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FAIR TRADING (AMENDMENT) ACT, 2022

(Act 28 of 2022)

ARRANGEMENT OF SECTIONS

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FAIR TRADING (AMENDMENT) ACT, 2022

(Act 28 of 2022)



I assent

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

Wavel Ramkalawan
President

29th December, 2022

AN ACT TO AMEND THE FAIR TRADING ACT, 2022.

ENACTED by the President and the National Assembly.

Short title

1. This Act may be cited as the Fair Trading (Amendment) Act, 2022, and shall be read and construed as one with the Fair Trading Act, 2022, which is hereinafter referred to as the “principal Act”.

Amendment of section 15

2. Section 15(1) of the principal Act is amended by repealing the words “subsections (2), (4) and (5)” and substituting therefor the words “subsections (2) and (4)”.

Amendment of section 32

3. Section 32 of the principal Act is amended by repealing the words “6 months”, wherever it appears, and substituting therefor the words “3 months”.

Amendment to section 35

4. Section 35 of the principal Act is amended by inserting after subsection (5) the following new subsection —

“(6) The Chief Executive Officer or any other person

(a) who is employed by the Commission; or

(b) who has been appointed by the Commission,

may appear before the Tribunal or any court in respect of any matter under this Act, and conduct such matter before the Tribunal or court.

(7) An appointment under subsection (6) (b) may be general or specific.”

Amendment of section 70

5. Section 70(2) of the principal Act is amended by repealing the word “import” and substituting therefor the word “importance”.

Amendment of section 87

6. Section 87(4) of the principal Act is repealed and there is substituted therefor the following —

“(4) For the purpose of determining whether a person has contravened subsection (1) in connection with the supply or possible supply of goods or services to any other person, regard may be given to —

- (a) any circumstances that were not reasonably foreseeable at the time of the alleged contravention; or
- (b) the conduct engaged in or circumstances existing before the commencement of this Act.”.

Amendment of section 106

7. Section 106(6) of the principal Act is repealed.

Amendment of section 107

8. Section 107(2) of the principal Act is amended by inserting the word “the” before the word “specified”.

Amendment of section 115

9. Section 115(1)(a) of the principal Act is amended by inserting after the words “that person” the words “except with the Commissions' consent.”;

Amendment of section 125

10. Section 125(1)(b)(B) of the principal Act is amended by repealing the words “it hold” and substituting therefor the words “it does not hold”.

I certify that this is a correct copy of the Bill which was passed by the National Assembly on 6th December, 2022.



Mrs. Tania Isaac
Clerk to the National Assembly

SEYCHELLES HOME CARE AGENCY ACT, 2022

(Act 39 of 2022)

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SEYCHELLES HOME CARE AGENCY ACT, 2022

(Act 39 of 2022)



I assent

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

Wavel Ramkalawan
President

29th December, 2022

AN ACT TO ESTABLISH THE SEYCHELLES HOME CARE AGENCY THAT WILL REGISTER BENEFICIARIES OF HOME CARE SERVICES AND HOME CARE GIVERS, AND ADMINISTER AND REGULATE THE PROVISION OF HOME CARE SERVICES, AND FOR OTHER CONNECTED OR INCIDENTAL MATTERS.

ENACTED by the President and the National Assembly.

PART I - PRELIMINARY

Short title and commencement

1. This Act may be cited as the Home Care Agency Act, 2022 and shall come into operation on such date as the Minister may by notice published in the Gazette, appoint.

Interpretation

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

“Appeals Board” means the Appeals Board established under section 27;

“Agency” means the Seychelles Home Care Agency established under section 3;

“beneficiary” means a person whose application for home care has been granted or who is receiving home care outside of a familial arrangement;

“Board” means the Board of the Agency established under section 21;

“certificate of competency” means a certificate evidencing competency in home care recognized by the Seychelles Qualifications Authority.

“Chief Executive Officer” means the Chief Executive Officer appointed under section 18;

“familial arrangement” means an arrangement made for the care of a person based on a moral obligation to ensure the safety and wellbeing of that person and concerning which financial assistance under this Act is not provided;

“financial assistance” means financial assistance determined in accordance with section 13;

“home” means the place where a beneficiary resides, whether permanently or temporarily, for the purpose of receiving home care;

“home care” means flexible and personal daily care and support provided by a home care giver to a beneficiary for varying lengths of time;

“home care giver” means a person who provides home care to a beneficiary;

“means assessment” means an assessment into the means of a person applying for financial assistance under this Act;

“Minister” means the minister responsible for family affairs;

“needs assessment” means an assessment made by a medical or health professional into the needs of an applicant under section 10 to determine if he or she is eligible for home care, and where the applicant is eligible, the level of home care that the applicant will require;

“needs assessment report” means a report of the needs assessment;

“prescribed” means prescribed by regulations made by the Minister;

“registered home care giver” means a home care giver registered under this Act;

PART II - SEYCHELLES HOME CARE AGENCY

Establishment of the Seychelles Home Care Agency

3.(1) There is established a body corporate to be known as the Seychelles Home Care Agency.

(2) The Agency shall administer and manage home care, and shall be accountable to the Board established under section 21.

Functions of Agency

4. The Agency shall —

(a) regulate home care;

- (b) receive and process applications for home care and financial assistance;
- (c) receive and process applications for registration as home care givers;
- (d) issue certificates of registration pursuant to section 6;
- (e) establish and maintain registers in accordance with this Act;
- (f) monitor home care provided by home care givers, including under a familial arrangement;
- (g) recommend standards in relation to home care to the Minister;
- (h) approve training providers in home care for home care givers;
- (i) draw up contracts in accordance with section 12;
- (j) hear and determine any dispute between a beneficiary and his or her home care giver;
- (k) subject to other provisions of this Act or any other law, manage financial schemes provided under this Act;
- (l) perform such other functions as may be prescribed.

Directions by the Minister

5. The Minister may give written directions to the Agency on matters of policy, which the Agency shall implement.

PART III - HOME CARE

Certificate of registration

6.(1) A home care giver, not being a person concerning which a familial arrangement outside of this Act is made, shall not provide home care

without having applied for registration and been registered under this Act and accordingly issued a certificate of registration by the Agency.

(2) An application for registration under subsection (1) shall be made to the Agency in the prescribed form, accompanied by a certificate of competency.

(3) An application made under subsection (1) may be made through an agent.

(4) The Agency shall upon evaluation of the application and an assessment into the applicant's suitability —

- (a) grant the application and issue the applicant with a certificate of registration; or
- (b) reject the application where the Agency is not satisfied that the applicant meets the requirements of this Act.

(5) A certificate of registration shall be valid for a period of three years and, subject to section 7, may upon application to the Agency be renewed.

(6) Where the Agency refuses an application, it shall provide the applicant with reasons for such refusal.

(7) The Agency may charge such fees as may be prescribed for the registration and renewal of a certificate of registration.

(8) A person aggrieved by a decision of the Agency made under subsection (5) may appeal against such decision to the Appeals Board.

(9) Notwithstanding subsection (1), a person shall be liable to the penalty under section 28 if he or she palpably provides home care which ought, according to the Agency, to be registered under this Act.

Renewal of certificate of registration

7.(1) A home care giver whose certificate of registration has expired

and who intends to renew the certificate shall, no later than three months prior to the date of its expiry, lodge a renewal application to the Agency.

(2) A renewal application under subsection (1) shall be made to the Agency in the prescribed form.

Register

8.(1) The Agency shall establish and maintain a register of —

- (a) persons who have applied for home care;
- (b) persons who have applied to be registered as home care givers under this Act;
- (c) beneficiaries; and
- (d) registered home care givers.

(2) A person whose name does not appear in the register of registered home care givers may provide home care in accordance with a home care scheme that may be prescribed.

Responsibilities of a home care giver

9.(1) A home care giver in providing home care to a beneficiary shall ensure that the service is offered in such a way as to —

- (a) promote and maintain the beneficiary's health, function, integration in society, and independence; and
- (b) enable the beneficiary to lead the best life possible and to remain fit and active.

(2) Standards may be prescribed for carrying into effect the purpose and provisions of subsection (1).

Application for home care

10.(1) A person wishing to apply for home care under this Act shall

lodge an application to the Agency in the form and manner as may be prescribed, accompanied by a needs assessment report.

(2) An application pursuant to subsection (1) may be made by the person's guardian or anyone interested in his or her wellbeing.

(3) The Agency may upon evaluation of the application —

- (a) grant the application.
- (b) impose conditions prior to granting the application; or
- (c) reject the application.

(4) Where the Agency grants an application pursuant to subsection (3) the Agency shall determine, based on a means assessment, if the applicant is eligible for financial assistance and, where the applicant is eligible, the level of financial assistance required.

(5) An applicant aggrieved by a decision of the Agency in relation to an application under subsection (1) or a decision under subsection (4), may appeal against such decision to the Appeals Board.

Allocation of home care givers

11.(1) The Agency shall allocate a home care giver to a beneficiary from the register of registered home care givers maintained under section 8.

(2) In allocating a home care giver to a beneficiary, the Agency shall have regard to the extent of the beneficiary's need and the home care giver's competency in home care in accordance with his or her certificate of competency.

(3) Nothing in this Act prevents a home care giver from providing home care to more than one beneficiary.

Contract

12.(1) A home care giver and the beneficiary shall enter into a contract drawn up by the Agency for the provision of home care.

(2) Where a beneficiary is unable to enter into the contract, the contract may be entered for and on behalf of the beneficiary by his or her guardian or a close relative.

(3) The contract shall set out the obligations of the parties and the conditions under which it is to be performed based on the needs assessment report.

(4) Where a beneficiary is subjected to medical examination after the conclusion of a contract under subsection (1) and the medical or health professional determines a change in the beneficiary's condition, the contract shall be amended to reflect any new needs assessment report issued by that medical or health professional.

(5) A home care giver shall, for the purpose of this Act, be an independent service provider.

(6) The Minister may prescribe terms and conditions that will apply to the provision of home care and which terms and conditions shall be deemed to be part of every contract for provision of home care to which they relate, save where the contract provides for terms and conditions more favourable than those prescribed, those conditions more favourable shall apply unless otherwise prohibited under this Act.

Financial assistance

13.(1) Financial assistance shall be determined in accordance with the formula set out in the Schedule.

(2) The Agency shall provide financial assistance to a beneficiary who is eligible for financial assistance for the purpose of assisting the beneficiary with his or her payment obligations to a home care giver —

- (a) in terms of the contract entered into under section 12; or
- (b) based on any other home care scheme that may be prescribed.

PART IV - MONITORING OF HOME CARE

Monitoring of home care

14.(1) The Agency shall cause monitoring officers appointed under this Act to perform visits to a home —

- (a) on a regular basis;
- (b) whenever a complaint is lodged by a person against the home care giver; or
- (c) whenever the Agency deems it necessary.

(2) Home visits carried out under subsection (1) shall be conducted for the determination of the extent of adherence by a home care giver to this Act and to the standards that may be prescribed.

Appointment and powers of monitoring officers

15.(1) The Agency may appoint such number of monitoring officers as may be necessary for carrying out its monitoring functions under this Act.

(2) The Agency shall provide the monitoring officers with an identification card which the monitoring officers shall, upon request, produce before exercising powers under this Act.

(3) Monitoring officers and other staff of the Agency authorised by the Chief Executive Officer may, at all reasonable times, enter a home for the purpose of carrying out home visits under section 14.

(4) The monitoring officers may inquire into a complaint concerning, amongst other matters —

- (a) a person who provides home care in contravention of this Act; or
- (b) a contravention of the prescribed standards.

(5) A monitoring officer, upon inquiring into a complaint under subsection (4), shall within 10 working days of such inquiry, report in writing his or her findings to the Chief Executive Officer.

Enforcement notice and suspension

16.(1) The Agency may issue the registered home care giver with an enforcement notice directing him or her to comply with the requirements of this Act or standards hereunder prescribed within the period specified in the notice where the Agency, upon report of a monitoring officer or a complaint, determines that —

- (a) a registered home care giver provides home care to a person other than a beneficiary allocated to him or her; or
- (b) a registered home care giver has not complied with the prescribed standards.

(2) Where the home care giver fails to comply with the enforcement notice issued under subsection (1), the Agency may, after giving him or her an opportunity to show cause as to why the certificate of registration should not be suspended, suspend the certificate of registration until such period that he or she complies with the enforcement notice.

(3) Notwithstanding subsection (2), a suspension period shall not exceed three months.

(4) Where the Agency is of the opinion that the non-compliance of a home care giver with the requirements or prescribed standards under this Act may result in a threat to the life, safety or health of a beneficiary, the Agency may suspend the certificate of registration at the time the notice under subsection (1) is issued until such period as the home care giver complies with the prescribed standards.

Revocation of certificate of registration

17.(1) The Agency may, after serving the home care giver with a notice giving him or her an opportunity to show cause as to why his or her

certificate of registration should not be revoked, revoke the certificate of registration, where —

- (a) non-compliance subsists 48 hours immediately following the elapsing of a suspension period;
- (b) the home care giver refuses a monitoring officer access to the home; or
- (c) the home care giver solicits, advertises, invites or offers to provide home care within the period during which his or her certificate of registration is suspended.

(2) The home care giver shall furnish reasons in response to a show cause notice within ten working days of being notified of the revocation.

(3) Where a home care giver fails to furnish a response within the time stipulated under subsection (2), the Agency may revoke his or her certificate of registration.

(4) A home care giver who is dissatisfied with the decision of the Agency to suspend or revoke a certificate of registration may, in such form and manner and accompanied by such fees as may be prescribed, appeal the decision to the Appeals Board.

PART V - APPOINTMENTS AND STAFF

Appointment of Chief Executive Officer

18.(1) The President shall in consultation with the Board appoint, on such terms and conditions as the President may determine, a person having experience and expertise in the field of home care as Chief Executive Officer of the Agency.

(2) The Chief Executive Officer, in addition to such other functions which the Board may from time to time assign, shall be responsible for the day to day affairs of the Agency.

(3) Subject to any direction of the Board, the Chief Executive Officer shall participate in the meetings of the Board but shall not have the right to vote.

Appointment of Deputy Chief Executive Officer

19.(1) The President shall in consultation with the Board appoint a Deputy Chief Executive Officer on such terms and conditions as the President may determine.

(2) The Deputy Chief Executive Officer may act in the office of Chief Executive Officer —

- (a) during the vacancy in the office of the Chief Executive Officer; or
- (b) during any period in which the Chief Executive Officer holding that office is absent from duty or from Seychelles or is, for any reason, unable to perform the functions of that office.

(3) While the Deputy Chief Executive Officer is acting in the Office of Chief Executive Officer, the Deputy Chief Executive Officer has and may exercise all the powers, and perform all duties of the Chief Executive Officer under this Act.

(4) Where a power or function of the Chief Executive Officer under this Act is exercised or performed by the Deputy Chief Executive Officer, the power or function shall, for the purposes of this Act, be deemed to have been exercised or performed by the Chief Executive Officer.

(5) The validity of anything done by the Deputy Chief Executive Officer shall not be called in question on the ground that the occasion for the appointment had not arisen, that there was a defect or irregularity in or with the appointment, that the appointment had ceased to have effect or on the ground that the occasion for the Deputy Chief Executive Officer to act had not arisen or had ceased.

Staff of the Agency

20. The Agency may employ, on such terms and conditions as may be determined by the Agency, such officers and staff as are necessary for the performance of its functions.

PART VI - BOARD OF THE AGENCY

Establishment and composition of the Board

21.(1) There is established a Board of the Agency to be appointed by the President in consultation with the Minister.

(2) The Board shall comprise five members who shall hold office for a period of three years and who shall be eligible for reappointment for two consecutive terms.

(3) In appointing members to the Board, the President may as far as possible give due consideration to representation by persons of good character whose experience, expertise and contributions are deemed valuable to home care.

(4) The President shall from among the members appoint a Chairperson and a Vice-chairperson.

(5) The President shall cause a notice of the names of the members to be published in the *Gazette*.

(6) The Vice-chairperson, in the absence of the Chairperson, shall assume the responsibilities of the Chairperson and in the Vice-chairperson's absence, the members present shall nominate from among themselves a member as Chairperson.

(7) Every member of the Board shall be remunerated in accordance with government policy.

Functions of the Board

22. The Board shall —

- (a) govern and oversee the management of the affairs of the Agency;
- (b) assign functions to the Chief Executive Officer; and
- (c) make recommendations to the government on guidelines and policies.

Termination of appointment of members

23.(1) The President may at any time terminate the appointment of a member who —

- (a) has been found guilty of misconduct, default or breach of trust in the discharge of a duty;
- (b) has been convicted of an offence relating to dishonesty;
- (c) has in any way demonstrated incompetency or an inability to effectively carry out his or her functions as a member of the Board; or
- (d) has been absent from three consecutive meetings of the Board without prior permission of —
 - (i) the Chairperson;
 - (ii) the Vice-chairperson, in the absence of the Chairperson; or
 - (iii) the person so appointed by the members in the absence of the Vice-chairperson.

(2) A member whose appointment has been terminated under subsection (1) is not eligible for re-appointment.

Resignation from the Board

24.(1) A member may, at any time, resign from office by a letter addressed to the President and such member shall cease to be a member on the date the President accepts the resignation.

(2) Notwithstanding section 23(d), a member is deemed to have vacated office if he or she is absent without leave from the Board for three consecutive meetings of the Board.

(3) Where a member resigns or vacates office, the President may appoint another person to hold office for the remaining period which the member would have otherwise held office.

Meetings of the Board

25.(1) The Board shall meet at such time and place as the Chairperson may determine provided that at least four meetings are held in a year.

(2) The Chairperson may, by a written 14-day notice to the members, convene a special meeting of the Board for the purpose specified in the notice.

(3) Notwithstanding subsection (2), a special meeting may, where the circumstances so warrant, be convened following a shorter notification period.

(4) Where 4 members, by written notice to the Chairperson, request a meeting of the Board for any purpose specified in the notice, the Chairperson shall, within 10 working days from receiving the notice, convene a meeting for that purpose.

(5) In a meeting of the Board, 3 members present shall constitute a quorum.

(6) A decision of the Board shall be taken by a majority of the votes of the members present and voting.

(7) In the event of an equality of votes, the Chairperson shall have a casting vote.

(8) A member who has a direct or indirect financial, personal or other interest in a matter before the Board, shall —

- (a) prior to the date of the meeting, or at the commencement of the meeting, disclose the nature of his or her interest in the matter; and
 - (b) recuse himself or herself from deliberations in respect of that matter and abstain from voting on it.
- (9) The Board shall regulate its own proceedings.

PART VII - DISPUTE RESOLUTION

Dispute resolution

26.(1) A home care giver who is aggrieved by the manner in which he or she is treated by a beneficiary or a member of the beneficiary's family may file a written complaint to the Agency.

(2) Subsection (1) shall apply *mutatis mutandis* to a beneficiary who wishes to reach an amicable resolution before lodging a complaint under section 16.

(3) The Agency shall within 3 days of receipt of the complaint inquire into the matter.

(4) An inquiry under subsection (2) may necessitate a hearing held by the Chief Executive Officer accompanied by those monitoring officers who may have conducted visits at the relevant home.

(5) Where the Agency hears a case brought before it, it shall afford each party a fair hearing and an opportunity to respond to evidence brought against it.

(6) The Agency shall make a decision based on the facts presented before it and the parties shall comply with the decision.

(7) A person aggrieved by the decision of the Agency may appeal against such decision to the Appeals Board.

(8) The Agency may —

- (a) delegate any of its powers under this section to a person or committee subject to such terms and conditions that it may itself impose; or
- (b) appoint a person or a committee to hear the complaint and make recommendations to the Agency.

PART VIII - APPEALS BOARD

Appeals Board

27.(1) There is established an Appeals Board appointed by the President, in consultation with the Minister.

(2) The Appeals Board shall comprise —

- (a) a Chairperson with qualifications and experience in law; and
- (b) two individuals with experience in health and social care and who are experienced in recognised civic work.

(3) The President shall cause the names of the appointees to be published in the *Gazette*.

(4) The Chairperson and other members of the Appeals Board shall hold office for a period two years and are eligible for reappointment.

(5) The President may at any time terminate the appointment of the Chairperson or a member of the Appeals Committee who has been found guilty of —

- (a) misconduct, default or breach of trust in the discharge of his or her functions; or
- (b) an offence which warrants termination of his or her appointment.

(6) The Appeals Board may co-opt a person, who has specialised

knowledge or experience in the field of healthcare as advisor for a specific appeal to assist the Appeals Board in its deliberations.

(7) The Appeals Board may, after considering an appeal —

- (a) confirm the decision of the Agency;
- (b) vary the decision of the Agency;
- (c) quash the decision of the Agency; or
- (d) order the Agency to reconsider the decision.

(8) The Chairperson and other members of the Appeals Board shall be remunerated in accordance with government policy.

(9) The Appeals Board shall regulate its own proceedings.

PART IX - OFFENCES AND PENALTIES

Offences

28. A person commits an offence and is liable on conviction to a term of imprisonment not exceeding two years or to a fine of level 3 on the standard scale or to both such fine and imprisonment if he or she —

- (a) provides home care without having been registered under section 6;
- (b) being a home care giver, carries on providing home care despite a revoked certificate of registration; or
- (c) being a home care giver registered with the Agency for Social Protection, provides home care beyond the period of 12 months stipulated under section 38 without being registered with the Agency.
- (d) communicates information in contravention of section 31.

PART X - FUNDS, FINANCES, ACCOUNTS AND REPORTS

Funds of the Agency

- 29.(1)** The Funds of the Agency shall consist of —
- (a) moneys appropriated by an Appropriation Act approved by the National Assembly for the purpose of the Agency;
 - (b) moneys accruing to the Agency from its operations or other payments; and
 - (c) moneys received by the Agency by way of donations, gifts or grants.
- (2) The Funds of the Agency shall be applied for —
- (a) the discharge of expenses, debts and other obligations incurred in the performance of the functions of the Agency;
 - (b) the remuneration of members of the Board, the Appeals Board, officers and other employees of the Agency;
 - (c) the disbursement of financial assistance in accordance with section 13; and
 - (d) other expenses, as may be authorised by the Board, for the purpose of carrying out the provisions of this Act.

Accounts, audit and annual report

30.(1) The Agency shall prepare an income and expenditure statement and maintain throughout the year proper accounts and records.

(2) Notwithstanding subsection (1), the accounts of the Agency shall be audited by the Auditor General in accordance with Article 158 of the Constitution.

(3) Where the accounts and statement of accounts of the Agency in respect of any financial year have been audited, the Agency shall furnish the

Minister with a copy of the statement of accounts together with a copy of the report by the Auditor General on the statement of accounts of the Agency.

(4) The Agency shall after the expiration of each financial year submit to the Minister —

- (a) an annual report giving details of its activities from the previous year; and
- (b) not later than three months from the start of the financial year, copies together with the audited statement of accounts referred to under subsection (3).

(5) The Minister shall cause the documents referred to under subsection (4) to be tabled before the National Assembly.

