheques, bank cheques, money orders, shares, securities, bonds, drafts, or letters of credit, and any interest, dividends or other income on or value accruing from or generated by such funds or other assets, and any other assets which potentially may be used to obtain funds, goods or services;’.

3. By repealing section 5 of the principal Act and therefor substituting the following section —

Provision or collection of funds to support a terrorist or terrorist group or a terrorist act

“5.(1) Any person who willfully provides or collects funds or any assets, by any means, directly or indirectly, with the intention that they shall be used, or knowing that the funds or assets shall be used in full or in part, —

- (a) by a terrorist;
- (b) by a terrorist group;
- (c) to carry out a terrorist act,

commits an offence and shall, on conviction, be liable to imprisonment for a term not less than 7 years and not more than 20 years.

(2) An offence under subsection (1) shall be regarded as terrorist financing, even in the absence of a link to a specific terrorist act or acts, and the punishment applicable under subsection (1) shall be applied *mutatis mutandis*.

(3) Terrorism Financing offences under this Act shall include financing the travel of individuals who travel to a State other than their States of residence or nationality for the purpose of perpetration, planning, or preparation of, or participation in, terrorist acts, or the providing or receiving of terrorist training, and the punishment applicable under subsection (1) shall be applied *mutatis mutandis*.”.

4. In section 20D of the principal Act —

(i) by repealing subsection (2) and therefor substituting the following subsection —

“(2) All natural and non-natural persons within Seychelles shall within 24 hours and without prior notice freeze the property of a terrorist or a terrorist group or a designated individual or entity;

(ii) in subsection (3), by substituting for the word 'designated entity', wherever it occurs, the words 'a terrorist or a terrorist group or a designated individual or entity';

(iii) after subsection (3), by adding the following subsections —

“(3A) All natural and non-natural persons within Seychelles are prohibited from making funds or other assets available to a terrorist or a terrorist group or a designated individual or entity.

(3B) Subject to the provisions of this Act, no person shall make any funds or other assets or financial or other related services available, directly or indirectly, wholly or jointly, to or for the benefit of —

- (a) a terrorist or a terrorist group or a designated individual or entity;
- (b) a party acting on behalf, or at the direction, of a terrorist or a terrorist group or a designated individual or entity; or
- (c) an entity owned or controlled, directly or indirectly, by a terrorist or a terrorist group or a designated individual or entity.

(3C) Subject to the provisions of this Act, no person shall deal with the funds or other assets of a terrorist or a terrorist group or a designated individual or entity, including the funds or other assets that are owned or controlled by a terrorist or a terrorist group or a designated individual or entity.

(3D) Without prejudice to the generality of subsections (3A), (3B) and (3C), the prohibition shall extend to —

- (a) all the properties that are owned by a terrorist group or designated individual or entity and not just those which can be connected to a particular terrorist act, plot or threat or to a particular act, plot or threat of proliferation;
- (b) property that is wholly or jointly owned or controlled directly or indirectly by a terrorist or a terrorist group or a designated individual or entity;
- (c) property derived or generated from property owned or controlled directly by a terrorist or a terrorist group or a designated individual or entity; and

- (d) property of a person or entity acting on behalf, or at the direction, of a terrorist or a terrorist group or a designated individual or entity.

(3E) Where a prohibition under subsections (3A), (3B), (3C) or (3D) is in force, nothing shall prevent any interest which may accrue, or other earnings due, on the accounts held by a terrorist or a terrorist group or a designated individual or entity, or payments due under contracts, agreements or obligations that arose prior to the date on which those accounts became subject to the prohibition, provided that any such interest, earnings and payments shall continue to be subject to the prohibition.”;

- (iv) in subsection (4), by repealing the words “without delay as provided in subsection (2)” and substituting therefor the words “within 24 hours as provided in subsection (2) or fails or refuses to comply with the prohibition provided under subsections (3A), (3B), (3C) or (3D).”.

(5) In section 20E of the principal Act, in subsection (3), by repealing the words “with the guidance, in taking” and substituting therefor the words “, within 24 hours, with the guidance to take”.

I certify that this is a correct copy of the Bill which was passed by the National Assembly on 15th December, 2021.



Mrs. Tania Isaac
Clerk to the National Assembly



SUPPLEMENTARY APPROPRIATION ACT, 2021

(Act 65 of 2021)



I assent

A handwritten signature in black ink, appearing to read "Wavel".

Wavel Ramkalawan
President

17th December, 2021

AN ACT TO PROVIDE FOR THE PURPOSES OF A SUPPLEMENTARY ESTIMATE APPROVED BY THE NATIONAL ASSEMBLY.

ENACTED by the President and the National Assembly.

Short title

1. This Act may be cited as the Supplementary Appropriation Act, 2021.

Appropriation of Expenditure

2. The sum not exceeding one billion, two hundred and twenty six million, six hundred and twenty seven thousand, eight hundred and fifty two rupees and fifteen cents (**SCR1,226,627,852.15**) referred to in the supplementary estimate approved by the resolutions of the National Assembly on Thursday 10th December 2020 (**SCR1,139,732,490**), and on Tuesday 14th December 2021 (**SCR 86,895,362.15**) is hereby appropriated from the consolidated Fund for the purposes specified in the supplementary estimate.

I certify that this is a correct copy of the Bill which was passed by the National Assembly on 15th December, 2021.



Mrs. Tania Isaac
Clerk to the National Assembly

S.I. 100 of 2021**LAND RECLAMATION ACT***(Cap 106)***Land Reclamation Authorisation, 2021**

WHEREAS SeySea Products (PTY) Limited acting on its own behalf applied for the authorisation under Section 6 of the Land Reclamation Act (Cap 106) to fill in and reclaim an area of the foreshore (hereinafter “the proposed undertaking”) of approximately 47,000 squaremetres at Cascade adjacent to a strip of land owned by the Republic;

AND WHEREAS the proposed undertaking is demarcated by coordinates specified under the Schedule and a plan thereof is also illustrated thereunder;

AND WHEREAS the SeySea Products (PTY) Limited has agreed that in consideration for carrying out the proposed undertaking at its own cost and transferring 2000 square metres of land situated at Baie Ste Anne Praslin to the Republic, the Republic will, upon completion of the undertaking, transfer to the applicant the portion of land measuring 38,000 square metres marked A on the plan herewith attached, which portion comprises of 80.8% of the area reclaimed;

AND WHEREAS the Republic will retain in its ownership, at no cost to it, 19.2% of the reclaimed area measuring 9000 square metres as indicated on the plan herewith attached by the letter B;

AND WHEREAS SeySea Products (PTY) Limited has agreed to complete the undertaking not later than 5 years from the date of grant of Planning Permission;

AND WHEREAS, a Land Reclamation Notification (S.I. 41 of 2021) pertaining to the proposed undertaking was published in accordance with the rules under the Second Schedule to the Land Reclamation Act (Cap 106);

AND WHEREAS there has not been lodged with the Chief Executive Officer of the Planning Authority any objection to the undertaking;

NOW THEREFORE, in exercise of the powers conferred by section 6 of the Land Reclamation Act, (Cap 106), the President hereby authorises the undertaking.

SCHEDULE

Coordinates of the outer limit of the proposed reclamation at Cascade

Protection-UTM Zone 40 South **Datum-WGS84**

Point	Easting	Northing
PT1	333136.918	94844930.667
PT2	333187.412	9484490.988
PT3	33196.184	9484488.674
PT4	333204.236	9484484.795
PT5	333317.080	9484411.347
PT6	333327.623	9484403.947
PT7	333333.125	9484399.733
PT8	333347.942	9484386.589
PT9	333400.991	9484334.617
PT10	333420.214	9484312.829
PT11	333436.077	9484288.487
PT12	333477.319	9484213.854
PT13	333518.561	9484139.221
PT14	333538.041	9484082.629
PT15	333533.747	9484022.932



MADE this 26th day of November, 2021.

**WAVEL RAMKALAWAN
PRESIDENT**



**PREVENTION OF TERRORISM (SECOND AMENDMENT)
ACT, 2021**

(Act 64 of 2021)



I assent

A handwritten signature in black ink, appearing to read "Wavel".

Wavel Ramkalawan
President

17th December, 2021

AN ACT TO AMEND THE PREVENTION OF TERRORISM ACT (CAP. 179).

ENACTED by the President and the National Assembly.

Short title

1. This Act may be cited as the Prevention of Terrorism (Second Amendment) Act, 2021.

Amendments to Cap. 179

2. The Prevention of Terrorism Act (hereinafter referred to as the principal Act) is amended as follows —

- (a) in section 2 —
 - (i) in the definition of “terrorist” after paragraph (d) by adding the following paragraph —

“(e) has been designated as a designated or listed person under the regulations made under this Act.”;
 - (ii) in the definition of “terrorist act” —
 - (a) in the longline, by repealing the words “and is intended, or”;
 - (b) after paragraph (i) by adding the following paragraph —

“(j) any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a Government or an international organisation to do or to abstain from doing any act”; and
 - (c) by repealing the proviso at the end of the definition.
 - (iii) in the definition of 'terrorist group' after paragraph (b) by inserting the following paragraph —

“(c) any designated or listed person or entity under the regulations made under this Act”;

- (iv) by repealing the definition of property and therefor substituting the following definition —

‘ “property” shall have the meaning assigned to it in the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020 (Act 5 of 2020) and includes any assets, including, but not limited to financial assets, economic resources, which includes oil and other natural resources, property of every kind, whether tangible or intangible, movable or immovable, however acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such funds or other assets, including, but not limited to bank credits, travellers cheques, bank cheques, money orders, shares, securities, bonds, drafts, or letters of credit, and any interest, dividends or other income on or value accruing from or generated by such funds or other assets, and any other assets which potentially may be used to obtain funds, goods or services;’.

3. By repealing section 5 of the principal Act and therefor substituting the following section —

Provision or collection of funds to support a terrorist or terrorist group or a terrorist act

“5.(1) Any person who willfully provides or collects funds or any assets, by any means, directly or indirectly, with the intention that they shall be used, or knowing that the funds or assets shall be used in full or in part, —

- (a) by a terrorist;
- (b) by a terrorist group;
- (c) to carry out a terrorist act,

commits an offence and shall, on conviction, be liable to imprisonment for a term not less than 7 years and not more than 20 years.

(2) An offence under subsection (1) shall be regarded as terrorist financing, even in the absence of a link to a specific terrorist act or acts, and the punishment applicable under subsection (1) shall be applied *mutatis mutandis*.

(3) Terrorism Financing offences under this Act shall include financing the travel of individuals who travel to a State other than their States of residence or nationality for the purpose of perpetration, planning, or preparation of, or participation in, terrorist acts, or the providing or receiving of terrorist training, and the punishment applicable under subsection (1) shall be applied *mutatis mutandis*.”.

4. In section 20D of the principal Act —

(i) by repealing subsection (2) and therefor substituting the following subsection —

“(2) All natural and non-natural persons within Seychelles shall within 24 hours and without prior notice freeze the property of a terrorist or a terrorist group or a designated individual or entity;

(ii) in subsection (3), by substituting for the word 'designated entity', wherever it occurs, the words 'a terrorist or a terrorist group or a designated individual or entity';

(iii) after subsection (3), by adding the following subsections —

“(3A) All natural and non-natural persons within Seychelles are prohibited from making funds or other assets available to a terrorist or a terrorist group or a designated individual or entity.

