

Seychelles

Commercial Code Act

Chapter 38

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Commercial Code Act

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Seychelles

Commercial Code Act

Chapter 38

Commenced on 1 January 1977

[This is the version of this document as it was at 1 December 2014 to 30 June 2021.]

*[Act 5 of 1976; S.I. 72 of 1976; Act [23 of 1976](#); Act [22 of 1980](#); *Act [8 of 1992](#)]*

1. Citation

- (1) This Act may be cited as the Commercial Code Act.
- (2) This Act shall bind the Republic.

2. Interpretation

In this Act, unless the context otherwise requires—

"**appointed date**" means the date appointed by the Minister under [section 1](#) for the coming into operation of this Act;

"**Civil Code**" means the Civil Code of Seychelles;

"**Commercial Code of Seychelles**" means the Code set out in the First Schedule;

"**enactment**" means any Act, arrêté, proclamation or regulations, and includes rules of court;

"**existing Code**" means the Code of Commerce referred to in [section 4](#);

"**this Act**" includes the Commercial Code of Seychelles;

"**revised edition of the Act**" means the revised edition of the Laws of Seychelles prepared under the authority of the Law Revision Act, 1972.

3. Commencement of Commercial Code of Seychelles

Subject to the provisions of this Act, the Commercial Code of Seychelles shall come into operation on the appointed date.

[Note: The Act was brought into operation on 1 January 1977 by S.I. 95 of 1976]

4. Code of Commerce to cease to have effect

The Code of Commerce promulgated by the Arrêté of the 14th July 1809 (Decaen N. 208) as set out in Chapter 58 of the revised edition of the Acts (1971) and all amendments thereto, shall cease to have effect in Seychelles.

5. Text to be deemed to be original version

The text of the Commercial Code of Seychelles, as in this Act contained, shall be deemed for all purpose to be an original text and shall not be construed or interpreted as a translated text.

6. Previous amendments etc. of existing Code not affected

- (1) Nothing in this Act shall affect the operation prior to the appointed date of any enactment repealed or amended by this Act, or the previous operation of any amendment or modification by any such enactment of any article of the existing Code.
- (2) Where, prior to the appointed date, any article of the existing Code ceased to have effect in Seychelles by virtue of any enactment repealed or amended by this Act, the inclusion of such article of the existing Code in the Commercial Code of Seychelles shall not affect or be affected by the previous operation of any such enactment.

7. Saving of existing laws altering existing Code except inconsistencies

- (1) Subject to subsection (2), any enactment whereby the existing Code was altered, modified or varied in Seychelles shall not, as regards any such alteration, modification or variation in force immediately before the appointed date, be affected by the coming into force of the Commercial Code of Seychelles unless, and except to the extent that, it is inconsistent with the Commercial code of Seychelles.
- (2) The Minister may, by order in the *Gazette*, provide that any enactment specified in the order as being an enactment referred to in subsection (1), shall, notwithstanding anything therein inconsistent with the Commercial Code of Seychelles, have effect in Seychelles subject (if the order so provides) to such modifications or qualifications as may be specified in the order and to the extent so specified; any enactment so specified shall, until such order is revoked, expires or otherwise ceases to have effect, be read and construed for all purposes in conformity with such order without reference to subsection (1).
- (3) An order under subsection (2) shall come into force on such date as shall be specified therein, not being a date prior to the appointed date.

8. Act to prevail

Save as provided in [section 7](#), where there is any inconsistency between any provision of this Act and any provision in any enactment in force immediately prior to the appointed date, the provision of this Act shall prevail:

Provided that any inconsistency between the Commercial Code of Seychelles and the Civil Code of Seychelles shall not operate to invalidate the latter which shall continue to apply to all matters dealt with thereunder.

9. Construction

The Interpretation and General Provisions Act shall, subject to the provisions of this Act, apply in relation to the Interpretation of this Act, but shall not apply in relation to the Commercial Code of Seychelles, which shall be read and construed for all purposes in accordance with the rules of interpretation contained in the Civil Code of Seychelles.

10. Transitional amendments and repeals

- (1) The Second Schedule shall have effect in relation to the matters specified therein.
- (2) The enactments specified in the first column of the Third Schedule are amended respectively to the extent indicated in the second column thereof.
- (3) The enactments specified in the Fourth Schedule are repealed.

First Schedule (Section 2)

Commercial Code of Seychelles Act

The Commercial Code of Seychelles

[Note to official 1994 edition: The numbering of the articles of the Commercial Code of Seychelles is intended, so far as possible, to correspond with the articles of the existing Code. Articles which only exist in number and which are described as repealed are intended to account for articles in the existing Code (as set out in the Fourth Schedule of this Act) which have no equivalent in the Commercial Code of Seychelles or which have been repealed by the relevant Acts referred to in the Commercial Code of Seychelles.]

Book I - Commerce in general

Title I - Merchants

Article 1

1. Merchants are persons who in the course of their business, habitually perform acts with the main object being the acquisition of gain.
2. Generally merchants are those who engage in business or trade relating to the production, the distribution and the supply of services and those who, by the usages of trade, are recognised as merchants.
3. A body corporate shall be deemed to be engaged in commerce even if its object is non-commercial.

Article 2

An emancipated minor of either sex who wished to avail himself of the privilege of engaging in commerce granted to him by article 487 of the Civil Code, shall only be permitted to begin business, or shall be deemed of full age in respect of obligations undertaken by way of trade, if he has been expressly authorised by the Court.

Article 3

[repealed by Commercial Code Act. Fourth Schedule]

Article 4

1. A married woman shall have full legal capacity as if she were a femme sole. In particular, she shall be free to engage in commerce without the consent of her husband and shall alone be subject, in respect of her separate property, to the insolvency laws.
2. However, she shall not be presumed to be a merchant, acting on her own account or jointly with her husband, if she merely assists him as his employee or agent.

Article 5

[repealed by Commercial Code Act. Fourth Schedule]

Article 6

[repealed by Status of Married Woman Act. Schedule I]

Article 7

[repealed by Status of Married Woman Act. Schedule I]

Title II - Commercial books

Article 8

1. Every merchant and every body corporate shall be bound to keep books or accounts. Such books or accounts shall contain all transactions entered into by the merchant or the body corporate on any account whatever. The records of such transactions, whether they consist of receipts, invoices, letters received or copies of letters sent, shall be deemed to be an integral part of the books or accounts kept.
2. Small traders, such as street traders, hawkers and other traders, who do not operate in a stable and regular way from business premises shall be exempt from the obligation to keep books or accounts. Such exemption, however, shall not confer any benefit upon them in respect of any assessment related to the payment of tax on income.
3. Nothing in this article shall affect the obligations of a legal person incorporated under the Companies Act, for which special provision is made thereunder.