(7) The financial year of the Agency shall be the period of 12 months ending on 31st of December.

PART XI - MISCELLANEOUS

Confidentiality

31. A person shall not without lawful authority or reasonable excuse communicate to another person information which the person has acquired while acting as a member or staff of the Agency.

Protection against legal proceedings

32. Civil or criminal liability shall not lie against the Agency, the Chairperson, the Vice-chairperson, a member of the Board, a committee, officer or other staff of the Agency in respect of an act done or omitted to be done in good faith in the exercise or performance or purported exercise or performance of a power or function or duty conferred by or under this Act or regulations made under this Act.

Employment in public service

33. A member of the Board, Appeals Board, the Chief Executive Officer, a monitoring officer or any other member or staff or person acting

under the direction of the Agency shall be deemed to be employed in the public service for the purpose of sections 91 to 96 of the Penal Code.

Regulations

34.(1) The Minister may, in consultation with the Agency, make regulations for carrying into effect the purpose and provisions of this Act.

(2) Without limiting the generality of subsection (1), the Minister may make regulations pertaining to —

- (a) the procedure by which a monitoring officer is to carry out monitoring exercises under this Act;
- (b) fees and charges payable under this Act, the payment procedures associated therewith and the exemption of fees and charges;
- (c) standards of care;
- (d) conditions for the granting of a certificate of registration;
- (e) the compounding of offences;
- (f) amendment of the Schedule;
- (g) any matter relating to the Appeals Board;
- (h) matters relating to the setting up and operation of home care as a business activity;
- (i) any matter which, under this Act, is to be or is required to be prescribed.

Compounding of offences

35. Where the Agency or any other person agrees in writing to the compounding of an offence under this Act, which is an offence punishable on

conviction by a fine, the Agency, in consultation with the Attorney General, may compound the offence in the manner which may be prescribed.

Committees

36. The Agency may, establish committees comprising persons having special or technical knowledge to assist the Agency in the performance of its functions under this Act.

Information sharing

37.(1) In the exercise of its functions under this Act, the Agency may —

- (a) require any person or public authority to furnish any information on matters relating to an application under this Act;
- (b) call upon a person to appear before the Agency to answer questions and to produce such documents as the Agency may specify;
- (c) nominate, appoint or authorise any person or any public authority to enquire and report on any matter relating to —
 - (i) an application under this Act;
 - (ii) an alleged breach of a condition of home care;
 - (iii) a renewal, revocation or suspension of financial assistance; or
 - (iv) a complaint against an applicant or beneficiary.

(2) The Agency shall consult any person or public authority where it deems it fit to consult before exercising its powers under subsection (1).

Transitional provisions

38.(1) This section applies to a person who was registered as a home care giver with the Agency for Social Protection immediately prior to the commencement of this Act.

(2) A person who falls within subsection (1) shall, subject to the condition specified in subsection (3), be deemed to be a registered home care giver under this Act.

(3) The condition referred to in subsection (2) is that the person must apply for registration, and be registered, under section 6 of this Act within a period of 6 months from the commencement date to be specified in Section 1.

(4) Subject to subsections (5) and (6), the provisions of this Act shall apply to a person who is deemed to be a registered home care giver under subsection (2) as they would otherwise apply to a home care giver registered under this Act.

(5) Any means test undertaken by the Agency for Social Protection prior to the commencement of this Act in relation to a beneficiary shall continue to be valid for a period of 12 months from the commencement date to be specified under Section 1.

(6) Where a person is deemed to be registered as a home care giver under subsection (2), the beneficiary shall be entitled to financial assistance under section 13 for a period of 12 months whether or not a contract has been entered into between the home care giver and the beneficiary under section 12.

SCHEDULE

Formula for determining financial aid

- (1) **HHI=Household income of immediate family members dwelling in the home + 20% income from other household members**

“Immediate family member” means father, mother, husband, wife, domestic partners and living-in children.

“Other household member” means brother, sister, grandfather, grandmother, father-in-law, mother-in-law, sister-in-law, brother-in-law and other family relatives and their partners.

(2) **HHE = Household Expenditure = Utility Bills + Transport + Rental**

Whereby:

- (a) a utility bill is considered if the bill bears the name of, and is paid by, one of the household members featured on the application;
- (b) transport expenditure is considered only for those immediate household members whose full income has been fully considered;
- (c) rental expenditure is considered only for those immediate household members whose full income has been fully considered;
- (d) loans are considered only for those immediate household members whose full income has been fully consider.

(3) **SL = Subsistence level = 3945 *(b) + 1972.5*(c)**

Whereby:

B = number of adults earning an income

C = children below 18 years

Therefore, amount of financial assistance payable = **Household Income (HHI) HH expenditures (HHE) Subsistence Level (SL)**

I certify that this is a correct copy of the Bill which was passed by the National Assembly on 16th December, 2022.



Mrs. Tania Isaac

Clerk to the National Assembly

BUSINESS TAX (AMENDMENT) ACT, 2022

(Act 31 of 2022)

ARRANGEMENT OF SECTIONS

SECTIONS

1. Short title and commencement
2. Amendment of section 2
3. Repeal and replacement of section 54



BUSINESS TAX (AMENDMENT) ACT, 2022

(Act 31 of 2022)



I assent

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

Wavel Ramkalawan
President

29th December, 2022

AN ACT TO AMEND THE BUSINESS TAX ACT, CAP 20.

ENACTED by the President and the National Assembly.

Short title and commencement

1. This Act may be cited as the Business Tax (Amendment) Act, 2022 (hereinafter the “Act”), amending the Business Tax Act (Cap 20) (hereinafter the “principal Act”) and shall come into operation on such date as the Minister, by notice published in the *Gazette*, so appoints.

Amendment of Section 2

2. Section 2 of the principal Act is amended as follows —

(a) by inserting before the definition of “associate” the following definitions —

“Actual conditions” are conditions that are set by and apply between persons in their commercial or financial relations, which include, but are not limited to, conditions pertaining to price, gross margin, net profit and the division of profit between persons;

“Actual price” means the price set by persons during a transaction;

“Actual profit” means a profit that accrues to a person as a result of commercial or financial relations;

“Area covered by an international tax sharing agreement” means an area identified by an international tax sharing agreement in which Seychelles and another country share taxing rights over activities undertaken within that area;

“Arm’s length” means a distance discouraging personal contact and familiarity between persons dealing with one another, such that the dealings occur wholly independently;

“Arm’s length conditions” means conditions operating in commercial or financial relations between persons dealing wholly independently of one another in comparable circumstances;

“Arm’s length principle” means the principle that commercial or financial relations established in a transaction between associates must be the same as the commercial or financial relations established in a comparable transaction between persons who are not associates;

“Arm’s length profits” means the profits that would have accrued to a person had the owner of that person, being its associate, allocated expenditure and income to that person at arm’s length;

- (b) by inserting after the definition of “business building” the following definition —

“Business profits article” means —

- (i) Article 7 of the Organisation for Economic Co-operation and Development Model Tax Convention on Income and on Capital; or
- (ii) a corresponding article of another international tax agreement that Seychelles has entered into;

- (c) by inserting after the definition of “commencement date” the following definition —

“Commercial or financial relations” means connections or arrangements between persons that relate to or could otherwise affect the commercial or financial activities of one or all those persons or parts thereof, which arrangements may include —

- (i) a single arrangement or a series of arrangements;
- (ii) an understanding, things to be done or not to be done, and practices whether expressed or implied and whether or not legally enforceable;
- (iii) unilateral actions or mutual arrangements;
- (iv) a strategy; or
- (v) allocation of overall profit outcomes by two or more persons.

- (d) by inserting after the definition of “Depreciable asset” the following definition —

“Disadvantaged person” is a person that becomes disadvantaged as a result of the Commissioner General making a transfer pricing adjustment resulting in an increase in that person's taxable income and withholding tax or a decrease in that person's loss and tax concessions for a tax year;

- (e) by inserting after the definition of “Interest” the following definition —

“International tax agreement” means a tax agreement or treaty entered into by the Republic of Seychelles;

- (f) by deleting the definition of “person” and replacing therefor the following —

“person” includes an individual, partnership, entity, trust, government body or, for the purpose of Section 54, a permanent establishment;

- (g) by inserting after the definition of “Rent” the following definition —

“Transfer pricing” means the determination of prices charged in transactions between associates;

“Transfer pricing benefit” means a benefit accruing to a person as a result of a difference between the actual conditions and the arm's length conditions.

Repeal and replacement of section 54

3. Section 54 of the principal Act is repealed and substituted by the following —

“Transfer pricing

54.(1) This section applies to —

- (a) an arrangement between associates;
- (b) an arrangement between different businesses of a person, as though that arrangement was between associates;
- (c) an arrangement between a business of a person and another activity conducted by that person or another person, as though that arrangement was between associates; and
- (d) an arrangement between a person and a permanent establishment of that person, as though that arrangement was between associates.

(2) A person shall not obtain a transfer pricing benefit as a result of transfer pricing in Seychelles from actual conditions that differ from the arm's length conditions and are inconsistent with the arm's length principle.

(3) A person shall not engage in commercial or financial relations that would result in that person or another person obtaining a transfer pricing benefit.

(4) A person is deemed to have obtained a transfer pricing benefit referred to in subsections (2) and (3) if —

- (a) the actual conditions differ from the arm's length conditions as determined by the Seychelles Revenue Commission established under the Seychelles Revenue Commission Act, Cap 322;
- (b) had the arm's length conditions operated instead of the actual conditions, one or more of the following ensued —

- (i) the amount of the person's taxable income for a tax year would have been greater;
- (ii) the amount of the person's loss for a tax year would have been less;
- (iii) the amount of the person's tax concessions for a tax year would have been less;
- (iv) the amount of withholding tax payable in respect of interest or royalties by the person would have been greater.

(5) The Commissioner General shall, when conducting a transfer pricing audit, determine the transfer pricing benefit by calculating the difference in the actual and arm's length amounts in —

- (a) the taxable income of the person for a tax year;
or
- (b) the tax loss of the person for a tax year.

(6) A non-resident shall not establish commercial or financial relations that would result in itself, or another person in Seychelles, obtaining a transfer pricing benefit.

(7) A non-resident obtains a transfer pricing benefit referred to in subsection (6) if —

- (a) it has a permanent establishment in Seychelles;
- (b) the amount of profits attributed to that permanent establishment is less than the amount of profits the permanent establishment might be expected to make if it were a distinct and separate person engaged and dealing in the manner mentioned in the business profits article;
and

- (c) had the arm's length profits instead of the actual profits been attributed to the permanent establishment —
 - (i) the amount of the taxable income of the permanent establishment for a tax year would have been greater than its actual amount;
 - (ii) the amount of a tax loss of the permanent establishment for a tax year would have been less than its actual amount; or
 - (iii) the amount of tax concessions of the permanent establishment for a tax year would have been less than its actual amount.

(8) The Commissioner General shall, when conducting a transfer pricing audit, determine the transfer pricing benefit by calculating the difference in the actual and arm's length amounts in subsection (7)(c)(i), (ii) and (iii).

(9) Where a person obtains a transfer pricing benefit from conditions that operate between that person and another person in connection with their commercial or financial relations, the Commissioner General may replace those conditions with arm's length conditions.

(10) The Commissioner General, in ensuring that the amount of profit being subjected to tax in Seychelles by persons is not less than it should be, shall work out the amount (if any) —

- (a) of the taxable income of the persons for the tax year if it can be established that a transfer pricing benefit has arisen resulting in a lesser income;
- (b) of the loss of the persons for the tax year if it can

be established that a transfer pricing benefit has arisen resulting in a greater loss;

- (c) of the tax concessions of the persons for the tax year if it can be established that a transfer pricing benefit has arisen resulting in a greater amount of tax concession; and
- (d) of the withholding tax of the persons for the tax year if it can be established that a transfer pricing benefit has arisen resulting in less withholding tax payable in respect of interest or royalties.

(11) There shall be deemed a difference between the actual conditions and the arm's length conditions if —

- (a) an actual condition exists that is not one of the arm's length conditions; or
- (b) a condition does not exist in the actual conditions but is one of the arm's length conditions.

(12) The Commissioner General, in conducting a transfer pricing audit, shall ensure that the arm's length profits for a permanent establishment in Seychelles are taken for the purposes this Act, to be attributable to sources in Seychelles.

(13) The Commissioner General, in conducting a transfer pricing audit, shall ensure that the arm's length profits for a permanent establishment in an area covered by an international tax sharing agreement are taken for the purposes of this Act, to be attributable to sources in that area.

(14) The Commissioner General may, for audit purposes —

- (a) treat a person with no assessable income for a tax year as having assessable income for that year;

- (b) treat a person who has made no loss in a tax year as having a loss for that year; and
- (c) treat a person who has not obtained tax concessions for a tax year as having obtained tax concessions for that year.

(15) In identifying the arm's length conditions, the Commissioner General shall use the method, or the combination of methods that is the most appropriate and reliable, having regard to all relevant factors, including the following —

- (a) the respective strengths and weaknesses of the possible methods in their application to the actual conditions;
- (b) the circumstances, including the functions performed, assets used and risks borne by the persons;
- (c) the availability of reliable information required to apply a particular method; and
- (d) the degree of comparability between the actual circumstances and the comparable circumstances, including the reliability of any adjustments to eliminate the effect of material differences between those circumstances.

(16) In identifying comparable circumstances referred to in subsection (15)(d), regard must be had to all relevant factors, including the following —

- (a) the functions performed, assets used and risks borne by the persons;
- (b) the characteristics of any property or service transferred between the persons;

- (c) the terms of any relevant contracts between the persons;
- (d) the economic circumstances; and
- (e) the business strategies of the persons.

(17) The circumstances referred to in subsection (16) shall be comparable to actual circumstances if —

- (a) the difference does not materially affect a condition that is relevant to the method; or
- (b) a reasonably accurate adjustment can be made to eliminate the effect of the difference in a condition that is relevant to the method.

(18) The Commissioner General shall —

- (a) ensure that the identification of the arm's length conditions is based on the commercial or financial relations in connection with which the actual conditions operate; and
- (b) have regard to both the form and substance of those relations.

(19) Notwithstanding subsection (18) (b), the Commissioner General may disregard the form of the actual commercial or financial relations to the extent that it is inconsistent with the substance of those relations.

(20) Notwithstanding subsection (18) (a) and (b), the identification of the arm's length conditions shall be based on other commercial or financial relations if —

- (a) a person dealing wholly independently with one another in comparable circumstances would not

have entered into the actual commercial or financial relations;

- (b) a person dealing wholly independently with one another in comparable circumstances would have entered into other commercial or financial relations; and
- (c) those other commercial or financial relations differ in substance from the actual commercial or financial relations.

(21) Notwithstanding paragraphs (a) and (b) of subsection (18), if a person dealing wholly independently with one another in comparable circumstances would not have entered into commercial or financial relations, the identification of the arm's length conditions shall be based on that absence of commercial or financial relations.

(22) Where conditions pertaining to debt financing operating between persons are not at arm's length, the Commissioner General may —

- (a) disregard those conditions to the extent to which that financial arrangement would not have occurred between wholly independent persons; or
- (b) recharacterise an arrangement pertaining to those conditions as equity if the substance of the arrangement is such.

(23) For the purpose of determining the effect that this section has in relation to a person, the Commissioner General and persons shall identify arm's length conditions so as best to achieve consistency with the following documents —

- (a) the Transfer Pricing Guidelines for Multinational

Enterprises and Tax Administrations, as approved by the Council of the Organisation for Economic Co-operation and Development; and

- (b) a document, or a part thereof, that may by regulations be prescribed for the purposes of this paragraph.

(24) (a) For the purpose of determining the effect that this section has in relation to a permanent establishment, the Commissioner General and the permanent establishment shall work out the arm's length profits, and identify the arm's length conditions, so as best to achieve consistency with —

- (i) the documents covered under paragraph (b); and
- (ii) subject to paragraph (i), the documents covered by subsection 23 (a) and (b).

(b) The documents referred to under paragraph (a)(i) are as follows —

- (i) the Model Tax Convention on Income and on Capital and its Commentaries as adopted by the Council of the Organisation for Economic Co-operation and Development, to the extent that the document extracts the text of Article 7 and its Commentary as they read before 21 November 2017;
- (ii) a document, or part thereof, prescribed by the regulations for the purposes of this paragraph.

(25) The Commissioner General may make a determination under subsection (26) in relation to a disadvantaged person if —

- (a) the arm's length conditions are taken by subsections (9) and (10) to operate; and
 - (b) the Commissioner General considers that, if the arm's length conditions instead of the actual conditions had operated, —
 - (i) the amount of the disadvantaged person's taxable income for a tax year might have been expected to be less than its actual amount;
 - (ii) the amount of the disadvantaged person's loss for a tax year might have been expected to be greater than its actual amount;
 - (iii) the amount of the disadvantaged person's tax concessions for a tax year might have been expected to be greater than its actual amount; or
 - (iv) the amount of withholding tax payable in respect of interest or royalties by the disadvantaged person might have been expected to be less than its actual amount;
 - (c) the Commissioner General considers that it is fair and reasonable that the actual amounts mentioned in subsection (25) (b) (i), (ii), (iii) or (iv), as the case requires, be adjusted accordingly.
- (26) (a) For the purpose of adjusting an amount as mentioned in subsection (25)(c), the Commissioner General may make a determination of the disadvantaged person's —
- (i) taxable income for the tax year;

- (ii) loss for the tax year;
- (iii) tax concessions, or tax concessions of a particular kind, for the tax year; or
- (iv) withholding tax payable in respect of interest or royalties.

(b) The Commissioner General may take such action as the Commissioner General considers necessary to give effect to a determination under subsections (25) and (26).

(c) The Commissioner General shall give a copy of a determination under subsections (25) and (26) to the disadvantaged person.

(d) A failure to comply with paragraph (c) of this section does not affect the validity of the determination.

(e) A person may give the Commissioner General a written request to make a determination under subsections (25) and (26) relating to the person.

(f) The Commissioner General shall decide whether or not to grant the request, and give the person notice of the Commissioner General's decision.

(g) If the disadvantaged person is dissatisfied with the Commissioner General's decision, the person may object, in the manner set out in Part IV of the Revenue Administration Act, Cap 322, against that decision.

(27) Section 11 of the Revenue Administration Act, Cap 322, does not prevent the amendment of an assessment of a person for a tax year if —

- (a) the amendment is made within seven years of the date the Commissioner General served or is

treated as having served notice of the assessment to the person; and

- (b) the amendment is made for the purpose of giving effect to subsections (9) and (10).

(28) Where an adjustment is made by the Commissioner General in relation to an arrangement between persons resident of Seychelles, the Commissioner General shall make a consequential adjustment to the taxable income of the other person.

(29) Where an adjustment is made by a person to give effect to subsections (18) to (22) in relation to an arrangement between a person and another person that is a resident of Seychelles, the other person may apply to the Commissioner General to make a corresponding adjustment to the taxable income of one of the persons.

(30) The granting of an application under subsection (29) is at the discretion of the Commissioner General.

(31) Subsection (28) shall not apply to an adjustment made by the Commissioner General to give effect to the provisions of an agreement with the government of a foreign country referred to in Section 79(1) of this Act.”

I certify that this is a correct copy of the Bill which was passed by the National Assembly on 9th December, 2022.



Mrs. Tania Isaac
Clerk to the National Assembly

EXCISE TAX ACT, 2022*(Act 27 of 2022)***ARRANGEMENT OF SECTIONS****SECTIONS****PART I - PRELIMINARY**

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2. Interpretation
3. Fair market value
4. Instruments and tables for calculating quantities of goods liable to excise tax

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5. Prohibition of unauthorised manufacture of excisable goods
6. Registration of excise manufacturers
7. Authorisation to manufacturer for experimental purpose
8. Conditions of the excise manufacturer's bond
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18. Bonded goods sold from a duty-free shop
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20. Taking stock and tax on deficiencies
21. Liability of tax on deficiencies in stock at date of entry for consumption
22. Remittal of tax on certain duty-free goods which are destroyed, etc

PART IV - EXCISE BONDED WAREHOUSE

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24. Alterations, additions or rebuilding of excise bonded warehouse
25. Removal of goods from excise bonded warehouse
26. Bonded goods sold from an excise bonded warehouse
27. Excise bonded warehouse, may be locked by officer
28. Taking stock and tax on deficiencies
29. Liability of tax on discrepancies in stock at date of entry for consumption
30. Remittal of tax on certain excise bonded warehouse goods, which are destroyed, etc.

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33. Importer of excisable goods to comply with Customs legislation
34. Excise value and quantity
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EXCISE TAX ACT, 2022

(Act 27 of 2022)



I assent

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

Wavel Ramkalawan
President

29th December, 2022

AN ACT TO PROVIDE FOR THE IMPOSITION AND COLLECTION OF EXCISE TAX, TO REPEAL THE EXCISE TAX ACT, CAP 264, AND TO PROVIDE FOR OTHER RELATED MATTERS.

ENACTED by the President and the National Assembly.

PART I - PRELIMINARY

Short title and application

1.(1) This Act may be cited as the Excise Tax Act, 2022.

(2) This Act applies to excisable goods imported into, or manufactured in Seychelles.

Interpretation

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

“alcohol” means any product of an alcoholic strength of more than 0.5% by volume;

“associate” has the same meaning as in section 3 of the Business Tax Act, 2009;

“bonded warehouse” means a customs controlled warehouse for the retention of imported goods until the applicable duty and taxes are paid.

“brewer” means a brewer of beer, and includes the proprietor, lessee or possessor of a brewery;

“C.I.F. value” has the meaning given under the Customs legislation;

“clearance for home use” means the customs procedure which provides that goods enter into free circulation upon payment of taxes, duties and levies chargeable and the accomplishment of all the necessary customs formalities;

“Commissioner” means the Commissioner of Customs appointed in terms of section 3 of the Customs Management Act, 2011;

“Commissioner General” means the Commissioner General of the Seychelles Revenue Commission, appointed in terms of section 4 (1) of the Seychelles Revenue Commission Act, 2009.