(3B) Subject to the provisions of this Act, no person shall make any funds or other assets or financial or other related services available, directly or indirectly, wholly or jointly, to or for the benefit of —

- (a) a terrorist or a terrorist group or a designated individual or entity;
- (b) a party acting on behalf, or at the direction, of a terrorist or a terrorist group or a designated individual or entity; or
- (c) an entity owned or controlled, directly or indirectly, by a terrorist or a terrorist group or a designated individual or entity.

(3C) Subject to the provisions of this Act, no person shall deal with the funds or other assets of a terrorist or a terrorist group or a designated individual or entity, including the funds or other assets that are owned or controlled by a terrorist or a terrorist group or a designated individual or entity.

(3D) Without prejudice to the generality of subsections (3A), (3B) and (3C), the prohibition shall extend to —

- (a) all the properties that are owned by a terrorist group or designated individual or entity and not just those which can be connected to a particular terrorist act, plot or threat or to a particular act, plot or threat of proliferation;
- (b) property that is wholly or jointly owned or controlled directly or indirectly by a terrorist or a terrorist group or a designated individual or entity;
- (c) property derived or generated from property owned or controlled directly by a terrorist or a terrorist group or a designated individual or entity; and

- (d) property of a person or entity acting on behalf, or at the direction, of a terrorist or a terrorist group or a designated individual or entity.

(3E) Where a prohibition under subsections (3A), (3B), (3C) or (3D) is in force, nothing shall prevent any interest which may accrue, or other earnings due, on the accounts held by a terrorist or a terrorist group or a designated individual or entity, or payments due under contracts, agreements or obligations that arose prior to the date on which those accounts became subject to the prohibition, provided that any such interest, earnings and payments shall continue to be subject to the prohibition.”;

- (iv) in subsection (4), by repealing the words “without delay as provided in subsection (2)” and substituting therefor the words “within 24 hours as provided in subsection (2) or fails or refuses to comply with the prohibition provided under subsections (3A), (3B), (3C) or (3D).”.

(5) In section 20E of the principal Act, in subsection (3), by repealing the words “with the guidance, in taking” and substituting therefor the words “, within 24 hours, with the guidance to take”.

I certify that this is a correct copy of the Bill which was passed by the National Assembly on 15th December, 2021.



Mrs. Tania Isaac
Clerk to the National Assembly



LICENCES (AMENDMENT) ACT, 2021

(Act 60 of 2021)



I assent

A handwritten signature in black ink, appearing to read "Wavel".

Wavel Ramkalawan
President

16th December, 2021

AN ACT TO AMEND THE LICENCES ACT (CAP. 113)

ENACTED by the President and the National Assembly.

Short title and commencement

1. This Act may be cited as the Licences (Amendment) Act, 2021 and shall come into operation on such date as the Minister for Finance may, by notice published in the Gazette, appoint.

Insertion of new section 20A in the Licences Act (Cap. 113)

2. The Licences Act is hereby amended by inserting after section 20, the following section —

Verification of antecedents regarding criminal records etc. for certain categories of persons

“**20A.**(1) Notwithstanding anything in any other Act, the Authority, before issuing a licence to an applicant falling under the category of designated non-financial businesses or professions, shall verify the antecedents of the applicant for a licence regarding any criminal records associated with criminal activities, holding significant or controlling interest or of being a beneficial owner or holding a management function in the respective designated non-financial businesses or professions:

Provided that this subsection shall be applicable only to the designated non-financial businesses and professions which do not fall under the regulatory ambit of any other Ministry or Department or Agency or under any other law in force.

(2) The Authority shall enter into a memorandum of understanding with the Financial Intelligence Unit established under section 10 of the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020 (Act 5 of 2020) and with any other Ministry or Department or Agency, setting out the procedures to verify the antecedents of the applicants for a licence regarding the criminal records associated with criminal activities, holding significant or controlling interest or of being a beneficial owner or holding a management function in the respective designated non-financial businesses or professions.

(3) Subject to satisfactory verification under subsection (1) by the designated competent authority, the Authority shall grant professional accreditation or a licence to an applicant covered under subsection (1).

(4) For the purposes of this section, the expression “designated non-financial businesses or professions” shall have

the same meaning assigned to it in the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020 (Act 5 of 2020).

(5) For the purposes of this section, the expression “beneficial owner” shall have the same meaning assigned to it under the Beneficial Ownership Act, 2020 (Act 4 of 2020) and the determination provided under regulation 3 of the Beneficial Ownership Regulations, 2020 (S.I. 107 of 2020).

(6) For the purposes of subsection (3), “designated competent authority” means the Financial Intelligence Unit established under the under section 10 of the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020 (Act 5 of 2020) for the time being and any other Ministry or Department or Agency as may be designated by the Minister for Finance, by notice published in the Gazette.

I certify that this is a correct copy of the Bill which was passed by the National Assembly on 14th December, 2021.



Mrs. Tania Isaac
Clerk to the National Assembly

CYBERCRIMES AND OTHER RELATED CRIMES ACT, 2021

(Act 59 of 2021)

ARRANGEMENT OF SECTIONS

PART I - PRELIMINARY

SECTIONS

1. Short title and commencement
2. Interpretation
3. Application of the Act

PART II - OFFENCES

4. Unauthorised access to computer system
5. Access with criminal intent
6. Unauthorised interception
7. Unauthorised interference with computer data
8. Unauthorised interference of computer system operation
9. Unlawful possession of illegal devices
10. Electronic fraud
11. Computer system related forgery
12. Unauthorised disclosure of access credentials
13. Cyber extortion
14. Cyber harassment
15. Cyber stalking
16. Offensive electronic communications
17. Pornographic or obscene material
18. Pornographic publication
19. Unlawful disclosure by electronic service provider

PART III - INVESTIGATIONS AND PROCEDURES

20. Preservation Order
21. Disclosure of preserved computer data
22. Production Order
23. Power to access, search and seizure for the purpose of investigation
24. Real time collection of traffic data
25. Deletion Order
26. Limited use of disclosed computer data and information

PART IV - MISCELLANEOUS

27. Punishment for non compliance of an order section 20, 21, 22 or 25 or contravention of section 26
28. Jurisdiction
29. Extradition
30. Forfeiture
31. Spontaneous information
32. Expedited preservation of stored computer data
33. Expeditious disclosure of preserved traffic data
34. Mutual assistance regarding accessing of stored computer data
35. Trans-border access to stored computer data with consent or where publicly available
36. Mutual assistance in real time collection of traffic data
37. Mutual Assistance regarding the interception of content computer data
38. Networking
39. Obligation to monitor transmitted or stored computer data
40. Criminal liability for providing access and transmitting information
41. Criminal liability for storing at the request of user
42. Application of certain provisions of the Penal Code
43. Regulations
44. Repeal of Cap 254
45. Savings provisions



CYBERCRIMES AND OTHER RELATED CRIMES ACT

(Act 59 of 2021)



I assent

A handwritten signature in black ink, appearing to read "Wavel".

Wavel Ramkalawan
President

15th December, 2021

AN ACT TO COMBAT CRIMINAL ACTIVITIES PERPETRATED USING COMPUTER SYSTEMS AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

ENACTED by the President and the National Assembly.

PART I - PRELIMINARY

Short title and commencement

1. This Act may be cited as the Cybercrimes and other Related Crimes Act, 2021 and shall come into operation on such date as the Minister may, by Notice in the Gazette, appoint.

Interpretation

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

“access” in relation to a computer system means to instruct, communicate with, store data in, retrieve data from or otherwise make use of any of the resources of a computer system;

“computer data” means any representation of facts, information or concepts in a form suitable for processing in a computer system, including a program suitable to cause a computer system to perform a function;

“computer system” means any computer data processing device or a group of such interconnected or related devices one or more of which pursuant to a program performs automatic processing of computer data performing logical arithmetic or storage functions and —

(a) includes any computer data storage facility or communications facility directly related to or operating in conjunction with such device or group of such interconnected or related devices, whether available in a single or distributed or decentralised form;

(b) any reference in this Act to any program or computer data held in a computer system includes a reference to any program or computer data held in any removable storage medium which is for the time being in the computer system; and a computer system is to be regarded as containing any program or computer data held in any such medium;

“Convention” means the Budapest Convention on Cybercrime adopted by the Committee of Ministers of the Council of Europe and entered into force on 1st July 2004;

“electronic service provider” means any public or private entity that provides to users of its service the ability to communicate by means of a computer system, and any other entity that processes or

stores computer data on behalf of such communication service or users of such service;

“investigatory authority” means the Police Force of Seychelles or any other body empowered to investigate any offence;

“function” includes logic, control, arithmetic, deletion, storage and retrieval and communication or telecommunication to, from or within a computer system;

“message” means a verbal, written, recorded, drawn or picture communication sent to or left for a recipient;

“Minister” means the Minister responsible for internal Affairs;

“seize” includes —

- (a) make and retain a copy of computer data, including by using on-site equipment; and
- (b) render inaccessible, or remove, computer data in the accessed computer system; and
- (c) take a printout of output of computer data;

“traffic data” means any computer data relating to a communication by means of a computer system, generated by a computer system that formed a part in the chain of communication, indicating the communication's origin, destination, route, time, date, size, duration, or type of underlying service.

Application of the Act

3. This Act applies to an act —

- (a) that occurs wholly or partly in the territory of Seychelles;
- (b) that occurs wholly or partly on a ship flying the flag of Seychelles;

- (c) that occurs wholly or partly on board an aircraft registered under the laws of Seychelles; and
- (d) directly or indirectly connected to, or affecting, a person, computer system or event within Seychelles.

PART II - OFFENCES

Unauthorised access to computer system

4.(1) A person who causes a computer system to perform a function with the intent to secure unauthorised access to any computer data held in a computer system, commits an offence and shall, on conviction, be liable to a fine of level 4 on the standard scale or to imprisonment for a term not exceeding 5 years or to both.

(2) For the purpose of subsection (1) —

- (a) access by a person to a computer system is unauthorised, where the person —
 - (i) is not entitled to control access of the kind in question; and
 - (ii) does not have consent to access of the kind in question from any person who is so entitled.
- (b) for the purposes of this section, it is immaterial that the unauthorised access is not directed at —
 - (i) any particular program or computer data;
 - (ii) a program or computer data of any kind; or
 - (iii) a program or computer data held in any particular computer system.

Access with criminal intent

5.(1) A person who causes a computer system to perform any function for the purpose of securing access to any computer data held in any computer

system, with criminal intent, commits an offence and shall, on conviction, be liable to a fine of level 5 on the standard scale or to imprisonment for a term not exceeding 20 years or to both.

- (2) For the purpose of subsection (1) —
- (a) the access referred to in subsection (1) is authorised or unauthorised;
 - (b) the further offence to which this section applies is committed at the same time when the access is secured or at any other time.

Unauthorised interception

- 6.(1) A person who —
- (a) intentionally intercepts or causes to be intercepted any function or non-public transmission to, from or within, a computer system and —
 - (i) does so by technical means; and
 - (ii) does not have authority to intercept the function or transmission or to cause the interception;
 - (b) intentionally uses or causes to be used, directly or indirectly, a computer system for the purpose of committing an offence,

commits an offence and shall, on conviction, be liable to a fine of level 4 on the standard scale or to imprisonment for a term not exceeding 5 years or both.

(2) For the purposes of subsection (1), intercepting includes listening to or viewing, by use of technical means, or recording, a function of a computer system or acquiring the substance, meaning or purport of any such function.

