

Seychelles

## Minor Offences (Fixed Penalties) Decree Chapter 132

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# Seychelles

## Minor Offences (Fixed Penalties) Decree Chapter 132

Commenced on 1 March 1980

*[This is the version of this document as it was at 1 December 2014 to 11 November 2021.]*

*Dec. 17 of 1979; Act 26 of 1984]*

### 1. Short title

This Decree may be cited as the Minor Offences (Fixed Penalties) Decree.

### 2. Interpretation

(1) In this Decree, except where the context otherwise requires—

"**affix**" means to affix by means of adhesive tape or similar substances to the outside of the windscreen of a vehicle;

"**appropriate period**" in relation to a notice under section 3 or 4, means a period of 3 days from the date on which the notice is served, or such longer period as may be specified therein or as may be permitted in writing by or on behalf of the Commissioner;

"**commissioner**" means the Commissioner of Police;

"**driver**" in relation to an alleged offence referred to in section 4(1), means the person by whom it is alleged to have been committed;

"**fixed penalty**" means a fixed penalty under section 3 or 4, and "fixed penalty notice" means a notice under section 3 or 4 offering a person an opportunity to discharge his liability to conviction for an offence on payment of a fixed penalty;

"**prescribed offence**" means an offence contrary to law carrying a maximum penalty of a fine of R.10,000 and imprisonment for 2 years which is prescribed for the purpose of this Decree;

"**relevant time**" in relation to an alleged offence referred to in section 4(1), means the time at which the offence is alleged to have been committed;

"**vehicle**" means a motor vehicle as defined in the Road Transport Act.

(2) Any reference in sections 3 to 6 to a statutory statement of any description shall be construed in accordance with Schedule 1.

(3) For the purposes of this Decree, the owner of a vehicle shall be deemed to be the person by whom the vehicle is kept, and for the purposes of determining, in the course of any proceedings under this Decree who was the owner of a vehicle at anytime, it shall be presumed that the owner was the person in whose name the vehicle was at that time registered.

(4) Notwithstanding subsection (3), it shall be open to the defence in any proceedings to prove that the person in whose name a vehicle was so registered at a particular time was not the person by whom the vehicle was kept at that time and to the prosecution to prove that the vehicle was kept by some other person at that time.

(5) A notice under section 4(3) may be served on a person by delivering it to him or by leaving it at his proper address.

- (6) For the purposes of subsection (5), the proper address of a person on whom a notice is to be served shall, in the case of a body corporate, be the registered or principal office of that body, and, in any other case, shall be the last known address of the person to be served.

### 3. Punishment without prosecution in certain cases

- (1) (a) Where a police officer finds a person on any occasion and has reason to believe that on that occasion that person is committing or has committed a prescribed offence, he may give certain that person a notice in writing in such form as may be prescribed offering the opportunity to discharge his to conviction for that offence on payment of a fixed penalty.
- (b) If the fixed penalty is paid in accordance with this section within the appropriate period no person shall be liable to be convicted of the prescribed offence in respect of which the notice was issued.
- (2) Where a person has been given a notice under this section no proceedings shall be taken against any person for the prescribed offence in respect of which the notice was issued until the expiry of the appropriate period.
- (3) Payment of a fixed penalty shall be made to the Registrar of the Supreme Court or to such other person as may be prescribed, and a sum paid by way of fixed penalty shall be treated as if it were a fine imposed on conviction for the prescribed offence in respect of which the fixed penalty notice was issued.
- (4) In any proceedings a certificate, signed by or on the authority of the Registrar of the Supreme Court or by such other person as may be prescribed under subsection (3), that payment of a fixed penalty was or was not made by a date specified in the certificate shall be sufficient evidence as to the facts stated, unless the contrary be proved.
- (5) A notice under subsection (1) shall—
- (a) give such particulars of the circumstances alleged to constitute the offence as are necessary to give reasonable identification thereof;
- (b) state the period within which, by virtue of subsection (2) no proceedings will be taken with respect to the offence;
- (c) state the amount of the fixed penalty; and
- (d) state the person to whom and the address at which the fixed penalty may be paid.
- (6) Where a police officer finds a vehicle on an occasion and has reason to believe there is being or has been committed in respect thereof a prescribed offence, he may proceed under this section as if he had found a person reasonably believed by him to be committing or have committed the prescribed offence, and for that purpose he may affix a fixed penalty notice to that vehicle, and such affixing shall be deemed to be service on the person liable for the offence.
- (7) Any person who, without the authority of the driver of the vehicle concerned, removes or interferes with a notice affixed thereto under subsection (6) shall be guilty of an offence and liable to a fine of R.200.
- (8) In this section "proceedings" means criminal proceedings in respect of a prescribed offence, and "conviction" shall be construed in like manner.