“Customs legislation” means the Customs Management Act, 2011 and its statutory instruments;

“Customs control” means —

(a) the control of imported goods under the Customs legislation; and

(b) the control of manufactured goods under this Act;

“Customs lock” or “Customs Seal” means any lock or seal affixed by an officer to any premises, other storage places or goods, for the protection of the revenue;

“distiller” means any person who conducts, works or carries on any distillery either by himself or through his agent or servant;

“distillery” means any place or premises where —

- (a) any process of fermentation for the production of wash is carried on;
- (b) any wash is kept or produced for the purpose of distillation;
- (c) any mash-tub, fermenting-tun, worm or still for the distillation of spirits is set up or used;
- (d) any process of distillation of spirits;
- (e) any process of rectification of spirits, either by re-distillation or filtration, or other process is carried on;
- (f) any spirits are manufactured or produced from any substance;
- (g) any still, rectifier or other apparatus, suitable for the manufacture of spirits, is in whole or in part manufactured, made or kept, and every office, workshop, warehouse, granary, fermenting-room, mash-house, still-room, rectifying-house, vault, cellar, shed, yard or other place owned or occupied by or on behalf of, or for the use of any distiller, or in which any part of his or her business as such is transacted, where any grain, matter, material or apparatus suitable for or adapted to the production of spirits, or that is or is to be used in the production or

rectification of spirits, is kept or stored, where any of the goods of the distillery are kept or stored or where any process of manufacture is carried on, shall be held to be included in and to form part of the distillery to which it is attached or appurtenant;

“dutiable goods” means goods of a class or description subject to any duties, taxes or levies of Customs or excise, whether or not the goods are chargeable with any duties, taxes or levies;

“duty-free shop” means a shop for the warehousing and sale of goods without payment of duty, tax and levy under this Act or any other law relating to customs and excise;

“entered” has the meaning given under the Customs legislation;

“entry” in relation to clearance of goods for importation, warehousing, removal from a warehouse or exportation, means the presentation in accordance with this Act of a correctly completed and signed declaration, and includes the recording of the required information on the Customs computer system, using procedures approved by the Commissioner, or using a computerized procedure approved by the Commissioner, together with other documents required by any provision of this Act;

“excisable goods” means goods, other than exempt goods prescribed and taxable under this Act;

“excisable value”, in relation to excisable goods, has the meaning determined under section 34;

“excise bonded warehouse” means a customs controlled warehouse for the retention of locally produced goods with intention for export, and to supply to aircrafts, vessels and class and classes of persons.

“excise tax” means the excise tax imposed under this Act, and includes any amount required to be brought to account under

this Act as excise tax or otherwise deemed under this Act to be excise tax;

“excise tariff” means excise taxes imposed in terms of section 31;

“excise warehouse” means any place used for the deposit, keeping and securing of excisable goods of a registered manufacturer registered by the Commissioner under section 6(2) (e);

“excise warehouse keeper” means the person registered to operate an excise bonded warehouse;

“exempt goods” means prescribed goods that is not taxable under this Act;

“export” means to take goods or cause goods to be taken out of Seychelles;

“exporter” means any person in Seychelles who takes goods or causes goods to be taken out of Seychelles, and includes any employee or agent of such person and the owner of such goods as are exported;

“factory cost” means the sum of all the costs, direct and indirect, incurred by the manufacturer in the manufacture, finishing and packing of goods —

- (a) before their removal from the registered production centre of the manufacturer; or
- (b) for use in the manufacture of other goods on the registered production centre of the manufacturer; and includes, where the goods are manufactured on behalf of another person from materials supplied by or on behalf of that person, the cost of the materials supplied by or on behalf of that person and any other costs incurred in delivering those materials to the registered production centre of the manufacturer;

“Form” means document specified in the First Schedule to the Excise Tax (General) Regulations or any such form approved by the Commissioner;

“goods” means excisable goods as prescribed under this Act;

“import” has the meaning given under the Customs legislation;

“import duty” means a duty levied under the Customs legislation;

“importer” has the meaning given under the Customs legislation;

“large business” has the same meaning as under the First Schedule of the Revenue Administration Act, 2009;

“liability” means, when tax becomes payable by law, although the date of payment may be later;

“manufacture”, in relation to goods liable to excise tax includes the mixing, brewing, distilling or production of goods liable to excise tax;

“medium business” has the same meaning as under the First Schedule of the Revenue Administration Act, 2009;

“Minister” means the Minister responsible for finance and trade;
“officer” means every officer of excise who is employed or appointed to the survey of manufactures, operations or premises subject to excise, and every person employed for the purpose of the administration or enforcement of this Act;

“open stock” means any goods which have been released within Seychelles after the requirements of this Act have been satisfied;

“person” has the same meaning as defined under Revenue Administration Act, 2009;

“proper officer” means in respect of any unit, division or matter the officer designated by rule or regulation or by the Commissioner to be the proper officer at that unit, division or in that matter;

“receptacle” means all hollow containers used to hold and store goods;

“records” means all papers, books, registers, computer files, tapes, discs, films, videos, soundtracks, or any other device in which information is recorded or stored;

“registered manufacturer” means a person to whom a Certificate of Registration has been issued under section 6(6);

“registered production centre” means the premises on which a person is registered to produce excisable goods, and includes —

- (a) any excise warehouse deemed to be a part of the premises under section 6(2)(d); and
- (b) all adjoining premises connected with that production or with the business of the producer;

“regulations” means the regulations made under this Act;

“reviewable decision” means reviewable decision as defined under section 2 of the Revenue Administration Act, 2009;

“small business” has the same meaning as under the First Schedule of the Revenue Administration Act, 2009;

“still” means any apparatus used for carrying out the distillation of alcoholic goods and includes any part of a still;

“stores for consumption” means, goods intended for consumption by the passengers and the crew on board vessels or aircraft, whether or not sold;

“tobacco goods” means any product classified under Chapter 24 of the Harmonised Commodity Description and Coding System and goods defined under the Tobacco Control Act, 2009;

“vessel” means any ship, boat, watercrafts and the like.

(2) The classifications and descriptions of goods prescribed under this Act shall be interpreted in accordance with the rules for interpretation set out in the General Rules for the Interpretation of the Customs Tariff based on the Harmonised Commodity Description and Coding System as domesticated under Section 40 of the Customs Management Act, 2011.

Fair market value

3.(1) The fair market value of excisable goods at the time of removal from Customs control shall be the consideration, excluding excise tax, that a manufacturer of the goods could reasonably expect to obtain for the goods in an open market sale, at wholesale, freely transacted between persons who are not associates.

(2) If the fair market value of excisable goods cannot be determined under subsection (1), the fair market value may be determined by the Commissioner.

(3) In determining the fair market value under subsection (2), the Commissioner shall have regard to information supplied to him or her by the manufacturer or any other information available to him or her and shall, as far as practicable in the light of such information, determine the fair market value as, the factory cost plus 25% of such cost or such percentage as may be prescribed in relation to any class of goods.

(4) A manufacturer of goods shall, within 30 days after the receipt of a request from the Commissioner or within such further period as the Commissioner may allow, submit to the Commissioner a declaration in such form as the Commissioner may require, giving an analysis of —

(a) the factory cost; and

(b) the amount by which the factory cost is exceeded by —

- (i) the selling price, if any; and
- (ii) the price, including the excise tax, if any, at which the manufacturer sells the goods in the ordinary course of trade to merchants in Seychelles.

(5) A declaration for the purposes of subsection (4) shall be prepared at the expense of the manufacturer by an accountant or auditor approved by the Commissioner and shall be signed by the manufacturer and the accountant or auditor who prepared it.

Instruments and tables for calculating quantities of goods liable to excise tax

4.(1) For the purpose of calculating the full quantity of goods liable to excise tax which have been produced on registered production centres, tables may be prescribed showing the quantity of such goods which shall be deemed to have been produced from a given quantity of material.

(2) Except as elsewhere provided in this Act, the Commissioner may by rule prescribe the instruments, meters, gauges, and other appliances and tables, formulae and other methods of calculation to be used in ascertaining the mass, quantity, strength, relative density, temperature, pressure or any other characteristics of any goods for the purpose of this Act.

PART II - REGISTRATION OF MANUFACTURERS AND APPROVAL OF REGISTERED PRODUCTION CENTRES

Prohibition of unauthorised manufacture of excisable goods

5. A person shall not manufacture excisable goods in Seychelles unless —

- (a) the person is registered under this Act for the purpose of manufacturing those goods; and
- (b) the excisable goods are manufactured within a registered production centre.

Registration of excise manufacturers

6.(1) A person intending to manufacture excisable goods shall apply to the Commissioner, in the prescribed form and manner, for registration as a manufacturer of excisable goods.

(2) The applicant under subsection (1) shall furnish such information as to —

- (a) the nature of the product liable to excise tax which the applicant proposes to manufacture;
- (b) the process of manufacture which the applicant proposes to adopt;
- (c) the production capacity of the registered production centre;
- (d) the premises at which the machinery and equipment with which the goods liable to excise tax are to be manufactured; and
- (e) the excise warehouse where all manufactured goods shall be stored before removal, which shall be part of the registered production centre.

(3) The Commissioner may refuse to issue a certificate of registration to any applicant unless the applicant has submitted to the Commissioner a list in the appropriate form describing in such detail as the Commissioner may require —

- (a) the machinery, equipment and receptacles capable of use in connection with the manufacture of goods liable to excise tax to be kept or installed in each room, building or other place at the applicant's premises and the purpose for which the piece of machinery, equipment and receptacles is to be used additionally or alternatively; and
- (b) the rooms, buildings and other places at the applicant's

premises to be used in connection with the manufacture of goods liable to excise tax.

(4) The Commissioner shall register a person who has applied for registration under subsection (1) if —

- (a) the Commissioner is satisfied that the person will carry on the business of manufacturing excisable goods and will comply with the obligations imposed under this Act on registered manufacturers;
- (b) the applicant has satisfied the conditions under section 8 and entered into an excise manufacturer's bond, which shall remain in force while the manufacturer remains a registered manufacturer, with security in an amount determined by the Commissioner; and
- (c) the applicant has paid the prescribed administration fee.

(5) The Commissioner may impose such terms, conditions, or restrictions as the Commissioner considers appropriate in relation to the registration of a person as a registered manufacturer for the purposes of this Act.

(6) The Commissioner shall issue each registered manufacturer with a Certificate of Registration in the approved form.

(7) Registration shall take effect from the date set out in the manufacturer's Certificate of Registration.

(8) A registered manufacturer shall notify the Commissioner in writing, of any intention to change the name and constitution of the manufacturer.

(9) A notification under subsection (8) shall be given to the Commissioner no later than 21 days before the event requiring notification occurs.

(10) The Commissioner may, on request of a manufacturer of goods liable to excise tax, amend the list submitted by the manufacturer in terms of subsection (3).

(11) A registration certificate issued in terms of this section shall, whenever issued, expire on 31st December of each year.

Authorisation to manufacture for experimental purposes`

7.(1) Notwithstanding section 5, the Commissioner may authorise a person to manufacture goods for experimental purposes, provided that the goods shall not be put on sale or disposed for profit.

(2) No registration certificate shall be required in respect of the premises on which goods referred to in subsection (1) are manufactured and such goods shall not be liable to excise tax if they are disposed of in accordance with rules made by the Commissioner.

(3) The Commissioner may cancel the authorisation granted under subsection (1), if a person who is authorised by the Commissioner to manufacture goods in accordance with subsection (1) fails to comply with the rules made by the Commissioner under subsection (2).

Conditions of the excise manufacturer's bond

8.(1) In order to enter and remain into an excise manufacturer's bond, an applicant under section 6 shall —

- (a) not engage in any attempt by himself or herself or in collusion with others to defraud the country of any tax on any goods manufactured by him or her;
- (b) maintain correct and truthful records;
- (c) render true and complete returns, statements and inventories prescribed or required under this Act;
- (d) comply with all requirements of this Act with respect to the manufacturing of goods liable to excise tax;

- (e) comply with such other conditions as the Commissioner may require.

(2) No manufacturer shall carry on any business on premises registered in terms of section 6, other than the business for which the certificate was issued, unless he or she has obtained written permission to do so from the Commissioner.

(3) An officer may cause any excise warehouse to be locked with a customs lock or customs seal for so long as deemed fit, and no person shall during such period remove or break such lock or seal or enter such warehouse or remove any goods from there without the permission of the officer.

Cancellation of registration

9.(1) The Commissioner may cancel the registration of a manufacturer if the holder of the registration certificate contravenes or fails to comply with any of the conditions of the certificate.

- (2) A certificate of registration may be cancelled if —
 - (a) the manufacturer is found in possession of uncustomed goods;
 - (b) the manufacturer engages in activities contrary to the provisions of this Act or other revenue laws;
 - (c) holder of the registration certificate is convicted of an offence under this Act or other revenue law
 - (d) the activity for which he or she is registered becomes prohibited by this Act or any other enactment;
 - (e) the registered production centre or any part thereof, the rooms, machinery or any receptacles have been altered without the approval of the Commissioner.

(3) A registered manufacturer who intends to cease manufacturing excisable goods shall, notify the Commissioner in writing, at least 7 days before such cessation of operations, stating —

- (a) the date on which the manufacturer intends to cease to manufacture excisable goods;
- (b) the date on which the manufacturer expects that no excisable goods will remain in the excise manufacturer's warehouse.

(4) If the Commissioner receives a notification under subsection (3), the Commissioner shall, by notice in writing, either suspend or cancel the registration of the manufacturer with effect from the first day on which there are no longer excisable goods in the registered production centre.

(5) A suspension or cancellation takes effect on the date specified by the Commissioner in the notice issued under subsection (4).

(6) Any obligation or liability under this Act of a registered manufacturer in respect of anything done or omitted to be done by that manufacturer while the manufacturer is a registered manufacturer, including the obligation to pay excise tax and to file excise tax returns, shall not be affected by the suspension or cancellation of the manufacturer's registration.

(7) A registered manufacturer who intends to sell and transfer a business of manufacturing excisable goods as a going concern shall notify the Commissioner, in writing of that fact, at least 30 days before the dates on which the assets are transferred.

Refusal of registration

10. The Commissioner may refuse an application for registration as an excise manufacturer and the applicant shall have the right of appeal against such refusal in terms of section 32 of the Customs Management Act.

Alterations, additions or rebuilding of registered production centre

11. A registered manufacturer shall obtain written approval of the

Commissioner before undertaking any alterations, additions or rebuilding of the registered manufacturer's registered production centre.

Supervision by officers

12. A registered manufacturer of excisable goods is subject to supervision by officers for the protection of public revenues.

The power to issue directions

13.(1) The Commissioner may issue written directions to a registered manufacturer which shall set out in which designated area of the registered production center —

- (a) any process in the production is to be carried on;
- (b) the materials and other items used in the production are to be kept; and
- (c) excisable goods manufactured on the premises are to be kept.

(2) A registered manufacturer shall comply with the directions made under this section.

PART III - DUTY-FREE SHOPS

Application and registration of duty-free shops

14.(1) Subject to any regulations governing the maintenance and control of duty-free shops, the Minister may, by notice in the *Gazette* designate premises, buildings or structures to be used as duty-free shops.

(2) The Commissioner may determine the kind of goods to be placed in a duty-free shop.

(3) A person intending to register as a proprietor of a duty-free shop, shall apply to the Commissioner, in the prescribed form and manner.

(4) The applicant shall furnish information pertaining to —

- (a) the nature of the goods which the applicant proposes to sell;
- (b) the premises at which the duty-free shop is located;
- (c) the plan of such premises, building and structures; and
- (d) such other information as the Commissioner may require.

(5) The Commissioner shall register a person who has applied for registration under this Act if —

- (a) the Commissioner is satisfied that the person will comply with the obligations imposed under this Act on duty-free shops; and
- (b) the applicant has entered into a bond, with sufficient surety to the satisfaction of the Commissioner, for compliance with this Act;
- (c) the applicant has paid the prescribed administration fee.

(6) The Commissioner may at any time require that the form or amount of the security specified under subsection 5(b) shall be altered in such manner as he or she may determine.

(7) A registration certificate issued under this section shall be issued by the Commissioner and shall, whenever issued, expire on the 31st December of each year.

- (8) (a) The proprietor shall —
- (i) keep a record of all goods delivered into and out of the duty-free shop, and shall keep such record at all times available for examination by a proper officer;
 - (ii) stack and arrange the goods in the duty-free shop, so as to permit reasonable access to and examination of every package at all times;

(iii) maintain records and accounts relating to goods in such form and manner, as a proper officer shall require; and keep such records and accounts at all times available for examination by a proper officer.

(b) If the proprietor fails to comply with the conditions of his or her bond or fails to comply with the provisions of this Act, any rule or instructions made, or given by the Commissioner connected with the administration of this Act, the Commissioner may cancel his or her registration certificate or refuse its renewal.

(9) A registration certificate may be transferred from a duty-free shop to another duly approved duty-free shop, in the possession of the person to whom the registration certificate has been issued, but shall not be transferable from one person to another.

Selling of goods in duty-free shop

15.(1) A registered proprietor of a duty-free shop may import, warehouse and sell goods without payment of duty under such conditions as may be approved by the Commissioner.

(2) A registered proprietor of a duty-free shop may receive, warehouse and sell excisable goods manufactured in Seychelles from any excise warehouse without the payment of excise tax under such conditions as may be approved by the Commissioner.

(3) A registered proprietor of a duty-free shop may sell goods free of duty to such class or classes of persons and under such conditions as may be prescribed.

(4) An officer shall not allow the removal of any goods from a duty-free shop, except for sale in terms of subsection (3) or in such other circumstances as may be prescribed.

Removal of goods from duty-free shop

16. Goods received in a duty-free shop, shall not be taken or

delivered from a duty-free shop, except in accordance with the regulations prescribed under this Act.

Bonded goods as stores for consumption for aircrafts or vessels

17.(1) An officer may release goods free of tax from any bonded warehouse or excise bonded warehouse in Seychelles in original packages as imported or locally manufactured, or as repackaged in a bonded warehouse or excise bonded warehouse, for shipment in accordance with the prescribed regulations, as stores for consumption for use on any aircraft or vessel which is bound for a voyage or journey outside Seychelles.

(2) An officer may refuse the removal of any warehoused goods declared to be for export as ships or aircrafts' stores for consumption or otherwise, if the removal is for any purpose other than that which has been declared.

Bonded goods sold from a duty-free shop

18.(1) The proprietor of a duty-free shop, may sell goods free of tax to such class or classes of persons and under such conditions as may be prescribed by regulations.

(2) An officer shall not allow the removal of any goods from a duty-free shop except for sale in terms of subsection (1) or in such other circumstances as may be prescribed by regulations.

Duty-free shop, may be locked by officer

19. An officer may cause any duty-free shop, to be locked with a customs lock and seal for so long as he or she deems fit, and no person shall during such period remove or break such lock, seal or enter such duty-free shop, or remove any goods from there without the permission of the officer.

Taking stock and tax on deficiencies

20. An officer may at any time take stock of the goods in any duty-free shop.

Liability of tax on discrepancies in stock at date of entry for consumption

21.(1) A proprietor of a duty-free shop, who cannot account to the satisfaction of the Commissioner for any quantity of goods in a duty-free shop, shall be deemed to have removed those goods from customs control in the month in which the discrepancy arose.

(2) Tax paid on any discrepancies found in the stock of goods deposited in a duty-free shop in accordance with this Act shall be subject to the applicable rate of tax on the date the Bill of Entry is submitted.

Remittal of tax on certain duty-free goods, which are destroyed, etc.

22.(1) The Commissioner shall remit the tax payable on destroyed or lost goods, if the Commissioner is satisfied that —

- (a) the goods were destroyed or lost by accident without going into consumption whilst in a duty-free shop or whilst in transit to a duty-free shop; and
- (b) every reasonable effort was made and precaution taken to prevent their destruction or loss.

(2) The Commissioner shall remit the tax due on duty-free goods, which are —

- (a) destroyed by the owner or other person having control of the goods under the supervision of a proper officer; or
- (b) given up to the control of a proper officer in whole packages to avoid the payment of the tax.

PART IV - EXCISE BONDED WAREHOUSE

Application and registration of excise bonded warehouse

23.(1) A person who is established in Seychelles may apply to operate an excise bonded warehouse.

(2) Subject to any regulations governing the maintenance and control of an excise bonded warehouse, the Commissioner may designate premises, buildings or structures to be used as an excise bonded warehouse.

(3) The Commissioner may set rules when granting authorisation to operate an excise bonded warehouse.

(4) The Commissioner may determine the kind of goods to be placed in an excise bonded warehouse.

(5) A person intending to register as a proprietor of an excise bonded warehouse shall apply to the Commissioner in the prescribed form and manner.

(6) The applicant shall furnish information pertaining to —

- (a) the nature of the goods which the applicant proposes to sell;
- (b) the premises at which the excise bonded warehouse is located;
- (c) the plan of such premises, building and structures; and
- (d) such other information as the Commissioner may require.

(7) The Commissioner shall register a person who has applied for registration under this Act if —

- (a) the Commissioner is satisfied that the person will comply with the obligations imposed under this Act on an excise bonded warehouse; and
- (b) the applicant has entered into a bond, with sufficient surety to the satisfaction of the Commissioner, for compliance with this Act;
- (c) the applicant has paid the prescribed administration fee.

(8) The Commissioner may at any time require that the form or amount of the security specified under section 14 (5) (b) shall be altered in such manner as he or she may determine.

(9) A registration certificate issued under this section shall be issued by the Commissioner and shall, whenever issued, expire on the 31st December of each year.

(10) The excise warehouse keeper shall —

- (a) ensure that while the goods are in an excise bonded warehouse are not removed from Customs supervision or control;
- (b) comply with the particular rules specified in the authorisation;
- (c) fulfil the obligation that arise from the storage of goods covered by the warehousing procedure;
- (d) keep a record of all goods delivered into and out of the excise bonded warehouse, and shall keep such record at all times available for examination by a proper officer;
- (e) stack and arrange the goods in the excise bonded warehouse, so as to permit reasonable access to and examination of every package at all times;
- (f) maintain records and accounts relating to goods in such form and manner, as a proper officer shall require; and keep such records and accounts at all times available for examination by a proper officer;
- (g) Produce the goods whenever required and facilitate their examination by the proper officer.

(11) If the excise warehouse keeper fails to comply with the conditions of his or her bond or fails to comply with the provisions of this Act, any rule or instructions made, or given by the Commissioner connected

with the administration of this Act, the Commissioner may cancel his or her registration certificate or refuse its renewal.

(12) A registration certificate may be transferred from an excise bonded warehouse to another duly approved excise bonded warehouse.

Alterations, additions or rebuilding of excise bonded warehouse

24. A registered excise warehouse keeper shall obtain written approval of the Commissioner before undertaking any alterations, additions or rebuilding of the excise bonded warehouse.

Removal of goods from excise bonded warehouse

25. Goods received in an excise bonded warehouse, shall not be taken or delivered from an excise bonded warehouse, except in accordance with the regulations prescribed under this Act.

Bonded goods sold from an excise bonded warehouse

26.(1) The excise warehouse keeper of an excise bonded warehouse, may sell goods to such class or classes of persons and under such conditions as may be prescribed by regulations.

(2) An officer shall not allow the removal of any goods from an excise bonded warehouse except for sale in terms of subsection (1) or in such other circumstances as may be prescribed by regulations.

Excise bonded warehouse, may be locked by officer

27. An officer may cause any excise bonded warehouse, to be locked with a customs lock and seal for so long as he or she deems fit, and no person shall during such period remove or break such lock, seal or enter such excise bonded warehouse, or remove any goods from there without the permission of the officer.

