

SEYCHELLES CIVIL AVIATION AUTHORITY BILL, 2024

(Bill No. 8 of 2024)

**EXPLANATORY STATEMENT ON THE OBJECTS AND REASONS
FOR THE BILL**

The purpose of this Bill is to provide for the Seychelles Civil Aviation Authority. Under the existing Seychelles Civil Aviation Authority Act (Cap. 312), the Seychelles Civil Aviation Authority is responsible for both service provision and regulatory oversight of such, which has raised concerns about the independence of the regulatory authority. The proposed legislation aims to remove provisions relating to service provision from the purview of the civil aviation authority (in separate legislation) in order to, provide for an airports authority as a separate entity.

The Seychelles Civil Aviation Authority in this Bill, shall retain regulatory and oversight functions related to aviation safety, security and facilitation. This will encompass the enforcement of regulatory standards, diligent monitoring of compliance, and providing effective oversight. The airports authority shall then be responsible for service provision in management, operation and development of airports in Seychelles including the provision of airports infrastructure, facilities, services and related commercial activities.

By bringing in a clear separation between the functions of the Seychelles Civil Aviation Authority and the Seychelles Airports Authority, it is expected to mitigate potential conflicts of interest, ensure the highest levels of safety standards and promote compliance with international aviation agreements to which Seychelles is a party.

Consequential amendments have been provided for and this Bill amends the Civil Aviation Act 2005 (Act 4 of 2005) in order to align with the International Civil Aviation Organisation's Universal Safety and Security Oversight audits.

Dated this 12th day of June, 2024.

**ANTONY DERJACQUES
MINISTER OF TRANSPORT**

SEYCHELLES CIVIL AVIATION AUTHORITY BILL, 2024

(Bill No. 8 of 2024)

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SEYCHELLES CIVIL AVIATION AUTHORITY BILL, 2024

(Bill No. 8 of 2024)



A BILL

FOR

AN ACT TO PROVIDE FOR THE CONTINUATION OF THE SEYCHELLES CIVIL AVIATION AUTHORITY; TO PROVIDE FOR THE APPOINTMENT AND FUNCTIONS OF THE BOARD OF THE AUTHORITY; TO PROVIDE FOR THE CONTROL AND REGULATION OF CIVIL AVIATION WITHIN SEYCHELLES; TO PROVIDE FOR THE REPEAL OF THE SEYCHELLES CIVIL AVIATION AUTHORITY ACT; AND TO PROVIDE 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 Seychelles Civil Aviation Authority Act, 2024, and shall come into operation on such date as the Minister may appoint by notice published in the *Gazette*.

Objectives

2. The objectives of this Act are —
- (a) to provide for the establishment of a framework of regulatory control of civil aviation ensuring the highest levels of safety and security standards in the operation and regulation of the aviation industry within the Seychelles;
 - (b) to enable Seychelles to meet its international obligations relating to civil aviation and ensuring compliance with key international aviation agreements, conventions, and standards set by organizations such as the International Civil Aviation Organization (ICAO) and regional aviation bodies.

Interpretation

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

“air traffic control” means the service provided to ensure the safe and orderly flow of air traffic by regulating the movement of aircraft, providing navigational guidance, and managing communication with pilots and other relevant stakeholders;

“airspace management” means the activities and processes involved in the regulation, control, and utilization of airspace to ensure the safe, efficient, and equitable flow of air traffic, taking into account airspace capacity, air traffic demand, and airspace user requirements;

“aviation documents” includes, personnel licences, air operator certificates, certificates of registration, certificates of airworthiness, aircraft radio station licences, aerodrome certificates, authorisations, or permits;

“aviation facilities” includes aircraft, aerodromes, air navigation services facilities, hangars, approved maintenance organizations, workshops, ramps, fuel storage facilities, air operator offices, cargo handling areas or aviation training organizations facilities;

“Authority” means the Seychelles Civil Aviation Authority referred to in section 4;

“Board” means the Board of Directors of the Authority appointed in terms of section 5;

“Chief Executive Officer” or “CEO” means the Chief Executive Officer of the Authority;

“Convention” means the Convention on International Civil Aviation and the Annexes thereto, signed in Chicago on 7 December 1944;

“environmental sustainability” means the promotion of practices, policies, and technologies aimed at reducing the environmental impact of aviation, such as carbon emissions, noise pollution, waste management, and the conservation of natural resources, in alignment with national and international environmental standards;

“ground service providers” refers to entities engaged in activities related to passenger and cargo handling, cleaning, towing, refuelling, catering, and other similar services provided to aircraft on the ground, excluding activities on active runways;

“International Civil Aviation Organization” or “ICAO” means the organization established pursuant to the Chicago Convention and whose objective is to promote the secure and organized development of international civil aviation across the world;

“Minister” means the Minister responsible for civil aviation;

PART II

SEYCHELLES CIVIL AVIATION AUTHORITY

Seychelles Civil Aviation Authority

4.(1) The Seychelles Civil Aviation Authority, established under the repealed Seychelles Civil Aviation Authority Chapter 312, shall continue

under the same name and with powers and functions as provided for by this Act.