Article 9

The books and accounts which merchants are bound to keep in accordance with paragraph 1 of article 8 of this Code shall also contain an annual balance sheet of assets and liabilities drawn up in accordance with the principles which are generally accepted by commercial practice. Such sheet shall be complete, clear and easy to read and must indicate as accurately as possible the financial position of the business or trade in which the merchant is engaged.

Article 10

The books and accounts kept by merchants shall not contain blank spaces nor shall any entry be added to, altered, erased or modified by any marginal entry.

Article 11

1. The books and documents referred to in articles 8 and 9 of this Code shall be retained for a period of ten years. The correspondence received and the copies of the letters sent shall be filed and retained for the same period. After ten years it shall be presumed that the books, documents and correspondence are no longer available.
2. In the case of a sale of the business other than a business incorporated under the Companies Act, such books, documents and correspondence shall remain the property of the seller subject to his obligation during the five years immediately following the sale to accede to a reasonable request of the buyer to place such books and documents at the buyer's disposal. The seller may elect to transfer the ownership thereof to the buyer.

Article 12

1. Commercial books, accounts and documents regularly kept, shall be admissible by the Judge as evidence between merchants in respect of commercial transactions. But the person who wants to rely upon such books may not leave out such part of the contents as is contrary to his claim.
2. The admissibility of book entries of merchants in transactions with non-merchants shall be governed by articles 1329 and 1330 of the Civil Code.
3. Paragraphs 1 and 2 of this article shall be without prejudice to the provisions of the Evidence (Bankers' Books) Act, or to any regulations made thereunder; or to the provisions of any law from time to time enforced.

Article 13

When the books, which persons engaged in commerce are bound to keep, are not properly or regularly kept, the Court shall be entitled to draw therefrom such inferences as may be reasonable in the circumstances.

Article 14

A party who, having a lawful cause, is unreasonably refused access to the commercial books and documents of another, may ask the Court to order the production of such books and documents.

Article 15

In the course of proceedings the Court may also order at its discretion the production of all books and documents or of extracts therefrom.

Article 16

In case the books the production of which is offered, required or ordered, are not easily available it shall be open to the Court to order that they shall be inspected by a person appointed by the Court. Such person shall be bound to draft a statement of the contents of such books and transmit it to the Court without delay.

Article 17

If a party in proceedings before the Court does not produce or offer to produce the books in evidence the Judge shall be entitled to tender the oath to the other party.

Title III* - Legal persons

Section I - The kings of legal persons and the rules applicable thereto

Article 18

[repealed by Commercial Code Act. Fourth Schedule]

Article 19

[repealed by Commercial Code Act. Fourth Schedule]

Article 20

[repealed by Commercial Code Act. Fourth Schedule]

Article 21

[repealed by Commercial Code Act. Fourth Schedule]

Article 22

[repealed by Commercial Code Act. Fourth Schedule]

Article 23

[repealed by Commercial Code Act. Fourth Schedule]

Article 24

[repealed by Commercial Code Act. Fourth Schedule]

Article 25

[repealed by Commercial Code Act. Fourth Schedule]

Article 26

[repealed by Commercial Code Act. Fourth Schedule]

Article 27

[repealed by Commercial Code Act. Fourth Schedule]

Article 28

[repealed by Commercial Code Act. Fourth Schedule]

Article 29

[repealed by Companies Act, 1972. Eighth Schedule]

Article 30

[repealed by Companies Act, 1972. Eighth Schedule]

Article 31

[repealed by Companies Act, 1972. Eighth Schedule]

Article 32

[repealed by Companies Act, 1972. Eighth Schedule]

Article 33

[repealed by Companies Act, 1972. Eighth Schedule]

Article 34

[repealed by Companies Act, 1972. Eighth Schedule]

Article 35

[repealed by Companies Act, 1972. Eighth Schedule]

Article 36

[repealed by Companies Act, 1972. Eighth Schedule]

Article 37

[repealed by Companies Act, 1972. Eighth Schedule]

Article 38

[repealed by Commercial Code Act. Fourth Schedule]

Article 39

[repealed by Commercial Code Act. Fourth Schedule]

Article 40

[repealed by Companies Act, 1972. Eighth Schedule]

Article 41

[repealed by Companies Act, 1972. Eighth Schedule]

Article 42

[repealed by Companies Act, 1972. Eighth Schedule]

Article 43

[repealed by Companies Act, 1972. Eighth Schedule]

Article 44

[repealed by Companies Act, 1972. Eighth Schedule]

Article 45

[repealed by Companies Act, 1972. Eighth Schedule]

Article 46

[repealed by Commercial Code Act. Fourth Schedule]

Article 47

1. The law recognises four kinds of legal persons:
 - 1st. A company formed and registered under the Companies Act.
 - 2nd. An association, the object of which is not pecuniary gain to its members, and registered under the Registration of Associations Act.
 - 3rd. A partnership under articles 1832 to 1873 inclusive of the Civil Code.
 - 4th. A commercial partnership of no more than ten persons the object of which is the acquisition of gain. It shall be subject to the same rules as a partnership under the Civil Code to the extent that it is not contrary to the laws and usages of commerce or the provisions of this Code. Subject to article 55 of this Code.
2. The aforementioned classification shall not affect any bodies, whether corporate or not, which were in existence prior to the promulgation of this Code, or which are created in the future by a special law.
3. An overseas corporation, association or foundation created or recognised under the laws of an overseas country and for the time being continuing to exist as a legal person under those laws shall be recognised as having corporate existence in Seychelles. Such corporation may sue and be sued as a corporate body under its corporate name or under the name by which it is generally known in Seychelles.
4. The powers of an overseas corporation shall be governed by its constitution as given effect by the law of the country of its incorporation to do any act or enter any transaction and the validity of such act or transaction shall be subject to the law of the country where the act is done or the transaction occurs.
5. Nothing in this Code shall affect the corporate status or personality or moral personality of an overseas company under the Companies Act.

Article 48

1.

Commercial partnerships relate to one or several commercial transactions. They may be carried on for the purposes, according to the forms, in the proportions of interest and in the conditions agreed upon among the partners.
2. In commercial partnerships the partners may vary the conditions applicable to partnerships under the Civil Code, provided:
 - 1st that if the contract of partnership is in writing any variation thereof shall also be in writing;
 - 2nd that an agreement whereby one of the partners obtains all the profits shall be null.

Article 49

[repealed by Commercial Code Act. Fourth Schedule]

Article 50

Subject to the first rule of paragraph 2 of article 48 of this Code it shall be open to the Court, notwithstanding the provisions as to admissibility of evidence in respect of civil partnerships under article 1834 of the Civil Code, to admit in respect of commercial partnerships such evidence as it deems appropriate in the circumstances.

Section II - The management of commercial partnerships

Article 51

The change of the members of the partnership or of the form under which it engages in business or trade shall not be presumed to create a different body corporate.

Article 52

A merger or a split of a commercial partnership shall have no effect without the unanimous approval of all the partners, if it results in an increase of the obligations of any one of the partners.