Taking stock and tax on deficiencies

28. An officer may at any time take stock of the goods in any excise bonded warehouse.

Liability of tax on discrepancies in stock at date of entry for consumption

29.(1) An excise warehouse keeper of an excise bonded warehouse, who cannot account to the satisfaction of the Commissioner for any quantity of goods in an excise bonded warehouse, shall be deemed to have removed those goods from customs control in the month in which the discrepancy arose.

(2) Tax paid on any discrepancies found in the stock of goods deposited in an excise bonded warehouse in accordance with this Act shall be subject to the applicable rate of tax on the date the Bill of Entry is submitted.

Remittal of tax on certain excise bonded warehouse goods, which are destroyed, etc.

30.(1) The Commissioner shall remit the tax payable on destroyed or lost goods, if the Commissioner is satisfied that —

- (a) the goods were destroyed or lost by accident without going into consumption whilst in an excise bonded warehouse or whilst in transit to an excise bonded warehouse or for export; and
- (b) every reasonable effort was made and precaution taken to prevent their destruction or loss.

(2) The Commissioner shall remit the tax due on excise bonded warehouse goods, which are —

- (a) destroyed by the owner or other person having control of the goods under the supervision of a proper officer; or
- (b) given up to the control of a proper officer in whole packages to avoid the payment of the tax.

PART V - IMPOSITION OF EXCISE TAX**Imposition of excise tax**

31.(1) Subject to the provisions of this Act, excise tax shall be imposed, at the rates prescribed under this Act, on —

- (a) excisable goods produced or manufactured in Seychelles;
- (b) excisable goods imported into Seychelles.

(2) Where an excise tax has been imposed on goods manufactured or produced in Seychelles, the manufacturer of such goods shall be liable for the payment of excise tax and such liability shall continue until the goods have been accounted for in terms of this Act.

(3) Where any goods referred to in subsection (2) have been manufactured or produced otherwise than in accordance with this Act, any person having the ownership or possession of, or a beneficial interest in the goods, at any time before the requirements of this Act have been fulfilled shall be liable for the payment of the excise tax.

(4) Liability of excise tax on imported goods lies with the importer of such excisable goods or any person having the ownership or possession of, or a beneficial interest in the goods, at any time before the requirements of this Act have been fulfilled and shall therefore be liable for the payment of the excise tax.

(5) An export of excisable goods shall not be subject to excise tax provided the goods have been entered for export under the Customs legislation.

(6) The excise tax payable under subsection (1) (a) shall be payable by the registered manufacturer to the Seychelles Revenue Commission at the time and in the manner specified in section 36 as read with section 38.

(7) The excise tax payable under subsection (1) (b) shall be payable by the importer at the time and in the manner specified in section 43.

Excisable goods deemed to have been imported

32. All goods declared or shown in the bill of lading, manifest, consignment note, waybill or other document as having been consigned to Seychelles shall be deemed to have been imported in accordance with the Customs legislation, unless it is proved to the satisfaction of the Commissioner that they were not imported.

Importer of excisable goods to comply with Customs legislation

33.(1) For the avoidance of doubt, the importer of excisable goods shall comply with the requirements of the Customs legislation.

(2) Subject to this Act, the importer of excisable goods shall pay the excise tax payable on those goods in the same manner in which import duty is payable and the excise tax shall be collected in the same manner in which import duty is collected.

Excisable value and quantity

34.(1) Where a prescribed rate of excise tax is payable by reference to an *ad valorem* rate of excisable goods, the excisable value shall be —

- (a) if the goods are imported, the sum of the transaction value of the goods, which is, the price actually paid or payable for the goods when sold for export to Seychelles, adjusted in terms of subsections (3) and (4), if —
 - (i) there are no restrictions as to the disposal or use of the goods by the buyer, other than restrictions which —
 - (A) are imposed or required by law;
 - (B) limit the geographical area in which the goods may be resold; or
 - (C) do not substantially affect the value of the goods.
 - (ii) the sale or price of the goods is not subject to any condition or consideration for which a value cannot be determined;
 - (iii) no part of the proceeds of any subsequent resale, disposal or use of the goods by the buyer will accrue directly or indirectly to the seller, unless an

appropriate adjustment can be made in terms of subsection (3) and (4); and

(iv) subject to subsection (2), the buyer and the seller are not related.

(b) if the goods are manufactured in Seychelles, the fair market value of the goods at the time of removal of the goods from customs control.

(2) The fact that a buyer and a seller are related shall not in itself be a ground for not accepting the transaction value, where —

(a) in the opinion of the Commissioner, such relationship did not influence the price actually paid or payable for the goods concerned; or

(b) the importer proves to the satisfaction of the Commissioner that the transaction value closely approximates to one of the following values —

(i) the transaction value of identical or similar goods sold at or about the same time as the goods to be valued at comparable commercial and quantity levels to buyers in Seychelles who are not related; or

(ii) the value, of identical or similar goods imported into Seychelles at or about the same time as the goods to be valued.

(3) In determining the value for tax purposes of any imported goods in terms of subsection (1), the following shall be added to the price actually paid or payable for the goods to the extent that they are incurred by the buyer but are not included in the price actually paid or payable —

(a) commission and brokerage except buying commission incurred in the actual purchase of the goods;

- (b) the cost of containers which are treated as being one for customs purposes with the goods in question; and
- (c) the cost of packing, whether for labour or materials.

(4) In determining the value for tax purposes of any imported goods in terms of this section, there shall be added to the price actually paid or payable for the goods —

- (a) the cost of transport and insurance from the place of manufacture to the place of export and all other charges and expenses incidental to placing the goods on board the means of transport by which the goods are removed from the country of exportation, if such cost is not included in the price actually paid or payable for the goods to be valued;
- (b) if the goods in question have to be exported to Seychelles through another country, freight, insurance and other charges from the country of supply to the country where the goods are placed on board the means of transport for direct transportation to Seychelles, if such cost is not included in the price actually paid or payable for the goods to be valued; and
- (c) the cost of freight and insurance from the place where the goods were placed on board the means of transport by which they were removed to Seychelles to the place of importation in Seychelles, if such cost is not included in the price actually paid or payable for the goods to be valued.

(5) If —

- (a) a specific rate of excise tax is prescribed under this Act;
- (b) the goods are imported or removed from customs control in a container intended for sale with, or of a kind usually sold with, the goods in a sale by retail; and

- (c) the container is marked, labelled, or commonly sold as containing, or commonly reputed to contain, a specific quantity of such goods,

the container is deemed to contain not less than that specific quantity for the purpose of determining the excise tax payable in respect of the goods.

Restricted Goods

35.(1) Except with the written permission of the Commissioner and under such conditions as the Commissioner may consider it necessary to impose, the manufacture, importation or distribution into Seychelles of stills and all apparatus or parts of apparatus capable of being used for the production or refining of alcohol is restricted.

- (2) No person shall keep or use a still unless he or she —
 - (a) is registered to distill alcoholic beverages; or
 - (b) being a holder of a certificate issued under subsection (3) (b), keeps and uses the still in accordance with the conditions imposed by the Commissioner under subsection (3) (a).
- (3) The Commissioner —
 - (a) may, in accordance with conditions that he or she may impose on a case to case basis, authorise the keeping or use of a still, for the purpose of —
 - (i) the manufacture of goods other than alcoholic beverages; or
 - (ii) the performance of laboratory work, analysis and experiments, including experiments in the manufacture of spirits, and the purification of alcohol for those purposes; and

- (b) shall issue a certificate of registration in respect of any still which he or she has authorised the keeping and use of under paragraph (a);
- (c) may cancel the certificate of registration issued in respect of any still, which is kept or used contrary to any conditions that may have been imposed by him or her under paragraph (a);
- (d) may remit the excise tax on alcoholic beverages produced by the holder of a certificate of registration when using a still for the purposes specified in subsection (2)(b).

PART VI - EXCISE TAX MANAGEMENT

Excise tax returns

36.(1) All manufactured goods shall be duly entered for warehousing within such time and subject to such conditions as the Commissioner may impose.

(2) A registered manufacturer or excise warehouse keeper shall file an excise tax return, in the prescribed form and manner, for each calendar month within 21 days after the end of the month, whether or not any excise tax is due for that month.

(3) A registered manufacturer or excise warehouse keeper shall when file the return, remit to the proper officer, the amount of tax payable in respect of goods specified in the return as having been removed from the registered production centre or excise warehouse.

(4) Any person paying excise tax shall present to the proper officer a bill of entry in the prescribed form when making such payment.

(5) A registered manufacturer or excise warehouse keeper shall keep such records as may be prescribed in English, French or Creole.

(6) Any records, books, documents or data shall be preserved for a period of 7 years.

(7) A registered manufacturer shall issue tax invoices in accordance with section 98 (2) of the Revenue Administration Act, 2009.

(8) A registered manufacturer or excise warehouse keeper who fails to furnish a return as required under this Act is liable to an amount of additional tax as prescribed by section 42 of Revenue Administration Act.

Self-assessment of excise tax

37.(1) A registered manufacturer or excise warehouse keeper that files an excise tax return for a calendar month is treated as having made a self-assessment of the excise tax payable by the person for the month as specified in the return.

(2) The excise tax return filed by a registered manufacturer or excise warehouse keeper is treated as a notice of the self-assessment served by the Commissioner on the person on the date that the return was filed.

Payment of excise tax by registered manufacturers

38.(1) The excise tax payable by a registered manufacturer or an excise warehouse keeper under section 31(1) (a) for a calendar month shall be payable by the due date for furnishing the manufacturer's excise tax return for that month.

(2) Excisable goods which have been manufactured in Seychelles shall be liable to the rates of excise tax which are applicable to those goods at the time when they are delivered from the place of manufacture for home use or are used or otherwise disposed of by the manufacturer.

(3) A registered manufacturer or excise warehouse keeper may not remove excisable goods from customs control, if by doing so would result in the amount of excise tax payable exceeding the amount of guarantee specified in section 6 (4) (b), unless —

- (a) the Commissioner, on application in writing by the manufacturer or excise warehouse keeper, gives permission for the removal;

- (b) the manufacturer or excise warehouse keeper, with the agreement of the Commissioner, increases the amount of the security given with the excise manufacturer's bond prior to removal; or
- (c) in any other case, the manufacturer or excise warehouse keeper pays the excise tax payable on the goods before the excisable goods are removed from customs control.

(4) If a registered manufacturer or an excise warehouse keeper pays excise tax to the Commissioner under subsection (3) (c), the manufacturer or excise warehouse keeper shall include the excise tax in the manufacturer's excise tax return for the month following the making of the payment, but is entitled to a credit for the amount paid.

(5) The payment of excise tax shall be covered by a summary declaration, in such form and manner approved by the Commissioner.

Entry for warehousing, home use or export

39.(1) An entry of excisable goods authorises the removal of those goods for —

- (a) home use, or
- (b) removal between excise manufacturers and excise bonded warehouse;
- (c) exportation from Seychelles;
- (d) removal to a duty-free shop;
- (e) removal of goods under a suspension of tax in terms of the Excise Tax (Exemptions) Regulations;
- (f) any other place approved by the Commissioner to receive and hold such goods.

(2) An entry of excisable goods shall —

- (a) be made in accordance with an approved form or in a manner approved by the Commissioner; and
- (b) contain such information as is required by the Commissioner.

(3) Where the intention is to export excisable goods, the exportation of those goods shall be dealt with under the Customs legislation.

Removal of excisable goods

40. Excisable goods shall be removed from a registered production centre or excise bonded warehouse only in packages or containers of such sizes, marked or labelled in such manner as the Commissioner approves in writing.

Deemed removal of excisable goods

41.(1) A registered manufacturer who is unable to account to the satisfaction of the Commissioner for any quantity of excisable goods manufactured or warehoused by the manufacturer shall be deemed to have removed those goods from customs control in the month in which the discrepancy arose.

(2) A registered manufacturer shall be required to notify the Commissioner of any discrepancies between the manufacturer's actual and recorded inventory as soon as the manufacturer becomes aware of the discrepancy.

Permission to remove excisable goods without entry

42.(1) The Commissioner may give permission in writing to an excise manufacturer to remove excisable goods from an excise warehouse to another specified place, without an entry pursuant to section 39.

(2) The permission given under subsection (1) shall remain in force until it is revoked by the Commissioner.

(3) A person to whom permission has been given under subsection

(1) shall, within 21 days after the end of each month, file with the Commissioner in relation to the goods specified in the permission —

- (a) an entry under section 39 for those goods; and
- (b) a return in the approved form —
 - (i) setting out the amount of excise tax payable by that person for that month in relation to those goods; and
 - (ii) containing such other information as the Commissioner requires.

(4) Permission under subsection (1) may be given subject to the condition that the person to whom the permission is given complies with such requirements as specified in the permission, being requirements that, in the opinion of the Commissioner are necessary for the protection of the revenue or for the purpose of ensuring compliance with this Act.

Payment of excise tax by importers

43.(1) Subject to this section —

- (a) excisable goods imported into Seychelles shall be liable to the rates of excise tax which are applicable to those goods at the time when they are entered for home use;
- (b) excise tax payable upon the importation of excisable goods into Seychelles shall be paid by the importer to the Seychelles Revenue Commission.

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

- (a) a passenger who imports baggage for which no entry is required shall be treated as having entered the baggage for use within Seychelles at the time the baggage is delivered to the passenger in Seychelles; and

- (b) the addressee of goods imported by post or courier for which no entry is required shall be treated as having entered the goods for use within Seychelles at the time the goods are delivered to the addressee.

Temporary closure of business premises

44.(1) If the registered manufacturer fails to carry out any duty imposed upon him or her by this Act with respect to his or her premises or any buildings, appliances, stock-books, returns, payments, or the mode of conducting his or her business, the Commissioner, after having given 7 days' notice in writing requiring the omission to be rectified or the irregularities to be corrected, may, upon failure by the manufacturer to comply with the notice, close down part or the whole of the manufacturer's business and declare in writing that the registration certificate is suspended.

(2) Where a registration certificate is suspended under this Act, the manufacturer shall —

- (a) immediately cease to manufacture or remove goods; and
- (b) comply with such conditions as the Commissioner may impose.

(3) A suspension under subsection (1) shall continue until it is withdrawn by the Commissioner upon full compliance with this Act.

(4) If the requirements of this Act are not complied with within a period to be specified by the Commissioner, the registration certificate may be cancelled by him or her.

(5) The Commissioner may, at any time, enter any premises described in a notice issued under subsection (1) for the purposes of executing the order and may require a police officer to be present while the order is being executed.

Customs lock and seal on registered production centre

45.(1) The Commissioner may seal or lock an item of manufacturing plant, if the Commissioner has reasonable cause to believe that a registered manufacturer is not complying with this Act.

(2) The manufacturing plant may only be operated upon removal of the seal or lock by the Commissioner.

PART VII - REBATE, REFUND AND REMISSION OF EXCISE TAX

Claims for relief

46. When any claim is made for an exemption, drawback, rebate, refund or remission of any tax, fee or charge in accordance with this Act, the burden of proof shall lie upon the claimant to show that he or she is entitled to such exemption, drawback, rebate, refund or remission.

Relief for raw materials

47.(1) If the Commissioner is satisfied, on the basis of a certificate issued by a registered manufacturer in the prescribed form, that excisable goods, imported into Seychelles, are intended to be used by the registered manufacturer as raw materials for the manufacture of other excisable goods, the Commissioner may, in respect of such goods, grant a suspension of tax subject to the condition that —

- (a) tax on the final product is more than the tax payable at the time of importation;
- (b) the manufacturer has entered into a suspension of duty bond or such other security as the Commissioner may in his discretion approve.

(2) If the tax on the final excisable product is less than the tax payable at the time of importation, the Commissioner shall not grant a suspension of tax.

Relief for goods destroyed or lost by accident

48.(1) The owner of excisable goods may wish to remit tax under this section if the goods belonging to him or her have been destroyed or lost by accident without going into consumption whilst —

- (a) in an excise warehouse or on a registered production centre, registered under section 6 (3)(b);

- (b) in transit to a bonded warehouse;
- (c) in transit for export in bond; or
- (d) being removed from an excise warehouse as aircraft or ship's stores.

(2) If the owner of excisable goods pursuant to subsection (1) wishes the tax to be remitted he or she shall submit a voucher together with a written explanation of the circumstances in which the damage or loss came about to the proper officer for transmission to the Commissioner.

(3) After consideration of the voucher and explanation, submitted under subsection (2) and the report of any officer appointed to investigate the matter, the Commissioner shall remit the tax thereon by signing the voucher as authority for the goods to be written off, if he or she is satisfied that —

- (a) the goods have been destroyed or have been lost without going into consumption; and
- (b) every reasonable effort was made and precaution taken to prevent their destruction or loss.

Refund or remission of excise tax on defective goods

49.(1) Subject to this part, the Commissioner may grant a refund or remission of any excise tax paid or payable on goods manufactured in Seychelles which are found to be defective as a result of faulty manufacturing or production, provided that any application for such refund or remission shall be made in writing by the manufacturer and goods are returned unused within 6 months of the date of removal from registered production centre stating —

- (a) the purpose for which they are to be returned;
- (b) full details as to the nature, quantity, weight or volume of the goods;

- (c) the date on which they were produced or manufactured and the date on which they were removed from the registered production centre; and
- (d) the nature and cause of defect in the goods.

(2) There shall be no refund unless the goods are destroyed under the supervision of an officer according to terms and conditions set by the Commissioner.

Drawback of excise tax on exported excise paid stocks

50.(1) If a person who has imported excisable goods subsequently exports those goods or puts them on board a ship or aircraft for use as stores and the goods are in compliance with the conditions for payment of a drawback of duties under the Customs legislation, that person is entitled to a drawback as per the Customs legislation.

(2) An application for a drawback of the excise tax in circumstances to which subsection (1) applies shall be filed with the Commissioner in the prescribed form and manner.

(3) If the Commissioner is satisfied that a person who has made an application under subsection (1) is entitled to a refund, the Commissioner shall pay the refund in accordance with the Revenue Administration Act, 2009.

PART VIII - COLLECTION AND RECOVERY OF EXCISE TAX

Refunds of excise tax overpaid

51.(1) Subject to this section, if a person has paid to the Commissioner any amount in excess of the amount of the excise tax prescribed under this Act, the Commissioner shall refund the amount paid in excess.

(2) Before a refund can be made, a person shall apply to the Commissioner in writing, detailing the grounds for refund.

(3) An application for a refund shall be made not more than 7 years after the date on which the excess was paid.

(4) This section shall be subject to section 20 (2) of the Revenue Administration Act, 2009.

Recovery of excise tax

52. Excise tax payable under this Act by any person is recoverable as a debt due to the Government in any court of competent jurisdiction by the Commissioner General or by the Attorney General suing on behalf of the Government.

Set off

53. If a person has failed to pay in whole or in part any amount of excise tax payable under this Act, the Commissioner may set off that unpaid tax against any other amount refundable or payable by the Government to that person by or under any other Act.

Post clearance amendment of declaration

54. Where excisable goods have been released on incorrect or incomplete information which is revealed in the revision of post clearance examination, Customs shall take appropriate measures to recover any unpaid taxes and impose a fine if deemed necessary.

Appeal and Dispute settlement

55.(1) If any dispute arises as to the amount or rate of excise tax or as to the liability of goods to excise tax, the person responsible for the goods shall deposit with the Commissioner the amount of excise tax demanded by the Commissioner.

(2) If a deposit is made —

- (a) the person responsible for the goods is entitled to possession of the goods; and
- (b) the amount of the deposit is deemed to be the proper amount of the excise tax unless the contrary is determined in proceedings under subsection (3).

(3) A manufacturer or person who is dissatisfied with the decision of the Commissioner shall, appeal to the Commissioner General in accordance with section 32 of the Customs Management Act, 2009.

(4) Subject to subsection (3), the Commissioner General may upon review either uphold or vary the decision of the Commissioner.

(5) Any excess of the deposit over the proper excise tax as determined in the proceedings is to be refunded by the Commissioner to the manufacturer or person responsible for the goods.

Application for review of reviewable decision

56. A person dissatisfied with a reviewable decision of the Commissioner General may make an application to the Revenue Tribunal in accordance with section 72 of the Revenue Administration Act, 2009 for review of the decision.

Evidence in certain circumstances

57.(1) In any prosecution on account of the non-payment of tax on goods liable to excise tax, and in any proceedings for the recovery of tax on such goods, instituted against a person, any statement in any record kept by or on behalf of such person to the effect that such goods of a particular quantity or strength have been manufactured or held in stock by the person at any time, shall be admissible as evidence of the fact that he or she had at that time manufactured or held in stock goods liable to excise tax of that quantity or strength.

(2) If in any such prosecution or proceedings such person claims that he or she has disposed of or used any goods liable to excise tax in such manner as not to be subject to excise tax, the burden of proving that such goods have been so disposed of or used shall be upon that person.

Sellers of excisable goods to produce proof

58.(1) Any person being in possession or control of imported excisable goods or goods which are liable to excise tax under this Act, and any person who offers for sale, exports or attempts to export such goods or has such

goods entered in his or her books or mentioned in his or her document or record shall, when requested by an officer to do so, produce proof as to the place where entry of the excisable goods was made and any tax due thereon was paid and the date of entry and the marks and numbers of the packages concerned, which marks and numbers shall correspond with the documents produced in proof of entry or the payment of tax.

(2) If the person under subsection (1) did not pay the tax or make entry of the goods, such person shall produce evidence that will enable the officer to locate and question the person who made such payment and entry in respect of the goods.

(3) Any person failing to produce the proof or evidence required under this section shall be liable for the unpaid excise tax, and shall pay the tax to the Commissioner within the time specified by the Commissioner.

PART IX - SEIZURE AND FORFEITURE

Seizure and consequent procedures

59.(1) An officer may seize —

- (a) excisable goods that are, or that an officer has reasonable cause to believe are, produced, or partly produced, by a person who is not a registered manufacturer;
- (b) all goods that are, or that an officer has reasonable cause to believe are, used, or capable of being used, in the production of excisable goods and that are found on premises not being a registered production centre;
- (c) all excisable goods subject to the control of Customs that are taken possession of, moved, altered or interfered with, except as authorised by or in accordance with this Act;
- (d) all packages in which seized goods are contained.

(2) Whenever articles are seized in terms of this section, the officer

so seizing shall give the person from whom the articles have been seized a notice of seizure.

(3) All seized goods shall be moved to such place as the Commissioner directs.

Substitution of other goods for goods actually liable to seizure

60. Where any excisable goods subject to excise tax, become liable to seizure in terms of this Act, whether or not excise tax has been paid thereon, an officer may, instead of seizing those goods, seize from the stock of the person from whom those goods would have been seized —

- (a) in the case of, spirits, the equivalent quantity as absolute alcohol, of other spirits which are subject to excise tax;
- (b) in the case of goods other than spirits, the equivalent quantity of other like goods liable to excise tax.

Persons to make representations to the Commissioner

61.(1) Any person who has been served with a notice of seizure may appeal against the decision within 7 days from the date the notice is served on him or her.

(2) Any person appealing under subsection (1) shall lodge an application of appeal to the Commissioner.