- (2) The Authority shall be a body corporate.

Board of Directors

5.(1) The affairs of the Authority shall, be administered by a Board of Directors.

(2) The President shall, in consultation with the national committee responsible for the nomination of senior corporate executives and non-executive officials, and with the responsible Minister, appoint —

- (a) the members of the Board; and
- (b) the Chairperson and Vice-Chairperson of the Board.

(3) The Board of directors shall consist of —

- (a) a Chairperson;
- (b) a Vice-Chairperson;
- (c) one representative or nominee from the Ministry of Finance;
- (d) one representative or nominee from the parent Ministry; and
- (e) not less than five and not more than seven persons, who shall be non-executive Directors;
- (f) the Chief executive officer, *ex officio*.

(4) A member of the Board shall be a person with proven integrity, relevant cognitive experience and demonstrated capacity in matters relating to civil aviation, industry, trade, finance, law, corporate governance and administration.

(5) The Chief Executive Officer shall not be the Chairperson of the Board.

(6) A member of the Board (excluding the Chief Executive Officer) shall —

- (a) hold office for a period of three years and is eligible for re-appointment;
- (b) not assume automatic reappointment at the end of his or her term of office.

(7) The Board shall exercise its duties and powers in accordance with the provisions of Part XI of the Public Enterprises Act 2023.

(8) Certain provisions applicable to the Board shall be as set out in the First and Second Schedules.

Functions of Authority

6.(1) The Authority shall have the following functions, to —

- (a) advise the Government on all matters relating to civil aviation;
- (b) license, certify, and oversee individuals and organizations involved in aviation activities, including pilots, air traffic controllers, aircraft maintenance organizations, aerodromes and aviation training institutions, air navigation and air navigation facilities and equipment;
- (c) establish and enforce regulations to ensure adequate levels of safety, security, and environmental sustainability in the civil aviation industry;
- (d) regulate the operation of aerodromes and the provision of aerodrome services and facilities;
- (e) regulate the operation of civil aviation activities including air navigation services and facilities;

- (f) conduct risk-based inspections, audits, and investigations to monitor compliance with civil aviation regulations, standards, and recommended practices;
- (g) to promote understanding of civil aviation policies and programmes;
- (h) cooperate closely with the authority responsible for aircraft accident and incident investigation in Seychelles including, facilitating the sharing of information, expertise, and resources to ensure comprehensive and effective accident investigations, promoting safety and security improvement and lessons learned across the aviation industry;
- (i) establish and maintain effective safety and security oversight mechanisms, including safety management systems, state safety programme, proactive safety culture promotion, incident and accident investigation capabilities, and comprehensive reporting mechanisms;
- (j) regulate and enforce safety and security standards for ground service providers operating within the civil aviation sector in Seychelles;
- (k) develop and review national standards for security equipment and systems used in aerodromes in accordance with the National Civil Aviation Security Programme;
- (l) establish and implement a National Civil Aviation Security Programme and related matters;
- (m) promote research and development initiatives on matters relating to civil aviation;
- (n) charge fees for services provided by the Authority;
- (o) issue directives to relevant entities for the implementation of the National Civil Aviation Security Programme and policies;

- (p) approve security programs of aircraft operators, aerodrome operators, and other entities related to civil aviation;
- (q) collaborate and enter into agreements and arrangements with organisations or authorities in respect of any matter relating to civil aviation and any other matter as the Authority thinks expedient;
- (r) promote cooperation and exchange of information with other countries or international organisations;
- (s) establish, co-ordinate and maintain state aviation safety and security programmes;
- (t) license or certify aerodromes, regulated agents and air navigation service providers;
- (u) conduct safety oversight activities in the following areas: airworthiness (air), aircraft operations (ops), air navigation services (ans), personnel licensing (pel), aerodrome and ground aids (aga) and aircraft accident and incident investigation (aig);
- (v) conduct security and facilitation oversight activities;
- (w) to exercise safety oversight in and regulate civil aviation activities relating to the Convention and annexes thereto as amended from time to time;
- (x) act internationally as the national body representing Seychelles in respect of matters relating to civil aviation;
- (y) perform such other functions as may be delegated to the Authority by the Minister under the Civil Aviation Act.

PART III STAFF OF AUTHORITY

Chief Executive Officer

7.(1) The Board shall, in consultation with the President through the responsible Minister, appoint the Chief Executive Officer for the Authority.

