

Seychelles

## Public Utilities Corporation Act

### Act 25 of 1985

Legislation as at 30 June 2012

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## Public Utilities Corporation Act

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# Seychelles

## Public Utilities Corporation Act Act 25 of 1985

Commenced on 1 January 1986

*[This is the version of this document as it was at 30 June 2012 to 30 March 2020.]*

### Part I – Preliminary

#### 1. Short title

This Act may be cited as the Public Utilities Corporation Act.

#### 2. Interpretation

In this Act,—

"Corporation" means the Public Utilities Corporation established by section 3;

"Executive Chairman" means the Executive Chairman of the corporation appointed under section 4(2);

"members" means a member of the Corporation appointed under section 4(1).

### Part II – Public Utilities Corporation

#### 3. Establishment of the Corporation

- (1) There is established by this Act a Corporation by the name of the Public Utilities Corporation.
- (2) The Corporation shall be a body corporate.

#### 4. Members of the Corporation

- (1) The Corporation shall consist of not less than 5 nor more than 7 members appointed by the President by notice published in the *Gazette*.
- (2) The President shall appoint one of the members as the Executive Chairman of the Corporation.
- (3) A member shall hold office for such term and on such conditions as the President may determine.

#### 5. Function of the Corporation

- (1) The functions of the Corporation shall be—
  - (a) the supply of electricity;
  - (b) the supply of water;
  - (c) the provision of sewerage;
  - (d) such other functions as may be conferred on the Corporation by any other Act or by any regulations made under this Act.
- (2) Regulations may provide for all matters in respect of the functions of the Corporation.

## 6. Powers of the Corporation

- (1) Subject to this Act, the Corporation shall have power to do all the things necessary or convenient to be done for or in connection with, Corporation or incidental to the exercise of its functions.
- (2) The Corporation shall not, without the approval of the Minister granted after consultation with the Minister responsible for finance—
  - (a) acquire any property, right or privilege which exceeds R.500,000 in value;
  - (b) dispose of any property, right or privilege where the amount or value of the consideration for its disposal or where the value of the property, right or privilege exceeds R.500,000;
  - (c) enter into any contract, being a contract under which the Corporation shall be liable to pay an amount exceeding R.500,000.

## 7. Directions of the Minister

The Minister may give to the Corporation directions in writing on the policy to be followed by the Corporation in the performance of its functions and the Corporation shall comply with those directions.

## 8. Meetings

- (1) The Corporation shall meet at such time and at such place as the Executive Chairman may determine.
- (2) The Executive Chairman or, in his absence, any member nominated by the President shall preside at any meeting of the Corporation.
- (3) Three members shall constitute a quorum.
- (4) Questions arising at a meeting of the Corporation shall be decided by a majority of votes of the members present and in the event of an equality of votes, the Executive Chairman or the member presiding shall have a second or casting vote.
- (5) Subject to the preceding provisions of this section the Corporation shall regulate its own proceedings.

## 9. Disclosure of interest by members

A member who has a direct or indirect interest in any matter of interest which falls to be decided by the Corporation—

- (a) shall disclose the nature of his interest at a meeting of the Corporation; and
- (b) shall not take part in any deliberation or decision in respect of that matter.

## 10. Functions of the Executive Chairman

- (1) Subject to the directions of the Corporation, the Executive Chairman shall have supervision over and direction of the day-to-day affairs of the Corporation and shall be its chief executive officer.
- (2) The Corporation may delegate to the Executive Chairman such of its powers necessary to enable him to transact effectively the day-to-day affairs of the Corporation.
- (3) The Executive Chairman shall have power to sign instruments and documents on behalf of the Corporation and is empowered to delegate that power to any member or employee of the Corporation.

## 11. Staff

- (1) The Corporation may employ such persons as are necessary for the Corporation to perform its functions on terms and conditions and according to the procedures applicable to employees of public bodies.
- (2) The Corporation may, in the exercise of its powers under subsection (1), employ, with the approval of the President, a public officer on such terms and conditions as the President may determine.

## Part III – Financial

## 12. Borrowing powers of the Corporation

- (1) The Corporation may, for the purpose of the performance of its functions, with the approval of the Minister granted after the consultation with the Minister responsible for finance, borrow moneys in or outside Seychelles.
- (2) The Corporation may give security over any of its assets for the purpose of a borrowing under subsection (1).
- (3) The Minister responsible for finance may, out of public moneys, make, at the request of the Minister, advances to the Corporation of such amounts and on such terms as the Minister responsible for finance, acting after consultation with the Minister, determines.
- (4) The Corporation shall make to the Republic at such times and in such manner, as the Minister responsible for finance, acting after consultation with the Minister may direct, payments of such amounts as may be directed in or towards the repayment of advances made pursuant to subsection (3) or of any sums issued in fulfillment of any guarantee given under any Act in respect of any amount borrowed in accordance with subsection (1) or of interest on any such advances or sums at the rate directed by the Minister responsible for finance.