### 4. Liability of vehicle owners in respect of prescribed offences

- (1) This section shall apply where—
- (a) a fixed penalty notice has been served under [section 3\(1\)](#) or affixed to a vehicle under [section 3\(6\)](#); and
- (b) the fixed penalty has not been paid within the period specified in the notice.

- (2) Subject to the provisions of this section—
- (a) for the purposes of instituting proceedings, in respect of an alleged offence, against any person as being the owner of a vehicle at the relevant time; and
  - (b) in any proceedings in respect of an alleged offence brought against any person as being the owner of a vehicle at the relevant time,
- it shall be conclusively presumed, (notwithstanding that the person may not be an individual), that he was the driver of the vehicle at the relevant time and, accordingly, the acts or omissions of the driver of the vehicle at that time were his acts or omissions.
- (3) Subsection (2) shall not apply in relation to any person unless within 14 days after the day the fixed penalty notice was served or affixed under [section 3](#), a notice under this section has been served on him by or on behalf of the Commissioner of Police.
- (4) A notice under this section shall—
- (a) be in such form as may be prescribed;
  - (b) give particulars of the alleged offence and of the fixed penalty concerned, and shall provide that, unless the fixed penalty is paid within the appropriate period the person on whom the notice is served—
    - (i) is required, within the appropriate period to furnish to the Commissioner a statutory statement of ownership; and
    - (ii) is invited, within the same period, to furnish to the Commissioner a statutory statement of facts; and
  - (c) state the person to whom and the address at which the fixed penalty may be paid.
- (5) If a person on whom a notice under this section is served was not the owner of the vehicle at the relevant time, subsection (2) shall not apply to him if he furnishes a statutory statement of ownership to that effect in accordance with the notice.
- (6) Subsection (2) shall not apply in any proceedings brought against a person as being the owner of a vehicle at the relevant time if, in those proceedings, it is proved—
- (a) that at the relevant time the vehicle was in the possession of another person without the consent of the accused person; or
  - (b) that the accused person was not the owner of the vehicle at the relevant time and that he had reasonable excuse for not complying with a notice served on him under this section.
- (7) If in any case where—
- (a) a notice under this section is served on any person; and
  - (b) the fixed penalty is not paid within the appropriate period,
- the person so served fails within the same period and without reasonable cause to furnish a statutory statement of ownership, he shall be guilty of an offence and liable to a fine of R.1,000.
- (8) Any person who furnishes a statutory statement of ownership or statutory statement of facts which he knows to be false or does not believe to be true shall be guilty of an offence and liable to a fine of R.5,000.

## 5. Hired vehicles

- (1) This section shall apply where—
- (a) a notice under [section 4](#) has been served on a vehicle-hire firm; and

- (b) at the relevant time the vehicle in respect of which the notice was served was let to another person by the vehicle-hire firm under a hiring agreement.
- (2) Where this section applies it shall be sufficient compliance with a notice under [section 4](#) served on a vehicle-hire firm if such firm furnishes to the Commissioner a statement in such form as may be prescribed stating that at the relevant time the vehicle concerned was under a hiring agreement together with—
  - (a) a copy of the hiring agreement; and
  - (b) a copy of a statutory statement of liability, in such form as may be prescribed, signed by the hirer under the hiring agreement,

and, in relation to a vehicle-hire firm on whom the notice is served, the reference in [section 4\(4\)](#) to a statutory statement of ownership shall be construed as a reference to a statutory statement under this subsection together with the documents referred to in paragraphs (a) and (b).