(3) The Commissioner may within 30 days of receiving the appeal —

- (a) conditionally or unconditionally order any or all of the goods to be restored from seizure; or
- (b) declare any or all items to be forfeited to the Government.

(4) Notwithstanding subsection (1), if any of the goods seized are perishable, the Commissioner may sell them immediately after seizure.

(5) The proceeds of sale shall be paid to the Seychelles Revenue Commission subject to the deduction of any expenses incurred in the sale.

Power of the Commissioner to sell or dispose of goods

62. The Commissioner may sell or dispose of any goods declared forfeited under section 61 (3)(b) unless the person from whom the goods were seized or the owner, gives written notice to the Commissioner of his or her intention to take proceedings against the Commissioner for the recovery of the goods.

Power of the Commissioner General to compound offences

63.(1) The Commissioner General may, where he or she is satisfied that any person has committed an offence under this Act in respect of which a fine is provided or in respect of which anything is liable to forfeiture, compound the offence and may order such manufacturer to pay a sum of money, not exceeding the amount of the fine to which the manufacturer would have been liable if he or she had been prosecuted and convicted for the offence, as the Commissioner General may deem fit, and the Commissioner General may order anything liable to forfeiture in connection with the offence to be declared forfeited to the Government.

(2) The Commissioner General shall not exercise his or her powers under subsection (1) unless the manufacturer admits in a prescribed form that he or she has committed the offence and requests the Commissioner General to deal with such offence under this section.

(3) Where the Commissioner General makes any order under this section —

- (a) the order shall be put into writing and shall have attached to it the request of the manufacturer to the Commissioner General to deal with the matter under this section;
- (b) the order shall specify the offence which the manufacturer committed and the penalty imposed by the Commissioner General;

- (c) a copy of the order shall be given to the manufacturer if he or she so requests;
- (d) the manufacturer shall not be liable to any further prosecution in respect of the offence;
- (e) where the terms of the compounded settlement are breached by the offender, the Commissioner General may institute legal proceedings against the offender in terms of the Act.

Access to registered production centres

64. Where there are reasonable grounds to believe that it is necessary to do so for the protection of the revenue and the proper administration of this Act, a proper officer appointed for the purposes of this section or an officer authorised by such a proper officer may —

- (a) without prior notice, at any time enter any registered production centre, distillery, brewery or bonded warehouse, for the purpose of search, examination and enquiry as he or she considers necessary, and may seal, mark or otherwise secure any package there found, and may take possession of any document, record or other relevant thing for as long as may be necessary for the purpose of any examination, investigation, trial or inquiry;
- (b) while the officer is on such premises or at any other time, require from any person the production then and there, or at a time and place to be fixed by the officer, of any book, document, record, thing or printout or information stored in any information retrieval system which is required under this Act to be kept or exhibited, or which is or has been on such premises or in the possession, custody or control of any such person or his or her employee; and
- (c) at any time and at any place require from any person who has the possession, custody or control of any such book, record, printout, document or thing under paragraph (b),

the production thereof then and there, or at a time and place to be fixed by the officer; and

- (d) examine and make extracts from and copies of such books, records, printout or document under paragraph (b) and may require from any person an explanation of any entry therein and may seize such books, records, printout, documents or things as in his or her opinion may contain evidence of an offence under this Act;

Power to enter and search with warrant

65.(1) An officer may make a declaration on oath before a magistrate, if he or she has reasonable grounds to believe that there is on any premises, vehicle, vessels or aircraft —

- (a) any excisable goods on which excise tax has not been paid;
or
- (b) any records relating to such goods.

(2) The magistrate may issue a warrant authorising the officer to —

- (a) enter and search the premises, vehicle, vessels or aircraft at any time and using reasonable force as may be necessary; and
- (b) seize and remove any excisable goods or records found on the premises, vehicle, vessels or aircraft.

(3) An officer in possession of a warrant under subsection (2) shall require a police officer to assist him or her in the execution of the warrant.

Taking of samples

66.(1) An officer may at any time and without payment take samples of any goods for examination or for ascertaining the excise tax payable thereon or for such other purpose as the Commissioner may consider necessary.

(2) The samples shall be dealt with and accounted for in such manner as the Commissioner may direct, provided that any sample so taken shall whenever possible be returned to the owner of the goods.

Examining goods and plant

67.(1) Any officer may —

- (a) open packages and examine, weigh, mark and seal any excisable goods subject to the control of customs; and
- (b) lock up, seal, mark or fasten any plant at a registered production centre.

(2) The expenses of the examination of the goods including the cost of their removal to the place of examination is to be borne by the owner.

PART X - OFFENCES AND PENALTIES

Failure to enable the Commissioner to determine fair market value

68. Any person who fails to provide a declaration to the Commissioner in accordance with section 3(4) commits an offence and shall be liable on conviction to a fine of level 4 on the standard scale or imprisonment for a term not exceeding 3 months, or both.

Unauthorised manufacture of excisable goods

69. Any person who contravenes section 5 by —

- (a) manufacturing excisable goods in Seychelles without being registered; or
- (b) manufacturing excisable goods in premises that are not a registered production centre,

commits an offence and on conviction shall be liable to a fine not less than level 4 up to level 7 of the Standard Scale or to imprisonment for a term not exceeding 1 year, or both.

Unauthorised storage or installation of machinery, equipment or receptacles

70.(1) A registered manufacturer commits an offence if without the permission of a proper officer —

- (a) machinery, equipment or receptacles capable of use in connection with the manufacture of goods liable to excise tax which are not described in a list submitted in accordance with section 6(3) (a) or a list amended in accordance with section 6(10) are brought into, kept or installed in the registered premises in respect of which the list was submitted; or
- (b) machinery, equipment or receptacles described in a list such as is referred to in paragraph (a) are —
 - (i) kept or installed in a room, building or other place on the registered production centre in respect of which the list was submitted which, according to the list, is not a room, building or other place where they are to be kept or installed; or
 - (ii) used for any purpose other than the purpose described in the list; or
- (c) goods liable to excise tax are manufactured in a room, building or other place at the registered production centre in respect of which a list such as is referred to in paragraph (a) was submitted which, according to the list, is not a room, building or other place to be used for that purpose.

(2) A registered manufacturer who commits an offence under subsection (1) shall be liable on conviction to a fine of level 5 on the standard scale or to imprisonment for a term not exceeding 1 year, or both.

Unauthorised sale or disposal of goods manufactured for experimental purpose

71. Any person authorised by the Commissioner to manufacture goods for experimental purposes in accordance with section 7, who sells or

disposes of such goods otherwise than in accordance with the rules made by the Commissioner commits an offence and shall be liable on conviction to a fine not less than level 4 but not exceeding level 7 of the Standard Scale or imprisonment for a term not exceeding 1 year, or both.

Interference with a registered production centre or excise bonded warehouse

72. Any person who without the permission of the Commissioner interferes with: a registered production centre or excise bonded warehouse in contravention with section 11 and section 24, commits an offence and shall be liable on conviction to —

- (a) in the case of an individual, a fine of level 3 on the standard scale or imprisonment for a term not exceeding 1 year, or to both; and
- (b) in the case of a body corporate, a fine of level 4 on the standard scale.

Failure to enable officers to discharge their duties

73. A registered manufacturer or excise warehouse keeper who fails to provide appropriate facilities and assistance in accordance with Section 85 under this Act, to enable officers to exercise their powers under this Act, commits an offence and shall be liable on conviction to —

- (a) in the case of an individual, a fine of level 5 on the standard scale or imprisonment for a term not exceeding 1 year, or to both; or
- (b) in the case of a body corporate, a fine of level 6 on the standard scale.

Unauthorised removal of goods from duty-free shops and an excise warehouse

74. Any person who —

- (a) takes or delivers goods from a duty-free shop in contravention of section 16; and
- (b) takes or delivers goods from an excise warehouse in contravention of section 25,

commits an offence and shall be liable on conviction to a fine of level 5 on the standard scale or imprisonment for a term not exceeding 6 months or both.

Unauthorised importation, distribution or use of restricted goods

75. Any person who contravenes section 35 (1) or fails to comply with any condition set by the Commissioner in accordance with section 35 (3)(a) commits an offence and shall be liable on conviction to a fine of level 5 on the standard scale or imprisonment for a term not exceeding 1 year or both.

Unauthorised removal of excisable goods from production centres

76.(1) A person commits an offence, if that person —

- (a) removes, causes or permits excisable goods to be removed from a registered production centre in contravention of section 39;
- (b) removes excisable goods from a registered production centre in contravention of section 40.

(2) A person who commits an offence under subsection (1) shall be liable on conviction to a fine of level 5 on the standard scale or imprisonment for a term not exceeding 1 year, or both.

Non-compliance to permission to remove excisable goods without entry

77.(1) A person to whom permission has been granted under section 42(1), commits an offence, if that person —

- (a) fails to comply with a requirement specified in the permission; or
- (b) contravenes section 42(3).

(2) A person who commits an offence under subsection (1) shall be liable on conviction to a fine of level 5 on the standard scale or imprisonment for a term not exceeding 1 year, or both.

Unauthorised use of imported goods

78. A manufacturer commits an offence if the goods imported in accordance with section 47 are used in contravention of the manufacturer's certificate issued at importation, and shall be liable on conviction to a fine of level 5 on the standard scale or to imprisonment for a term not exceeding 6 months and all irregularly manufactured goods shall be liable to forfeiture.

Bribery and collusion

79.(1) An officer commits an offence, if that officer —

- (a) directly or indirectly asks for or takes, in connection with any of his or her duties under this Act, any payment or other reward, not being a payment or reward that he or she is lawfully entitled to claim or receive; or
- (b) enters into or acquiescence in any agreement to do, abstain from doing, permit, conceal or connive at any act or thing whereby the Government is or may be defrauded or which is otherwise unlawful, being an act or thing relating to the administration of this Act.

(2) A person commits an offence if that person —

- (a) directly or indirectly offers or gives to any officer any payment or other reward whatsoever, whether pecuniary or otherwise; or
- (b) proposes or enters into any agreement with any officer; in order to induce him or her to do, abstain from doing,

permit, conceal or connive at any act, omission or thing, whereby the Government is or may be defrauded or which is otherwise unlawful, being an act, omission or thing relating to the administration of this Act, or otherwise to take any course contrary to his or her duty.

(3) Any officer or person who commits an offence under subsections (1) or (2) shall be liable on conviction to —

- (a) a fine of level 5 on the standard scale or three times the value of the payment or reward concerned, whichever is the greater; or
- (b) imprisonment for a term not exceeding 2 years or to both.

(4) Where an officer or a person is convicted of an offence under subsection (1) or (2), the court may order the forfeiture of any payment or reward that forms part of the offence to the Government.

Interference with seals and fastenings

80.(1) A person commits an offence if that person, without the authority of an officer, opens, alters, breaks or erases a fastening, lock, mark, or seal, placed by an officer upon any goods or upon any plant in a registered production centre.

(2) A person who commits an offence under subsection (1) shall be liable on conviction to a fine of level 5 on the standard scale or imprisonment for a term not exceeding 1 year or both.

Warehousing irregularities

81.(1) The owner of excisable goods, or the proprietor or occupier of the warehouse, or the person responsible for the handling of the excisable goods, commits an offence, if any excisable goods entered for warehousing —

- (a) are not carried into and deposited in the warehouse;

- (b) after deposit in the warehouse, are taken out of the warehouse without entry and clearance;
- (c) having been entered and cleared for exportation, are not duly exported.

(2) Notwithstanding subsection (1), any person specified therein, who proves that all reasonable precautions were taken to prevent the act that constituted the offence shall not be guilty of that offence.

(3) Any person who commits an offence under this section, shall be liable on conviction to a fine of level 5 on the standard scale or to imprisonment for a term not exceeding 2 years or both.

(4) Any goods that is the subject of an offence under subsection (1) shall be liable to forfeiture.

Failure to keep and produce books, records or other documents and data

82.(1) A manufacturer or excise warehouse keeper of goods liable to excise tax commits an offence if he or she contravenes section 36 (3) or —

- (a) fails to produce such record when required by an officer to do so;
- (b) fails to make in such record any entry required to be made therein or fraudulently makes any entry in such record;
- (c) erases or obliterates any entry in such record;
- (d) mutilates or tears therefrom any leaf or page;
- (e) by his or her own accord or through the agency or with the assistance of any other person, destroys, conceals or makes away with such record;
- (f) refuses to allow an officer at any time to inspect such

record or obstructs or hinders him or her in such inspection;

- (g) neglects or refuses to furnish any return specified in section 20 within the time specified for the furnishing of such return;
- (h) submits a false return; or
- (i) neglects or refuses to give such further information as to his or her operations in the manufacture of goods liable to excise tax, or the disposal thereof, as an officer may require.

(2) A manufacturer or excise warehouse keeper who commits an offence under subsection (1) shall be liable on conviction to a fine of —

- (a) level 1 on the standard scale for small businesses;
- (b) level 3 on the standard scale for medium business; and
- (c) level 4 on the standard scale for large business.

Penalty for certain acts

83.(1) A person commits an offence if he or she —

- (a) fails to notify the Commissioner as required by section 6(8), 9(3) or 9(7);
- (b) enters premises that is subject to an order under section 44(5) without the permission of the Commissioner;
- (c) operates an item of manufacturing plant without the permission of the Commissioner in contravention of section 45;
- (d) supplies the means or materials for or assists in establishing or repairing, maintaining or working any still,

the keeping and using of which has not been authorised in terms of this Act, knowing at the time when he or she so supplies or assists that it was such a still;

- (e) has upon his or her premises or in his or her custody or control, or purchases, sells or otherwise disposes of any goods liable to excise tax which have been manufactured in breach of this Act, unless such person proves that he was unaware that such goods were so manufactured;
- (f) is found without lawful excuse in any place where the illegal manufacture of goods liable to excise tax is being carried out;
- (g) without lawful authority, imports any goods liable to excise tax after they have been exported from Seychelles;
- (h) not being a person registered to manufacture goods liable to excise tax, has, without lawful authority, in his or her possession, custody or control any manufactured or partly manufactured goods liable to excise tax upon which such excise tax has not been paid;
- (i) falsely holds himself or herself out to be an excise officer;
- (j) fraudulently claims a refund, rebate, remission or drawback to which he or she is not entitled;
- (k) makes improper use of any registration document issued under this Act or any other law relating to customs or excise; or
- (l) damages, destroys or disposes of any goods in order to prevent the seizure thereof by an officer or any other person authorised to seize them.

(2) A person who commits an offence under subsection (1) shall be liable on conviction to a fine of level 5 on the standard scale or to imprisonment for a term not exceeding 2 years, or both.

PART XI - FINAL PROVISIONS**Regulations**

84.(1) The Minister may make regulations —

- (a) prescribing any matter required to be prescribed for the purposes of this Act; and
- (b) for the proper and efficient administration of this Act.

(2) Without limiting the general effect of subsection (1), regulations made under that subsection may provide for —

- (a) imposition of excise tax rates, excise levy and sugar tax rates;
- (b) the registration of excise manufacturers, including the prescribed fees applicable upon the issuance or renewal of a registration certificate in accordance with this Act;
- (c) the registration of production centres;
- (d) the movement of goods and goods into and out of the registered production centres;
- (e) the operations to be performed in registered production centres;
- (f) the keeping of records, books and other documents, the making of returns and the giving of information by manufacturers of goods liable to excise tax;
- (g) the registration and operations of duty-free shops;
- (h) the granting of rebates, refunds, remissions and suspensions of excise tax;
- (i) the granting of reduction or concession on the rate of taxes payable on any of the goods prescribed under this Act;

- (j) the granting of exemption from payment of taxes payable on any excisable goods;
 - (k) the minimum value of taxes payable, below which taxes will not be collected;
 - (l) a minimum value of taxes paid in excess, below which taxes will not be refunded.
- (3) Regulations made under subsections (1) and (2) may —
- (a) contain provisions of a saving or transitional nature consequent upon the making of this Act; or
 - (b) prescribe penalties for the contravention of the regulations.

Rules

85. The Commissioner may make rules not inconsistent with this Act or any other enactment in respect of any matter where this Act provides that such matter is to be dealt with in accordance with rules made by the Commissioner.

PART XI - REPEAL, SAVINGS AND TRANSITIONAL

Repeal

86. The Excise Tax Act, 2009 (Cap. 264) is hereby repealed.

Savings and Transitional

87.(1) The schedules and regulations made, excise rates, certificates and directions issued under the repealed Act shall continue in force until they are amended or repealed under this Act.

(2) An existing manufacturer may continue to produce excisable goods for one month or such longer period as the Commissioner allows for a particular producer as if the existing producer were a registered manufacturer and the goods were being produced at a registered production centre.

(3) An existing manufacturer shall apply for a registration certificate issued under section 6 of the Act.

(4) Upon the commencement of this Act, any appointments made under a provision of the repealed Act shall continue to apply as if made under this Act.

(5) The repeal of the Act shall not affect —

- (a) proceedings commenced in any Court before the commencement of this Act;
- (b) any information submitted by any officer in respect of an alleged offence committed before the commencement of this Act;
- (c) any right or proceedings related to a refund, remission, concession, rebate, exemption or drawback of tax under any statutory instruments made under the repealed Act before the commencement of this Act;
- (d) any right to recover money under any statutory instruments made under the repealed Act whether paid before or after the commencement of this Act;
- (e) the condemnation of any goods in accordance with the repealed Act.

(6) A person who, immediately before the commencement of this Act, was an officer appointed in accordance with the repealed Act shall be deemed to be an officer appointed by the Commissioner General.

I certify that this is a correct copy of the Bill which was passed by the National Assembly on 6th December, 2022.



Mrs. Tania Isaac
Clerk to the National Assembly

**INCOME AND NON-MONETARY BENEFITS TAX (AMENDMENT)
ACT, 2022**

(Act 32 of 2022)

ARRANGEMENT OF SECTIONS

SECTIONS

1. Short title
2. Amendment of section 2
3. Amendment of section 4
4. Amendment of section 5
5. Repeal and replacement of Third Schedule
6. Amendment of Fourth Schedule



**INCOME AND NON-MONETARY BENEFITS TAX (AMENDMENT)
ACT, 2022**

(Act 32 of 2022)



I assent

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

Wavel Ramkalawan
President

29th December, 2022

**AN ACT TO AMEND THE INCOME AND NON-MONETARY BENEFITS TAX ACT,
(CAP 273).**

ENACTED by the President and the National Assembly.

Short title

1. This Act may be cited as the Income and Non-Monetary Benefits Tax (Amendment) Act, 2022.

Amendment of section 2

2. The Income and Non-Monetary Benefits Tax Act (Cap 273), in this Act referred to as the “principal Act”, is amended in Section 2 by repealing the definition of “fair market value”.

Amendment of section 4

3.(1) The principal Act is amended in Section 4 by repealing subsection (5) and substituting therefor the following —

“(5) The tax imposed under subsection (2) is imposed on the actual cost or the taxable value of non-monetary benefits.”

Amendment of section 5

4. The principal Act is amended in Section 5 by inserting after subsection (5) the following new subsection —

“(6) Notwithstanding subsections (1) and (2), an emolument received in arrears by an employed person from an employer shall be attributed to the month in respect of which the emolument was due to be paid and the employer shall withhold tax at the rate specified in the First Schedule as if the emolument received in arrears was received in the month to which the emolument is attributed.”

Repeal and replacement of Third Schedule

5. The Third Schedule to the principal Act is repealed and there is substituted therefor the following new Schedule —

“THIRD SCHEDULE

Section 4(2)

Rate of tax payable by employers in respect of non-monetary benefits

1. An employer shall be liable to pay tax at the rate of 15% of the actual cost or the taxable value of a non-monetary

benefit provided to an employed person and such tax shall be computed in accordance with the Act in respect of each non-monetary benefit provided to the person employed.”

Amendment of Fourth Schedule

6. The fourth Schedule to the principal Act is amended —

- (a) by repealing the table under paragraph 1 and substituting therefor the following new table —

FOURTH SCHEDULE

Taxation of Non-Monetary Benefits

1. Taxation of non-monetary benefits

Item	Type of benefit provided to or on behalf of an employed person	Taxable Value/ Actual Cost		Exemptions/ Exception
1	Accommodation	<u>Type</u>	<u>Per month Per employed person (SR)</u>	(a) The provision of accommodation for business purposes if the period of the accommodation is three months or less. (b) The provision of accommodation to an employed person in the construction and tourism sector.
		(a) Onsite shelter	300	
		(b) Dormitory accommodation	600	
		(c) One bedroom dwelling	2,500	
		(d) Two bedroom dwelling	3,000	
		(e) Three bedroom dwelling	4,000	
		(f) Four bedroom dwelling	5,000	

2	Utilities benefits includes utility bills such as electricity, water, telephone, cable tv, or home internet access	Actual cost incurred by the employer	Utilities benefit provided to an employed person of the tourism sector
3	Provision of clothing		Identifiable uniforms or safety clothing or protective clothing
4	In-house benefit (perquisites)	Actual cost incurred by the employer	Provided the total benefit in any one month does not exceed 20% of basic salary.
5	Meals		The cost incurred in providing meals to an employed person
6	Motor Vehicle	(a) Actual cost incurred on fuel and renting of motor vehicle (b) Where an employer owns a motor vehicle and provision is made for it to be used by the employee, the taxable value will be SR600 per day.	An employed persons benefit to the extent that: (a) A vehicle logbook is maintained and the logbook substantiates that the employed person is in fact called out for afterhours duties on a regular basis (b) Private motor vehicle provided to an employed person in the tourism sector for the purpose of home to work travel
7	Medical Expenses		(a) Medical fees in regards to medical tests relating to employing foreign workers. (b) Medical expenses incurred by employers on behalf of an employed person.
8	Life Insurance	Actual cost incurred by employer	
9	Health Insurance		Applied to all employed persons.

10	Insurance e.g. house and content, income protection, motor vehicle or fire and burglary insurance		The cost incurred of the insurance benefit provided to employees so as to encourage employers to insure the house, motor vehicles and other content of their employees in case of burglary or fire disasters.
11	Transport to/from work (excluding motor vehicle)		Transportation cost provided to employed persons for the purpose of home to work travel.
12	Airline and ferry transport	Actual cost incurred by employer	Exemptions will be granted: when the transportation services of airline/ferry both domestically/ internationally is provided to an employed person for business or work purposes. If the itinerary for the trip including proof for grounds of travel is provided.
13	Tuition fees and training cost	Actual cost incurred by employer	An employed person whose training is limited to that provided by certified institutions recognised by the Seychelles Qualifications Authority, shall be eligible for exemption from tax on the following — 1. Class fees, registration, book fees, examination fees and assessment fees; 2. Airfares for the first travel from the Seychelles to the place of study and for the last travel from the place of study to the Seychelles. 3. Bus pass for local students. Where an employer pays an employees' children's school fees, the full cost incurred will be exempted.
14	Employer contribution towards private pension	Actual cost incurred by employer	

(b) by repealing paragraph 2 to the Fourth Schedule.