Unauthorised interference with computer data

7.(1) A person who, without authority, intentionally does any of the following acts —

- (a) destroys or alters computer data;
- (b) renders computer data meaningless, useless, inaccessible, ineffective, unreliable, impaired;
- (c) obstructs, interrupts or interferes with the lawful use of computer data;
- (d) obstructs, interrupts or interferes with any person in the lawful use of computer data;
- (e) denies access to computer data to any person entitled to it; or
- (f) accesses or intercepts any computer data without authority,

commits an offence and shall, on conviction, be liable to a fine of level 5 on the standard scale or to imprisonment for a term not exceeding 20 years or to both.

Unauthorised interference of computer system operation

8.(1) A person who intentionally, whether directly or indirectly, and without authority —

- (a) interferes with, or interrupts or obstructs the use of, a computer system; or
- (b) impedes or prevents access to, or impairs the usefulness or effectiveness of, any computer data in a computer system,

commits an offence and shall, on conviction, be liable to a fine of level 5 on the standard scale or to imprisonment for a term not exceeding 20 years or to both.

(2) For the purposes of subsection (1), interference, interruption, obstruction or impudence in relation to a computer system, includes —

- (a) cutting the electricity supply to a computer system;
- (b) corrupting a computer system by any means; and
- (c) inputting, deleting or altering computer data.

Unlawful possession of illegal devices

9. A person who —
- (a) intentionally, without justification, produces, sells, procures for use, imports, exports, distributes or otherwise makes available —
 - (i) a device, including computer data, that is designed or adapted for the purpose of committing an offence against section 6, 7, or 8; or
 - (ii) a computer system password, access code or similar computer data by which the whole or any part of a computer system is capable of being accessed;
 - (b) has any item mentioned in subparagraph (i) or (ii) of paragraph (a) in his or her possession with the intent that it be used by any person for the purpose of committing an offence against section 6, 7, or 8,

commits an offence and shall, on conviction, be liable to a fine of level 4 on the standard scale or to imprisonment for a term not exceeding 5 years or to both.

Electronic fraud

10. A person who intentionally and without right causes loss of property to another person by —

- (a) any input, alteration, deletion or suppression of computer data; or
- (b) any interference with the functioning of a computer system, with intent to procure for himself or herself or another person, an advantage or economic benefit,

commits an offence and shall, on conviction, be liable to a fine of level 4 on the standard scale or to imprisonment for a term not exceeding 10 years or to both.

Computer system related forgery

11. A person who causes loss of property to another person by any input, alteration, deletion or suppression of computer data resulting in inauthentic computer data with the intent to be considered or acted upon for legal purposes as if it were authentic, regardless whether or not the computer data is directly readable and intelligible, commits an offence and shall, on conviction, be liable to a fine of level 5 on the standard scale or to imprisonment for a term not exceeding 20 years or to both.

Unauthorised disclosure of access credentials

12. A person who, without lawful excuse or justification, discloses, sells, procures for use, distributes or otherwise makes available, any password, access code or other means of gaining access to a computer system or computer data —

- (a) for wrongful gain;
- (b) for any unlawful purpose;
- (c) to overcome security measures for the protection of computer data; or
- (d) with the knowledge that it is likely to cause prejudice to any person,

commits an offence and shall, on conviction, be liable to a fine of level 4 on the standard scale or to imprisonment for a term not exceeding 5 years, or to both.

Cyber extortion

13. A person who performs or threatens to perform any of the acts described under this Part, for the purposes of obtaining any unlawful advantage, by —

- (a) undertaking to cease or desist from such actions; or
- (b) undertaking to restore any damage caused as a result of those actions,

commits an offence and shall be liable, on conviction, to a fine of level 4 on the standard scale or to imprisonment for a term not exceeding 5 years or to both.

Cyber harassment

14. A person who uses a computer system or who knowingly permits a device to be used for any of the following purposes —

- (a) making any request, suggestion or proposal which is obscene, lewd, lascivious or indecent; or
- (b) threatening to inflict injury or physical harm to the person or property of any person; or
- (c) sending, delivering or showing a message, visual or otherwise, which is abusive, obscene, indecent, threatening, false or misleading, causing annoyance, inconvenience or is likely to cause distress or needless anxiety to any person,

commits an offence and shall, on conviction, be liable to a fine of level 4 on the standard scale or to imprisonment for a term not exceeding 5 years, or to both.

Cyber stalking

15. A person who willfully, maliciously or repeatedly uses electronic communication to harass another person, or makes a threat with the intent to place that person in reasonable fear for his or her safety or for the safety of his or her immediate family, commits an offence and shall, on conviction, be liable to a fine of level 4 on the standard scale or to imprisonment for a term not exceeding 5 years, or to both.

Offensive electronic communications

16. A person who wilfully, maliciously or repeatedly uses electronic communication of an offensive nature to disturb or attempt to disturb the peace, quiet or privacy of any person with no purpose to legitimate communication, whether or not a conversation ensues, commits an offence and shall, on conviction, be liable to a fine of level 4 on the standard scale or to imprisonment for a term not exceeding 5 years, or to both.

Pornographic or obscene material

17.(1) In this section —

-
- (a) “child” means a person who is under the age of 18 years;
 - (b) “child pornography” includes material that visually or otherwise depicts —
 - (i) a child engaged in sexually explicit conduct;
 - (ii) a person who appears to be a child engaged in sexually explicit conduct; or
 - (iii) realistic images representing a child engaged in sexually explicit conduct; and
 - (c) “sexually explicit conduct” means any conduct, whether real or simulated, which involves —
 - (i) sexual intercourse, including genital-genital, oral-genital, anal-genital or oral-anal, between children, or between an adult and a child, of the same or opposite sex,
 - (ii) bestiality,
 - (iii) masturbation,
 - (iv) sadistic or masochistic sexual abuse, or
 - (v) the exhibition of the genitals or pubic area of a child.
- (2) A person who —
- (a) publishes child pornography or obscene material relating to children through a computer system;
 - (b) produces child pornography or obscene material relating to children for the purpose of its publication through a computer system;
 - (c) possesses child pornography or obscene material relating to children in a computer system or on a computer data storage medium;

- (d) publishes or causes to be published an advertisement likely to be understood as conveying that the advertiser distributes or shows child pornography or obscene material relating to children; or
- (e) accesses child pornography or obscene material relating to children through a computer system,

commits an offence and shall, on conviction, be liable to a fine of level 4 on the standard scale or to imprisonment for a term not exceeding 5 years, or to both.

(3) A person who, by means of a computer system, communicates with a person who is, or who the accused believes is —

- (a) under the age of 18 years, for the purpose of facilitating the commission of the offence of child pornography under this Act, or the offences of prostitution, rape or indecent assault under the Penal Code;
- (b) under the age of 16 years, for the purpose of facilitating the commission of the offences of abduction or kidnapping of that person under the Penal Code; or
- (c) under the age of 16 years, for the purpose of facilitating the commission of any sexual offence with that person under the Penal Code,

commits an offence and shall, on conviction, be liable to a fine of level 4 on the standard scale or to imprisonment for a term not exceeding 5 years, or to both.

(4) Evidence that the person in subsection (3)(a), (b) or (c) was represented to the accused as being under the age of 18 years or 16 years, as the case may be, shall be, in absence of evidence to the contrary, proof that the accused believed that the person was under that age.

(5) It shall not be a defence to a charge under subsection (3) that the accused believed that the person he or she was communicating with was at least 16 or 18 years of age, as the case may be, unless the accused took reasonable steps to ascertain the age of the person.

(6) For the purposes of subsection (3), it does not matter that the person in subsection (3)(a), (b) or (c) is a fictitious person, represented to the accused as a real person.

Pornographic publication

18. A person who, by means of a computer system, discloses or publishes a private sexual photograph or film without the consent of the person who appears in the photograph or film commits an offence and shall, on conviction, be liable to a fine of level 4 on the standard scale or to imprisonment for a term not exceeding 5 years, or to both.

Unlawful disclosure by electronic service provider

19. An electronic service provider who, without lawful authority, discloses —

- (a) that an order under this Act has been made;
- (b) any act done under an order; or
- (c) any computer data collected or recorded under an order,

commits an offence and shall, on conviction, be liable to a fine of level 4 on the standard scale or to imprisonment for a term not exceeding 5 years, or to both.

PART III - INVESTIGATIONS AND PROCEDURES

Preservation Order

20.(1) An investigatory authority may order the expeditious preservation of computer data that has been stored by means of a computer system or any other information and communication technologies, where there are reasonable grounds to believe that such computer data is vulnerable to loss or modification.

(2) For the purposes of subsection (1), computer data includes traffic data.

(3) An order made under subsection (1) shall remain in force for a period not exceeding 90 days.

(4) Where the computer data is required to be preserved beyond 90 days, the investigatory authority shall make an application to the Court and the Court may make such order for preservation of the computer data as it may deem fit.

(5) The powers and procedures for the purposes of subsections (1), (2) and (3) shall apply to all offences under this Act.

Disclosure of preserved computer data

21.(1) The investigatory authority may, for the purposes of an investigation or the prosecution of an offence, order the disclosure of —

- (a) all preserved traffic computer data, irrespective of whether one or more electronic service providers were involved in the transmission of such computer data;
- (b) sufficient traffic computer data to identify the electronic service providers and the path through which the computer data was transmitted.

(2) The powers and procedures for the purposes of subsection (1) apply to all offences under this Act.

Production Order

22.(1) Where the disclosure of computer data is required for the purposes of an investigation or the prosecution of an offence, an investigatory authority may apply to the court for a Production Order compelling —

- (a) any person to submit specified computer data in that person's possession or control, which is stored in a computer system or computer data storage medium;
- (b) any electronic service provider offering its services to submit subscriber information in relation to such services in that electronic service provider's possession or control.

(2) Where any material to which an investigation relates consists of computer data stored in a computer system, disc, cassette, or on microfilm, or

preserved by any mechanical or electronic device, the request shall be deemed to require the person to produce or give access to it in a form in which it can be taken away and in which it is visible and legible.

Powers of access, search and seizure for purposes of investigation

23.(1) Where an investigatory authority has reasonable grounds to believe that stored computer data would be relevant for the purposes of an investigation or the prosecution of an offence, it may apply to the court for the issue of a warrant to search, access or secure computer data.

(2) To secure computer data under subsection (1), the powers of the investigatory authority shall include the power to —

- (a) search, seize or secure a computer system or any information and communication technologies medium;
- (b) make and retain a copy of such computer data or information;
- (c) maintain the integrity of the relevant stored computer data or information; or
- (d) render inaccessible or remove the stored computer data or information from the computer system, or any information and communication technologies medium.

Real time collection of traffic data

24. Where the investigatory authority has reasonable grounds to believe that any computer data would be relevant for the purposes of an investigation or the prosecution of an offence, it may apply to the court for an order —

- (a) allowing the collection or recording of traffic data, in real time, associated with specified communications transmitted by means of any computer system; or
- (b) compelling an electronic service provider, within its technical capabilities, to effect such collection and recording referred to in paragraph (a), or assist the investigatory authority to effect such collection and recording.

Deletion Order

25.(1) The court may, upon application by an investigatory authority, and being satisfied that a computer system or any other information and communication technologies medium contains indecent material of a child, order that such computer data be —

- (a) no longer stored on and made available through the computer system or any other medium; or
- (b) deleted or destroyed.