- (3) Where in compliance with a notice under [section 4](#) a vehicle-hire firm has furnished the documents specified in subsection (2), the Commissioner may, at any reasonable time within 2 months after service of the notice require the production of the originals of the said documents; and if any vehicle-hire firm fails, without reasonable excuse, to produce the said originals, it shall be treated as not having complied with the notice served under [section 4](#).
- (4) Where, in compliance with a notice served under [section 4](#), a vehicle-hire firm has complied therewith by furnishing the documents specified in subsection (2), [section 4](#) shall have effect as if—
  - (a) reference therein to the owner of the vehicle were reference to the hirer of the vehicle under the hiring agreement; and
  - (b) reference therein to a statutory statement of ownership were references to a statutory statement of hiring.
- (5) In this section—

"hiring agreement" means an agreement for the hire of a vehicle and containing such particulars as may be prescribed;

"statutory statement of liability" means a statement made by a hirer under a hiring agreement to the effect that the hirer acknowledges that he will be liable, as the owner of the vehicle; in respect of any prescribed offence committed with respect to the vehicle during currency of the hiring agreement;

"vehicle-hire firm" means any person engaged in hiring vehicles in the course of business.

## 6. Time for bringing, and evidence in, certain proceedings

- (1) No proceeds for an offence under [section 4](#) (8) shall be brought more than 6 months after the commission of the offence.
- (2) No proceedings for a prescribed offence shall be brought more than 3 after the commission of the offence.
- (3) Where a person is charged with a prescribed offence and the prosecutor produces any statutory statement of ownership, statutory statement of facts or statement of liability by a hirer purporting —
  - (a) to have been furnished in compliance with this Decree ; and
  - (b) to have been signed by the accused person,

such statement shall be presumed, unless the contrary is proved, to have been signed by the accused person and shall be evidence in the proceedings of any facts therein tending to show that the accused person was the owner, driver or hirer of the vehicle at the relevant time.

## 7. Regulations

The Minister may make regulations for the better carrying out of the provisions of this Decree, and, in particular and without prejudice to the generality of the foregoing, may make regulations—

- (a) prescribing offences for the purposes of this Decree;
- (b) prescribing fixed penalties; and
- (c) prescribing notice and forms.

### Schedule - Statutory statement

#### Part I – Statutory statement of ownership or hiring

1. For the purposes of this Decree, a statutory statement of ownership is a statement in the prescribed form, signed by the person furnishing it stating—
  - (a) whether he was the owner of the vehicle at the relevant time, and
  - (b) if he was not the owner of the vehicle at the relevant time, whether he ceased to be the owner before the relevant time or became the owner after the relevant time and, if the information is in his possession, the name and address of the person to whom, and the date on which, he disposed of the vehicle or, as the case may be, the name and address of the person from whom, and the date of which, he acquired it.
2. (1) For the purposes of this Decree, a statutory statement of hiring is a statement in the prescribed form, signed by the person furnishing it, being a person by whom a statement of liability was signed, and stating—
  - (a) whether at the relevant time the vehicle was let to him under the hiring agreement to which the statement of liability refers; and
  - (b) if it was not, the date on which he returned the vehicle to the possession of the vehicle-hire firm concerned.
- (2) In paragraph (1) above "statement of liability", "hiring agreement" and "vehicle-hire firm" have the same meanings as in section 5.

#### Part II – Statutory statement of facts

3. For the purposes of this Decree, a statutory statement of facts is a statement which is in the prescribed form and which either—
  - (a) states that the person furnishing it was the driver of the vehicle at the relevant time and is signed by him; or
  - (b) states that the person was not the driver of the vehicle at the relevant time, states the name and address at the time the statement is furnished of the person who was the driver of the vehicle at the relevant time and is signed both by the person furnishing it and by the person stated to be the driver of the vehicle at the relevant time.