(2) The Chief Executive Officer shall hold office on a full-time basis and on such terms and conditions as may be determined by the Board and specified in the instrument of appointment.

(3) A Chief Executive Officer is not eligible to be appointed as, or to act as, Chief Executive Officer of the Authority, except with the approval of the President.

(4) The Chief Executive Officer shall be appointed through a competitive recruitment process.

(5) The Chief Executive Officer shall —

- (a) exercise supervision over the day-to-day affairs of the Authority and control and administration of the employees and staff of the Authority;
- (b) be the accounting officer of the funds of the Authority;
- (c) perform such functions as the Board may assign to him or her or as may be conferred or imposed on him or her by or under this Act or any other enactment.

(6) The Chief Executive Officer may delegate any of the powers assigned to him or her or to any employee of the Authority.

Inspectors and other staff

8.(1) The Authority may, on such terms and conditions as it thinks fit —

- (a) employ such officers and other members of staff; and
- (b) engage under contract for services, such other persons to provide professional, technical and other assistance, as is necessary for the effective performance of the functions, exercise of the powers and attainment of the objects of the Authority.

(2) Persons appointed under subsection (1) shall be subject to the supervision and control of the Chief Executive Officer.

(3) The Chief Executive Officer may appoint or designate one or more —

(a) persons in the service of the Authority as inspectors or authorised officers; and

(b) persons who are not in the service of the Authority as authorised persons.

(4) The Chief Executive Officer must ensure that every inspector, authorised officer or person is provided with credentials identifying him or her as such and the inspector, authorised officer or person shall exhibit such credentials at the request of any interested person.

Powers of inspector and authorised persons

9.(1) Every designated authorised officer, inspector or authorised person shall have unrestricted and unlimited access to aircraft, aviation facilities and aviation documents as applicable for the performance of their functions and duties.

(2) An authorised officer, inspector or authorised person shall have the power to prohibit any person from exercising the privileges of any aviation licence, certificate or other document, for just cause either directly or by using an established process.

(3) An authorised officer, inspector or authorised person shall have the power to prevent an aircraft from flying, when justified, for safety reasons, either directly or by using an established process.

(4) The Chief Executive Officer may limit the powers of authorised officers, inspectors or authorised persons when designating such authorised officer, inspector or authorised person in terms of section 8(4)(a).

Advisory Committees

10.(1) The Chief Executive Officer in consultation with the Minister, may establish *ad hoc* advisory committees composed of local and international experts in specific areas where specialized knowledge is required. Such areas may include, but are not limited to, aircraft accident investigation, aviation security, or air navigation services.

(2) The Board shall support and facilitate the functioning of the advisory committees established by the Chief Executive Officer. This includes providing necessary resources, assistance, and access to information required for effective committee operations.

(3) The advisory committees shall primarily serve to provide recommendations, advice, and expertise to the management team of the Authority where necessary and shall be appointed on such terms as the Minister shall determine.

(4) The Chief Executive Officer shall report to the Board on the activities and outcomes of the advisory committees, highlighting their contributions and recommendations. The Board may provide feedback or seek additional information where necessary.

PART IV

FINANCIAL PROVISIONS RELATING TO AUTHORITY

Funds of Authority

11.(1) The Authority shall be provided with sufficient financial resources for the effective conduct of its functions.

(2) Pursuant to subsection (1) the funds of the Authority shall consist of —

- (a) any moneys that may be payable to the Authority from moneys appropriated for the purpose by an Act of the National Assembly;

- (b) any donations, grants, bequests or loans made to the Authority by any person or organization or any government of any country with the leave of the Minister;
- (c) the interests and profits generated from the management of its own funds;
- (d) any other moneys accruing to the Authority by way of licence fees, penalty fees or other payments charged in respect of any services rendered by the Authority.

(3) The funds of the Authority shall be applied to the discharge of expenses properly incurred in the carrying out of the functions of the Authority, the payment of remuneration to the members and employees of the Authority and to the repayment of any sums borrowed by the Authority.

(4) The net profits of the Authority determined after meeting the expenses of each financial year and making provision for bad and doubtful debts, depreciation of assets and any other purpose deemed necessary by the Authority shall be dealt with in accordance with directions given by the Minister.

(5) The Authority shall establish a transparent financial management system to accurately track and report the utilisation of funds from various sources, including moneys voted by the National Assembly, operational revenue, loans, donations, gifts, and grants, in accordance with the provisions outlined in Part XIII of the Public Enterprises Act, 2023.

Accounts and audit

12.(1) The financial year of the Authority shall be the period of twelve months ending on the 31st December in each year.

(2) The Authority shall keep all records relating to such accounts are kept in respect of all the Authority's activities, funds and property, including such particular accounts and records as the Minister may direct in the form and manner approved by the Auditor General.