I certify that this is a correct copy of the Bill which was passed by the National Assembly on 9th December, 2022.



Mrs. Tania Isaac
Clerk to the National Assembly

S.I. 138 of 2022**REVENUE ADMINISTRATION ACT, 2009***(Act 27 of 2009)***Revenue Administration (Business Registration and Declaration of Operation) Regulations, 2022**

In exercise of the powers conferred by section 99 of the Revenue Administration Act, 2009 the Minister of Finance, National Planning and Trade hereby makes the following Regulations —

Citation and commencement

1.(1) These Regulations may be cited as the Revenue Administration (Business Registration and Declaration of Operation) Regulations, 2022.

(2) Subject to regulation 10, the Revenue Administration (Business Registration and Declaration of Operation) Regulations, 2022 shall come into operation on the 1st January 2023.

Interpretation

2. In these Regulations —

“business” means a business as defined in the Business Tax, Act (Cap 20);

“commencement of business” means the date where a person starts engaging in business activities or transactions with the aim of deriving a taxable business income;

“dormant taxpayer” for the purposes of regulation 8, means a business which has been issued with a Tax Identification Number and was previously operational but has not conducted or been engaged in any transaction such as filing of returns, payment of tax, payment arrangement, having no active audit with the

Seychelles Revenue Commission, cannot be contacted or located for the last 3 tax years or more and has not applied for suspension or cessation of business operation;

“suspension of tax obligation” for the purpose of regulation 6 shall mean a registered business holding a Tax Identification Number which has been operational but intends to temporarily de-activate its tax obligation due to suspension of operation and the suspension may relate to all tax obligation or specific tax obligation depending on the nature of the case and justification for suspension as the Commissioner General may consider as a valid justification for suspension; and

“taxable business income” means taxable business income as defined in the Business Tax, Act (Cap 20).

Registration

3.(1) All businesses operating in Seychelles shall be registered with the Seychelles Revenue Commission in the approved form and manner.

(2) Any new business commencing operations in Seychelles shall, within 28 days from the date of commencement of business, apply for registration in the approved form and manner.

(3) The Commissioner General shall, where an application for registration in respect to a business has not been made under subregulation 2, but is of the opinion having regard to the activities carried on or carried out by such business, that such business is required to be registered under these Regulations, and, after affording such person an opportunity of being heard, register such business with effect from such date as may be determined by the Commissioner General.

(4) The Commissioner General may, in processing an application for registration, request additional information from the applicant.

Obligation to notify Commissioner General on any change

4.(1) A person operating a business shall —

- (a) notify the Commissioner General in writing of any change in the information provided on an application or registration under regulation 3 within 28 days of the change occurring; or
- (b) provide any information requested by the Commissioner General within 28 days of the request.

(2) Notwithstanding subregulation (1) where an executor is appointed for the administration of a business, the executor shall notify the Commissioner General within 90 days about his or her appointment as the executor of the business.

Suspension of tax obligation

5.(1) A registered business operator, holding a Taxpayer Identification Number, who intends to temporarily suspend its business operation and suspend its tax obligation shall notify the Commissioner General of the date from which he or she intends to suspend the business operation 14 days before the date of which he or she intends to suspend operation and the reason therefore with supporting documents, if any.

(2) A business operator who suspended his or her business under regulation (1) and who intends to resume operations and re-activate its tax obligation, shall notify the Commissioner General of his or her intention to resume its business operations 14 days before the resumption of business operation.

Suspension of a taxpayer's status

6. The Commissioner General may, if satisfied that the operator of the business —

- (a) becomes unable to continue the business operation due to serious illness or serious physical or mental disability;
- (b) has died;
- (c) is declared bankrupt;

- (d) is missing; or
- (e) is in jail consequent of punishment for imprisonment for an offence,

suspend a taxpayer's status without prior application.

Deregistration of a business

7. A business operator who intend to permanently deregister their business shall, within 28 days from the date of cessation of the business notify his or her intension to the Commissioner General.

Power to archive dormant taxpayers

8. Where, a business operation status changes from active to dormant and based on conclusive evidence that the business is indeed dormant, the Commissioner General may designate the business taxpayer's status as dormant based on conclusive evidence that the business is dormant.

Offences and penalty

9. A person who fails to —
- (a) register his or her business under regulation 3(1) or (2);
 - (b) register his or her business under regulation 3(1) or (2), but is subsequently registered in pursuance of regulation 3(3);
 - (c) notify the Commissioner General under regulation 4(1)(a);
 - (d) provide information requested for within 28 days under regulation 4(1)(b);
 - (e) notify the Commissioner General under regulation (4)(2);
 - (f) notify the Commissioner General under regulation 5 or 7,

commits an offence and is liable on conviction to imprisonment for a term of one year or to a fine of SCR 50,000 or to both such fine and imprisonment.

Commencement of regulation 9(c)

10. Regulation 9(c) shall commence on the 1st April 2023.

Repeal of S.I. 71 of 2010

11. The Revenue Administration (Business Registration) Regulations, 2010 is repealed.

Savings

12. Notwithstanding such repeal, all acts done by the Seychelles Revenue Commission under the repealed regulation, which were validly taken or granted under the repealed regulation shall, continue to have effect in accordance with their terms or until amended, annulled or withdrawn in accordance with this regulation.

MADE this 30th day of December, 2022.

**NAADIR HASSAN
MINISTER OF FINANCE
NATIONAL PLANNING AND TRADE**

S.I. 136 of 2022

SEYCHELLES PENSION FUND ACT, 2005

*(Cap 220)***Seychelles Pension Fund (Retirement) Regulations, 2022**

In exercise of the powers conferred by section 68 (f) and 68(2) of the Seychelles Pension Fund Act, 2005 the Minister responsible for finance makes the following regulations —

Citation

1. These Regulations may be cited as the Seychelles Pension Fund (Retirement) Regulations, 2022.

Age for retirement

2. Upon the coming into operation of these Regulations, the retirement age shall be 65 years.

Transitional provisions

3. A member who, upon the coming into operation of this Act has attained the age of 60 to 64 years and qualifies for a retirement pension under section 33 of the Act may, apply to receive a retirement pension subject to the provisions of regulations 4, 5 and 6.

Calculation of pension

4. The amount of pension payable under regulation 3 shall be paid based on a reducing factor and pension level factor as specified using the formula specified in the Schedule.

Indexation

5. The early retirement pension amount shall be subject to indexation in accordance with section 46 of the Act.

Commencement Date

6. These Regulations shall come into operation on 2nd January, 2023.

SCHEDULE*(Regulation 4)***Calculation of pension**

1. The amount of pension payable under regulation 4 shall be calculated by using the following factors —

- (a) Retirement Reduction Factor;
- (b) Common Factor;
- (c) Pension Level Factor;

Where: Retirement Reduction Factor = Common Factor + Pension Level Factor

2. Where —

- (a) “Common Factor” is 0.35% as determined by the Actuary;
- (b) “Pension Amount” is the monthly pension amount payable to the member upon retirement under the Benefit Formula in the regulations under the Act; and
- (c) “Pension Level Factor” is calculated based on the following pension amount:

Pension amount	Pension level factor
If the Pension Amount is equal to or less than SCR8,750	0
If the Pension Amount is above SCR8,750 but equal to or less than SCR17,500	$(\text{Pension Amount} - 8750) / 8750 \times 0.002$
If the Pension Amount is above SCR17,500	0.002

3. Calculation of retirement pension

The calculation of the retirement pension under regulation 3 shall be calculated as follows

Retirement Pension amount per month = Pension amount - [Pension amount × (Retirement Reduction Factor × number of months remaining before 65th birthday)].

MADE this 29th day of December, 2022.

**NAADIR HASSAN
MINISTER OF FINANCE,
NATIONAL PLANNING AND TRADE**

ACCOMMODATION TURNOVER TAX ACT, 2022

(Act 34 of 2022)

ARRANGEMENT OF SECTIONS

SECTIONS

1. Short title and commencement
2. Application of Act
3. Interpretation
4. Imposition and liability of Accommodation Turnover Tax
5. Manner of payment of Accommodation Turnover Tax Act
6. Regulation

SCHEDULE 1

SCHEDULE 2



ACCOMMODATION TURNOVER TAX ACT, 2022

(Act 34 of 2022)



I assent

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

Wavel Ramkalawan
President

29th December, 2022

AN ACT TO PROVIDE FOR THE IMPOSITION OF AN ACCOMMODATION TURNOVER TAX AND FOR OTHER CONNECTED AND INCIDENTAL MATTERS.

ENACTED by the President and the National Assembly.

Short title and commencement

1. This Act may be cited as the Accommodation Turnover Tax Act, 2022 and shall come into operation on the 1st January, 2023.

Application of Act

2.(1) This Act binds the Republic of Seychelles.

(2) Notwithstanding, any tax exemption to any person under any law or agreement made before or after the commencement of this Act, an exemption of tax on a statutory corporation or any other person shall not be construed as an exemption from the payment of tax under this Act.

Interpretation

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

“Accommodation Turnover Tax” means the tax levied and payable under section 4;

“business” has the same meaning provided under the Business Tax Act (Cap 20);

“Commissioner General” means the Commissioner General appointed under section 4 (1) of the Seychelles Revenue Commission Act, 2009;

“entity” has the same meaning provided under the Business Tax Act (Cap 20);

“Minister” means the Minister responsible for finance;

“permanent establishment” has the same meaning provided under section 2A of the Business Tax Act (Cap 20);

“person” means an individual, partnership, entity, trust, government body or a permanent establishment carrying on a business in Seychelles;

“Revenue law” means —

(a) this Act;

- (b) an Act listed in the Schedule to the Seychelles Revenue Commission Act, 2009;
- (c) any other Act under which a tax, duty, fee, levy or charge is imposed, of which the responsibility for the general administration of the tax, duty, fee, levy or charge is on the Commissioner General; and
- (d) any regulation or subsidiary legislation made under an Act referred to in paragraph (a) to (c).

“tax year” means the period of twelve months beginning on the 1st day of January in any year and ending on the 31st December in that year or any substituted tax year as approved under section 26 of the Business Tax Act, 2009;

“turnover” means the gross receipts from the carrying on of business including the consideration received from the disposal of trading stock and the gross fees for the provision of services derived by a person from sources in Seychelles.

Imposition and liability of Accommodation Turnover Tax

4.(1) An Accommodation Turnover Tax shall, subject to subsection (2), be imposed on a person whose annual turnover equals or exceeds the liability threshold specified in column 2 of Schedule 1, at the rates specified in column 3 of Schedule 1.

(2) Subject to subsection (1), where two or more businesses are solely owned by one person, the businesses shall be deemed to constitute a single business in the sole ownership of that person.

(3) The liability threshold under subsection (1) is the annual turnover of the person for the tax year prior to the tax year in which the business is liable to pay the Accommodation Turnover Tax.

Manner of payment of Accommodation Turnover Tax

5.(1) The Accommodation Turnover Tax shall be payable on the monthly turnover of a person during the current year of payment on or before

the 21st day of the month following the month in which the liability falls due.

(2) A person liable to pay Accommodation Turnover Tax under this Act shall remit the Accommodation Turnover Tax to the Commissioner General and shall furnish to the Commissioner General a return as prescribed under Schedule 2.

(3) Where the Accommodation Turnover Tax is paid to the Commissioner General, the payment made shall not be an allowable expense for the business under any Revenue law.

Regulations

6. The Minister may make regulations —
- (a) prescribing all matters which are required by this Act to be prescribed, or which are necessary or expedient to be prescribed for giving effect to this Act; and
 - (b) amending the Schedules.

SCHEDULE 1

Section 4(1)

ACCOMMODATION TURNOVER TAX- LIABILITY THRESHOLD AND RATES OF TAX

Nature of business of person	Liability threshold	Rate of Tax
(1)	(2)	(3)
All tourism accommodation operators, namely-	SCR25,000,000.00	2 %
(i) hotels, guesthouses, self-catering establishments, yachts, cruise ships;		



Accommodation Turnover Tax Returns
Accommodation Turnover Tax Act, 2022

Month:		Taxpayer's name:	
Year:		Trading Name:	
		TIN:	
Monthly Turnover (SCR):			
Tax Rate:			2.00%
Tax Payable:			

BED OCCUPANCY DATA

Total number of beds available:	
Number of beds occupied:	
Bed occupancy rate:	

DECLARATION

I _____ (fill name) declare that the particulars provided on this form are true and correct.

I also affirm that I am authorised to make this declaration.

Signature: _____ Date: _____

Accommodation Turnover Tax Payment Slip

Tax Payable (SCR)		
Penalty Payable:		
	Insert Description (eg applicable month)	
Late Lodgment Penalty		
Late Payment Penalty		
Interest		
Total Tax, Penalty & Interest Payable		

I certify that this is a correct copy of the Bill which was passed by the National Assembly on 12th December, 2022.



Mrs. Tania Isaac
Clerk to the National Assembly



SUPPLEMENTARY APPROPRIATION ACT, 2022

(Act 35 of 2022)



I assent

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

Wavel Ramkalawan
President

29th December, 2022

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, 2022.

Appropriation of expenditure

2. The sum not exceeding four hundred and seventy one million, three hundred and thirty eight thousand, four hundred and eighty one rupees and forty three cents (**SCR471,338,481.43**) referred to in the supplementary estimate approved by the resolutions of the National Assembly on Wednesday 22nd September 2021 (**SCR 303,911,788.83**), and on Tuesday 13th December 2022 (**SCR167,426,692.60**) 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 12th December, 2022.



Mrs. Tania Isaac

Clerk to the National Assembly

S.I. 135 of 2022

SEYCHELLES PENSION FUND ACT, 2005

*(Cap 220)***Seychelles Pension Fund (Benefits) (Amendment) Regulations, 2022**

In exercise of the powers conferred by section 68 of the Seychelles Pension Fund Act, 2005 the Minister responsible for Finance makes the following regulations —

Citation

1. These regulations may be cited as the Seychelles Pension Fund (Benefits) (Amendment) Regulations, 2022 and shall come into operation on 2nd January, 2023.

Amendment of S.I. 46 of 2005

2. The Seychelles Pension Fund (Benefits) Regulations, 2005 are amended as follows —

- (a) in regulation (2), for the definition of “prescribed retirement age” by deleting the words “prescribed retirement age for retirement under the Social Security Act (Cap 225)” and substitute therefor “retirement age means the age for retirement as prescribed by the Minister”;
- (b) to repeal the words “prescribed retirement age” and substitute therefor “the retirement age” wherever the words “prescribed retirement age” appears in these Regulations;
- (c) in regulation (2), by deleting the definition of “retirement from work”;
- (d) by inserting after Regulation 8, the following regulations —

8A.(1) A member of the Fund serving in the

Seychelles Defence Forces may with the approval of the Chief of the Defence Forces, retire from service on or after attaining the age of 60 years without any reduction in the amount of the pension payable to the member.

(2) Where a member under subsection (1) qualifies for a pension under section 33 of the Seychelles Pension Fund Act, the Chief of the Defence Forces or a person authorised by them shall forward to the Chief Executive Officer for payment of the member's monthly retirement pension, the following documents, namely —

- (a) a letter of approval of the member's retirement;
- (b) a duly completed application form for a retirement pension;
- (c) the member's birth certificate;
- (d) details of the member's salary for the past five years;
- (e) the member's national identity card; and
- (f) bank details (pass card/bank card).

8B. The funds for the payment of pensions for members of the Seychelles Defence Forces under regulation 8(A) shall be provided to the Fund by the Government for the period of time when the member is 60 to 64 years of age or any part thereof.”.

Repeal of S.I. 45 of 2007

3. The Seychelles Pension Fund (Benefits) (Amendment) Regulations, 2007 is repealed.

MADE this 29th day of December, 2022.

**NAADIR HASSAN
MINISTER OF FINANCE,
NATIONAL PLANNING AND TRADE**

S.I. 137 of 2022

SOCIAL SECURITY ACT

(Cap 225)

Social Security (Retirement Age) Regulations, 2022

In the exercise of the powers conferred by Section 15(2)(a) of the Social Security Act, 2010, the Minister responsible for Finance, Economic Planning and Trade makes the following Regulations —

Citation

1. These Regulations may be cited as the Social Security (Retirement Age) Regulations, 2022.

Retirement Age

2. The retirement age for the purposes of the Social Security Act shall be 65 years.

Repealed of S.I 41 of 2011

3. The Social Security (Retirement Age) Regulations, 2011 is hereby repealed.

MADE this 29th day of December, 2022.

**NAADIR HASSAN
MINISTER OF FINANCE,
NATIONAL PLANNING AND TRADE**

BENEFICIAL OWNERSHIP (AMENDMENT) ACT, 2022

(Act 38 of 2022)

ARRANGEMENT OF SECTIONS

SECTION

1. Short title
2. Amendment of section 2
3. Amendment of section 3
4. Amendment of section 4
5. Amendment of section 5
6. Amendment of section 7
7. Amendment of section 8
8. Amendment of section 9
9. Amendment of section 10
10. Amendment of section 11
11. Amendment of section 12
12. Amendment of section 13
13. Amendment of section 14
14. Insertion of new section
15. Amendment of section 15
16. Insertion of new section
17. Amendment of section 18
18. Amendment of First Schedule



BENEFICIAL OWNERSHIP (AMENDMENT) ACT, 2022

(Act 38 of 2022)



I assent

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

Wavel Ramkalawan
President

29th December, 2022

AN ACT TO AMEND THE BENEFICIAL OWNERSHIP ACT, 2020.

ENACTED by the President and the National Assembly.

Short title

1. This Act may be cited as the Beneficial Ownership (Amendment) Act, 2022.

Amendment of section 2

2. Section 2 of the Beneficial Ownership Act, 2020, (hereinafter referred to as the “principal Act”) is amended in —

(a) subsection (1) by repealing subsection (1)(b)(i) and substituting it with the following —

“(i) a trustee of a trust under the Trusts Act, 2021 (Act 34 of 2021);”

(b) subsection (2) —

(i) in the chapeau, by repealing the words “This Act” and substituting them with the words “Subject to section 13(5a), this Act”;

(ii) by repealing paragraph (a) and substituting it with the following paragraph —

“(a) a listed company that is subject to adequate disclosure requirements in terms of transparency of beneficial ownership;

(iii) in paragraph (b) by repealing the full-stop and substituting it with a semicolon;

(iv) by inserting after paragraph (b), the following paragraph —

“(c) any legal person that has been struck-off from the register, under its respective statutory legislation, on the date of commencement of this Act:

Provided that when the legal person is restored to the register under its respective statutory legislation, the provisions of this Act shall be applicable to such legal person including for the period during which it was struck-off.”;

Amendment of section 3

3. Section 3 of the principal Act is amended —

- (a) by inserting after the definition “beneficial owner”, the following definition —

“beneficial ownership information” means the information specified under section 5 (1), which is collected on beneficial owners and the relevant information of registrable legal persons;”

- (b) by inserting after the definition “customer” the following definition —

“database” means the Seychelles Beneficial Ownership database referred to in section 13;

- (c) in the definition “listed company”, in paragraph (b), by repealing the words “which is a subsidiary” and substituting them with the words “which is a wholly-owned subsidiary”;

- (d) by repealing the definition of “registrable particulars” and inserting the following definitions

“registrable legal person” means a legal person whose name may be entered in the register of beneficial owners as a registrable legal person provided that —

- (a) the legal person —

(i) is subject to its own disclosure requirements under this Act and is in compliance with sections 5(6), 10(3a) and 13 ; and

(ii) is a licensee under the International Corporate Service Providers Act; or

(b) the legal person is a listed company;

“registrable particulars” means the information entered in the register of beneficial owners;”;

(e) in the definition “resident agent” —

(a) in paragraph (c), by repealing the words “section 39” and substituting them with the words “section 164”;

(b) by repealing paragraph (e) and substituting it with the following —

“(e) an approved trustee of a trust under the Trusts Act, 2021;”;

(c) by repealing paragraph (f) and substituting it with the following —

“(f) a registered agent under section 6A of the Limited Partnerships Act; or”

Amendment of section 4

4. Section 4 of the principal Act is amended —

(a) in subsection (2) in paragraph (b) by repealing the full-stop and substituting it with a semi colon;

(b) in subsection (2) by inserting after paragraph (b) the following —

“(c) examine and make copies or extracts of the documents belonging to or in the possession of the resident agent, that in the opinion of the Competent Authority relate to documents or information required to be kept by a legal person, legal arrangement or resident agent under this Act;

- (d) seek information and explanations from the officers, employees, agents and representatives of the resident agent, if any, whether verbally or in writing in relation to information required to be kept by a legal person, legal arrangement or resident agent under this Act.”
- (c) by inserting after subsection (2) the following subsection —
 - “(2a) The Competent Authority may, where it appears to it that the circumstances are justifiable, exercise its powers under subsection (2) without giving notice to the legal person or legal arrangement.”
- (d) in subsection (3), by repealing the words “offence and is liable upon conviction to fine of not less than SCR50,000” and substituting them with the words “offence and is liable upon conviction to a fine not exceeding SCR150,000”;

Amendment of section 5

5. Section 5 of the principal Act is amended —

- (a) in subsection (1) —
 - (i) by inserting in the chapeau after the words “at the principal place of business of its resident agent”, the words “in Seychelles”;
 - (ii) by repealing, in paragraph (a), the words “and nationality” and substituting them with the following words “,nationality, national identification number or equivalent (if any) and tax identification number or equivalent (if any)”;
 - (iii) by inserting after paragraph (d), the following —
 - “(d1) where a nominee has been appointed or ceased to be a nominee —

- (i) the date on which the nominee has been appointed;
 - (ii) the date on which the nominee ceased to be a nominee”;
- (iv) in paragraph (e) —
 - A. in the chapeau by inserting after the words “holds interest on behalf of the beneficial owner” the words “, the following particulars shall be included in an annexure to the register of beneficial owners”;
 - B. by repealing subparagraph (i) and substituting it with the following —
 - “(i) in the case of —
 - A. a natural person —

the name, residential address, service address, date of birth, nationality, national identification number or equivalent (if any) and tax identification number or equivalent (if any) of each nominee holding the interest on behalf of the beneficial owner and the particulars and details of the interest held by the nominee;
 - B. a legal person —

the name, registered address, incorporation or registration number, date of incorporation or registration, jurisdiction of incorporation or registration, tax identification number

or equivalent (if any) and the information and details of the interest held by the nominee; and”;

- C. in paragraph (ii) by repealing the words “natural person who ultimately owns or controls” and substituting with the following words “beneficial owner”;
- (v) by inserting after paragraph (e) the following —
- “(f) in the case of any registrable legal person —
- (i) the name of the registrable legal person;
 - (ii) the incorporation number or its equivalent of the registrable legal person;
 - (iii) the date of incorporation of the registrable legal person;
 - (iv) the registered address of the registrable legal person;
 - (v) the basis upon which the legal person is designated as a registrable legal person;
 - (vi) the date on which a person became a registrable legal person; and
 - (vii) the date on which a person ceased to be a registrable legal person.
- (b) by inserting after subsection (1), the following subsection —
- “(1a) A legal person or legal arrangement shall not include the name of a registrable legal person in the register

of beneficial owners unless it has received sufficient proof that —

(a) the person has uploaded its accurate and up to date beneficial ownership information on the database under section 13; or

(b) where the registrable legal person is a listed company, the person has complied with the requirements under section 13(5a).”;

(c) by inserting after subsection (2) the following subsection —

“(2a) The information under subsection (1) shall only be entered in the register of beneficial owners once all the required information of that beneficial owner has been confirmed by the beneficial owner.”