(2) For the purposes of this section, “indecent material” means —

- (a) any indecent or obscene writing, photograph, sketch, drawing or picture whether partly or wholly generated by computer;
- (b) any indecent or obscene printed matter, print, painting, poster drawing, model or cinematographic film or video film, cassette or disc; or
- (c) any other indecent or obscene object.

Limited use of disclosed computer data and information

26. No information on computer data under sections 21 to 24 shall be used for any purpose other than that for which the computer data was originally sought, except —

- (a) in accordance with any other written law;
- (b) in compliance with an order of court;
- (c) where such computer data is required for the purpose of preventing, detecting or investigating offences, apprehending or prosecuting offenders, assessing or collecting tax, duties or other monies owed or payable to the Government; or
- (d) for the prevention of injury or other damage to the health of a person or serious loss of or damage to property.

PART IV - MISCELLANEOUS

Punishment for non compliance of an order section 20, 21, 22 or 25 or contravention of section 26

27. A person who —

- (a) fails to comply with a preservation order under section 20 or an order for the disclosure under section 21, a protection order under section 22; or a deletion order under section 25; or
- (b) uses any computer data in contravention of section 26,

commits an offence and shall, on conviction, be liable to a fine of level 4 on the standard scale or to imprisonment for a term not exceeding 5 years, or to both.

Jurisdiction

28.(1) Notwithstanding any other written law, the Supreme Court shall have jurisdiction to try an offence under this Act or any regulations made thereunder and may, on conviction, impose any penalty or forfeiture provided for under this Act.

(2) The Supreme Court shall have jurisdiction where the act constituting an offence under this Act has been, wholly or partly, committed outside Seychelles —

- (a) on board a Seychelles ship; or
- (b) on board an aircraft registered in Seychelles.

Extradition

29. Any offence under this Act may, with the consent of the Attorney General, be an extraditable crime for which extradition may be granted or obtained under the Extradition Act (*Cap 78*).

Forfeiture

30. A court before which a person is convicted of an offence may, in addition to any other penalty imposed, order the forfeiture of any apparatus,

article or thing which is the subject matter of the offence or is used in connection with the commission of the offence.

Spontaneous information

31.(1) An authority may, without prior request, forward to the investigatory authority information obtained within the framework of its own investigation when it considers that the disclosure of such information might assist in initiating or carrying out investigations or proceedings concerning criminal offences established in accordance with this Act.

(2) Prior to the disclosure of computer data under subsection (1) —

- (a) the authority may request the investigatory authority to maintain the confidentiality of the information provided; and
- (b) where the investigatory authority cannot comply with such request, it shall notify the authority, which may then determine whether the information should nevertheless be provided.

(3) For the purposes of this section, “authority” means any public body, agency, organ or department established by law.

Expedited preservation of stored computer data

32.(1) An investigatory authority may order the expeditious preservation of computer data that has been stored by means of a computer system located within or outside its territory where a mutual assistance request has been obtained from another investigatory authority for the search or similar access, seizure or similar securing, or disclosure of the computer data.

(2) A request for preservation made under subsection (1) shall specify —

- (a) the investigatory authority seeking the preservation;
- (b) the offence that is the subject of an investigation or prosecution and a brief summary of the related facts;

- (c) the stored computer data to be preserved and its relationship to the offence;
- (d) any available information identifying the custodian of the stored computer data or the location of the computer system;
- (e) the necessity of the preservation; and
- (f) that the investigatory authority intends to submit a request for mutual assistance for the search or similar access, seizure or similar securing, or disclosure of the stored computer data.

(3) Upon receiving the request from another investigatory authority, the requested authority shall take all appropriate measures to preserve expeditiously the specified computer data in accordance with its domestic law.

(4) For the purposes of responding to a request under this section, dual criminality shall not be required as a condition for providing such preservation.

(5) An investigatory authority that requires dual criminality as a condition for responding to a request for mutual assistance for the search or similar access, seizure or similar securing, or disclosure of stored computer data may, in respect of offences, reserve the right to refuse the request for preservation under this Act in cases where it has reasons to believe that at the time of disclosure the condition of dual criminality cannot be fulfilled.

(6) A request for preservation may be refused where —

- (a) the compliance with the request would be contrary to the Constitution;
- (b) it is of prejudice to the sovereignty, international relations, security, public order, or other public interest of Seychelles;
- (c) there is reasonable belief that the request for assistance has been made for the purpose of prosecuting a person on account of that person's race, sex, religion, nationality, ethnic origin or political opinions, or that a person's position may be prejudiced for any of those reasons;

- (d) in the absence of dual criminality, the granting the request would require a court in Seychelles to make an order in respect of any person or property, for conduct which does not constitute an offence, nor gives rise to a confiscation or restraining order, in Seychelles;
- (e) the request relates to an offence under military law, or a law relating to military obligations, which would not be an offence under ordinary criminal law;
- (f) the request relates to a political offence or an offence of a political character;
- (g) the request relates to an offence, the prosecution of which, in the foreign State, would be incompatible with laws of Seychelles on double jeopardy;
- (h) the request requires Seychelles to carry out measures that are inconsistent with its laws and practice, or that cannot be taken in respect of criminal matters arising in Seychelles; or granting the request in whole or in part would be likely to prejudice the conduct of proceedings in Seychelles.

(7) Any preservation effected in response to the request referred to in subsection (1) shall be for a period of not less than sixty days, in order to enable the requesting party to submit a request for the search or similar access, seizure or similar securing, or disclosure of the computer data, and following the receipt of such request, the computer data shall continue to be preserved pending a decision on that request.

Expeditious disclosure of preserved traffic data

33.(1) Where, in the course of the execution of a request made to subject to Article 29 of the Convention to preserve traffic data concerning a specific communication, the requested investigatory authority discovers that an electronic service provider in another State was involved in the transmission of the communication, the requested investigatory authority shall expeditiously disclose to the requesting investigatory authority a sufficient amount of traffic data to identify that electronic service provider and the path through which the communication was transmitted.

(2) The disclosure of traffic data under subsection (1) may be withheld where —

- (a) the compliance with the request would be contrary to the Constitution;
- (b) it is of prejudice to the sovereignty, international relations, security, public order, or other public interest of Seychelles;
- (c) in the reasonable belief that the request for assistance has been made for the purpose of prosecuting a person on account of that person's race, sex, religion, nationality, ethnic origin or political opinions, or that a person's position may be prejudiced for any of those reasons;
- (d) in the absence of dual, criminality, accepting the request would require a court in Seychelles to make an order in respect of any person or property in respect of conduct which does not constitute an offence, nor gives rise to a confiscation or restraining order, in Seychelles;
- (e) the request relates to an offence under military law, or a law relating to military obligations, which would not be an offence under ordinary criminal law;
- (f) the request relates to a political offence or an offence of a political character;
- (g) the request relates to an offence, the prosecution of which, in the foreign State, would be incompatible with laws of Seychelles on double jeopardy;
- (h) the request requires Seychelles to carry out measures that are inconsistent with its laws and practice, or that cannot be taken in respect of criminal matters arising in Seychelles; or granting the request in whole or in part, on the ground that granting the request immediately would be likely to prejudice the conduct of proceedings in Seychelles.

Mutual assistance regarding accessing of stored computer data

34.(1) An investigatory authority may request another investigative authority to search or similarly access, seize or similarly secure, and disclose computer data stored by means of a computer system located within the territory of the requested Party, including computer data that has been preserved subject to Article 29 of the Convention.

(2) The requested investigatory authority may respond to the request through the application of international instruments, arrangements and laws subject to Article 23 of the Convention, and in accordance with other relevant provisions of this Act.

- (3) The request shall be responded to on an expedited basis where —
- (a) there are grounds to believe that relevant computer data is particularly vulnerable to loss or modification; or
 - (b) the instruments, arrangements and laws referred to in subsection (2) otherwise provide for expedited co-operation.

Trans-border access to stored computer data with consent or where publicly available

35. An investigatory authority may, without the authorisation of another authority —

- (a) access publicly available open source stored computer data, regardless of where the computer data is located geographically; or
- (b) access or receive, through a computer system in its territory, stored computer data located in another authority, where the investigation authority obtains the lawful and voluntary consent of the person who has the lawful authority to disclose the computer data to the investigation authority through that computer system.

Mutual assistance in the real-time collection of traffic data

36.(1) The investigatory authorities shall provide mutual assistance to each other in the real-time collection of traffic data associated with specified

communications in their territory transmitted by means of a computer system, subject to the provisions of subsection (2), this assistance shall be governed by the conditions and procedures provided for under the laws of Seychelles.

(2) The assistance under subsection (1) shall be governed by the conditions and procedures provided for under the laws of Seychelles.

(3) Each investigatory authority shall provide such assistance at least with respect to offences for which real-time collection of traffic data would be available in a similar domestic case.

Mutual assistance regarding the interception of content computer data

37. The investigatory authority shall provide mutual assistance to each other in the real-time collection or recording of content computer data of specified communications transmitted by means of a computer system to the extent permitted under their applicable treaties and the laws of Seychelles.

Networking

38.(1) A point of contact shall be established on a twenty-four hour, seven-day-a-week basis, in order to ensure the provision of immediate assistance for the purpose of investigations or proceedings concerning criminal offences related to computer systems and computer data, or for the collection of evidence in electronic form of a criminal offence and such assistance shall include facilitating, or, if permitted by its domestic law and practice, directly carrying out the measures for —

- (a) the provision of technical advice;
- (b) the preservation of computer data pursuant to Articles 29 and 30 of the Convention;
- (c) the collection of evidence, the provision of legal information, and locating of suspects.

(2) An investigatory authority's point of contact shall have the capacity to carry out communications with the point of contact of another authority on an expedited basis.

(3) Where the point of contact designated by an investigatory authority is not responsible for international mutual assistance or extradition, the point of contact shall ensure that it is able to co-ordinate with such authority or authorities on an expedited basis.

(4) An investigatory authority shall ensure that trained and equipped personnel are available, in order to facilitate the operation of the network.

Obligation to monitor transmitted or stored computer data

39.(1) When providing the services there is no general obligation on an electronic service provider to monitor that computer data which it transmits or stores; or actively seek facts or circumstances indicating an unlawful activity.

(2) The Minister may, subject to any other law, prescribe procedures for electronic service providers to —

- (a) inform the competent authorities of alleged illegal activities undertaken or information provided by recipients of their service; and
- (b) communicate to the competent authorities, at their request, information enabling the identification of recipients of their service.

Criminal liability for providing access and transmitting information

40.(1) An electronic service provider is not criminally liable for providing access and transmitting information on condition that the provider —

- (a) does not initiate the transmission;
- (b) does not select the receiver of the transmission; or
- (c) does not select or modify the information contained in the transmission.

(2) The acts of transmission and of provision of access referred to in subsection (1) include the automatic, intermediate and transient storage of the

information transmitted in so far as this takes place for the sole purpose of carrying out the transmission in the communication network, and provided that the information is not stored for any period longer than is reasonably necessary for the transmission.

Criminal liability for storing at the request of user

41.(1) An electronic service provider is not criminally liable for the information stored at the request of a user of the service, on condition that —

- (a) the electronic service provider expeditiously removes or disables access to the information after receiving an order from any public authority or court of law to remove specific illegal information stored; or
- (b) the electronic service provider, upon obtaining knowledge or awareness about specific illegal information stored by other ways than an order from a public authority, expeditiously informs a public authority to enable them to evaluate the nature of the information and if necessary issue an order to remove the content.