(3) Article 158 of the Constitution and the provisions of the Public Enterprises Act, 2023, shall apply in respect of the accounts of the Authority.

Annual Report

13.(1) The Authority shall, at the end of each financial year, prepare an annual report of the activities and operations of the Authority during that year and submit such report for approval by the Board.

(2) The Authority shall, not later than three months after the end of the financial year to which the report relates, submit the annual report together with a copy of the report by the Auditor General on the statement of accounts or on the accounts of the Authority to the Minister.

(3) The Minister shall, not later than 3 months from the date of receipt, cause a copy of the report under subsection (2) to be submitted to the National Assembly.

(4) The Authority shall, in case of any activities that may have an impact on the Republic, make a special report to the Minister.

PART V GENERAL

Directions of Minister

14.(1) The Minister may in writing give general or special directions, not inconsistent with the provisions of this Act, to the Authority regarding the performance of its functions under this Act or any other written law administered by it or any matter that may affect the public interest.

(2) The Authority shall comply with the directions issued under subsection (1).

Protection of Authority

15.(1) The Authority shall be liable for any decision made by it.

(2) Notwithstanding subsection (1), no civil or criminal liability shall attach to the Authority, a member, a committee member, an authorised officer, inspector, authorised person or employee of the Authority, as the case may be, in respect of any act done or omitted to be done in good faith in the performance of their functions.

(3) All members, committee members, inspector, officers and employees of the Authority shall be deemed to be employed in the public service for the purposes of sections 91 to 96 of the Penal Code.

Confidentiality

16.(1) Members, committee members, inspectors, officers or employees of the Authority shall not divulge or disclose any information acquired by reason of their membership of the Board or a committee, or holding of office or employment, except —

- (a) in the performance of a function or the discharge of a duty under or in connection with this Act; or
- (b) where disclosure is permitted by law or an order of the Court.

(2) Any member, committee member, officer or employee of the Authority who discloses, except —

- (a) to the Minister or to any other person for the purposes of carrying out his or her other duties or the performance of his or her functions under this Act; or
- (b) to a police officer for the purposes of an investigation or inquiry relating to the enforcement of the provisions of this Act; or
- (c) when required to do so by any court or under any enactment,

any information acquired by him or her in the carrying out of any duty or the performance of any function under this Act in relation to the business or

affairs of any other person shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

Regulations

17.(1) The Minister may in consultation with the Authority make regulations for the purpose of carrying into effect the principles and provisions of this Act and may by Regulations amend the Schedules.

(2) Any regulations made under the Act may provide that any person contravening or failing to comply with any provision of the regulations; shall be guilty of an offence and liable on conviction to a fine not exceeding level six or imprisonment for a term not exceeding four years or both such fine and imprisonment.

Reports of Authority

18.(1) In addition to the annual report referred to in section 13 the Authority shall promptly report to the Minister on significant incidents, policy changes, emerging trends, or any other matters that require immediate attention or notification, considering the practicality of reporting within the available resources.

(2) The Minister may specify additional reporting requirements, including periodic reports or specific information to be furnished by the Authority, as necessary for effective oversight and decision-making, taking into account the resource constraints and practical considerations of the Authority.

(3) At any time the Board may submit to the Minister a special report on any matter upon which the Board considers it desirable to report.

(4) In addition to any annual report which the Authority may be required to submit to the Minister the Board —

- (a) shall submit to the Minister such other reports as the Minister may require; and

- (b) may submit to the Minister such other reports as the Board considers desirable,

in regard to the operations, undertakings and activities of the Authority.

(5) The Board shall give the Minister all information relating to the operations, undertakings and activities of the Authority that the Minister may at any time require.

Transfer of assets, rights, and obligations

19.(1) With effect from such date (the “transfer date”) as the Minister shall specify by Statutory Instrument (which date may be before or after the fixed date, and which date may be a different date in relation to different assets and liabilities or classes thereof so transferred), the airports and aerodromes shall vest in the authority responsible for airports and aerodromes, together with —

- (a) all the other the assets and rights of the Authority which, before the fixed date, were used or otherwise connected with the functioning of those airports and aerodromes;
- (b) any liabilities and obligations attaching to the assets and rights or the Authority referred to in paragraph (a); and
- (c) such buildings, infrastructure, runways, equipment, vehicles and all attachments relating to the functioning of the airports and aerodromes transferred to the Authority, and such other assets, rights, liabilities and obligations connected with the Authority's functions in relation to airports and aerodromes, as are specified by the Minister, with the approval of the Minister responsible for finance.

(2) If any question arises as to whether any particular movable or immovable property or any particular asset, right, interest, liability, or obligation has been transferred to or vested in the authority responsible for airports under subsection (1), a certificate under the hand of the Minister shall be conclusive evidence that the property, asset, right, interest, liability, or obligation was or was not so transferred or vested.