## 13. Funds of the Corporation

- (1) The funds of the Corporation shall consist of—
  - (a) moneys appropriated by an Appropriation Act and paid to the Corporation;
  - (b) moneys lawfully charged by the Corporation;
  - (c) moneys lawfully borrowed by the Corporation;
  - (d) moneys due on any investment made by the Corporation; and
  - (e) other moneys lawfully received by the Corporation for the purposes of the Corporation.
- (2) Funds of the Corporation may be applied by the Corporation—
  - (a) in payment or discharge of the costs, expenses and other obligations of the Corporation; and
  - (b) in payment of remuneration, fees and allowances payable to its staff.
- (3) Moneys of the Corporation not immediately required for the purposes of the Corporation may be invested—
  - (a) on fixed deposits with one, or more than one, bank;
  - (b) in Government securities; or
  - (c) in any other manner which, the Corporation, with the approval of the Minister granted after consultation with the Minister responsible for finance, thinks fit.

- (4) The Corporation shall, after making adequate provision for—
- (a) acquisition or replacement of assets;
  - (b) depreciation of assets;
  - (c) repayment of loans and advances;
  - (d) repayment of interest on all charges and expenses incurred in connection with loans;
  - (e) any matter which the Corporation deems necessary, including any investment under subsection (3),
- pay, with the approval of the Minister, the surplus funds remaining for each financial year into the Consolidated Fund.

#### **14. Estimates**

- (1) For—
- (a) each financial year of the Corporation; and
  - (b) for any longer period which the Minister acting after consultation with the Minister responsible for finance may from time to time, require,
- the Corporation shall prepare and submit to the Minister and the Minister responsible for finance, not later than such date as the Minister may direct, estimates of the income and expenditure of the Corporation, including its capital budget for the financial year or any such longer period.
- (2) The Minister may, acting after consultation with the Minister responsible for finance, approve with or without modification the estimates submitted under subsection (1).
- (3) After the Minister approves the estimates under subsection (2), the estimates so approved shall be the estimates of the Corporation for the period for which it is prepared.
- (4) The financial year of the Corporation shall be a period of 12 months ending on 31st December of any year.

#### **15. Bank accounts**

- (1) The Corporation may open and maintain an account or accounts with one, or more than one, bank and shall maintain at all times at least one such account.
- (2) The Corporation shall pay all funds of the Corporation to an account maintained under subsection (1).

#### **16. Accounts and audit**

- (1) The Corporation shall keep proper accounts and records in relation to the accounts and shall prepare, in respect of each financial year of the Corporation, statement of accounts in such form as the Minister, acting after consultation with the Minister responsible for finance, may direct.
- (2) The accounts and statement of accounts of the Corporation shall be audited by an auditor appointed by the Minister acting after consultation with the Minister responsible for finance.
- (3) As soon as the accounts and statement of accounts of the Corporation in respect of any financial year of the Corporation have been audited pursuant to subsection (2), the Corporation shall send to the Minister and the Minister responsible for finance a copy of the statement together with a copy of any report made by the auditor on that statement or on the accounts of the Corporation.

## Part IV – Miscellaneous

### 17. Regulations

- (1) The Minister may make regulations for carrying into effect the purposes and provisions of this Act.
- (2) Without prejudice to the generality of subsection (1) the Regulations may provide for—
  - (a) the powers and duties of the Corporation in relation to the supply of electricity;
  - (b) the powers and duties of the Corporation in relation to the supply of water and provision of sewerage;
  - (c) the powers and duties of the Corporation in relation to the exercise of any other functions conferred on the Corporation;
  - (d) apparatus, fittings and installations required for the performance of the functions of the Corporation, their standards and specifications and their installation, testing and maintenance;
  - (e) fees, deposits and charges payable to the Corporation in respect of services and supplies;
  - (f) terms and conditions for services and supplies;
  - (g) matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed;
  - (h) offences and penalties not exceeding twenty thousand rupees by way of fine and two years by way of imprisonment in respect of those offences.

### 18. Proceedings against the Corporation

- (1) No action shall be brought against the Corporation to recover the damages or compensation in respect of any act or omission of the Corporation after the expiry of 9 months after the cause of action accrued.
- (2) No proceedings shall be commenced against the Corporation unless notice in writing of the intended proceedings has been delivered at the office of the Corporation by the party intending to commence those proceedings or by the attorney or agent not less than one month before the commencement of those proceedings.
- (3) A notice under subsection (2) shall state the cause of action and the court in which the proceedings are intended to be commenced, the name and address of the party intending to commence the proceedings and, if the notice was delivered by an attorney or agent, the name and address of the attorney or the agent.
- (4) The members or employees of the Corporation shall be deemed to be serving in the public service for the purposes of sections 372 and 373 of the Penal Code.

### 19. Savings

- (1) All statutory instruments made or continued in force under the Electricity Supply Act and Water Act, 1982 repealed by this Act and in force immediately before the commencement of this Act shall continue in force until amended or revoked by statutory instruments made under this Act.
- (2) Any approval, authorization or exemption given, any certificate, licence or permit granted or any delegation made by or under the Electricity Supply Act and Water Act 1982 repealed by this Act and in force immediately before the commencement of this Act shall be deemed to be those given, granted or made by or under this Act and shall, unless revoked earlier by or under this Act, continue in force for the period for which they are given, granted or made.

- (3) Any guarantee given by the Government for and on behalf of the Water Authority established by the Water Act, 1982 repealed by this Act or the Seychelles Electricity Corporation Limited dissolved by this Act and subsisting at the commencement of this Act shall be deemed to be a guarantee given by the Government for and on behalf of the Corporation.