(d) in subsection (3) —

(i) by repealing the words “commits an offence and”;

(ii) by repealing “SCR50,000” and substituting it with “SCR150,000”;

(e) in subsection (4) —

(i) by repealing the words “commits an offence and”;

(ii) by repealing “SCR50,000” and substituting it with “SCR150,000”;

(f) in subsection (5) by repealing paragraphs (a) and (b) and substituting them as follows —

“(a) “nominee” means a person who has been instructed to act on behalf of another person (the nominator) in a

certain capacity regarding a legal person, and includes a person who holds legal title over shares or other membership interests in a legal person on behalf of another person (the nominator); and

(b) “nominator” means a person who instructs a nominee to act on the nominator's behalf in a certain capacity regarding a legal person, and includes a person who instructs a nominee to hold legal title over shares or other membership interests or any other control in a legal person on the nominator's behalf.”

(g) by repealing subsection (6) and substituting it as follows —

“(6) The resident agent shall, within 14 days of the establishment of the register of beneficial owners (including the annexures to the register of beneficial owners), cause the information to be uploaded on the database.”

(h) by repealing subsection (7) and substituting it with —

“(7) A person who fails to comply with the provisions of subsection (6) shall be liable to a penalty not exceeding SCR150 000.”

Amendment of section 7

6. Section 7 of the principal Act is amended by repealing the word “maintaind” and substituting it with the word “maintained”.

Amendment of section 8

7. The principal Act is amended by repealing section 8 and substituting it as follows —

“Retention period

8.(1) Every legal person and legal arrangement (including a legal person that has been struck-off) shall keep —

- (a) during its lifetime, its register of beneficial owners; and
- (b) for at least 7 years at the principal place of business of its resident agent in Seychelles —
 - (i) a declaration of beneficial ownership made in terms of section 10(1);
 - (ii) a written notice made in terms of sections 9 and 10(3) and a copy of any response received thereof; and
 - (iii) any supporting documents verifying the identity of a beneficial owner pursuant to section 9(1),

from the date on which that person ceased to be a beneficial owner of the legal person or legal arrangement, as the case may be.

(2) Where a resident agent of a legal person or legal arrangement specified in Part A of the First Schedule ceases to be the resident agent of that legal person or legal arrangement, that resident agent shall preserve all the records required to be kept under this Act in respect of that legal person or legal arrangement, including —

- (a) the register of beneficial owners of the legal person or legal arrangement;
- (b) a copy of the declaration of beneficial ownership under section 10(1);
- (c) a copy of the written notice under sections 9 and 10(3), and a copy of any response received thereof; and

- (d) a copy of any supporting documents verifying the identity of a beneficial owner pursuant to section 9(1),

until such time that the records are transferred to and received by the new resident agent.

(3) Where a legal person or legal arrangement specified in Part A of the First Schedule is dissolved or ceases to exist or continues outside Seychelles, the resident agent shall hand over all the records required to be kept under this Act, in respect of that legal person or legal arrangement, including —

- (a) the register of beneficial owners of the legal person or legal arrangement;
- (b) a copy of the declaration of beneficial ownership under section 10(1);
- (c) a copy of the written notice under sections 9 and 10(3) and a copy of any response received thereof; and
- (d) any supporting documents verifying the identity of a beneficial owner pursuant to section 9(1),

to the Competent Authority, within 30 days from the date that the legal person or legal arrangement has been dissolved or ceased to exist or continued outside Seychelles.

(4) Where a legal person or legal arrangement specified in Part B of the First Schedule is dissolved or ceases to exist or continues outside Seychelles, its resident agent shall keep, for at least 7 years from the date on which the legal person or legal arrangement is dissolved or ceased to exist or continued outside Seychelles, all the records required to be kept under this Act, including —

- (a) the register of beneficial owners of the legal person or arrangement;
 - (b) a copy of any declaration of beneficial ownership made in terms of section 10(1); and
 - (c) a copy of any written notice made under sections 9 and 10(3) and a copy of any response received thereof; and
 - (d) any supporting documents verifying the identity of a beneficial owner pursuant to section 9(1),”
- (5) Where a person —
- (a) is a resident agent of a legal person or legal arrangement specified in Part B of the First Schedule; and
 - (b) ceases to hold a licence under the International Corporate Service Providers Act, 2003 (Act 10 of 2003),

that person shall hand over all the records required to be kept under this Act relating to every legal person or legal arrangement under its administration (including legal persons or legal arrangements to which subsection (3) applies) to the Competent Authority within 30 days from the date that it ceases to be a resident agent or it ceases to operate unless the records have been transferred to a newly appointed resident agent prior to the records being handed over to the Competent Authority.

(6) All records submitted to the Competent Authority shall be in digital form unless otherwise agreed upon between the Competent Authority and the resident agent.

(7) An entry relating to a former beneficial owner of a legal person or legal arrangement may be removed from the register of

beneficial owners after 7 years from the date on which that person ceased to be a beneficial owner of the legal person or legal arrangement, as the case may be.

(8) In case of contravention of the provisions of this section —

- (a) every legal person or legal arrangement;
- (b) every former director, general partner, trustee or councilor of the legal person or legal arrangement;
- (c) every resident agent;
- (d) every former resident agent or former director of the resident agent,

shall be liable to a penalty not exceeding SCR150,000 for each contravention.”;

Amendment of section 9

8. Section 9 of the principal Act is amended —

- (a) in subsection (1) —
 - (i) by inserting after the words “beneficial owners” the words “and registrable legal persons”;
 - (ii) by inserting after the word “verify” the words “the identity of”;
- (b) by inserting a new subsection under Section 9(1) —

(1a) Every legal person or legal arrangement shall periodically review and verify its beneficial owners at such intervals as may be prescribed by the Minister.

- (c) in subsection (2) —
- (i) by inserting in the chapeau after the words “believe that the person is a beneficial owner” the words “or a registrable legal person”;
 - (ii) in paragraph (a), by inserting, after the words “beneficial owner” the words “or a registrable legal person”;
- (d) by inserting a new subsection (2a) after subsection (2) —
- “(2a) A legal person or legal arrangement is not required to take steps or give notice under subsection (2) with respect to a beneficial owner, if the legal person or legal arrangement has already been informed in writing of the person's status as a beneficial owner in relation to it, and has been supplied with all the registrable particulars.”;
- (e) in subsection (3) —
- (i) by repealing the words “A resident agent may also give” and inserting therefor the words “A legal person or legal arrangement may give”;
 - (ii) by repealing the words “the resident agent knows” and inserting therefor the following words “the legal person or legal arrangement knows”;
 - (iii) by inserting after the words “identity of a beneficial owner” the words “or a registrable legal person”;
- (f) in subsection (4), in paragraph (a), by inserting after the words “beneficial owner” the words “, or a registrable legal person”;
- (g) by inserting after subsection (5) the following —

“(6) Within 30 days of a person receiving a notice given by the legal person or legal arrangement under subsection (5), he or she shall comply with such notice by providing in writing, to the legal person or legal arrangement, the information requested in the notice.

(7) Where a person fails to comply with subsection (6), the legal person or the legal arrangement shall after giving the legal or beneficial owner an opportunity of being heard and unless satisfied with any explanation provided, take action and furnish to the legal or beneficial owner, in writing' the decision of the legal person or the legal arrangement, including but not limited to —

- (a) the placing of such restrictions as it thinks fit on the rights attached to the legal owner's interest in the legal person or the legal arrangement, as the case may be, including —
 - (i) any right to transfer or assign shares or other interest;
 - (ii) any voting rights;
 - (iii) any right to acquire further shares in addition to shares already held;
 - (iv) any right to payment due in respect of the legal owner's interest, whether in respect of capital or otherwise;
 - (v) in the case of a limited partnership with legal personality, any right to take part in the management of the partnership;
 - (vi) in the case of a foundation, any benefit to which the legal owner becomes entitled under the foundation in

accordance with the foundation instrument or the foundation rules; or

- (b) the cancellation of the legal owner's interest in the legal person or the legal arrangement, as the case may be.

(8) Any action taken under subsection (7) shall be appropriate and dissuasive so as to compel compliance, and a record of the action taken in that regard shall be maintained.

(9) Where —

- (a) a person fails to comply with subsection (6); or
- (b) an action is taken under subsection (7),

the legal person or legal arrangement shall inform the Competent Authority in writing, through its resident agent, of the failure or action taken, as the case may be, within 21 days of the failure or having taken the action.

(10) Any person aggrieved by a decision taken pursuant to subsection (7), may appeal to the Supreme Court to set aside any restriction or cancellation.

(11) Upon receipt of an appeal under subsection (10), the court may make such order as it thinks fit to require any person who fails to comply with a notice issued under subsection (2) or subsection (3) to —

- (a) provide the information sought; or
- (b) confirm or correct the registrable particulars sought.

(12) A person who contravenes subsection (1), (2), (7), (8) or (9) shall be liable to a penalty not exceeding SCR150,000 for each contravention.

(13) A person who contravenes subsection (6) commits an offence and is liable on conviction to imprisonment for a term not exceeding 1 year or to a fine not exceeding SCR200,000 or to both.”;

Amendment of section 10

9. Section 10 of the principal Act is amended —

(a) by repealing the marginal note and substituting therefor the following marginal note —

“Declaration of beneficial ownership information”;

(b) in subsection (1), by repealing the words “14 days” and substituting therefor the words “21 days”;

(c) in subsection (2) —

(i) in the chapeau by inserting after the words “receipt of the declaration of beneficial ownership” the words “under subsection (1) or a notice under subsection (3)”;

(ii) in paragraph (a), by inserting after the words “beneficial ownership” the words “under subsection (1) or a notice under subsection (3)”;

(iii) in paragraph (b), inserting after the word “declaration” the words “or notice”;

(d) in subsection (3) —

(i) by repealing the words “14 days” and substituting with the words “21 days”;

(ii) by repealing the words “register of beneficial

ownership” and substituting them with “register of beneficial owners”

- (e) by inserting a new subsection after subsection (3) as follows —

“(3a) The resident agent shall, within 14 days of effecting any change to the register of beneficial owners under subsection (2), cause the information to be uploaded on the database.”;

- (f) in subsection (4), by repealing the words “relevant change is not disclosed under subsection (3), the legal person or the legal arrangement, as the case may be, may take any action it deems appropriate” and substituting them with the words “person fails to comply with provisions of subsections (1) or (3), the legal person or the legal arrangement, as the case may be, shall take action”;

- (g) by inserting a new subsection after subsection (4) as follows —

“(4a) Any action taken under subsection (4) shall be appropriate and dissuasive so as to compel compliance, and a record of the action taken in that regard shall be maintained.

(4b) Where —

- (a) a person fails to comply with subsections (1) and (3); or
- (b) an action is taken under subsection (4),

the legal person or legal arrangement shall inform the Competent Authority in writing, through its resident agent, of the failure to comply or the action taken, as the case may

be, within 21 days of the failure to comply or of having taken the action.”;

(h) inserting a new subsection after subsection (5) as follows —

“(5a) Upon receipt of an appeal under subsection (5), the court may make such order as it thinks fit to require any person who fails to comply with a notice issued under subsection (1) or subsection (3) to —

(a) provide the information sought; or

(b) confirm or correct the registrable particulars sought.”

(i) by repealing subsection (7) and substituting therefor the following subsections —

“(7) Any person who contravenes subsections (3a), (4), (4a) and (4b) shall be liable to a penalty not exceeding SCR150, 000 for each contravention.

(7a) Any person who contravenes subsections (1), (2), (3) and (6), commits an offence and is liable on conviction to imprisonment for a term not exceeding 1 year or to a fine not exceeding SCR150,000 or to both.”

(j) in subsection (8) —

(a) in paragraph (a), by repealing the word “or” after the words “may be;”;

(b) in paragraph (b), by repealing the full-stop (.) and substituting therefor the word “; or”;

(c) by inserting the following after paragraph (b) —

“(c) the person becomes aware of an error or inaccuracy in the beneficial ownership information uploaded on the database.”

Amendment of section 11

10. Section 11 of the principal Act is amended —

(a) in subsection (1) as follows —

(i) in paragraph (d), by repealing the word “thepartnership; and” and substituting with the words “the partnership;”;

(ii) in paragraph (e), by repealing the full-stop at the end and substituting therefor the word “; and”;

(iii) by inserting after paragraph (e) the following paragraph —

“(f) a director, or an authorised representative of the director, of a registrable legal person whose name is entered in the register of beneficial owners.”

(b) in subsection (4) —

(i) by inserting after the words “resident agent” the word “unreasonably”;

(ii) by repealing the words “not less than SCR50,000.” and substituting with the words “not exceeding SCR50,000.”;

(c) in subsection (5), by repealing the word “arrangement” and substituting with the word “arrangement”;

Amendment of section 12

11. Section 12 of the principal Act is amended in subsection (1) by inserting after the words “If any beneficial owner” the words “or registrable legal person” and by inserting after the words “the beneficial owner” the words “or registrable legal person”;

Amendment of section 13

12. Section 13 of the principal Act is amended —

- (a) in subsection (1) by repealing the words “by populating the beneficial ownership information (including the periodic update requirements) reported by the legal persons or the legal arrangements, through their resident agent” and substituting them with the words “containing the beneficial ownership information, including the annexure to the register of beneficial owners”;
- (b) in subsection (4) by repealing the words “data base” and substituting therefor the word “database”;
- (c) by inserting after subsection (5) the following new subsection —

“(5a) Notwithstanding section 2(2), a listed company shall, through its resident agent, upload on the database —

- (a) the name and registered address of the company;
- (b) the incorporation number or registration number of the company;
- (c) the date of incorporation or registration of the company;
- (d) the fact that the company is a listed company;

- (e) the jurisdiction where the company is listed, if not in Seychelles; and
 - (f) a certification that the listed company is subject to adequate disclosure requirements in terms of transparency of beneficial ownership in the jurisdiction where it is listed.”;
- (d) in subsection (6), by repealing the words “SCR100,000” and substituting therefor the words “SCR150,000”;

Amendment of section 14

13. Section 14 of the principal Act is amended —

- (a) in subsection (1) —
 - (i) in the chapeau by inserting after the words “as the case may be,” the following —

“to provide any information required to be maintained in terms of this Act or to inspect the register, including any other documents, so maintained in terms of this Act,”;
 - (ii) in paragraph (g) —
 - A. by the deletion of the hyphen and substituting it with a semi colon;
 - B. by repealing sub-paragraphs (i) and (ii);
- (b) in subsection (2), by repealing the words “SCR50,000” and substituting with the words “SCR150,000”;
- (c) in subsection (3), by repealing the words “SCR50,000” and substituting therefor the words “SCR150,000”;

Insertion of new sections

14. The principal Act is amended by inserting the following new sections after section 14 —

“Disclosure of beneficial ownership information by trustees

14A.(1) Notwithstanding section 14, a trustee shall disclose beneficial ownership information in respect of its trusts, upon request, to —

- (a) a financial institution; or
- (b) a designated non-financial business or profession;

for the purpose of the financial institution's or designated non-financial business' or profession's obligation under the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020 (Act 5 of 2020).

(2) For the purpose of this section, the terms “financial institution” and “designated non-financial business or profession” shall have the meanings given to them respectively under the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020 (Act 5 of 2020).

Request for Information between trustees

14B.(1) Where a trust is administered by more than one trustee, the trustee may request any relevant beneficial ownership information in respect of the trust from any of the other trustees of the trust.

(2) A trustee shall comply with a request for information made under subsection (1) within the timeframe specified in the request.

(3) A trustee who or which fails to comply with subsection (2) shall be guilty of an offence and liable to a fine not exceeding SCR 200,000.”

Imposition of penalty

14C.(1) Before, imposing any penalty under the provisions of this Act, a Competent Authority shall give the parties concerned a notice in writing —

- (a) of the nature of the non-compliance;
- (b) of the intention to impose a penalty;

and an opportunity to make a written representation to show cause, within a period of not less than 14 days after the date of the notice, why a penalty should not be imposed.

(2) A Competent Authority shall not impose a penalty under the provisions of this Act if it is satisfied that the person concerned has shown good cause to the satisfaction of the Competent Authority why a penalty should not be imposed.

(3) Any penalty imposed under this Act shall be paid within the period and in the manner as may be specified by the Competent Authority.

(4) If a person fails to pay a penalty imposed under this Act within the specified period and an appeal has not been filed within the required period, the Competent Authority may forthwith initiate steps for recovery of such penalty.

(5) Any penalty imposed by the Financial Services Authority under this Act shall be paid to the Financial Services Authority.

(6) Any penalty imposed by the Financial Intelligence Unit under this Act shall be paid to the Government's Consolidated Fund.”

Amendment of section 15

15. Section 15 of the principal Act is amended by repealing the words “AML Act” and substituting thereof with the words “Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020”.

Insertion of new section

16. The principal Act is amended by inserting after section 17 the following sections —

“Power to issue guidelines or codes

17A.(1) A Competent Authority may issue guidelines or codes not inconsistent with this Act or any relevant laws for all matters which by or under this Act are required or permitted to be issued, or necessary to be provided for, in order to carry out or give effect to the provisions of this Act or any Regulations made thereunder.

(2) Every person shall comply with any guidelines or codes issued by a Competent Authority.

(3) Any person who contravenes the provisions of subsection (2) shall be liable to a penalty not exceeding SCR150,000 for each contravention.

Power to issue directions

17B.(1) A Competent Authority may issue a direction to a legal person or legal arrangement or resident agent, as it considers appropriate, to ensure compliance with the provisions of this Act.

(2) A direction issued under this Act may specify the time by which, or period during which, it shall be complied with.

(3) A Competent Authority may revoke a direction issued under this section at any time.

(4) Any person who fails to comply with a direction issued under this section shall be liable to a penalty not exceeding SCR150,000.

Amendment of section 18

17. Section 18 of the principal Act is amended —

- (a) by deleting the marginal note “Transistional provision” and substituting it with “Transitional provision”
- (b) by inserting the following new subsections and numbering the existing subsection as (1) —

“(2) Every legal person and legal arrangement shall comply with the requirements of the amendment to section 5(1)(a) made under this Act within 12 months from the date of promulgation of this Act.

(3) Every legal person and legal arrangement shall comply with the requirements of the amendment to section 5(1)(e) made under this Act within 12 months from the date of promulgation of this Act.”

Amendment of First Schedule

18. The principal Act is amended in the First Schedule in Part B —

- (a) in paragraph (1)(b) by deleting “incorporated” and substituting it with “incorporated”.
- (b) in paragraph (2) by repealing subparagraph (a) and substituting it with the following —

“(a) A trustee of a trust under the Trusts Act.”;

I certify that this is a correct copy of the Bill which was passed by the National Assembly on 16th December, 2022.



Mrs. Tania Isaac
Clerk to the National Assembly

**TRUTH, RECONCILIATION AND NATIONAL UNITY
COMMISSION (AMENDMENT) (NO. 2) ACT, 2022**

(Act 36 of 2022)

ARRANGEMENT OF SECTIONS

SECTIONS

1. Short title
2. Amendment of section 14



**TRUTH, RECONCILIATION AND NATIONAL UNITY
COMMISSION (AMENDMENT) (NO. 2) ACT, 2022**

(Act 36 of 2022)



I assent

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

Wavel Ramkalawan
President

29th December, 2022

AN ACT TO AMEND THE TRUTH, RECONCILIATION AND NATIONAL UNITY COMMISSION ACT, 2018 (ACT 9 OF 2018) TO FURTHER EXTEND THE MANDATE AND TERM OF THE TRUTH, RECONCILIATION AND NATIONAL UNITY COMMISSION.

ENACTED by the President and the National Assembly.

Short title

1. This Act may be cited as the Truth, Reconciliation and National Unity Commission (Amendment) (No. 2) Act, 2022.

Amendment of section 14

2. The Truth, Reconciliation and National Unity Commission Act, 2018 (Act 9 of 2018) is hereby amended in section 14 (2), by repealing the words “31 December 2022” and substituting them with “31 March 2023”.

I certify that this is a correct copy of the Bill which was passed by the National Assembly on 13th December, 2022.



Mrs. Tania Isaac

Clerk to the National Assembly



APPROPRIATION ACT, 2023

(Act 1 of 2023)



I assent

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

Wavel Ramkalawan
President

29th December, 2022

AN ACT TO PROVIDE FOR THE SERVICE OF THE REPUBLIC OF SEYCHELLES FOR THE YEAR ENDING DECEMBER 31ST, 2023.

ENACTED by the President and the National Assembly.

Short title

1. This Act may be cited as the Appropriation Act, 2023.

2. The Minister of Finance, National Planning and Trade, may by warrant under the hand of the Minister authorise the issue from the Consolidated Fund for the services of the Republic for the year 2023, of a sum not exceeding **Ten billion, four hundred and ninety five million, one hundred and forty nine thousand six hundred and sixty five (R10,495,149,665)** 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	63,314
Department of Legal Affairs	59,486
Department of Defence	455,238
Public Service Bureau	34,966
Department of Information and Communication Technologies	72,802
The Judiciary	94,465
The Legislature	44,383
Office of the Auditor General	21,092
Office of the Ombudsman	3,875
Office of the Public Service Appeals Board	1,137
The Curatelle Office	5,559
Constitutional Appointments Authority	1,875
Electoral Commission	20,341
Ministry of Fisheries	110,343
Ministry of Finance, National Planning and Trade	179,349
Ministry of Foreign Affairs and Tourism	331,439
Ministry of Internal Affairs	701,185
Ministry of Education	1,285,588
Ministry of Lands and Housing	399,234
Ministry of Local Government and Community Affairs	140,024
Ministry of Health	106,307
Ministry of Transport	41,345
Ministry of Employment and Social Affairs	90,710
Ministry of Agriculture, Climate Change and Environment	254,285
Ministry of Youth and Sports and Family	39,403

Ministry of Investment, Entrepreneurship and Industry	16,356
Office of the Mayor of Victoria	6,923
Institute of Early Childhood Development	41,865
Seychelles Licensing Authority	19,145
Fair Trading Commission	16,128
National Bureau of Statistics	17,166
Seychelles Revenue Commission	246,754
National Tender Board	4,066
Tax and Customs Agent Board Revenue Tribunal	1,404
Seychelles Investment Board	9,617
Public Enterprise Monitoring Commission	10,197
Government Audit Committee	869
Financial Intelligence Unit	25,857
Seychelles Bureau of Standards	29,108
Seychelles Qualifications Authority	9,627
Planning Authority	18,384
Seychelles Energy Commission	42,764
Seychelles Human Rights Commission	8,560
Seychelles Media Commission	2,700
Public Health Authority	79,609
Industrial Estates Authority	60,474
Seychelles Nurses and Midwives Council	1,752
Health Professional Council	1,355
Seychelles Medical and Dental Council	979
Anti-Corruption Commission	53,263
Seychelles Maritime Safety Administration	13,764
Seychelles Meteorological Authority	16,543
Seychelles Intelligence Service	19,376
Information Commission	2,987
Seychelles Communication Regulatory Authority	9,276
Seychelles Law Commission	3,953
Seychelles Infrastructure Agency	108,844
Seychelles Fire and Rescue Services Agency	76,832
Seychelles Land Transport Agency	176,975

Enterprise Seychelles Agency	9,433
Agency for Social Protection	27,487
Landscape and Waste Management Agency	270,897
Seychelles National Youth Council	21,419
Health Care Agency	1,193,496
National Aids Council	4,001
National Council For Children	14,735
National Sports Council	104,852
Social Workers Council	736
Seychelles Broadcasting Corporation	120,801
Seychelles National Institute of Culture, Heritage and the Arts	137,678
Home Care Agency	321,942
Other Wages and Salaries	394,890
Other Goods and Services	131,669
Social Programs of Central Government	298,200
Subvention to Public Enterprises	44,930
Benefits and Approved Programs of Agency for Social Protection	1,202,876
Others	10,000
Net Lending	265,228
Development Grants to Public Enterprises	148,661
Contingency	50,000
Tax Exemption	10,000
GRAND TOTAL	10,495,149.665

I certify that this is a correct copy of the Bill which was passed by the National Assembly on 2nd December, 2022.