(3) All assets, including but not limited to real estate, infrastructure, equipment, and facilities, that are specifically identified in a Directive issued by the Minister shall be transferred from the Seychelles Civil Aviation Authority to the Seychelles Airports Authority on the date of commencement of this Act.

(4) Any deeds, bonds, agreements, and arrangements identified in a Directive issued by the Minister that are relevant to the functions and operations of the Seychelles Airports Authority shall be transferred to and assumed by the Seychelles Airports Authority upon the commencement of this Act.

Transfer of staff

20.(1) As from the date of commencement of this Act, persons employed immediately before the date in the Seychelles Civil Aviation Authority under the repealed Act shall be transferred to the Seychelles Civil Aviation Authority under this Act on terms and conditions not less favourable than those enjoyed by them immediately before the transfer.

(2) As from the date of commencement of this Act, persons employed immediately before the date in the Seychelles Civil Aviation Authority and directly involved in the functioning of airports and aerodromes and all airport, air navigation, and related services shall be transferred to the service of the authority responsible for airports on terms and conditions not less favourable than those enjoyed by them immediately before the transfer.

Other transitional matters

21.(1) From and after the date of commencement of this Act, any reference in Control of Obstructions Act, Civil Aviation Act to the Director or Chief Executive Officer of the Seychelles Civil Aviation Authority, Directorate or the Seychelles Civil Aviation Authority, or any of its officers shall be deemed to be a reference to the Chief Executive Officer of the Authority appointed under this Act, the Authority, or the corresponding officer.

(2) All deeds, bonds, agreements, and arrangements subsisting immediately before the date of commencement of this Act, specifically identified in a directive by the Minister, relating to civil aviation related services by the Seychelles Civil Aviation Authority or to any person transferred to the service of the Seychelles Civil Aviation Authority, shall continue in force on and after that date and shall be enforceable by or against the Seychelles Civil Aviation Authority as if the Authority had been named in them and had been a party to them under this Act.

(3) All deeds, bonds, agreements, and arrangements subsisting immediately before the date of commencement of this Act, specifically identified in a directive by the Minister, relating to airport, air navigation, and related services by the Seychelles Civil Aviation Authority or to any person transferred to the service of the Seychelles Airports Authority, shall continue in force on and after that date and shall be enforceable by or against the Seychelles Airports Authority as if the Seychelles Airports Authority had been named in them and had been a party to them.

(4) Any proceeding or cause of action pending or existing immediately before the date of commencement of this Act by or against the Seychelles Civil Aviation Authority or any person acting on its behalf may be continued and enforced by or against the Authority, and the Authority shall assume the rights, duties, and obligations of the Seychelles Civil Aviation Authority in such proceedings.

Repeal and savings

22.(1) In this section —

“repealed Act” means the Seychelles Civil Aviation Authority Act (Cap 312).

(2) Subject to this section the Seychelles Civil Aviation Authority Act (Cap 312) is repealed.

(3) Any regulations, rules, by-laws, notices, orders or awards which, immediately before the fixed date, were in force under the repealed Act shall remain in force as if they had been made or granted under this Act.

(4) Any matter or thing which was lawfully made, done or commenced under the repealed Act and which, immediately before the fixed date, had effect or was capable of acquiring effect shall, subject to this Act, continue to have or to be capable of acquiring force, as the case may be, and shall be deemed to have been made, done or commenced under this Act.

(5) Any appointments, licenses, certifications, approvals, or other actions taken under the previous Act, which are valid at the commencement of this Act, shall remain in force until their respective terms expire or until revoked or amended in accordance with the provisions of this Act.

(6) Ongoing proceedings, investigations, or other matters initiated or commenced under the repealed Act shall continue and be governed by the corresponding provisions of this Act.

(7) All matters, rights, obligations, or proceedings arising from the repealed acts and pending on the commencement date of this Act shall be addressed and concluded as if this Act had not been enacted.

(8) The Authority shall take all necessary measures to ensure a seamless transition from the repealed acts to this Act, including the transfer of records, personnel, and any other matters necessary for the effective functioning of the Authority.