(2) Subsection (1), shall not apply when the user of the service is acting under the authority or the control of the electronic service provider.

(3) If the electronic service provider is removing the content after receiving an order pursuant to subsection (1), the provider is exempted from contractual obligations with his customer to ensure the availability of the service.

(4) An electronic service provider is not criminally liable for the automatic, intermediate and temporary storage of that information, performed for the sole purpose of making more efficient the information's onward transmission to other users of the service upon their request, on condition that —

- (a) the electronic service provider does not modify the information;
- (b) the electronic service provider complies with conditions of access to the information;

- (c) the electronic service provider complies with rules regarding the updating of the information, specified in a manner widely recognised and used by industry;
- (d) the electronic service provider does not interfere with the lawful use of technology, widely recognised and used by industry, to obtain computer data on the use of the information; and
- (e) the electronic service provider acts expeditiously to remove or to disable access to the information it has stored upon knowledge of the fact that the information at the initial sources of the transmission has been removed from the network, or access to it has been disabled, or that a court or an administrative authority has ordered such removal or disablement.

(5) An electronic service provider who enables the access to information provided by third person by providing an electronic hyperlink is not liable for the information if the electronic service provider —

- (a) expeditiously removes or disables access to the information after receiving an order from any public authority or court to remove the link; and
- (b) upon obtaining knowledge or awareness about specific illegal information stored by other ways than an order from a public authority, expeditiously informs a public authority to enable them to evaluate the nature of the information and if necessary issue an order to remove the content;

(6) An electronic service provider who makes or operates a search engine that either automatically or based on entries by others creates and index of internet-related content or make available electronic tools to search for information provided by third party is not liable for search results on condition that the provider —

- (a) does not initiate the transmission;
- (b) does not select the receiver of the transmission; and
- (c) does not select or modify the information contained in the transmission.

Application of certain provisions of the Penal Code

42. Sections 25, 30 and 30A of the Penal Code shall, unless the court determines otherwise, apply to a person convicted of an offence under this Act.

Regulations

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

Repeal of Cap 254

44. The Computer Misuse Act Cap 254 is hereby repealed.

Savings provisions

45. Notwithstanding the repeal under section 43 —

- (a) anything made, given, issued or done under the repealed Act shall have the same effect as if it was made, given, done or issued under this Act;
- (b) any application made to a court under the repealed Act shall continue to be dealt with and determined as if it was made under this Act; and
- (c) any legal proceedings which, before the coming into force of this Act were pending, shall be continued or enforced in the same manner as they would have continued or enforced before the coming into force of this Act.

I certify that this is a correct copy of the Bill which was passed by the National Assembly on 22nd November, 2021.



Mrs. Tania Isaac
Clerk to the National Assembly



**THE INTERNATIONAL BUSINESS COMPANIES ACT AND OTHER
RELATED LAWS (AMENDMENT) ACT, 2021**

(Act 63 of 2021)



I assent

A handwritten signature in black ink, appearing to read 'Wavel'.

Wavel Ramkalawan
President

17th December, 2021

AN ACT TO AMEND THE INTERNATIONAL BUSINESS COMPANIES ACT, 2016 (ACT 15 OF 2016), LIMITED PARTNERSHIPS ACT, 2003 (CAP. 281), THE FOUNDATIONS ACT, 2009 (CAP.270) AND THE TRUSTS ACT, 2021 (ACT 34 OF 2021).

ENACTED by the President and the National Assembly.

**PART 1
PRELIMINARY**

Short title and commencement

1. This Act may be cited as the International Business Companies Act and Other Related Laws (Amendment) Act, 2021 and, save as otherwise provided, the provisions of this Act shall come into force at once.

PART 2
AMENDMENTS TO THE INTERNATIONAL BUSINESS
COMPANIES ACT, 2016 (ACT 15 OF 2016)

2. The International Business Companies Act, 2016 (Act 15 of 2016) (hereinafter in this Part referred to as the principal Act) is hereby amended as follows —

Amendment of section 167

- (a) Section 167 of the principal Act is amended in subsection (5), by inserting after the words “under subsection (2)” the words “and the fee specified in Part II of the Second Schedule”;

Repeal of section 171

- (b) Section 171 of the principal Act is hereby repealed.

Amendment of section 173

- (c) Section 173 of the principal Act is amended in subsection (1) by repealing paragraph (d).

Amendment of section 175

- (d) Section 175 of the principal Act is amended —
- (i) in subsection (1B), in the opening paragraph, by repealing the word “not” after the words “other than a company”;
- (ii) by repealing subsection (2A) and substituting therefor the following subsection —

“(2A) Where a company —

- (a) keeps a copy of its accounting records at its registered office;
- (b) keeps its original accounting records in Seychelles at a place other than at its registered office,

the company shall notify in writing its registered agent of the physical address of the place where the original accounting records are kept.

Amendment of section 276

- (e) Section 276 of the principal Act is amended, with effect from 1st January, 2022 —
- (i) in subsection (1C), —
 - (a) in paragraph (a), by repealing the word “date” and substituting therefor the words “date of striking off under section 272(1)(c) or within one year from the date”;
 - (b) in paragraph (b), by repealing the words “Sub-Part II, III or IV”, and substituting therefor the words “Sub-Part I.”;
 - (ii) in subsection (4), by inserting after the words “by the outgoing registered agent” the words “, unless the outgoing registered agent has resigned as registered agent of the company after the company was struck-off”;

Amendment of section 277

- (f) Section 277 of the principal Act is amended with effect from 1st January, 2022 —
- (i) in subsection (2), —
 - (A) in paragraph (a), by repealing the word “date” and substituting thereof the words “date of striking off under section 272(1)(c) or within one year from the date”;
 - (B) in paragraph (b), —

- (a) by repealing the words “three years”, and substituting therefor the words “five years”;
- (b) by repealing the words “Sub-Part”, and substituting therefor the words “Sub-Part I”;
- (ii) in subsection (4A), by repealing the words “the Registrar” and substituting therefor the words “the Court”;

Amendment of section 354

- (g) Section 354 (3) of the principal Act is amended by repealing the words “US\$5,000” and substituting therefor the words “US\$10,000”;

Amendment of section 361

- (h) Section 361 (3) of the principal Act is amended by repealing the words “of US\$100 and to an additional penalty of US\$25 for each day or part thereof during which the contravention continues”, and substituting therefor the words “not exceeding US\$10,000”;

Amendment of section 389

- (i) Section 389 (1) of the principal Act is amended by repealing paragraph (b).

Repeal of SIXTH SCHEDULE

- (j) The SIXTH SCHEDULE of the principal is hereby repealed.

Amendment of International Business Companies (Amendment) Act, 2021

3. Section 60(2) (*Commencement of certain provisions of this Act*) of the International Business Companies (Amendment) Act, 2021 is hereby amended with effect from the date of commencement of the International Business Companies (Amendment) Act, 2021, by repealing the words “except

paragraph (iii)” and substituting therefor the words “except subsection (1C) in paragraph (iii)”;

Retrospective provision

4. Where a company which has been incorporated, continued or converted as a company under the International Business Companies Act, 2016 (Act 15 of 2016) before the commencement of this Act, keeps its accounting records outside Seychelles, it shall lodge its accounting records relating to transactions over the past 7 years at the company's registered office in Seychelles within 6 months from the date of commencement of the International Business Companies (Amendment) Act, 2021 (Act 32 of 2021).

PART 3

AMENDMENTS TO THE FOUNDATIONS ACT (CAP.270)

5. The Foundations Act (Cap. 270) (hereinafter in this Part referred to as the principal Act) is hereby amended as follows —

- (a) Section 75 of the principal Act is hereby amended by repealing subsection (3B) and substituting therefor the following subsections —

“(3B) Where a Foundation —

- (a) keeps a copy of its accounting records at its registered office;
- (b) keeps its original accounting records in Seychelles at a place other than at its registered office,

the Foundation shall inform its registered agent in writing of the physical address of the place where the original accounting records are kept.

(3BA) Where there is a change in the place at which its original accounting records are kept, the Foundation shall, within 14 days of the change, notify in writing its registered

agent of the physical address of the place at which its original accounting records are kept.”;

Substitution of section 113

- (b) Section 113 of the principal Act is hereby repealed and replaced by the following section —

“Power of court to make orders

113.(1) This section applies where the court, on an application by a person of standing or of its own motion, is satisfied, in respect of a foundation, that a person has failed to comply with —

- (a) a requirement of this Act or of the charter or regulations of the foundation; or
- (b) an obligation imposed on a person by this Act or by the charter or regulations of the foundation.

(2) For the purposes of subsection (1), “a person of standing”, in respect of a foundation means —

- (a) the foundation;
- (b) a founder of the foundation;
- (c) a person, other than a founder of the foundation, who has endowed the foundation;
- (d) if any rights a founder of a foundation had in respect of the foundation and its assets have been assigned to some other person, that other person;
- (e) a person appointed under the regulations of the foundation;

- (f) a beneficiary of the foundation;
- (g) a councillor of the foundation;
- (h) a creditor of the foundation;
- (i) a supervisory person;
- (j) the foundation's registered agent;
- (k) the Registrar; or
- (l) the Attorney General.

(3) The court may make an order in respect of a foundation —

- (a) that a person shall comply with the requirement or obligation which that person has failed to comply with; or
- (b) otherwise facilitating compliance with the requirement or obligation which that person has failed to comply with.

(4) The court shall not make an order under subsection (3) unless it is satisfied that —

- (a) the same shall assist the foundation in the just and proper administration of its assets or the attainment of its objects; or
- (b) it is otherwise just and desirable that it should do so.

(5) Where the court makes an order under subsection (3)(b), its order shall have the same effect as if it were an action taken by the person required to comply with the requirement or obligation.

(6) An order made by the court under this section in respect of a foundation may, without limitation, provide for —

- (a) the action that the foundation or other person is required to take;
- (b) the appointment or removal of a person appointed under the charter or regulations of the foundation;
- (c) a person to make good a breach;
- (d) the foundation or other person to cease acting in such manner as may be specified by the court;
- (e) payment or distribution of an amount of money or other asset; or
- (f) directions by the court.

(7) If the court is satisfied that a foundation, acting through its council, has failed to carry out its objects or any of them, the court may, by order, require the foundation to do so.

(8) Any order made by the court under this section —

- (a) may be made on such terms; and
- (b) may impose such conditions,

as the court thinks fit.”;

Retrospective provision

6. Where a Foundation registered under the Foundations Act (Cap. 270) before the commencement of this Act keeps its accounting records outside Seychelles, it shall lodge its accounting records relating to transactions over the past 7 years at the Foundation's registered office in Seychelles within 6 months from the date of commencement of the Foundations (Amendment) Act, 2021.

PART 4
AMENDMENTS TO THE LIMITED PARTNERSHIPS ACT
(CAP.281)

7. The Limited Partnerships Act (Cap. 281) (hereinafter in this Part referred to as the principal Act) is hereby amended as follows —

Amendment of section 11A

(a) Section 11A of the principal Act is amended —

- (i) in subsection (3), in paragraph (b), by repealing the words “the company's” and substituting therefor the words “the limited partnership's”;
- (ii) by repealing subsection (4A) and substituting therefor the following subsections —

“(4A) Where a limited partnership —

- (a) keeps a copy of its accounting records at its registered office;
- (b) keeps its original accounting records in Seychelles at a place other than at its registered office,

the limited partnership shall inform its registered agent in writing of the physical address of the place where the original accounting records are kept.