Article 53

The survival of the legal personality of a commercial partnership in liquidation shall be implied to the extent that it is necessary for the purposes of such liquidation.

Article 54

The abuse of the legal personality shall constitute a fault under paragraph 3 of article 1382 of the Civil Code.

Article 55

1. In a commercial partnership the partners shall be jointly and severally liable for the partnership debts.
2. Notwithstanding article 1863 of the Civil Code, in a commercial partnership it shall only be possible to limit liability towards third parties by incorporation under the Companies Act.

Article 56

A partner shall not bind the other partners unless such partners have empowered him to do so. A third party, however, who has treated with a partner who has acted without authority, shall not be penalised if it was reasonable, in the special circumstances of a case, for such a party to assume that the partner has acted with the authority of the other partners. In this respect article 2009 of the Civil Code dealing with the ostensible authority of the agent shall have application *mutatis mutandis*.

Article 57

Unless the partners in a commercial partnership have agreed upon the method of dividing the profits upon dissolution, the partners individually shall be paid in the proportion in which they shared in the capital of the partnership at the time when the partnership was dissolved.

Article 58

[repealed by Seychelles Code of Civil Procedure]

Article 59

[repealed by Seychelles Code of Civil Procedure]

Article 60

[repealed by Seychelles Code of Civil Procedure]

Article 61

[repealed by Seychelles Code of Civil Procedure]

Article 62

[repealed by Seychelles Code of Civil Procedure]

Article 63

[repealed by Seychelles Code of Civil Procedure]

Article 64

The rules of prescription laid down in the Civil Code shall also have application in respect of the obligations arising out of the contract of partnership or any commercial activity thereunder.

Title IV - Separation of property**Article 65**

[repealed by Status of Married Women Act. Schedule 1]

Article 66

[repealed by Status of Married Women Act. Schedule 1]

Article 67

[repealed by Status of Married Women Act. Schedule 1]

Article 68

[repealed by Status of Married Women Act. Schedule 1]

Article 69

[repealed by Status of Married Women Act. Schedule 1]

Article 70

[repealed by Status of Married Women Act. Schedule 1]

Title V - Exchanges, money dealers and brokers

Article 71

[repealed by Commercial Code Act. Fourth Schedule]

Article 72

[repealed by Commercial Code Act. Fourth Schedule]

Article 73

[repealed by Commercial Code Act. Fourth Schedule]

Article 74

[repealed by Commercial Code Act. Fourth Schedule]

Article 75

[repealed by Commercial Code Act. Fourth Schedule]

Article 76

[repealed by Commercial Code Act. Fourth Schedule]

Article 77

[repealed by Commercial Code Act. Fourth Schedule]

Article 78

[repealed by Commercial Code Act. Fourth Schedule]

Article 79

[repealed by Commercial Code Act. Fourth Schedule]

Article 80

[repealed by Commercial Code Act. Fourth Schedule]

Article 81

[repealed by Commercial Code Act. Fourth Schedule]

Article 82

[repealed by Commercial Code Act. Fourth Schedule]

Article 83

[repealed by Commercial Code Act. Fourth Schedule]

Article 84

[repealed by Commercial Code Act. Fourth Schedule]

Article 85

[repealed by Commercial Code Act. Fourth Schedule]

Article 86

[repealed by Commercial Code Act. Fourth Schedule]

Article 87

[repealed by Commercial Code Act. Fourth Schedule]

Article 88

[repealed by Commercial Code Act. Fourth Schedule]

Article 89

[repealed by Commercial Code Act. Fourth Schedule]

Article 90

[repealed by Commercial Code Act. Fourth Schedule]

Title VI - Pledges, mercantile agents and carriers**Section I - Pledges****Article 91**

When the pledge has been given by a trader or by a person who is not a trader in a transaction of a commercial nature, the contract of pledge may be proved as provided by paragraph 1 of article 2074 of the Civil Code. In all other cases paragraphs 2 to 7 inclusive of the aforementioned article shall have application. Subject to any laws relating to pledges, or bills of exchange which are in force. Subject also to the Companies Act in respect of any pledge, mortgage or charge created by a company or an overseas company or affecting any assets of a company or an overseas company.

Article 92

1. In respect of any pledges under the aforementioned article 91 of this Code, the privilege upon the pledge shall only exist to the extent that the goods are in the possession of the creditor or delivered to a third

person agreed upon by the parties and in respect of the principal, interest, commission fees and costs. Subject to the provisions of the Security on Movables Act.

2. The creditor or third person of the previous paragraph shall be presumed to be in possession of the goods when they are at his disposal or order in his stores or vessels or at the Customs; or if he is a holder of a consignment or if, in respect of goods which have not yet arrived in Seychelles, he holds a bill of lading of the goods pledged to him.

Article 93

If the debtor fails to pay when the debt falls due the creditor may, eight days after serving notice to the debtor and to the third party, if any, proceed to the public sale of the property pledged. A creditor may, with the permission of the Court, keep the property pledged by way of payment to the extent of its value. The Court may determine the value of such property without any reference to an expertise if the amount due is precisely known and the debtor obviously solvent.

Section II - Mercantile agents in general

Article 94

A mercantile agent is a person who transacts business either in his own name or under a trade name for the account of a principal. If he transacts business for his own account, in his own name or under a trade name, he is called a factor. Such factors are entrusted with the possession and disposal of property. If the mercantile agent transacts business for the account of a principal the agent's rights and duties are determined by the Civil Code, Title XIII of Book III.

Article 95

1. Every mercantile agent shall enjoy privilege upon the goods or the proceeds of the sale of goods sent to, deposited with or consigned to him from the mere dispatch, deposit or consignment thereof in respect of all loans, advances or payments made by him, either before the reception of the same, or during the time they remained in his possession. Such privileges shall exist to the extent that the goods are in the possession of the creditor as provided by article 92 of this Code.
2. In respect of such privilege and any other rights and duties of mercantile agents in general, article 2102 of the Civil Code shall have application.

Section III - Mercantile agents for the purposes of carriage by land, water and air

Article 96

A mercantile agent who undertakes the carriage of goods by land, sea and air shall be bound by the rules laid down in articles 1782 to 1786 of the Civil Code.

Article 97

[repealed by Commercial Code Act. Fourth Schedule]

Article 98

[repealed by Commercial Code Act. Fourth Schedule]

Article 99

1. A mercantile agent shall be answerable for any intermediary mercantile agent, whom he has charged with the dispatch of the goods, in the same way as the agent is for any person whom he has put in his place in charge of management under article 1994 of the Civil Code.
2. Notwithstanding the provisions of paragraph 1 of this article the mercantile agent shall not be liable if he is bound to accept a particular carrier chosen by the person on whose account the agent acts.