FIRST SCHEDULE

POWERS OF AUTHORITY

(Section 5)

Powers of the Authority

For the performance of its functions under this act, the Authority shall have the power to —

1. Acquire premises necessary or convenient for the exercise of its functions, subject to compliance with applicable laws, regulations, and international standards. This includes buying, leasing, exchanging, hiring, or otherwise acquiring immovable property and related interests, rights, concessions, grants, powers, and privileges;

2. Acquire movable property necessary or convenient for the exercise of its functions, subject to compliance with applicable laws, regulations, and international standards. This includes buying, exchanging, hiring, or otherwise acquiring movable property;
3. Maintain, alter, or improve the property acquired by the Authority, ensuring adherence to relevant standards and safety requirements;
4. Manage its assets effectively, including the power to mortgage any assets or part thereof, and to sell, exchange, lease, dispose of, turn to account, or otherwise deal with assets not required for the exercise of its functions. The consideration for such transactions shall be determined by the Board in accordance with applicable laws, regulations, and best practices;
5. Draw, make, accept, endorse, discount, execute, and issue promissory notes, bills of exchange, bills of lading, securities, and other negotiable or transferable instruments, as necessary for the Authority's functions, in compliance with relevant financial and legal requirements;
6. Obtain insurance coverage against losses, damages, risks, and liabilities incurred by the Authority, in accordance with prudent risk management practices;
7. Enter into contracts, agreements, and suretyships, or provide guarantees, as required for the exercise of its functions, ensuring fairness, transparency, and compliance with applicable laws, regulations, and procurement guidelines. The Authority shall have the power to modify or rescind such contracts, agreements, suretyships, or guarantees;
8. With the approval of the Minister, take up and subscribe for or otherwise acquire shares in any company or participate in the formation of any company:

Provided that the Authority shall not take up or subscribe for or otherwise acquire shares in a company or form or participate in the

formation of a company which is engaged in an activity regulated by the Authority;

9. To provide training programs for its employees, promoting professional development and enhancing industry expertise, subject to available resources and strategic priorities as well as provide training for other civil aviation organisations;
10. Grant loans to employees of the Authority for purposes approved by the Authority;
11. Generally to do anything that is calculated to facilitate or is incidental or conducive to the exercise of the Authority's functions in terms of this Act or any other enactment.

SECOND SCHEDULE

PROVISIONS APPLICABLE TO THE BOARD

(Section 5)

Paragraph

1. Disqualifications from membership of Board.
2. Terms of office and conditions of service of members of Board.
3. Vacation of office by members of Board.
4. Filing of vacancies on Board.
5. Dismissal of appointed members.
6. Co-opted members of Board.
7. Meetings and procedure of Board.
8. Electronic meetings of Board.
9. Committees of Board.
10. Members of Board and committees to disclose certain connections and interests.
11. Minutes of proceedings of Board and committees.
12. Remuneration and allowances of members of Board and committees.
13. Validity of decisions and acts of Board and committees.

1. Disqualifications from membership of Board

(1) A person shall not be appointed as a member of the Board, and no person shall be qualified to hold office as a member if —

- (a) he or she is a person who already serves as a Board member of two Boards of public enterprises, unless the President, after consultation with the responsible Minister and the Public Enterprise Commission, specifically authorises the appointment.;
- (b) serves as the Chief Executive Officer or an official or member of staff of the particular public enterprise;
- (c) has a conflict of interest under section 63;
- (d) has been convicted of any offence under this Act;
- (e) has been convicted of an offence involving dishonest or fraudulent acts within or outside the Republic;
- (f) is adjudged insolvent under the Insolvency Act;
- (g) is adjudged to be of unsound mind;
- (h) has been terminated from public office due to poor performance, misconduct, or disciplinary proceedings;
- (i) has been disqualified by the Court from serving as a public officer;
- (j) is under eighteen years of age;
- (k) is a person who is or would be prohibited from being a Director of a company, or being concerned or taking part in the promotion, formation or management of any commercial activity;

2. *Terms of office and conditions of service of members of Board*

(1) A member of the Board shall —

- (a) hold office for such period, not exceeding three years and is eligible for reappointment;
- (b) not assume automatic reappointment at the end of his or her term of office.

(2) On the expiry of the period for which an appointed member has been appointed to the Board, he or she shall continue to hold office until he or she has been re-appointed or his or her successor has been appointed:

Provided that a member shall not continue to hold office in terms of this subsection for more than six months.

(3) Members of the Board shall hold office on such conditions as the President may fix for members generally.

3. *Vacation of office by members of Board*

(1) A member of the Board shall vacate his or her office and his or her office shall become vacant —

- (a) resigns from office by giving not less than twenty-eight days' notice in writing to the responsible Minister;
- (b) is removed from office by the President upon recommendation of the responsible Minister;
- (c) becomes disqualified from being a Director under paragraph 1;
- (d) has been found guilty of an offence committed under this Act;
- (e) dies;

- (f) is absent from office for 3 consecutive meetings without the written consent of the Chairperson; or
- (g) completes his or her tenure in office.

4. *Filling of vacancies on Board*

Subject to this Schedule, on the death of, or the vacation of office by, a member of the Board, the Minister may appoint a person to fill the vacancy:

Provided that, if the number of members is fewer than the minimum number of members specified in paragraph 6, the President shall, in consultation with the national committee responsible for the nomination of senior corporate executives and non-executive officials, and with the responsible Minister, shall forthwith (and in any case within 30 days of the vacancy occurring) appoint a person to fill the vacancy.

