

Seychelles

## Public Finances Act

Act 22 of 1996

Legislation as at 30 June 2012

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# Public Finances Act

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# Seychelles

## Public Finances Act

### Act 22 of 1996

Commenced on 1 January 1997

[This is the version of this document at 30 June 2012 and includes any amendments published up to 30 June 2014.]

[Repealed by [Public Finance Management Act, 2012 \(Act 9 of 2012\)](#) on 1 January 2013]

[Act 22 of 1996; S.I. 3 of 1997; Act [9 of 2004](#); Act [9 of 2006](#)]

### Part I – Preliminary

#### 1. Short title

This Act may be cited as the Public Finances Act, 1996 and shall come into operation on such date as the Minister may by notice published in the *Gazette* appoint\*.

#### 2. Interpretation

In this Act—

"**financial year**" means a period of 12 months ending on the 31st December;

"**public moneys**" means all revenue, loan and other moneys and all securities whatsoever raised or received by or on account of the Republic.

### Part II – Control and management

#### 3. Minister has control and management of financial affairs of Seychelles

- (1) Subject to the Constitution and this Act, the Minister has The supervision and management of the Consolidated Fund and all other funds established under this Act and the supervision, control and direction of the financial affairs of the Republic.
- (2) The Minister may, by notice in the *Gazette*, appoint a competent person who shall be responsible for the supervision and administration of government accounting system, financial and accounting records and procedures for the receipt, custody, investment, safekeeping and payment of public moneys and other moneys paid to public officers under any written law and the purchase, custody and disposal of property.
- (3) In the exercise of their functions under this section the Minister and the person appointed under subsection (2) may issue directions and instructions to and require the submission of report and information by a public officer or other person holding, controlling or managing or disposing of public moneys or public property and the person shall so comply.

#### 4. Custody of public moneys

- (1) Public moneys shall be kept with the Central Bank or such financial institution as the Minister may from time to time direct.

\*

The Act was brought into operation on 1 January 1997.

- (2) Public moneys paid into a financial institution—
  - (a) shall remain the property of the Republic;
  - (b) shall be treated as if lent by the Republic to the institution;
  - (c) shall not form part of the assets of the institution in the event that the institution is placed into receivership or under judicial administration or is wound up.
- (3) The Minister may invest public moneys standing in credit with the Central Bank or a financial institution and in doing so shall observe utmost good faith and act—
  - (a) with due diligence;
  - (b) with care and prudence; and
  - (c) to the best of ability and skill of a competent investor.
- (4) Interest received on public moneys paid into a financial institution and investments and interest on the investments form part of the Consolidated Fund.

## **5. Withdrawal from Consolidated Fund**

- (1) A person shall not withdraw money from the Consolidated Fund except if authorised by warrant under the hand of the Minister.
- (2) The Minister shall by warrant under the Minister's hand authorise the issue from the Consolidated Fund of sums to meet charges on the Fund created by the Constitution, this Act or any other written law.
- (3) The Minister may, by warrant under the Minister's hand, authorise the issue from the Consolidated Fund of sums to be applied for the purposes for which—
  - (a) they have been appropriated under an Appropriation Act;
  - (b) they have been approved by resolution of the National Assembly under a supplementary estimate in accordance with article 154(6) of the Constitution;
  - (c) they have been approved by the National Assembly under article 155 of the Constitution.
- (4) Notwithstanding the approval of the National Assembly referred to in subsection (3)(b) or (c) the Minister may limit or suspend any expenditure so approved.

## **6. Contingencies Fund**

- (1) A Contingencies Fund is hereby established for use in the circumstances and in the manner set out in article 156(1) of the Constitution.
- (2) A sum of R25,000,000 shall be paid out of the Consolidated Fund into the Contingencies Fund and shall form part of the Contingencies Fund.