Article 100

Unless the parties have made a special agreement, when the services of a mercantile agent are used for the dispatch and delivery of the goods, the risk of loss, damage or delay thereof shall be borne by the owner. Subject to his right to be indemnified by the mercantile agent or the carrier of the goods. In respect of such dispatch and delivery Title III of Book III of the Civil Code on Contracts and Agreement in General shall have application.

Article 101

A consignment note or a receipt for goods delivered shall be evidence of a contract between the consignor and the carrier. When the contract is for the delivery of goods to a third party such consignment or receipt shall be evidence of the carrier's legal obligation to such third party. The Court may, however, freely determine in respect of such contracts, the extent to which evidence other than the aforementioned consignment note or receipt shall be taken into account.

Article 102

A consignment note shall not be made to order. Nevertheless, if such a consignment note or other document or receipt treated as such, refers specifically to a named third party as consignee, such reference shall be *prima facie* evidence that the consignee is entitled to the possession of the goods consigned and the carrier shall be under a duty to deliver the same.

Section IV - Carriers

Article 103

1. A carrier shall be liable for delay in delivery or the loss of the goods entrusted to him. He shall also be liable for all damage which does not arise from a defect inherent to the goods. However, in respect of the loss or damage of such goods, the carrier shall escape liability if he proves that such loss or damage cannot be imputed to him but it occurred through an inevitable accident or an act of God, as laid down in articles 1147, 1148 and 1784 of the Civil Code.
2. The carrier, however, shall discharge his liability to the person entitled to the goods if he can show that he has taken out insurance to the full value of the goods, and against delay, during the whole period in which he or any intermediary, is in control of such goods. Where such insurance has been taken the person entitled to the goods may proceed directly against the insurance company and shall be subrogated to the rights of the carriers. If such carrier fails to insure when it is reasonable to do so, having regard to the nature of the goods and the other circumstances of the case, such failure shall be deemed evidence of negligence. The carrier shall also discharge his aforementioned liability if he can prove that the goods, during the period in which they are under his control, are insured to their full value by the sender or by the person to whom the goods are sent.

Article 104

If, because of an inevitable accident or an act of God, the goods are not delivered within the period stipulated, no indemnity shall be payable by the carrier on account of the delay. Nevertheless, any penal clauses inserted in the contract in respect of delay, shall be valid to the extent that they are declared valid by article 1229 of the Civil Code.

Article 105

1. Where goods are delivered to their destination by the carrier, which the buyer has not previously examined, the latter is not deemed to have accepted them unless and until he has had a reasonable opportunity of examining them for the purpose of ascertaining whether they are in conformity with the contract.
2. When the carrier tenders delivery of the goods to the buyer, he is bound, on request, to afford the buyer a reasonable opportunity of examining the goods for the purpose of ascertaining whether they are in conformity with the contract.
3. The buyer is deemed to have accepted the goods when he intimates to the seller or the carrier that he has accepted them, or when the goods have been delivered to him, and he does any act in relation to them which is inconsistent with the ownership of the seller, or when, after the lapse of a reasonable time, he retains the goods without intimating to the seller that he has rejected them.
4. All stipulations inconsistent with this article shall be null. This paragraph, however, shall not affect the validity of any terms applicable by virtue of an international Convention in respect of the international carriage of goods.

Article 106

1. Unless otherwise agreed, where the goods are delivered to the buyer and he refuses to accept them, having the right so to do, he is not bound to return them to the seller, but it is sufficient if he intimates to the seller that he refuses to accept them.
2. If the buyer refuses to accept the goods, any party having a lawful interest may apply to the Court and request an expertise as to the condition of the goods at the time of delivery. Such request may be granted at the discretion of the Court, which may make such order as to the goods as it thinks fit in the circumstances of the case. In particular, the Court shall be free to order the sale of the goods to the extent of the costs of the carriage and for the benefit of the carrier.

Article 107

The provision of this title shall apply to all types of carriage. Subject to the rules established by any international convention to the extent that it is adopted by the parties as the law of the contract under paragraph 7 of article 3 of the Civil code, or by any international conventions applicable to Seychelles or such special domestic legislation as is enacted from time to time.

Article 108

Actions arising out of the carriage of goods, as well as all other commercial actions, shall be subject to the rules of prescription established by Title XX of Book III of the Civil Code. The period runs as from the time when the right of action arose.

Title VII - Sale

Article 109

1. A sale may be proved:
 - By an authentic document,
 - By a document under private signature,
 - By the sale note or the account note of a money dealer or broker, duly signed by the parties,
 - By an invoice which has been accepted,
 - By the correspondence,
 - By the accounting books of the parties,
 - By the evidence of witnesses admissible at the discretion of the Court.
2. The rules of proof contained in the first paragraph of this article shall be equally applicable to all commercial matters.

Article 109 – 1

In commercial matters joint and several liability shall be presumed and need not be expressly stated.

Article 109 – 2

In commercial transactions damages shall be due by operation of law from the moment that the breach occurs without the necessity of a previous notification as provided for ordinary contracts under article 1146 of the Civil Code.

Article 109 – 3

When a breach of a commercial contract occurs, the party innocent of the breach shall be entitled to treat the contract as discharged by operation of law.

The rules of article 1184 of the Civil Code, insofar as they require that when a breach of contract occurs discharge thereof shall be obtained through proceedings, shall not apply to commercial transactions.

Article 109 – 4

1. When the sale is by a trader to another, of things which one normally tastes before buying, notwithstanding the rule of article 1587 of the Civil Code, the sale shall be complete if the goods are of merchantable quality. Subject to article 1619 of the Civil Code. This rule as to the quality of fitness of the goods shall not apply if the buyer has examined such goods and the examination ought to have revealed the defects thereof.
2. If goods are sold by description, it shall be an implied condition of the sale that the goods are reasonably fit for the purpose for which they are sold. Subject to the rule relating to the examination of the buyer in paragraph 1 of this article and article 1619 of the Civil Code. Subject also to article 1625 of the Civil Code.
3. Nevertheless, notwithstanding any provision to the contrary, when specific goods are sold under a patent or trade name there shall be no condition as to their fitness for any particular purpose.

Article 109 – 5

In the case of a sale by sample or subject to a trial, there is an implied condition that the bulk shall correspond with the sample in quality; that the buyer shall have a reasonable opportunity for comparing the bulk with the sample; and that the goods shall be free from any defect, rendering them unmerchantable, which would not be apparent on reasonable examination of the sample.

Article 109 – 6

The sale of goods, in a manner which constitutes an abuse of fair, well-recognised and established commercial practises, shall be subject to paragraph 3 of article 1382 of the Civil Code.