Mrs. Tania Isaac
Clerk to the National Assembly

PUBLIC PROCUREMENT (AMENDMENT) ACT, 2022

(Act 33 of 2022)

ARRANGEMENT OF SECTIONS

SECTIONS

1. Short title
2. Amendment of section 2
3. Amendment of section 37
4. Amendment of section 42
5. Amendment of section 49
6. Insertion of new section 60A
7. Amendment of section 80
8. Amendment of section 82
9. Amendment of section 98
10. Amendment of section 100
11. Amendment of Schedule 1



PUBLIC PROCUREMENT (AMENDMENT) ACT, 2022

(Act 33 of 2022)



I assent

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

Wavel Ramkalawan
President

29th December, 2022

AN ACT TO AMEND THE PUBLIC PROCUREMENT ACT, CAP 305

ENACTED by the President and the National Assembly.

Short title

1. This Act may be cited as the Public Procurement (Amendment) Act, 2022.

Amendment of section 2

2. Section 2 of the Public Procurement Act (Cap 305) (hereinafter referred to as the “principal Act”) is amended by inserting in the proper alphabetical order the following definitions —

“Accounting Officer” means the Accounting Officer defined in the Public Finance Management Act, 2012 (Act 9 of 2012);

“framework contract” means an agreement between a procuring entity and one or more suppliers which establish the terms and conditions under which the supplier enters into contracts with the procuring entity in the period during which the agreement applies for the supply of goods, works or services;”.

Amendment of Section 37

3. Section 37(4)(a) of the Principal Act is amended by repealing the words “on the basis of the lowest value bid” and substituting therefor the words “on the grounds of low value procurement”.

Amendment of section 42

4. Section 42 of the principal Act is amended by inserting after subsection (2) the following subsection —

“(2A) Notwithstanding subsection (2), the procurement entity may enter into a framework contract through open tender and in accordance with such terms and conditions as may be prescribed, where

- (a) the need for the subject matter of a procurement is expected to arise on a repeated basis during a given period of time within a procuring entity;
- (b) by virtue of the subject matter of a procurement, the need for it may arise on an urgent basis during a given period of time; or

- (c) the Procurement Oversight Unit considers that a particular procurement can best be undertaken through a framework contract.”.

Amendment of Section 49

5. Section 49 of the principal Act is amended by repealing subsection (1) and substituting therefor the following subsections —

“(1) A procuring entity may, at any time, terminate or cancel procurement proceedings without entering into a contract on the following grounds —

- (a) the procurement need has ceased to exist or changed significantly;
- (b) sufficient funding is not available for the procurement;
- (c) there is significant change in the required technical details, bidding conditions, conditions of contract or other details, such that the recommencement of proceedings is necessary;
- (d) no responsive bids are received;
- (e) there is evidence of collusion among bidders;
- (f) there is evidence of corrupt practice by public officers; or
- (g) public interest.

(1A) A procurement entity shall consult with the user department which issued the requisition and obtain the prior authorisation of the approval authority before terminating or cancelling any procurement proceedings.”.

Insertion of section 60A

6. The principal Act is amended by inserting after section 60, the following section —

“Simplified bidding

60A.(1) The objective of simplified bidding is to obtain competition and value for money to the extent possible, while maintaining economy and efficiency, where the circumstances do not justify the use of open bidding.

(2) A procuring entity may use the simplified bidding procedure for procurement of readily available commercially standard goods not specifically manufactured to the particular specifications of the public body such as office supplies including stationery, consumables and office equipment.

(3) The procedure and conditions for the use of simplified bidding by a procuring entity for the goods being procured shall be as prescribed by regulations.”.

Amendment of section 80

7. The principal Act is amended by repealing subsection 80(2).

Amendment of section 82

8. The principal Act is amended in section 82(2) by repealing the words “ten working days” and substituting therefor the words “five working days”.

Amendment of section 98

9. The Principal Act is amended in section 98 by repealing the words “ten working days”, wherever they appear, and substituting therefor the words “five working days”.

Amendment of section 100

10. The principal Act is amended in section 100(1)(a) by repealing the words “ten working days” and substituting therefor the words “five working days”.

Amendment of Schedule 1

11. Schedule 1 of the principal Act is repealed and there is substituted therefor the following Schedule

“SCHEDULE 1

PROCUREMENT THRESHOLDS

Table 1: In respect of Goods & Services and Works

Column 1	Column 2
Threshold	Approval Authority
Not exceeding SCR250,000	Approval is given by Accounting Officer
Exceeding SCR250, 000 but not exceeding SCR850,000	Approval is given by Procurement Committee
Exceeding SCR850, 000	Approval is given by National Tender Board

Table 2: In respect of Consultancy Services

Column 1	Column 2
Threshold	Approval Authority
Not exceeding SCR75,000	Approval is given by Accounting Officer
Exceeding SCR75,000 but not exceeding SCR250,000	Approval is given by Procurement Committee
Exceeding SCR250,000	Approval is given by National Tender Board”

I certify that this is a correct copy of the Bill which was passed by the National Assembly on 9th December, 2022.



Mrs. Tania Isaac
Clerk to the National Assembly

REVENUE ADMINISTRATION (AMENDMENT) ACT, 2022

(Act 37 of 2022)

ARRANGEMENT OF SECTIONS

SECTIONS

1. Short title
2. Amendment of section 2
3. Amendment of section 5
4. Amendment of section 11
5. Insertion of sections 31A, 31B, 31C and 31D
6. Insertion of section 50A



REVENUE ADMINISTRATION (AMENDMENT) ACT, 2022

(Act 37 of 2022)



I assent

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

Wavel Ramkalawan
President

29th December, 2022

AN ACT TO AMEND THE REVENUE ADMINISTRATION ACT (CAP 308).

ENACTED by the President and the National Assembly.

Short title

1. This Act may be cited as the Revenue Administration (Amendment) Act, 2022.

Amendment of section 2

2. Section 2 of the Revenue Administration Act (Cap 308) in this Act referred to as the “principal Act” is amended —

(a) by repealing in the definition of “Revenue decision” paragraph (b) and substituting therefor the following paragraph —

“(b) in relation to this Act, the Accommodation Turnover Tax, Business Tax Act, Corporate Social Responsibility Tax Act, Excise Tax Act, Goods and Services Tax Act, Income and Non-Monetary Benefits Tax Act, Tourism Marketing Tax Act or the Value Added Tax Act, Immovable Property Tax Act, a decision on any matter left to the discretion, judgement, direction, opinion, approval, consent, satisfaction, or determination of the Commissioner General, other than made in relation to the making of an assessment.

(b) by inserting after the definition of “Large business” the following new definition —

““Medical Board” means the Medical Board established under section 31D”;

Amendment of section 5

3. Section 5 of the principal Act is amended by inserting, after subsection (3), the following new subsection —

“(4) Notwithstanding subsection (1), the Commissioner General may when he considers necessary, on his own motion extend the time to furnish a return required to be furnished under a Revenue law.”

Amendment of section 11

4. Section 11 of the principal Act is amended by inserting after paragraph (a) of subsection (3), the following new paragraph —

- “(aa) in the case of transfer pricing, within seven years of the date the Commissioner General served or is treated as having served notice of the assessment on the taxpayer; or”.

Insertion of section 31A, 31B, 31C and 31D

5. The following new sections are inserted after section 31 of the principal Act —

“Suspension of recovery proceedings for outstanding revenue

31A.(1) In this section —

(a) “serious hardship” means the inability of a taxpayer to satisfy and pay their outstanding revenue for reasons of —

(i) a taxpayer being declared bankrupt;

(ii) a taxpayer who is an individual or a partner in a partnership —

(A) who has a serious illness or his or her dependants have a serious illness and that taxpayer does not hold any money or have ownership over any property, real or personal, from which the outstanding revenue can be satisfied or recovered in whole or in part; or

(B) who upon his or her death —

(I) did not hold any money or have ownership over any property, real or personal; or

- (II) his or her estate or succession does not contain any property, from which the outstanding revenue can be satisfied or recovered in whole or in part; or
 - (C) where his or her heir, legatee, trustee, fiduciary or executor or his or her estate or succession, as the case may be, is under a legal obligation to satisfy his or her debt, the heir, legatee, trustee, fiduciary or executor, as the case may be, does not have adequate means to satisfy the outstanding revenue or the estate or succession do not contain property from which the outstanding revenue can be satisfied or recovered in whole or in part.
- (b) “ownership” includes beneficial or derivative interest of monies or property or any right of pre-emption to any money or property or right to any undistributed estate or succession.
 - (c) “serious illness” means an illness, injury, impairment, disability, physical or mental certified by the Medical Board;
 - (d) “taxpayer” means —
 - (i) a person liable for revenue under a revenue law;

- (ii) an heir accepting the succession simply or under benefit of inventory;
- (iii) the universal legatee;
- (iv) the surviving spouse or partner where he or she does not fall under paragraph (ii) or (iii) and who is entitled to movable property;
- (v) legatees or donees of any money or property by gift *inter vivos* or Will; and
- (vi) the Curator in charge of a vacant succession,

but shall not include a person liable to deduct or withhold tax or withholding tax under any revenue law.

- (e) “outstanding revenue” means an amount of unsatisfied revenue of a taxpayer;
- (f) “uneconomical debt” means an outstanding revenue the cost of recovery of which would substantially exceed the outstanding revenue and the Commissioner General considers that it would be uneconomical to recover it.
- (g) “irrecoverable debt” means an outstanding revenue which has exceeded the prescription period under Article 2271 of the Civil Code of Seychelles Act, 2020.

(2) Subject to subsection (6), where the Commissioner General considers that —

- (a) a taxpayer has suffered or is in serious hardship;
- (b) the outstanding revenue of a taxpayer is an uneconomical debt; or
- (c) the outstanding revenue of a taxpayer is an irrecoverable debt,

the Commissioner General may direct that recovery of the outstanding revenue shall be suspended.

(3) Notwithstanding subsection (2), where the cause of the serious hardship is bankruptcy, serious illness or death, the Commissioner General may —

- (a) take steps preparatory to, or necessary, to initiate bankruptcy or winding up proceedings against the taxpayer;
- (b) exercise any action under section 24 or all the rights and actions of the taxpayer or the executor or the heir or legatee of the taxpayer to recover any outstanding revenue; or
- (c) take up proceedings relating to any transactions concluded by the taxpayer or the heir, legatee or executor, as the case may be, which constitute a fraud on the rights of the Commissioner General or to evade satisfaction of the outstanding revenue or to circumvent such satisfaction.

(4) A direction made under subsection (2) may be made by the Commissioner General on his own motion or on the request of a taxpayer.

(5) The suspension period in the recovery of the outstanding revenue shall constitute an interruption to the prescription period or time limitation period within which legal proceedings may be initiated or commenced against the taxpayer for the satisfaction or recovery of the outstanding revenue and such period shall be excluded in calculating the prescription period or time limitation period, as the case may be.

(6) The Commissioner General shall, before issuing a direction under subsection (2), carry out an assessment and prepare a report in terms of the provisions of subsection (7).

(7) The report under subsection (6) shall include —

- (a) documentation of the history of the outstanding revenue;
- (b) a breakdown of the outstanding revenue including penalties and interest;
- (c) the period for which the outstanding revenue was unpaid;
- (d) a statement as to whether the taxpayer is willing or has the capacity and means to pay the outstanding debt in instalments or to secure the satisfaction thereof;
- (e) the steps taken to recover the outstanding revenue;
- (f) in respect of serious hardship of the taxpayer —
 - (i) the evidence of bankruptcy, serious illness, death or any other relevant matters in relation thereto or connected therewith;

- (ii) any creditor of the taxpayer;
 - (iii) any property over which the taxpayer has ownership and any transaction or dealing with the property that has taken place during the prescription period and the nature and manner of such transaction or dealing;
- (g) in respect of a deceased taxpayer —
 - (i) the content and value, or an estimate of the value, of the estate or succession of the taxpayer;
 - (ii) the capacity or means of the heir, legatee or donee to pay the outstanding revenue in full or in instalments or to secure the satisfaction thereof;
 - (iii) if the estate or succession of the deceased taxpayer has been distributed or not;
- (h) in respect of an uneconomical debt, an assessment of the cost of recovery of the uneconomical debt;
- (i) other factors that the Commissioner General reasonably believes would likely arise.

(8) The Commissioner General shall inform the taxpayer in writing of the direction made under subsection (2) and that the direction is subject to the provisions of subsections (5) and section 31C (1).

(9) The Commissioner General shall maintain records

of all the outstanding revenue of which recovery has been suspended under this section, which shall contain —

- (a) the relevant details of the taxpayer such as name, address and tax identification number;
- (b) the amount of outstanding revenue; and
- (c) the reasons for the suspension of recovery.

(10) The Commissioner General shall include the details of the suspension of recovery of the outstanding revenue during a financial year in the annual report to be submitted under section 21 of the Seychelles Revenue Commission Act (Cap. 322).

(11) The Commissioner General shall, within 3 months before the end of each financial year, submit a detailed report to the Minister in respect of any outstanding revenue for which recovery has been suspended under this section during each financial year and make recommendations for the writing off, of the outstanding revenue.

(12) Notwithstanding subsection (11) the Minister may at any time direct the Commissioner General to furnish him or her with a report in respect of all or any outstanding revenue of which recovery has been suspended under this section.

Permission to write-off outstanding revenue

31B.(1) The Minister may, after considering the report made by the Commissioner General under section 31A(11) or (12) grant or refuse permission to write off any outstanding revenue specified in the report.

(2) Notwithstanding any other written law, where the Minister grants permission under subsection (1), to write-off an outstanding revenue, the Commissioner General shall make a write-off order specifying —

- (a) the names of all taxpayers in respect of whom permission has been granted; and
- (b) the amount of outstanding revenue written-off.

(3) The Commissioner General shall publish the write-off order under subsection (2) in the Gazette within 3 months after the end of each financial year.

(4) The Commissioner General shall include the write-off order under subsection (2) in the annual report submitted under section 21 of the Seychelles Revenue Commission Act (Cap. 322).

(5) Where the Minister refuses to grant permission to write-off outstanding revenue, the Minister shall in writing inform the Commissioner General of the reason for the refusal.

Reversion, cancellation or annulment of direction or write-off order

31C.(1) Notwithstanding a direction of the Commissioner General made under section 31A.(2) or a write-off order made under section 31B.(1), the Commissioner General may cancel, annul or reverse the direction or order and direct that the recovery of the outstanding revenue be reinstated or pursued in relation to all or part of the outstanding revenue, where —

- (a) in respect of serious hardship —
 - (i) the circumstances of the taxpayer changes and the serious hardship ceases to exist;
 - (ii) the Commissioner General receives, by operation of law, additional funds in respect of a taxpayer after the

- taxpayer becomes bankrupt, or if additional funds due to the taxpayer's estate or succession are discovered after the direction or write-off order;
- (b) in respect of an uneconomical debt that is outstanding revenue, the outstanding revenue is deemed not an uneconomical debt;
- (c) the direction or write-off order was made due to false or misleading information provided by the taxpayer or any person and notwithstanding anything in any written law the outstanding revenue shall become due and payable.

Establishment of Medical Board

31D.(1) There is established a Medical Board for the purpose of certifying serious illnesses under section 31A.

(2) The Medical Board shall consist of at least three medical practitioners who shall be appointed by the Minister.

(3) The Minister may co-opt medical practitioners with specialised experience to assist the Medical Board.

(4) The Medical Board shall upon the request of the Commissioner General under section 31A(4) examine and assess the merits of a request.

(5) Where the Medical Board finds that a person has a serious illness that impairs his or her ability to satisfy his or her outstanding debt, the Medical Board shall issue the taxpayer with a certificate, certifying the serious illness of the taxpayer or his or her dependant.

(6) The Minister shall appoint a member of the Medical Board to be the Chairperson of the Medical Board.

(7) The quorum of the Medical Board shall be determined by the Minister.

(8) The members of the Medical Board shall hold office on such terms and conditions as the Minister may prescribe.

Insertion of section 50A

6. The following new sections are inserted after section 50 of the principal Act —

“Imposition of Additional Tax

50A.(1) Where the Commissioner General, in relation to the year of assessment 2023 or any subsequent year of assessment and pursuant to a Transfer Pricing audit —

- (a) increases the amount of income of a taxpayer;
- (b) reduces the amount of any loss of a taxpayer;
- (c) reduces the amount of any tax concession allowed to a taxpayer; or
- (d) increases the amount of withholding tax payable by a taxpayer,

the Commissioner General may make a determination and, depending on the amount of the increase or reduction, impose an additional tax on that taxpayer equal to 10 per cent or 25 per cent of the amount of the increase or reduction.

(2) Where a taxpayer is liable to an additional tax of 25 per cent, the taxpayer may gain a possible downward remission

of not less than 10 percent, where the conditions set out in subsection (6) exist.

(3) The Commissioner General, shall serve a taxpayer with written notice of the additional tax to be paid when the amount of income or withholding tax is increased or the amount of loss or tax concession is reduced as a result of the taxpayer obtaining a transfer pricing benefit under section 54(4) and (7) of the Business Tax Act (Cap 20).

(4) Notwithstanding, any objection to or an appeal lodged, under sections 15, 16, 17 and 18, against an assessment made resulting in an adjustment under section 54 of the Business Tax Act, the additional tax imposed under subsection (1), shall be paid —

- (a) within 21 days of receipt of the written notice served on the taxpayer under subsection (3); and
- (b) in the manner specified in the written notice.

(5) Where the condition set out under subsection (6) exist, the Commissioner General may remit wholly or in part any additional tax payable under that subsection.

(6) The conditions for remitting additional tax wholly or in part are as follows —

- (a) the taxpayer has been cooperative and provided complete responses within the timeline set by the Commissioner General;
- (b) the taxpayer has prepared and furnished complete Transfer Pricing Documentation in accordance with the Transfer Pricing Documentation Regulations;

- (c) the taxpayer has completed the Related Party Dealings Schedule in the business tax return for a tax year;
- (d) the taxpayer has a good compliance record of timely submission of returns and payment of tax by the due date for the current tax year and immediate two preceding tax years; and
- (e) the increase to income or withholding tax, or reduction of loss or tax concessions made by the Commissioner General following a Transfer Pricing audit, is less than SR150,000 or 5% of business tax payable, whichever is greater.

I certify that this is a correct copy of the Bill which was passed by the National Assembly on 14th December, 2022.



Mrs. Tania Isaac
Clerk to the National Assembly



SEYCHELLES PENSION FUND (AMENDMENT) ACT, 2022

(Act 30 of 2022)



I assent

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

Wavel Ramkalawan
President

29th December, 2022

AN ACT TO AMEND THE SEYCHELLES PENSION FUND ACT (CAP 220).

ENACTED by the President and the National Assembly.

Short title

1. This Act may be cited as the Seychelles Pension Fund (Amendment) Act, 2022.

Amendment of section 2

2. Section 2 of the Seychelles Pension Fund Act, (*Cap 220*) (hereinafter referred to as the “principal Act”) is amended by —

- (a) repealing the definition of “retirement”;
- (b) inserting in the proper alphabetical order the following new definitions —

“retirement” means retirement from regular employment and presumes that the person’s normal or habitual level of occupational activity has ceased or largely ceased;

“retirement age” means the age of retirement prescribed under this Act or any other written law;”.

Amendment of section 68

3. Section 68 of the principal Act is amended as follows —

- (a) by renumbering section 68 as section 68.(1);
- (b) in paragraph (a) by deleting the word “and” and inserting after the word “amounts” the words “, the conditions and”;
- (c) by reordering paragraph ‘e’ as ‘(d)’ and deleting the full stop at the end and substituting therefor “;”;
- (d) by inserting after paragraph (d) as reordered the following paragraph —
 - “(e) for prescribing the age of retirement.”;
- (e) by inserting after section 68.(1) the following —

“(2) Upon the coming into operation of this Act, any change in the retirement age in respect of any member who

would have been eligible to receive a pension but for the coming into operation of this Act, the Minister may, by way of regulations prescribe a mechanism to cater for the early retirement of such a member. ”.

I certify that this is a correct copy of the Bill which was passed by the National Assembly on 7th December, 2022.



Mrs. Tania Isaac
Clerk to the National Assembly

**PROCEEDS OF CRIMES (CIVIL CONFISCATION) (AMENDMENT)
ACT, 2022**

(Act 29 of 2022)

ARRANGEMENT OF SECTIONS

SECTIONS

1. Short title
2. Amendment of section 2



**PROCEEDS OF CRIMES (CIVIL CONFISCATION) (AMENDMENT)
ACT, 2022**

(Act 29 of 2022)

I assent

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

Wavel Ramkalawan
President

29th December, 2022



**AN ACT TO AMEND THE PROCEEDS OF CRIME (CIVIL CONFISCATION) ACT,
(CAP. 298).**

ENACTED by the President and the National Assembly.

Short title

1. This Act may be cited as the Proceeds of Crime (Civil Confiscation) (Amendment) Act, 2022.

Amendment of section 2

2. Section 2 of the Proceeds of Crime (Civil Confiscation) Act, (Cap. 298) is amended by repealing the definition of “police officer”;

I certify that this is a correct copy of the Bill which was passed by the National Assembly on 6th December, 2022.



Mrs. Tania Isaac
Clerk to the National Assembly