## **7. Development Fund**

- (1) There is established a Development Fund which shall not form part of the Consolidated Fund.
- (2) The Development Fund shall consist of—
  - (a) moneys issued from the Consolidated Fund in accordance with the Constitution, this Act or any other written law;
  - (b) moneys received from—
    - (i) any other government institution, authority, body or person; and

- (ii) the proceeds of loans raised by the Republic,  
for the purpose of a development scheme, project or programme to be financed from the Development Fund or generally for the purposes of the Development Fund;
  - (c) moneys borrowed under the Development Loans Act.
- (3) The Minister may, by warrant under the Minister's hand, authorise the withdrawal from the Development Fund of funds for the purpose of defraying the costs of a development scheme, project or programme—
  - (a) for which moneys were received under subsection (2) (b);
  - (b) for which provision is made under the National Development Plan for Seychelles referred to in the Development Loan Act and approved by the President, and for the implementation of which approval has been given by the President.
- (4) Subject to this Act and any conditions which may be attached by any government, institution, authority, body or person to the grant of moneys received under subsection (1)(b), the Minister may invest moneys held in the Development Fund which are not required for immediate use for development purposes in like manner provided by [section 4\(2\)](#) in respect of public moneys.

## 8. Other funds

- (1) The Minister may, by notice in the *Gazette*, establish other funds.
- (2) The notice establishing a Fund shall specify the purpose for which the Fund is being established and the manner in which the fund is to be made up and administered, and disbursement is to be made from the Fund.
- (3) A Fund established under subsection (1) shall not form part of the Consolidated Fund.
- (4) The Funds set out in the Schedule shall be deemed to be Funds established under subsection (1) and, subject to subsection (5), the provisions of the statutory instruments relating to how the Funds will be made up and the manners in which they will be administered and disbursed shall continue to apply to these Funds.
- (5) Where the provisions made for the administration of and disbursement from a Fund are in the view of the Minister inadequate or, in the case of a Fund referred to in subsection (4), do not exist, the Minister may give directions in this connection in relation to the Fund.
- (6) The Minister may invest moneys standing in a Fund in like manner provided by [section 4\(2\)](#) in respect of public moneys.
- (7) Subject to subsection (6), withdrawals shall not be made from a Fund referred to in this section otherwise than for the purposes for which the Fund was established and in accordance with the provisions relating to disbursement from the Fund.
- (8) Where the Minister is satisfied that fund established, or deemed to established, under subsection (1)—
  - (a) has served the purpose which it was established;
  - (b) has been completely inactive for a period exceeding five years,
 and that it is in the public interest to do so, the Minister may, by Order published in the Official *Gazette* dissolve the fund and pay any moneys of the fund into the Consolidated Fund.

## 9. Guarantees

- (1) Notwithstanding any other written law, a guarantee involving a financial liability shall not be binding upon the Government unless—
  - (a) the guarantee has been given by the President or a person authorised by the President;
  - (b) there is published in the *Gazette* an Order by the President giving particulars of—
    - (i) the parties to the transaction in respect of which the guarantee is given;
    - (ii) the Government's liability under the guarantee;
    - (iii) the period of time for which the guarantee is to stand;
    - (iv) such other particulars of the transaction as the President may decide to include in the Order.
- (2) Any moneys required to fulfil a guarantee binding upon the Government shall be charged on and paid out of the Consolidated Fund.

## 10. Deposit accounts

- (1) The Minister may authorise the establishment of such deposit accounts as may be necessary for the proper accounting of moneys which are not revenues of the Republic and which are received by a public officer under any written law or a direction, instruction or procedure issued under [section 5](#).
- (2) Moneys deposited under subsection (1) shall not be applied for the purposes of Government.
- (3) Subject to any written law and the authority on which the moneys are deposited, the Minister may invest moneys deposited under subsection (1) which are not required immediately for the purposes for which the deposit was made in like manner provided by [section 4\(3\)](#) in respect of public moneys and any interest or dividend received in respect of the investment shall be paid into the Consolidated Fund.
- (4) Subject to subsection (5), a deposit made under subsection (1) which is unclaimed for 5 years shall be forfeited to the Republic and be paid into the Consolidated Fund.
- (5) The Minister may authorise the refund of a deposit forfeited under subsection (4) where the Minister is satisfied that there are reasonable grounds for so doing.
- (6) Where the Minister gives an authorisation under subsection (5) the amount to be refunded shall constitute a charge on the Consolidated Fund.