Article 109 – 7

1. An unpaid seller may exercise his right of stoppage in transitu either by taking actual possession of the goods or by giving reasonable notice of his claim to the carrier or other intermediary in whose possession the goods are. Such carrier or intermediary shall be bound to re-deliver the goods to the seller who shall bear the cost of such re-delivery. Subject to paragraph 2 of this article. This rule shall apply notwithstanding any rule arising out of the passing of the ownership of goods by the contract.
2. The unpaid seller's right to recover goods in transitu shall not be affected by any sale or other disposition of the goods which the buyer may have made, unless the seller has assented thereto. Provided that where a document of title has been lawfully transferred to any person as buyer or owner of the goods, and that person transfers the document to a person who takes the document in good faith and for value, then, if such last-mentioned transfer was by way of sale, the unpaid seller's right of retention or stoppage in transitu is defeated. If such last mentioned transfer was by way of pledge or other disposition for value, the unpaid seller's right of retention or stoppage in transitu can only be exercised subject to the rights of the transferee.

Title VIII - Bills of exchange, promissory notes and prescription

Section I

[repealed by Bills of Exchange Act]

Title IX - Arbitration

Article 110

1. Any dispute which has arisen or may arise out of a specific legal relationship, and in respect of which it is permissible to resort to arbitration, may be subject to an arbitration agreement. Subject to articles 2044 to 2058 of the Civil Code relating to compromise.
2. An arbitration agreement may be annulled for fraud or duress.
3. The parties to an arbitration agreement may agree to forgo arbitration and submit to the jurisdiction of the Court. The submission by both parties to such jurisdiction shall be deemed to amount to the tacit renunciation of the arbitration agreement.
4. If an agreement containing an arbitration clause is judicially declared to be void, the arbitration clause therein shall also be void. However, an arbitration clause in an international agreement shall not be ipso facto void by reason only of the invalidity of such agreement.

5. Notwithstanding any rule in this article, when an Act specifically excludes arbitration in any specific agreement or dispute, such exclusion shall have effect. A term in a contract excluding arbitration under paragraph 2 of article 1148 of the Civil Code shall be null. Nothing in this article shall be construed as affecting arbitration as provided by the Civil Code.

Article 111

1. An arbitration agreement shall be constituted by an instrument in writing signed by the parties or by other documents binding on the parties and showing their intention to have recourse to arbitration.
2. If, in an arbitration agreement, the parties have referred to a particular arbitration procedure, that procedure shall be deemed to be included in the agreement.

Article 112

An arbitration agreement shall not be valid if it gives one of the parties thereto a privileged position with regard to the appointment of the arbitrator or arbitrators.

Article 113

1. The Court seized of a dispute which is the subject of an arbitration agreement shall, at the request of either party, declare that it has no jurisdiction, unless, insofar as the dispute is concerned, the agreement is not valid or has terminated.
2. An application to the Court for preservation or interim measures shall not be incompatible with an arbitration agreement and shall not imply a renunciation of such agreement.

Article 114

1. The arbitral tribunal shall be composed of an uneven number of arbitrators. However, a sole arbitrator may be appointed. Arbitrators must formally accept the appointment. Aliens shall not be excluded from being arbitrators.
2. If the arbitration agreement provides for an even number of arbitrators, an additional arbitrator shall be appointed.
3. If the parties have not settled the number of arbitrators in the arbitration agreement and do not agree on the number, the arbitral tribunal shall be composed of three arbitrators.

Article 115

The parties may, either in the arbitration agreement or subsequently thereto, appoint the sole arbitrator or the arbitrators or entrust the appointment thereof to a third party. If the parties have not appointed the arbitrators and have not agreed on a method of appointment, each party shall, when the dispute arises, appoint an arbitrator, or an equal number of arbitrators, as the case may be.

Article 116

1. The party who intends to bring a dispute before an arbitral tribunal shall give notice to the other party. The notice shall refer to the arbitration agreement and specify the subject-matter of the dispute, unless the arbitration agreement already does so.

2. If there is more than one arbitrator, and if the parties are entitled to appoint the same, the notice shall specify the arbitrator or arbitrators appointed by the party invoking the arbitration agreement; the other party shall be invited, in the notice, to appoint the arbitrator or arbitrators whom he is entitled to appoint.
3. If a third person has been entrusted with the appointment of a sole arbitrator or arbitrators and has not done so, he also shall be given notice in accordance with paragraph 1 and shall be invited to make such appointment.
4. The appointment of an arbitrator may not be withdrawn after notification of the appointment.

Article 117

1. If the party or third person to whom notice has been given in accordance with article 116 has not, within a period of one month from the notice, appointed the arbitrator or arbitrators whom the party or third person is entitled to appoint, the Court shall make the nomination at the request of either party.
2. If the parties have agreed that there shall be a sole arbitrator and they have not appointed him by mutual consent within a period of one month from the notice under article 116, the Court shall make the nomination at the request of either party.

Article 118

1. Where the arbitrators appointed or nominated in accordance with the foregoing provisions are even in number, they shall nominate another arbitrator who shall be president of the arbitral tribunal. If they do not agree, or if the parties have not provided otherwise, the Court shall make the necessary nomination at the request of either party. The Court may be seized after the expiration of a period of one month from the acceptance of his office by the last arbitrator or as soon as the failure to agree is established.
2. Where the arbitrators appointed are uneven in number they shall nominate one of themselves to be president of the arbitral tribunal, unless the parties have agreed on another method of appointment. If the arbitrators do not agree, the Court seized under paragraph 1 shall make the necessary nomination.

Article 119

1. If an arbitrator dies or cannot, by reason of some incapacity, legal or physical perform the functions of his office, or if he refuses to accept it or does not carry it out, or if his office is terminated by the mutual agreement of the parties, he shall be replaced in accordance with the rules governing his appointment or nomination. However, if the arbitrator or arbitrators are named in the arbitration agreement, the agreement shall terminate ipso jure.
2. A disagreement arising out of any case envisaged in paragraph 1 shall be brought before the Court on the application of one of the parties. If the Court decides that there are grounds for replacing the arbitrator, it shall nominate his successor, taking into account the intention of the parties, as it appears from the arbitration agreement.
3. The parties may derogate from the provisions of this article.

Article 120

Unless the parties have agreed otherwise, neither the arbitration agreement nor the office of arbitrator shall be terminated by the death of one of the parties.

Article 121

1. Arbitrators may be challenged on the same grounds as judges.
2. A party may not challenge an arbitrator appointed by him except on a ground of which the party has become aware after the appointment.

Article 122

1. The challenge shall, as soon as the challenger becomes aware of the ground of challenge, be brought to the notice of the arbitrators and, where applicable, of the third person who has, in pursuance of the arbitration agreement, appointed the arbitrator challenged. The arbitrators shall thereupon suspend further proceedings.
2. If within a period of ten days of the notice of the challenge being given to him, the arbitrator challenged has not resigned, the arbitral tribunal shall so notify the challenger. The challenger shall, on pain of being barred, bring the matter before the Court within a period of ten days from receiving such notification. Otherwise, the proceedings before the arbitrators shall be resumed ipso jure.
3. If the arbitrator resign or if the challenge is upheld by the Court, the arbitrator shall be replaced in accordance with the rules governing his appointment or nomination.