5. *Dismissal of appointed members*

(1) Subject to subparagraph (2), if the Minister is satisfied on reasonable grounds that —

- (a) the Board has contravened this Act or any other law and has failed to rectify the contravention within a reasonable time after being required to do so by the Minister; or
- (b) the Board has failed to comply with a direction in terms of section 8; or
- (c) whether through disagreements among its members or otherwise, the Board is unable to carry out any of its functions in terms of this Act,

and that it is in the national interest to do so, the President may, by written notice to the chairperson and Chief Executive Officer, dismiss all the appointed members and their offices shall become vacant as soon as the Chief Executive Officer receives the notice.

6. *Co-opted members of Board*

Where for the purpose of any meeting, the Board is of the opinion that the contribution of a particular person would add value to their deliberations, the Board may with the approval of the Minister, co-opt that person to the Board:

Provided that —

- (a) a person shall not be co-opted to the Board if he or she is disqualified from membership of the Board in terms of paragraph 7;
- (b) a co-opted person shall have no vote in any decision by the Board.

7. *Meetings and procedure of Board*

(1) Subject to this Act, the Board shall meet for the dispatch of business and adjourn, close and otherwise regulate its meetings and procedures in terms of its Board Charter:

Provided that the Board shall meet at least four times annually.

(2) Every Board —

- (a) shall hold an Annual Meeting not more than 3 months after the close of the financial year of the public enterprise —
 - (i) to consider and approve the report of the Board, the audited financial statements and the auditor's report for the financial year;
 - (ii) to make recommendations on the payment of dividends by the public enterprise; and
 - (iii) to deal with any financial or other matters of the public enterprise;
 - (iv) to appoint the external auditor of the public enterprise for the next financial year;

- (b) shall hold a special meeting not less than 3 months prior to the close of each financial year of the public enterprise in order to consider and approve the budget and the calendar of ordinary meetings, of which there shall be at least one every 2 months, of the next following financial year; and
 - (c) shall in addition to the meetings referred to in paragraphs (a) and (b), hold ordinary meetings —
 - (i) in accordance with the calendar of meetings approved under paragraph (b) provided that the Board may at any of its meetings amend the calendar provided that it holds at least one meeting every 2 months;
 - (ii) when directed in writing (stating the reason for the calling of the meeting) by the responsible Minister; or
 - (iii) at the request in writing (stating the reason for the calling of the meeting) of any Directors.
 - (d) Where a meeting is convened in accordance with paragraph (c), the notice of the meeting shall state the purpose of the meeting.
- (3) The quorum for a meeting of the Board shall be as follows —

| Total Number of Members | Quorum |
|-------------------------|--------|
| Five | Three |
| Six | Four |
| Seven to Eight | Five |
| Nine | Six |

(4) The Chairperson or in the absence of the Chairperson, the Vice-Chairperson or, in the absence of both, the Chairperson and the Vice-Chairperson, a Director elected by the other Directors for this purpose at the meeting, shall preside at a meeting of the Board.

(5) At a meeting of the Board each Director has one vote in respect of any matter which is before the Board for its decision but in the event of an equality of votes, the person presiding at the meeting shall, in addition, have a casting vote.

(6) All decisions, acts, matters or things authorised or required to be done by the Board of the Board shall be by a majority of votes of the Directors present and voting at a meeting at which a quorum is present.

(7) A Director who has a direct or indirect interest in any matter to be decided by the Board of a public enterprise shall disclose the nature of the interest at a meeting of the Board and shall not vote on the matter nor take part in any discussion in respect of that matter.

(8) All orders, directions or decisions of a Board of a public enterprise shall be given or notified under the hand of the Chairperson, or such other Director as the Board may appoint for this purpose.

(9) The chairperson of the Board may at any time and shall, at the request in writing of not fewer than three members, convene a special meeting of the Board, which meeting shall be convened at a date not sooner than seven days nor later than thirty days after receipt of such request.

(10) At all meetings of the Board each member present shall have one vote on each question before the Board:

Provided that —

- (a) in the event of an equality of votes, the chairperson or person presiding shall have a casting vote in addition to his or her deliberative vote;
- (b) no member shall take part in the consideration or discussion of, or vote on, any question before the Board which relates to his or her vacation of office as a member;
- (c) any proposal circulated among all members of the Board and agreed to by a majority of them shall have the same effect as

a resolution passed at a duly constituted meeting of the Board and shall be incorporated in the minutes of the next succeeding meeting of the Board (but if a member requires that any such proposal be placed before the Board, this subsection shall not apply to the proposal.)