(4B) Where there is a change in the place at which its original accounting records are kept, a limited partnership shall, within 14 days of the change, notify in writing its registered agent of the physical address of the place at which its original accounting records are kept.”;

Retrospective provision

8. Where a limited partnership registered under the Limited Partnerships Act (Cap. 281) before the commencement of this Act keeps its

accounting records outside Seychelles, it shall lodge its accounting records relating to transactions over the past 7 years at the limited partnership's registered office in Seychelles within 6 months from the date of commencement of the Limited Partnerships (Amendment) Act, 2021.

PART 5

AMENDMENTS TO THE TRUSTS ACT, 2021 (ACT 34 OF 2021)

9. The Trusts Act, 2021 (Act 34 of 2021) (hereinafter in this Part referred to as the principal Act) is hereby amended as follows —

Amendment of section 11

- (a) section 11 of the principal Act is amended in subsection (6), by repealing the word “section 88” and substituting therefor the words “section 87(3)”;

Amendment of section 27

- (b) section 27 of the principal Act is amended by repealing subsection (3) and substituting therefor the following subsections —

“(3) Where an approved trustee —

- (a) keeps a copy of the accounting records at its principal place of business or registered office in Seychelles;
- (b) keeps the original accounting records in Seychelles at a place other than at its principal place of business or registered office,

the approved trustee shall keep a written record of the physical address of the place where the original accounting records are kept.

(3A) Where there is a change in the place at which the original accounting records are kept, an approved trustee shall, within 14 days of the change, keep a written record of

the physical address of the place at which the original accounting records are kept.”;

Amendment of section 28

(c) section 28 of the principal Act is amended —

- (i) in subsection (1), by repealing paragraphs (a), (b), (c) and (d) and re-numbering the paragraphs (e) and (f) as paragraphs (a) and (b) respectively;
- (ii) in subsection (2),
 - (A) in paragraph (c), by repealing the words “a trustee, beneficiary, settlor, protector, enforcer, agent or service provider to the trust as the case may be, and in the case of a natural person identified under subsection (1), the date upon which such a person began exercising control over the trust” and substituting therefor the words “an enforcer, agent or service provider to the trust, as the case may be”;
 - (B) in paragraph (d), by repealing the words “a trustee, beneficiary, settlor, protector, enforcer, agent or service provider to the trust as the case may be, and in the case of a natural person identified under subsection (1), the date upon which the person ceased to exercise control over the trust” and substituting therefor the words “an enforcer, agent or service provider to the trust, as the case may be”;

Retrospective provision

10. Where a trustee of a trust registered (including every former trust deemed to have been re-registered as a registered trust) under the Trusts Act, 2021 (Act 34 of 2021) before the commencement of this Act, keeps the accounting records relating to the trust outside Seychelles, the trustee shall,

within 6 months from the commencement of the Trusts Act, 2021, lodge, in respect of that trust, the accounting records relating to transactions of the trust over the past 7 years —

- (a) at the licensed trustee's principal place of business in Seychelles, in the case where the approved trustee of the trust is a licensed trustee; or
- (b) at the private trust company's registered office in Seychelles, in the case where the approved trustee of the trust is a private trust company.

I certify that this is a correct copy of the Bill which was passed by the National Assembly on 15th December, 2021.



Mrs. Tania Isaac
Clerk to the National Assembly

**CUSTODY, MANAGEMENT AND DISPOSAL OF SEIZED,
FORFEITED OR CONFISCATED PROPERTIES ACT, 2021**

(Act 61 2021)

ARRANGEMENT OF SECTIONS

SECTIONS

**PART 1
PRELIMINARY**

1. Short title and commencement
2. Interpretation

**PART 2
ASSET MANAGEMENT UNIT**

3. Asset Management Unit
4. Functions of Asset Management Unit
5. Taking over of properties by Asset Management Unit
6. Steps to prevent funds or assets to designated persons
7. Coordination with other countries in the seizure, forfeiture or confiscation of the properties
8. Policies and procedure for management of seized business
9. Measures to trace, identify and evaluate the property
10. Measures to manage, maintain and dispose of the properties subjected to seizure, forfeiture or confiscation

**PART 3
ASSET RECOVERY FUND**

11. Establishment of Asset Recovery Fund
12. Receipts and disbursements from the ARF

**PART 4
MISCELLANEOUS**

13. Protection of action taken in good faith
14. Regulations
15. Transitional provision



**CUSTODY, MANAGEMENT AND DISPOSAL OF SEIZED,
FORFEITED OR CONFISCATED PROPERTIES ACT, 2021**

(Act 61 of 2021)



I assent

A handwritten signature in black ink, appearing to read "Wavel".

Wavel Ramkalawan
President

17th December, 2021

AN ACT TO PROVIDE FOR THE CUSTODY, MANAGEMENT AND DISPOSAL OF SEIZED, FORFEITED OR CONFISCATED PROPERTIES AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

ENACTED by the President and the National Assembly.

**PART 1
PRELIMINARY**

Short title and commencement

1. This Act may be cited as the Custody, Management and Disposal of Seized, Forfeited or Confiscated Properties Act, 2021 and shall come into operation on such date as the Minister may, by notice in the Gazette, appoint and different dates may be appointed for different provisions of the Act.

Interpretation

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

“AMLCFT Act” means the Anti-Money Laundering the Countering the Financing of Terrorism Act, 2020 (Act 5 of 2020);

“Asset Management Unit” means the Asset Management Unit established under section 3 of this Act;

“Consolidated Fund” means the fund established by that name under article 151 of the Constitution;

“court” means a court of competent jurisdiction established by or under the authority of the Constitution;

“domestic authorities” means the authorities under different Ministries and Departments dealing with seizure, freezing, forfeiture and confiscation of the properties;

“Minister” means the Minister responsible for Finance and the term “Ministry” shall be construed accordingly;

“notified date” means a date notified by the Minister to take over the properties frozen, seized, forfeited or confiscated to the Republic under various laws in force in the Republic;

“offence” shall have the same meaning assigned to it in the AMLCFT Act (Act 5 of 2020);

“Property” shall have the same meaning assigned to it in the AMLCFT Act (Act 5 of 2020) and the term “properties” shall be construed accordingly;

“realizable property” means property liable to be taken into possession and disposed of under section 10 of this Act and includes property in the custody or possession of a person other than the beneficial owner; and

“Republic” means the Republic of Seychelles.

PART 2
ASSET MANAGEMENT UNIT

Asset Management Unit

3.(1) There shall be established a Unit to be known as the Asset Management Unit in the Ministry of Finance.

(2) The composition of the officers and staff of the Asset Management Unit shall be decided by the Minister and the same shall be notified to all the concerned Ministries and Departments.

Functions of Asset Management Unit

4. The functions of the Asset Management Unit shall be —
- (a) to collaborate with the authorities to identify, trace and evaluate realizable property that is subject to seizure, forfeiture or confiscation;
 - (b) to collaborate with all Ministries, Departments and Authorities which shall be dealing with properties seized, frozen, forfeited or confiscated to the Republic under Acts in force in the Republic;
 - (c) to take custody of realizable properties frozen, seized, forfeited or confiscated in furtherance of any law in force in the Republic;
 - (d) to maintain the properties frozen, seized, forfeited or confiscated until they are disposed of under the provisions of this Act or the regulations made hereunder;
 - (e) to take measures for the disposal of forfeited or confiscated properties and also for disposal of any property upon an order of the court;
 - (f) to take steps for filing appropriate applications before the courts for freezing or seizing properties to prevent dealing with or transfer or disposal of such properties;

-
- (g) to take steps to counter actions taken by other parties seeking to prevent the Republic from taking steps to freeze, seize or recover property that is liable for forfeiture or confiscation;
 - (h) to support the domestic authorities in taking appropriate investigate measures to identify properties that are to be frozen or seized;
 - (i) to support and administer the identification, tracing and evaluation of property that is subject to forfeiture or confiscation;
 - (j) to support the administration of provisional measures, such as freezing or seizing, to prevent any dealing, transfer or disposal of property subject to forfeiture or confiscation;
 - (k) to maintain proper records of the properties frozen, seized, forfeited or confiscated to the Republic;
 - (l) to take steps for identifying auctioneers for the disposal of the forfeited or confiscated property;
 - (m) to take steps for identifying persons, agencies or institutions to maintain frozen or seized property;
 - (n) to assist the Attorney General's Office in coordinating with other countries in the freezing, seizure and forfeiture of properties and disposal of the properties between the countries when the forfeiture or confiscation is directly or indirectly a result of co-ordinated law enforcement actions;
 - (o) to assist the domestic authorities to implement a coordinated mechanism for disposal of forfeited or confiscated properties;
 - (p) to take all necessary measures to protect the rights of bona fide third parties;

- (q) to take all necessary steps for the proper management of frozen or seized properties;
- (r) to issues policies, procedures and guidelines related to management of properties subject to freezing, seizing, forfeiture or confiscation actions undertaken by the domestic authorities;
- (s) to act as the primary mechanism for managing, and when necessary, disposing of property frozen, seized, forfeited or confiscated; and
- (t) to have any other functions as may be necessary for the custody, management and disposal of any realizable property.

Taking over of properties by Asset Management Unit

5.(1) Every Ministry, Department and Authority upon freezing, seizure, forfeiture or confiscation of property to the Republic shall provide the data of such properties to the Asset Management Unit within 2 working days from the date of freezing, seizure, forfeiture or confiscation, as the case may be.

(2) Every Ministry, Department and Authority that has powers to freeze, seize, forfeit or confiscate properties shall appoint a liaison officer, who shall be in charge of liaising and shall be responsible to coordinate the freezing and seizing actions with the Asset Management Unit and providing the data under subsection (1).

(3) If a liaison officer knowingly fails to provide the data to the Asset Management Unit, this shall be regarded as a dereliction of duties and necessary action may be taken against the liaison officer in accordance with the provisions of Public Services Order.

(4) The Asset Management Unit established under section 3 shall take over all the properties that are frozen, seized, forfeited or confiscated under any law in force in the Republic as on the notified date.

(5) Every Ministry or Department, which is in custody of properties as on the notified date shall hand over all the properties in their possession to

the Asset Management Unit with all the relevant documents available for taking further actions against the properties.

(6) The Asset Management Unit shall continue the process started by the respective Ministry or Department for disposal of such properties without the necessity for the process to be recommenced.

(7) The Asset Management Unit shall dispose of the properties in accordance with the provisions of this Act.

(8) The Asset Management Unit shall not institute or proceed with actions and measures that are detrimental to the rights of bona fide third parties.

Steps to prevent funds or assets to designated persons

6.(1) Notwithstanding any other law in force, the Asset Management Unit shall take all necessary steps to prevent the availability of funds or assets to designated persons under the Prevention of Terrorism Act (Cap. 179) and the regulations made thereunder.

(2) The Asset Management Unit shall coordinate with the respective law enforcement agency responsible for designation of persons under the Prevention of Terrorism Act (Cap. 179) and with the Attorney General's Office, while taking any steps under subsection (1) to prevent the availability of funds or assets to the designated persons.

Coordination with other countries in the seizure, forfeiture or confiscation of the properties

7.(1) The Asset Management Unit shall act as a coordinating agency to support the Attorney General's Office in arranging for coordination with other countries for seizure and forfeiture or confiscation of properties.