However, if he has been named in the arbitration agreement, the agreement shall terminate ipso jure. The parties may derogate from the provisions of this paragraph.

Article 123

1. The parties may in the arbitration agreement exclude certain categories of persons from being arbitrators.
2. If such an exclusion has been disregarded with respect of the composition of the arbitral tribunal, the irregularity shall be invoked in accordance with the provisions of article 122.

Article 124

1. Without prejudice to the provisions of article 125, the parties may decide on the rules of the arbitral procedure and on the place of arbitration. If the parties do not indicate their intention before the first arbitrator has accepted his office, the decision shall be a matter for the arbitrators.
2. The president of the arbitral tribunal shall regulate the hearings and conduct the proceedings.

Article 125

1. The arbitral tribunal shall give to each party an opportunity of presenting his case and of substantiating his claims.
2. The arbitral tribunal shall make an award after an oral hearing. The parties may validly be summoned by registered letter, unless they have agreed upon any other method of summons. The parties may appear in person.
3. The procedure shall be in writing where the parties have so provided or where an oral hearing has been waived.
4. Each party shall have the right to be represented by an attorney or by a duly accredited representative. Each party may be assisted by any person of his choice.

Article 126

If, without legitimate cause, a party properly summoned does not appear or does not present his case within period fixed, the arbitral tribunal may, unless the other party requests an adjournment, investigate the matter in dispute and make an award.

Article 127

1. The arbitral tribunal may rule in respect of its own jurisdiction and, to this effect, it may examine the validity of the arbitration agreement.
2. A ruling that the contract is invalid shall not entail ipso jure the nullity of the arbitration agreement contained therein.
3. The ruling of the arbitral tribunal to the effect that it has jurisdiction may not be contested before the court except at the same time as the award on the main issue and by the same procedure. The Court may, at the request of one of the parties, decide whether a ruling that the arbitral tribunal has no jurisdiction is well founded.
4. The appointment of an arbitrator by a party shall not deprive that party of his rights to challenge the jurisdiction of the arbitral tribunal.

Article 128

1. The parties may, up to the time of acceptance of office by the first arbitrator, settle the period within which the award is to be made or provide for a method according to which the period is to be settled.
2. If the parties have not prescribed a period or a method of prescribing a period, or if the arbitral tribunal delays in making the award and if a period of six months has elapsed from the date on which all the arbitrators accepted office in respect of the dispute submitted to arbitration, the Court may, at the request of one of the parties, stipulate a period for the arbitral tribunal.
3. The office of arbitrator shall terminate if the award is not made within the relevant period unless that period is extended by agreement between the parties.
4. Where arbitrators are named in the arbitration agreement and the award is not made within the relevant period, the arbitration agreement shall terminate ipso jure, unless the parties have agreed otherwise.

Article 129

Except where otherwise stipulated, an arbitral tribunal may make a final award in the form of one or more awards.

Article 130

Except where otherwise stipulated, arbitrators shall make their awards in accordance with the rules of law.

Article 131

1. An award shall be made after a deliberation in which all the arbitrators shall take part. The award shall be made by an absolute majority of votes unless the parties have agreed on another majority.
2. The parties may also agree that, when a majority cannot be obtained, the president of the arbitral tribunal shall have a casting vote.

3. Except where otherwise stipulated, if the arbitrators are to award a sum of money, and a majority cannot be obtained for any particular sum, the votes for the highest sum shall be counted as votes for the next highest sum until a majority is obtained.
4. An award shall be set down in writing and signed by the arbitrators. If one or more of the arbitrators are unable or unwilling to sign, the fact shall be recorded in the award. However, the award shall bear a number of signatures which is at least equal to a majority of the arbitrators.
5. An award shall, in addition to the operative part, contain the following particulars:
 - (a) the names and permanent addresses of the arbitrators;
 - (b) the names and permanent addresses of the parties;
 - (c) the subject-matter of the dispute;
 - (d) the date on which the award was made;
 - (e) the place of arbitration and the place where the award was made.
6. The reasons for an award shall be stated, unless the parties have by agreement released the arbitrators from this obligation.

Article 132

1. The president of the arbitral tribunal shall give notice to each party of the award by sending to each of such parties a copy thereof signed in accordance with paragraph 4 of

Article 131

2. The president of the arbitral tribunal shall deposit the original of the award with the registry of the Supreme Court having jurisdiction; he shall inform the parties of the deposit thereof.

[Note: The inclusion of a second (disordered) article 131 reflects the official 1994 edition]

Article 133

Unless the award is contrary to public policy or the dispute was not capable of settlement by arbitration, an arbitral award shall have the authority of res judicata when it has been notified in accordance with paragraph 1 of article 132 and may no longer be contested before arbitrators.

Article 134

1. An arbitral award may be attacked before a Court only by way of an application to set aside and may be set aside only in the cases mentioned in this article.
2. An arbitral award may be set aside:
 - (a) if it is contrary to public policy;
 - (b) if the dispute was not capable of settlement by arbitration;
 - (c) if there is no valid arbitration agreement;
 - (d) if the arbitral tribunal has exceeded its jurisdiction or its powers;
 - (e) if the arbitral tribunal has omitted to make an award in respect of one or more points of the dispute and if the points omitted cannot be separated from the points in respect of which an award has been made;

- (f) if the award was made by an arbitral tribunal irregularly constituted;
 - (g) if the parties have not been given an opportunity of presenting their case, and of substantiating their claims, or if there has been disregard of any other obligatory rule of the arbitral procedure, insofar as such disregard has had an influence on the arbitral award;
 - (h) if the formalities prescribed in paragraph 4 of article 131 have not been fulfilled;
 - (i) if the reasons for the award have not been stated;
 - (j) if the award contains conflicting provisions.
3. An award may also be set aside:
- (a) if it was obtained by fraud;
 - (b) if it is based on evidence that has been declared false by a judicial decision having the force of res judicata or on evidence recognised as false;
 - (c) if, after it was made, a document or other piece of evidence has been discovered which would have had a decisive influence on the award and which was withheld through the act of the other party.
4. A case mentioned in sub-paragraph (c), (d) or (f) of paragraph 2 shall be deemed not to constitute a ground upon which an award may be set aside, where the party availing himself of it had knowledge thereof during the arbitration and did not invoke it in the course of the same.
5. Grounds for the challenge and exclusion of arbitrators provided for under articles 121 and 123 shall not constitute grounds upon which the award may be set aside within the meaning of paragraph 2(f) of this article, even when they become known only after such award is made.
6. Subject to the rules enunciated in this article, an error of law contained in the award shall not be a ground upon which the Court may set aside such award.

Article 135

If there are grounds for setting aside any part of an award, that part shall be set aside only if it can be separated from the other parts of the award.