8. Electronic meetings of the Board

(1) In addition to meetings with members physically present, the Board may hold or continue a meeting by the use of any means of communication by which all the members at the meeting can hear and be heard at the same time (hereinafter referred to as an “electronic meeting”).

(2) A member who participates in an electronic meeting is taken for all purposes to have been present at the meeting.

(3) The Board may establish procedures for electronic meetings (including recording the minutes of such meetings).

9. Committees of Board

(1) For the better exercise of its functions, the Board may establish committees in which, it may vest such of its functions as it thinks fit:

Provided that the vesting of a function in a committee shall not prevent the Board itself from exercising that function, and the Board may amend or rescind any decision of the committee in the exercise of that function.

(2) On establishing a committee, the Board may appoint to the committee persons who are not members of the Board, but at least one of the members must be a member of the Board who shall be the chairperson of the committee (or one of them shall be the chairperson if two or more members are appointed to the committee.)

(3) The chairperson of the Board or of a committee of the Board may at any reasonable time and place convene a meeting of that committee.

(4) Subject to this paragraph, subparagraphs (2) to (8) of paragraph 12

shall apply, *with the necessary changes*, to committees and their members as they apply to the Board and its members.

(5) The Board may appoint an advisory committee comprising international experts or representatives from competent civil aviation authorities in partner countries to provide specialized advice and guidance in areas where Seychelles may require external support and expertise.

10. Members of Board and committees to disclose certain connections and interests

(1) In this paragraph —

“relative”, in relation to a member of the Board or a committee, means the member's spouse, life partner child, parent, business partner, associate or employer (other than the State), brother or sister.

(2) Upon appointment of a person as a member of the Board, that person must submit to the Minister and the Board a written statement in which he or she declares whether or not he or she has any interest contemplated in subsection (3).

(3) Subject to subparagraph (5) —

(a) if a member of the Board or of a committee —

(i) knowingly acquires or holds a direct or indirect pecuniary interest in any matter that is under consideration by the Board or the committee; or

(ii) owns any property or has a right in property or a direct or indirect pecuniary interest in a company or association of persons which results in the member's private interests coming or appearing to come into conflict with his or her functions as a member; or

(iii) knows or has reason to believe that his or her relative —

- A. has acquired or holds a direct or indirect pecuniary interest in any matter that is under consideration by the Board or the committee; or
 - B. owns any property or has a right in property or a direct or indirect pecuniary interest in a company or association or persons which results in the member's private interests coming or appearing to come into conflict with his or her functions as a member; or
- (b) if for any reason the private interests of a member of the Board or of a committee come into conflict with his or her functions as a member;
 - (c) the member shall forthwith disclose the fact to the Board or the committee, as the case may be.

(4) A member referred to in subparagraph (2) shall take no part in the consideration or discussion of, or vote on, any question before the Board or the committee, as the case may be, which relates to any property, right or interest referred to in that subparagraph.

(5) Nothing in this paragraph shall be taken to prevent members of the Board or of a committee of the Board from taking part in the consideration of, or voting on, any matter that affects members generally in their capacity as persons liable to pay revenue.

(6) If an organisation or enterprise in which the Board member has an interest contemplated in section (1) is requested to offer its services, the Board member must immediately, in writing, declare his or her interest to the Minister and the Board.

(7) Any person who contravenes subparagraph (2), (3) or (4) shall be guilty of an offence and liable to a fine not exceeding level three on the Standard scale of fines or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

11. Minutes of proceedings of Board and of committees

(1) The Board shall cause minutes of all proceedings of and decisions taken at any meeting of the Board or of a committee of the Board to be entered in books kept for the purpose.

(2) Any minutes which purport to be signed by the chairperson of the meeting to which the minutes relate or by the chairperson of the next following meeting of the Board or the committee concerned, as the case may be, shall be accepted for all purposes on their face as proof of the proceedings of and decisions taken at that meeting.

(3) The Board shall ensure that copies of all minutes of its meetings are sent to the Minister, for his or her information, without delay after they have been signed.

12. Remuneration and allowances of members of Board and of committees

(1) Members of the Board and of committees of the Board shall be paid —

- (a) such remuneration, if any, as the President may from time to time fix for members of the Board or members of committees, as the case may be, generally; and
- (b) such allowances, if any, as the President may fix to meet any reasonable expenses incurred by the member in connection with the business of the Board or the committee, as the case may be.

(2) Remuneration payable to a member of the Board shall not be reduced during his or her tenure of office.

13. Validity of decisions and acts of Board and committees

No decision or act of the Board or a committee or act that is authorised by the Board or a committee shall be invalid solely because there was a vacancy in the membership of the Board or the committee or because a disqualified person purported to act as a member of the Board or the committee, as the case may be, at the time the decision was taken or the act was done or authorised.