(2) The Asset Management Unit shall coordinate with the Attorney General's Office and with other countries, in reaching an agreement or arrangement for disposing of properties between the countries when the forfeiture or confiscation is directly or indirectly a result of coordinated law enforcement action.

(3) The Asset Management Unit shall issue guidelines for coordination between domestic authorities for the custody, management and disposal of properties subject to this Act.

Policies and procedures for management of seized business

8. The Asset Management Unit shall, as warranted from time to time, devise policies and procedures with the approval of the Minister for the management of seized businesses.

Measures to trace, identify and evaluate the property

9. The Minister may by regulations prescribe procedures to trace, identify and evaluate properties subjected to forfeiture or confiscation.

Measures to manage, maintain and dispose of properties subjected to seizure, forfeiture or confiscation

10.(1) The Minister may by regulations prescribe the procedures to manage, maintain or dispose of properties which were subjected to seizure, forfeiture or confiscation.

(2) While disposing of the properties under regulations made under subsection (1), the Asset Management Unit shall have due regard to bona fide third parties and take measures to protect their rights.

PART 3 ASSET RECOVERY FUND

Establishment of Asset Recovery Fund

11.(1) The Asset Recovery Fund referred to in section 93 of the AMLCFT Act shall be the Asset Recovery Fund (hereinafter referred to as the ARF), established under this Act.

(2) The Ministry responsible for Finance shall be the administrator of the ARF.

(3) The Minister may by regulations regulate the administration and management of the ARF.

(4) The ARF shall be audited by the Auditor-General in accordance with the provisions of Article 158 of the Constitution.

Receipts and disbursements from the ARF

12.(1) There shall be credited to the ARF —

- (a) all moneys derived from the fulfilment of forfeiture or confiscation under any law in force;
- (b) all moneys derived from the fulfilment of pecuniary penalty orders under the AMLCFT Act;
- (c) any sums of money allocated to the ARF by the National Assembly from time to time by due appropriation of the funds;
- (d) any income derived from the investment of amounts that are credited to the ARF; and
- (e) any sharing of confiscated or forfeited property and funds received from other states.

(2) The Minister may, in accordance with regulations made under this Act, authorise payments out of the ARF to —

- (a) compensate victims who suffer losses as a result of offences under respective laws in force;
- (b) pay expenses relating to recovery, management and disposition of property under the provisions of any law in force, including mortgages and liens against relevant property, and the fees for receivers, trustees, managers, institutions or other professionals providing assistance;
- (c) allocate funds to the Attorney General's Office to meet the expenses of the prosecution division;
- (d) with the approval of the Cabinet, return assets to the original owner;

- (e) supplement the resources to any law enforcement agency, Ministry or Department, supervisory authority under AMLCFT Act or the FIU;
- (f) pay innocent third parties for any interest they have in the property, as appropriate;
- (g) authorise payment for community projects and training; and
- (h) pay compensation ordered by a Court.

(3) The Minister shall, after making adequate provisions at the end of each financial year for the application of funds and resources under subsection (2), pay out any excess funds from the ARF to the Consolidated Fund.

(4) The Minister shall, not later than three months after the end of the financial year, prepare an annual report on the activities of the Asset Management Unit during that year and submit a copy of the report to the National Assembly, and the Auditor General shall audit the accounts of the Asset Management Unit in accordance with section 158 of the Constitution (Cap 42).

PART 4 MISCELLANEOUS

Protection of action taken in good faith

13. Any suit or other legal proceedings shall not lie against any officer or other employee of the Ministry for anything done or intended to be done in good faith in pursuance of this Act.

Regulations

14.(1) The Minister may make regulations for the purpose of carrying out the provisions of this Act.

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

- (a) the procedures to trace, identify and evaluate the property, which is subjected to forfeiture or confiscation under section 9;
- (b) procedures to manage and maintain or dispose of the properties, which were subject to seizure, forfeiture or confiscation under section 10(1); and
- (c) any other matter which is required to be, or may be, prescribed for implementation of this Act.

Transitional Provision

15.(1) All the properties under seizure, forfeiture or confiscation and liable to be disposed of shall be transferred to the Asset Management Unit, on and from the date as may be notified by the Minister and shall be dealt with in accordance with the provisions of this Act.

(2) Notwithstanding any other provision of this Act, if a receiver has been appointed by the Court under any other law in force in the Republic to take custody and dispose of any property, the receiver so appointed shall coordinate with the Asset Management Unit for the disposal of such property and the proceeds of sale of such property shall be credited to the Asset Recovery Fund.

I certify that this is a correct copy of the Bill which was passed by the National Assembly on 14th December, 2021.



Mrs. Tania Isaac
Clerk to the National Assembly

S.I. 100 of 2021**LAND RECLAMATION ACT***(Cap 106)***Land Reclamation Authorisation, 2021**

WHEREAS SeySea Products (PTY) Limited acting on its own behalf applied for the authorisation under Section 6 of the Land Reclamation Act (Cap 106) to fill in and reclaim an area of the foreshore (hereinafter “the proposed undertaking”) of approximately 47,000 squaremetres at Cascade adjacent to a strip of land owned by the Republic;

AND WHEREAS the proposed undertaking is demarcated by coordinates specified under the Schedule and a plan thereof is also illustrated thereunder;

AND WHEREAS the SeySea Products (PTY) Limited has agreed that in consideration for carrying out the proposed undertaking at its own cost and transferring 2000 square metres of land situated at Baie Ste Anne Praslin to the Republic, the Republic will, upon completion of the undertaking, transfer to the applicant the portion of land measuring 38,000 square metres marked A on the plan herewith attached, which portion comprises of 80.8% of the area reclaimed;

AND WHEREAS the Republic will retain in its ownership, at no cost to it, 19.2% of the reclaimed area measuring 9000 square metres as indicated on the plan herewith attached by the letter B;

AND WHEREAS SeySea Products (PTY) Limited has agreed to complete the undertaking not later than 5 years from the date of grant of Planning Permission;

AND WHEREAS, a Land Reclamation Notification (S.I. 41 of 2021) pertaining to the proposed undertaking was published in accordance with the rules under the Second Schedule to the Land Reclamation Act (Cap 106);

AND WHEREAS there has not been lodged with the Chief Executive Officer of the Planning Authority any objection to the undertaking;

NOW THEREFORE, in exercise of the powers conferred by section 6 of the Land Reclamation Act, (Cap 106), the President hereby authorises the undertaking.

SCHEDULE

Coordinates of the outer limit of the proposed reclamation at Cascade

Protection-UTM Zone 40 South **Datum-WGS84**

Point	Easting	Northing
PT1	333136.918	94844930.667
PT2	333187.412	9484490.988
PT3	33196.184	9484488.674
PT4	333204.236	9484484.795
PT5	333317.080	9484411.347
PT6	333327.623	9484403.947
PT7	333333.125	9484399.733
PT8	333347.942	9484386.589
PT9	333400.991	9484334.617
PT10	333420.214	9484312.829
PT11	333436.077	9484288.487
PT12	333477.319	9484213.854
PT13	333518.561	9484139.221
PT14	333538.041	9484082.629
PT15	333533.747	9484022.932



**ANTI-MONEY LAUNDERING AND COUNTERING THE
FINANCING OF TERRORISM (SECOND AMENDMENT) ACT, 2021**

(Act 62 of 2021)



I assent

A handwritten signature in black ink, appearing to read "Wavel", with a horizontal line underneath.

Wavel Ramkalawan
President

17th December, 2021

AN ACT TO AMEND THE ANTI-MONEY LAUNDERING AND COUNTERING THE FINANCING OF TERRORISM ACT, 2020 (ACT 5 OF 2020).

ENACTED by the President and the National Assembly.

Short title

1. This Act may be cited as the Anti-Money Laundering and Countering the Financing of Terrorism (Second Amendment) Act, 2021.

Amendments to Act 5 of 2020

2. The Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020 (hereinafter referred to as the principal Act) is hereby amended as follows —

- (a) in section 2 of the principal Act,
- (i) by repealing the definition of “beneficial owner” and therefor substituting the following definition —
- ‘ “beneficial owner” shall have the meaning assigned to it under the Beneficial Ownership Act, 2020 (Act 4 of 2020) and the determination provided under regulation 3 of the Beneficial Ownership Regulations, 2020 (S.I. 107 of 2020);”;
- (ii) by repealing the definition of “Suspicious Transaction Report” and therefor substituting the following definition —
- ‘ “Suspicious Transaction Report or Suspicious Activity Report” means a report that shall be submitted by a reporting entity to the FIU under section 48, if there are reasonable grounds to suspect that an activity or a transaction or series of transactions made or attempted in the course of their activities relating to the commission or the attempted commission of criminal conduct including money laundering and terrorist financing offences;”;
- (b) in section 13 of the principal Act, by inserting after paragraph (e), the following paragraph —
- “(ea) direct any reporting entity which is in the possession of any record, document or information that is necessary for the discharge of the functions of the FIU to produce such record, document or information to the FIU”;

- (c) by replacing section 21 (b) of the principal Act with “any Government grants, including sums from the Asset Recovery Fund and the designated account, made to it; and”
- (d) in section 27 (1) of the principal Act —
- (i) in paragraph (d), by repealing the words “for a period not exceeding five working days”;
- (ii) in paragraph (e), by repealing the words “for a period not exceeding five working days”;
- (iii) after paragraph (e), by adding the following proviso —
- “Provided that the period for refraining the reporting entity from completing the transaction under paragraph (d) and freezing of banking or similar account of the entity or person under paragraph (e), shall not exceed ten working days.”;
- (e) in section 29 (6) of the principal Act, by repealing the words “requesting FIU's” and therefor substituting the words “requesting foreign counterpart agencies”;
- (f) in section 30A of the principal Act, by inserting after subsection (5), the following subsection —
- “(6) The designated high-risk NPO's under subsection (1) shall be regulated in accordance with the regulations, as may be prescribed by the Minister in consultation with the Committee.”;
- (g) in section 32(6) of the principal Act, by repealing the words “money laundering and the terrorist financing activities” and substituting therefor the following words “money laundering and terrorist financing activities”;
- (h) in section 34 of the principal Act —

-
- (a) in subsection (3)
- (i) by inserting after the words “management level”, the words “or employee with the same qualifications prescribed for the compliance officer,”;
- (ii) by repealing the words “absence of a compliance office” and substituting therefor the words “absence of a compliance officer”;
- (b) in subsection (4), by adding after the words “under subsection (1)” the words “or an alternate compliance officer under subsection (3)”;
- (i) in section 35 (2)(c) of the principal Act by inserting after the words “identify the beneficial owner”, the words “in accordance with the determination provided under regulation 3 of the Beneficial Ownership Regulations, 2020 (S.I. 107 of 2020);
- (j) section 45 of the principal Act —
- (a) by repealing subsection (2) and therefor substituting the following subsection —
- “(2) The following particulars shall be made available by the ordering financial institution —
- (a) in the case of domestic wire transfers, full details of the originator information within three business days from the date of request from the beneficiary financial institution or from the appropriate competent authority; and
- (b) in the case of cross-border transfers, where individual transfers from a single originator are bundled in a batch file,

the originator's account number, full beneficiary information and the unique reference number allocated for such transfer including the full details of the originator information traceable in the recipient jurisdiction.”;

- (b) in subsection (5)(b), by repealing the words “section 35” and substituting therefor the words “section 47”;
- (c) by repealing subsection 5 (c) and renumbering subsection 5 (d) as subsection 5(c);
- (d) by inserting a new subsection after subsection (5) —