Article 136

1. The grounds upon which an arbitral award may be set aside shall, on pain of being barred, be put forward by the party concerned at one and the same time; subject, however, to the case of paragraph 3(c) of article 134 in respect of the suppression of a ground which came to the notice of the other party subsequently.
2. An application to set aside an award shall be admissible only where the award may no longer be contested before arbitrators.

Article 137

1. An application to set aside an award, based on one of the grounds under paragraph 2(c) to (j), of article 134 shall, on pain of being barred, be made within a period of three months from the date on which notice of the registration of such award has duly been served on the other party. However, that period shall begin to run only from the date on which the award is no longer capable of attack before arbitrators.
2. The defendant in an application to set aside an award may apply, in the same proceedings, for the award to be set aside, even if the period laid down in paragraph 1 of article 132 has expired.
3. An application to set aside an award, as provided in paragraph 3 of article 134, shall be made within a period of three months either from the date of the discovery of the fraud, document or other piece of

evidence or from the date on which the evidence was declared false or recognised as false, provided that a period of five years from the date on which the award was notified in accordance with paragraph 1 of article 132 has not expired.

4. The Court seized of an application to set aside an award shall examine proprio motu whether the award is contrary to public policy and whether the dispute was capable of settlement by arbitration.

Article 138

1. An arbitral award may be enforced only when it can no longer be contested before arbitrators.
2. An award under an arbitration agreement may be registered by leave of the Supreme Court or a Judge thereof, and enforced in the same manner as a judgement or order to the same effect and, where leave is so given, judgement may be entered in terms of the award.
3. The Court shall refuse the application if the award or its enforcement is contrary to public policy or if the dispute was not capable of settlement by arbitration.
4. A decision refusing the application may be subject to an appeal.

Article 139

1. When an award is registered by leave of the Supreme Court, notice of such registration shall be served upon the other party. The decision may be subject to an appeal within a period of one month from the date on which notice of a registered award has been duly served on the other party.
2. A party exercising this right of appeal who seeks to set aside the award without having previously made his application to this effect shall, on pain of being barred, make his application in the same proceedings and within the period prescribed in paragraph 1 of this article. A party who, while not exercising the right of appeal provided under paragraph 1, seeks to set aside an award shall, on pain of being barred, make his application to this effect within the period prescribed in paragraph 1. Such application, as provided in this paragraph, shall be admissible only if the period prescribed in article 137 has not expired.
3. The provisions of paragraph 2 of this article shall apply to be grounds upon which an award may be set aside, provided under paragraph 3 of article 134, only if such grounds were known at the time of the notification of the registration of the award.
4. Without prejudice to the provisions of paragraph 4 of article 134, a party exercising the right of appeal provided by paragraph 1 of this article, may make an application to set aside the award if there is no valid arbitration agreement, notwithstanding the fact that the period prescribed in article 137 has expired.
5. In the case either of an appeal against the registration of any award or of application to set aside an award, the Court may, at the request of one of the parties, order that the enforcement of the award be stayed.
6. The registration of the award by leave of the Supreme Court shall be without effect in respect of an arbitral award or any part thereof which has been set aside.

Article 140

1. Where, before an arbitral tribunal, a compromise has been entered into between the parties in order to put an end to a dispute of which the tribunal is seized, that compromise may be recorded in an instrument prepared by the arbitral tribunal and signed by the arbitrators as well as by the parties. Subject to the provisions of paragraph 2 of article 132, such instrument may on the application of an interested party, be registered by leave of the Supreme Court and enforced as a judgment of the said court.
2. The Supreme Court may refuse the application if the compromise or its enforcement is contrary to public policy or if the dispute was not capable of settlement by arbitration.

3. The decision of the Supreme Court may be subject to an appeal.

Article 141

1. Unless a contrary intention is expressed therein, every arbitration agreement shall be deemed to include a provision that the costs and fees of the reference and award shall be in the discretion of the arbitrator, who may direct to and by whom and in what manner these costs or any part thereof shall be paid, and may settle the amount of costs to be paid or any part thereof and may award costs to be paid as between attorney and client, However, an arbitrator who is removed by the Court for misconduct shall not be entitled to receive any remuneration in respect of his services.
2. A term that each party shall bear his own costs shall be void if the arbitration agreement is made before the dispute has arisen. If such agreement containing such term is made after the dispute has arisen, the arbitrator or arbitrators, as the case may be, shall be bound to give effect to it by making no order for costs.
3. An award as to costs and fees shall only be attacked before the Supreme Court or a Judge thereof if the aggrieved party can produce *prima facie* evidence that such award is manifestly excessive.

Article 142

Unless a contrary intention is expressed therein, every arbitration agreement shall, where such a provision is applicable to the reference, be deemed to contain a provision that the arbitrator may, if he thinks fit, make an interim award. Any reference in Title IX of Book I of this Code to an award shall include a reference to an interim award. Such an interim award may be registered by leave of the Supreme Court and enforced with the consent of the parties. An arbitral tribunal shall in making a final award, be entitled to take into account an unreasonable refusal to consent to the registration and enforcement of such an interim award which leads to any increase of the loss suffered by a party.

Article 143

1. Unless a contrary intention is expressed therein every arbitration agreement shall, where such a provision is applicable to the reference, be deemed to contain a provision authorising the arbitrators to conduct such an investigation, examine witnesses on oath or affirmation, obtain the examination of witnesses by affidavit, order the production of documents within their possession or power respectively as may be required or called for, and do all other things which, during the proceedings of the reference, the arbitrators may require.
2. In respect of such powers of investigation, the arbitrators shall have such powers as are enjoyed by the Supreme Court, except that where witnesses refuse to be examined or books are unreasonably withheld, it shall be necessary for the arbitrators to obtain witness summonses as provided by the Seychelles Code of Civil Procedure.

Article 144

Generally, any matter arising out of an arbitration agreement, the conduct of the arbitration, the making of an interim or final award and the execution thereof, which are not dealt with in this Code, shall be left to the discretion of the Court upon the application of an interested party.

Article 145

Unless a contrary intention is expressed in the arbitration agreement, the arbitrator shall have power to correct in an award any clerical mistake or error arising from an accidental slip or omission.

Article 146

On the basis of reciprocity, the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, 1958, and the arbitral award within the meaning of the said Convention shall be binding. Such Convention shall apply to the recognition and enforcement of arbitral awards made in the territory of a State other than Seychelles and arising out of differences between persons, whether physical or legal. It shall also apply to arbitral awards not considered as domestic awards in Seychelles.

Article 147

1. Recognition under the said Convention shall extend to an agreement in writing under which the parties undertake to submit to arbitration all or any differences which have arisen or which may arise between them in respect of a defined legal relationship, whether contractual or not, concerning a subject-matter capable of settlement by arbitration.
2. The term 'agreement in writing' shall include an arbitral clause in a contract or an arbitration agreement, signed by the parties or contained in an exchange of letters or telegrams.
3. The Supreme Court of Seychelles, when seized of an action in a matter in respect of which the parties have made an agreement within the meaning of this article, shall at the request of one of the parties, refer the parties to arbitration, unless it finds that the said agreement is null and void, inoperative or incapable of being performed.
4. At the request of a party to an arbitration agreement, or of any person claiming through or under him, the Court shall make an order to stay any proceedings already commenced before such Court and such other order as it thinks fit in the circumstances, subject to the rules which permit the Court to refuse to enforce an award under the Convention under article 150 of this Code.

Article 148

Arbitral awards under the said Convention shall be recognised as binding and shall be enforced in accordance with the rules of procedure in force in Seychelles. The conditions or fees or charges on the recognition or enforcement of arbitral awards to which the said Convention applies shall not be more onerous than those required for the recognition or enforcement of domestic arbitral awards.

Article 149

The party seeking to enforce an arbitral award under the Convention must provide:

- (a) the duly authenticated original award or a duly certified copy thereof; and
- (b) the original arbitration agreement or a duly certified copy thereof; and
- (c) where the award or agreement is in a foreign language, a translation thereof carried by an official or by a sworn translator or by a diplomatic or consular agent.

Article 150

1. Enforcement of an arbitral award shall be refused if the person against whom it is invoked proves:
 - (a) that a party to the arbitration agreement was (under the law applicable to him) under some incapacity; or
 - (b) that the arbitration agreement was not valid under the law to which the parties subjected it or, failing any indication thereon, under the law of the country where the award was made; or

- (c) that he was not given proper notice of the appointment of the arbitrator or the arbitration proceedings or was otherwise unable to present his case; or
 - (d) (subject to paragraph 3 of this article) that the award deals with a difference not contemplated by or not falling within the terms of the submission to arbitration or contains decisions on matters beyond the scope of the submission to arbitration; or
 - (e) that the composition of the arbitral tribunal or the arbitral procedure was not in accordance with the agreement of the parties, or failing such agreement, with the law of the country where the arbitration took place; or
 - (f) that the award has not yet become binding on the parties, or has been set aside or suspended by an authority duly exercising jurisdiction in the country in which, or under the law of which, it was made.
2. Enforcement of an arbitral award may also be refused if the award is in respect of a matter which is not capable of settlement by arbitration, or if it would be contrary to public policy to enforce the award.
 3. An arbitral award which contains decisions on matters not submitted to arbitration may be enforced to the extent that it contains decisions on matters submitted to arbitration which can be separated from those on matters not so submitted.
 4. Where an application to set aside or suspend an award has been made to such an authority duly exercising jurisdiction as is mentioned in paragraph 1 (f) of this article, the Court before which enforcement of the award is sought may, if it thinks fit, adjourn the proceedings and may, on the application of the party seeking to enforce the award, order the other party to give security.

Article 151

[repealed by Commercial Code Act. Fourth Schedule]

Article 152

[repealed by Commercial Code Act. Fourth Schedule]

Article 153

[repealed by Commercial Code Act. Fourth Schedule]

Article 154

[repealed by Commercial Code Act. Fourth Schedule]

Article 155

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Article 156

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Article 170

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Article 171

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Article 172

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Article 181

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Article 182

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Article 188

[repealed by Commercial Code Act. Fourth Schedule]

Article 189

[repealed by Commercial Code Act. Fourth Schedule]

Book II - Commerce by sea**Title I - Maritime and shipping law****Article 190**

Maritime or shipping matters or disputes and matters incidental thereof and connected therewith shall be subject to such laws and Acts in Seychelles as are in force from time to time.

Article 191

[repealed by Commercial Code Act. Fourth Schedule]

Article 192

[repealed by Commercial Code Act. Fourth Schedule]

Article 193

[repealed by Commercial Code Act. Fourth Schedule]

Article 194

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Article 226

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Article 229

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Article 230

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Article 231

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Article 232

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Article 260

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Article 436

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Book III - Bankruptcy and related offences**Article 437**

[repealed by Commercial Code Act. Fourth Schedule]

Article 438

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Article 439

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Book IV - Commercial jurisdiction**Article 615**

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Article 616

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Article 648

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Second Schedule (Section 10)

1. The provisions of the Commercial Code of Seychelles shall not affect in any way the decision, judgment, ruling or order of any Court in any commercial case in which an issue relating to any article of the existing Code of Commerce or other enactment amended or repealed by this Act has been raised before the commencement of this Act.
2. Nothing in this Code shall be construed in any way as amending, varying or repealing any article of the Civil Code of Seychelles. The extent of the application of such Code, however, may be restricted in all cases in which a transaction or other relationship is commercial, within the meaning of article 1 of this Code, and to which the Commercial Code of Seychelles is particularly applicable. Such restriction shall only be permitted to the extent intended by the aforementioned Commercial Code of Seychelles.
3. Any provision of this Code by virtue of which the existence of any bodies, whether corporate or not, is not affected by the promulgation of this Code, shall not be construed as exempting such bodies from the application of provisions of this Code in respect of their continued existence and operation, unless such exemption results from express words or by necessary and distinct implication.
4. References in any law in force at the commencement of this Act to the existing Code shall, subject to sections 7 and 8 of this Act, be construed as references to the Commercial Code of Seychelles.

Third Schedule (Section 10)

Consequential amendments

| Enactment | Extent of Amendment |
|---|--|
| Bankruptcy and Insolvency Act, Cap. 72 (Lane edition to the Laws of Seychelles 1952). Cap 13 (1991 Ed.) | Schedule ZZ shall only apply to that Act. |
| Arrêté 20 July 1808 (Decaen No. 177) French Code of Civil Procedure (Promulgation) Act, Cap. 57 (1971 Ed.) Cap. 86 (1991 Ed.) | Article 1003 to 1028 inclusive are repealed. |
| Seychelles Code of Civil Procedure, Cap. 213 | In section 226 the following additional paragraph is inserted: "Arbitral awards under the New York Convention, as provided under articles 146 and 148 of the Commercial Code of Seychelles, shall be enforceable in accordance with the provisions of Book I, Title IX of the said Code." |
| Carriage of Goods by Sea Act, Cap. 24 | The text of section 7(2) is deleted and the following text is substituted therefor: "Article III of the rules shall be subject to the following rule: In case of divergence between the bills of lading for the same shipment, that which is in the hands of the master shall be valid if filled in the handwriting of the shipper or his mercantile agent; and that which is produced by the shipper or consignee shall be valid if filled in the handwriting of the master" |

Fourth Schedule (Section 10)

Enactments repealed

Arrêté 14 July 1809 (Code Decaen No. 208) Code of Commerce (Promulgation) Act, Cap. 58. (1971 Ed.)

| | Articles of the existing code having no equivalent in the commercial code of Seychelles |
|----------|--|
| Book I | 3, 5, 6, 7, 18-46, 49, 58-63, 65-70, 71-90, 97, 98, 151-189. |
| Book II | 191-436. |
| Book III | 437-614. |
| Book IV | 615-648 |