“(5A) Every reporting entity receiving a wire transfer shall ensure that the identity of the beneficiary is verified, where the identity has not been previously verified and maintain the information in accordance with the provisions of section 47.”;

- (k) in section 50(1) of the principal Act, by repealing paragraphs (f) and (g) and substituting therefor the following paragraph —

“(f) an investigation has commenced concerning the circumstances that gave rise to the suspicious transaction report, the warrant or the production order,

makes any disclosure which could or may or be likely to prejudice the implementation of the warrant, the making available of the material in accordance with the production order, or the investigation, commits an offence and is liable on conviction to imprisonment up to six months or to a fine not exceeding SCR200,000 or to both.”;

- (l) in section 57 of the principal Act i —
 - (a) in subsection (1), by inserting after paragraph (g), the following paragraphs —

- “(ga) to caution a reporting entity not to repeat a non-compliant conduct;
- (gb) to direct a reporting entity to take remedial action;”;
- (b) by repealing subsection (3) and therefor substituting the following subsection —
- “(3) Every reporting entity, including a director, manager or other officer involved in the control or management of the entity, that —
- (i) obstructs or interferes with the exercise of the powers of a supervisory authority;
- or
- (ii) fails to comply with a direction or request made by the supervisory authority within such timeframe as may be specified by the supervisory authority,
- commits an offence and is liable on conviction to a fine not exceeding SCR200,000.”;
- (m) in section 58 of the principal Act, by repealing subsection (9) and therefor substituting the following subsections —
- “(9) Every supervisory authority and every other relevant authority shall when called upon to do so by the Financial Action Task Force or on the Committee's independent determination specify the countermeasures that shall apply to a high-risk country as may be necessary and proportionate to the risk, business relationship and transaction.
- (10) The countermeasures referred to in subsection (9) may be prescribed by regulations or by other enforceable ity

means as may be deemed necessary by a supervisory authority or other relevant authority.

(11) Every supervisory authority shall take measures to ensure that reporting entities are advised of concerns about weaknesses in the AMLCFT systems of other countries.

(12) For the purposes of subsection (9), “relevant authority” refers to every public authority with designated responsibilities for combating money laundering or terrorist financing, including the FIU, authorities that have the function of investigating or prosecuting money laundering, associated predicate offences and terrorist financing, and seizing or freezing and confiscating criminal assets, authorities receiving reports on cross-border transportation of currency and bearer negotiable instruments and authorities that have Anti-Money Laundering and Countering the Financing of Terrorism supervisory or monitoring responsibilities aimed at ensuring compliance by financial institutions and Designated Non-Financial Businesses or Professions with Anti-Money Laundering and Countering Financing of Terrorism requirements.

- (n) in section 60 of the principal Act —
- (a) in subsection (1), by adding after the words “directive issued under the Act” the words “,within the timeframe specified by the supervisory authority”;
 - (b) in subsection (3), by repealing paragraphs (a) and (b) and consequentially renumbering paragraphs (c), (d) and (e) as paragraphs (a), (b) and (c);
 - (c) by inserting after subsection (3), the following subsection —

“(3A) (i) Any financial penalty imposed by the supervisory authorities under this section or under any other provision of the Act shall be credited to a separate

designated account maintained by the Ministry of Finance for this purpose and the funds so accrued in the account shall be utilised only for the purpose of anti-money laundering and countering the financing of terrorism compliance awareness, education and capacity building for implementing the provisions of the Act.

(ii) The designated account shall be audited by the Auditor-General in accordance with the provisions of Article 158 of the Constitution.”

- (o) in section 61(2)(a) of the principal Act, by repealing the words “at least 10 years' experience” and therefor substituting the words “at least 3 years' experience”;
- (p) in section 67(1)(b) of the principal Act, by repealing the words “FCIU officer” and therefor substituting the words “law enforcement officer”;
- (q) in section 69 of the principal Act —
 - (i) in subsection (4), by adding after the words “Attorney General” the words “or a prosecutor on behalf of the Anti-Corruption Commission of Seychelles”;
 - (ii) in subsection (6), by adding after the words “Attorney General” the words “ or a prosecutor on behalf of Anti-Corruption Commission of Seychelles”;
- (r) in section 69A of the principal Act —
 - (i) in subsection (1), by adding after the words “Attorney General” the words “ or a prosecutor on behalf of the Anti-Corruption Commission of Seychelles”;
 - (ii) in subsection (2), by adding after the words “Attorney General” the words “ or a prosecutor on behalf of the Anti-Corruption Commission of Seychelles”;
- (s) by repealing section 74 (2) of the principal Act and substituting therefor the following subsection —

“(2) The officers referred to in subsection (1) may seize, any cash found during a search under subsection (1) if they have reasonable grounds for suspecting that it represents proceeds of crime, or is intended by any person to be used in connection with any criminal conduct and shall have the authority to seek further information from the carrier regarding the origin of the cash and its intended use and notify the FIU regarding such cash seizure in such form and manner as may be prescribed.”;

- (s) in section 90(1) of the principal Act, by repealing the words “Asset Recovery Fund established under section 93 of this Act” and substituting therefor the words “Asset Recovery Fund established under section 11 of the Custody, Management and Disposal of Seized, Forfeited or Confiscated Properties Act, 2021.”;
- (t) in section 92 (2) of the principal Act, by repealing the words “paid into the Asset Recovery Fund.” and substituting therefor the words “paid into the Asset Recovery Fund established under section 11 of the Custody, Management and Disposal of Seized, Forfeited or Confiscated Properties Act, 2021.”;
- (u) by repealing PART XI of the principal Act; and
- (w) by repealing paragraph (f) of section 97(1) of the principal Act and renumbering subsection (g) as (f).

I certify that this is a correct copy of the Bill which was passed by the National Assembly on 15th December, 2021.



Mrs. Tania Isaac
Clerk to the National Assembly



SUPPLEMENTARY APPROPRIATION ACT, 2021

(Act 65 of 2021)



I assent

A handwritten signature in black ink, appearing to read "Wavel".

Wavel Ramkalawan
President

17th December, 2021

AN ACT TO PROVIDE FOR THE PURPOSES OF A SUPPLEMENTARY ESTIMATE APPROVED BY THE NATIONAL ASSEMBLY.

ENACTED by the President and the National Assembly.

Short title

1. This Act may be cited as the Supplementary Appropriation Act, 2021.

Appropriation of Expenditure

2. The sum not exceeding one billion, two hundred and twenty six million, six hundred and twenty seven thousand, eight hundred and fifty two rupees and fifteen cents (**SCR1,226,627,852.15**) referred to in the supplementary estimate approved by the resolutions of the National Assembly on Thursday 10th December 2020 (**SCR1,139,732,490**), and on Tuesday 14th December 2021 (**SCR 86,895,362.15**) is hereby appropriated from the consolidated Fund for the purposes specified in the supplementary estimate.

I certify that this is a correct copy of the Bill which was passed by the National Assembly on 15th December, 2021.



Mrs. Tania Isaac
Clerk to the National Assembly



APPROPRIATION ACT, 2022

(Act 1 of 2022)



I assent

A handwritten signature in black ink, appearing to read "Wavel".

Wavel Ramkalawan
President

17th December, 2021

AN ACT TO PROVIDE FOR THE SERVICE OF THE REPUBLIC OF SEYCHELLES FOR THE YEAR ENDING DECEMBER 31ST, 2022.

ENACTED by the President and the National Assembly.

Short title

1. This Act may be cited as the Appropriation Act, 2022.

Authorisation of expenditure

2. The Minister of Finance, Economic Planning and Trade, may by warrant under his hand authorise the issue from the Consolidated Fund for the services of the Republic for the year 2022, of a sum not exceeding *ten billion, ninety one million, and six hundred and fifty one thousand one hundred, and forty six Seychelles rupees (SCR10,091,651,146)* which sum shall be appropriated in accordance with the schedule for the purpose specified therein.

SCHEDULE

Allocation of Authorised Expenditure	R'000
Office of the President	70,832
Department of Legal Affairs	133,993
Department of Defence	355,970
Department of Public Administration	17,434
Department of Information Communications and Technology	62,052
The Judiciary	77,174
The Legislature	40,478
Office of the Auditor General	19,868
Office of the Ombudsman	2,929
Office of the Public Service Appeals Board	1,127
Office of the Curator	6,095
Constitutional Appointments Authority	1,757
Electoral Commission	13,991
Ministry of Fisheries and the Blue Economy	108,066
Ministry of Finance, Economic Planning and Trade	162,372
Ministry of Foreign Affairs and Tourism	293,512
Ministry of Internal Affairs	700,558
Ministry of Education	1,026,171
Ministry of Lands and Housing	95,018
Ministry of Local Government and Community Affairs	138,421
Ministry of Health	109,704
Ministry of Transport	14,718
Ministry of Employment and Social Affairs	87,934
Ministry of Agriculture, Climate Change and Environment	230,197

Ministry of Youth and Sports and Family	34,942
Ministry of Investment, Entrepreneurship and Industry	14,103
Office of the Mayor of Victoria	6,250
Institute of Early Childhood Development	38,129
Seychelles Licensing Authority	17,062
Fair Trading Commission	13,904
National Bureau of Statistics	20,123
Seychelles Revenue Commission	231,613
National Tender Board	3,903
Tax and Customs Agent Board and Revenue Tribunal	1,480
Seychelles Investment Board	6,710
Public Enterprise Monitoring Commission	8,969
Government Audit Committee	813
Financial Intelligence Unit	19,064
Seychelles Bureau of Standards	24,104
Seychelles Qualifications Authority	8,141
Tertiary Education Commission	2,195
Planning Authority	16,500
Seychelles Energy Commission	25,723
Seychelles Human Rights Commission	8,026
Seychelles Media Commission	2,515
Public Health Authority	66,426
Industrial Estate Authority	55,174
Seychelles Nurses and Midwives Council	1,378
Health Professional Council	1,271
Seychelles Medical and Dental Council	918
Anti-Corruption Commission	18,517
Road Transport Commission	21,386
Seychelles Maritime Safety Authority	12,459
Seychelles Meteorological Authority	15,064
Seychelles Intelligence Service	13,594
Information Commission	2,725
Truth, Reconciliation and National Unity Commission	15,997
Seychelles Infrastructure Agency	480,178

Seychelles Fire and Rescue Services Agency	83,296
Seychelles Land Transport Agency	164,240
Enterprise Seychelles Agency	8,694
Agency for Social Protection	27,474
Agency for National Human Resources Development	220,921
Landscape and Waste Management Agency	247,181
Seychelles National Youth Council	20,161
Health Care Agency	1,133,839
National Aids Council	3,846
National Council For Children	13,929
National Sports Council	72,835
Social Workers Council	654
Seychelles Broadcasting Corporation	132,731
Seychelles National Institute of Culture, Heritage and the Arts	122,712
Other Wages and Salaries	313,258
Other Goods and Services	107,915
Social Programs of Central Government	303,381
Subvention to Public Enterprises	149,026
Benefits and Approved Programs of Agency for Social Protection	1,444,865
Others	47,255
Net Lending	264,577
Development Grants to Public Enterprises	169,133
Contingency	50,000
Tax Exemption	10,000
GRAND TOTAL	<u>10,091,651.146</u>

I certify that this is a correct copy of the Bill which was passed by the National Assembly on 10th December, 2021.



Mrs. Tania Isaac
Clerk to the National Assembly