## 11. Yearly statement of account

The Minister shall, for the purpose of permitting the Auditor-General to comply with article 158 of the Constitution, within 6 months after the close of each financial year, transmit to the Auditor-General—

- (a) the accounts of the Consolidated Fund, Contingencies Fund, Development Fund and other funds established under this Act giving full particulars of all receipts and expenditures of moneys accounted for in all those funds during the financial year;
- (b) a statement of outstanding guarantees and other financial liabilities of Seychelles at the close of the financial year;
- (c) as far as practicable, a statement of the assets and liabilities of Seychelles at the end of the financial year and the manner in which the assets are invested or held at the close of the financial year.

## 12. Write-off

- (1) The Minister may abandon and write-off—
  - (a) any claim to amount of revenue, debts and overpayments;
  - (b) losses or deficiencies of public moneys; and
  - (c) the value of lost public stores,the recovery of which are barred by prescription under the Civil Code.
- (2) Where it is proved to the satisfaction of the Minister that any public stores are deficient, unserviceable, redundant or obsolete or have been condemned, the Minister may write-off the value thereof.

## 13. Surcharge

- (1) If it appears to the Minister that a person who is or was employed as a public officer and at the time of such employment—
  - (a) has failed to collect any moneys owing to the Government or a fund under this Act for the collection of which the person is or was responsible;
  - (b) is or was responsible for an improper payment of public moneys or moneys administered by the Government or for any payment of such moneys which is not duly vouched; or
  - (c) is or was responsible for any deficiency in or for the loss or destruction of or damage to any public moneys or moneys administered by the Government, stamps, securities, stores or other Government property,and if the person fails to furnish the Minister with a satisfactory explanation with regard to the failure to collect, the improper payment, payment not duly vouched, deficiency, loss, destruction or damage within a period specified by the Minister, the Minister may, after such inquiry as the Minister thinks fit, surcharge the person the whole or such proportion as the Minister thinks fit of the amount not collected, the payment, deficiency or loss or the original value of the property destroyed.
- (2) The Minister shall cause the person surcharged and the Auditor -General to be notified in writing of any surcharge made under subsection (1).
- (3) The Minister may at any time withdraw a surcharge in respect of which the Minister has received a satisfactory explanation or if it appears to the Minister that no surcharge should have been made and the Minister shall notify the person and the Auditor-General of the withdrawal.
- (4) The amount of surcharge shall be a debt due by the person surcharged to the Government and notwithstanding any other written law, may be recovered from—
  - (a) the salary or pension of the person in monthly instalments not exceeding one-fourth of the total monthly salary or pension as may be determined by the Minister;
  - (b) money, other than salary or pension, due by the Government to the person surcharged in such amount as the Minister considers reasonable.
- (5) Subsection (4) shall apply without prejudice to the right of the Government to sue for and recover the amount of surcharge as a civil debt.

## Part III – Regulations and repeal

### 14. Regulations

The Minister may make regulations for carrying out the purposes and provisions of this Act.

### 15. Transitions

Notwithstanding the repeal of the Public Finances (Control and Management) Act by this Act—

- (a) a statutory instrument made under the repealed Act shall continue in force as if made under this Act until it is amended or repealed under this Act;
- (b) an authorisation, guarantee, direction or instruction given or procedure established under the repealed Act shall continue in force as if given or established under this Act until amended or withdrawn under this Act or ceases to have effect by effluxion of time;
- (c) anything made, established or done under the repealed Act which could have been made, established or done under this Act shall continue in force and be deemed to be made under this Act until amended or revoked under this Act or ceases to have effect by effluxion of time.

## Schedule (Section 8)

### Other funds

1. Archbishop Makarios Scholarship Fund.
2. Patel Trust Fund.
3. Police Reward Fund.

Notes:

- (1) *The following funds—*

- (a) *the Whitton Bequest Fund; and*
- (b) *the Logan Scholarship Fund;*

*have been dissolved by Act 9 of 2006 and all moneys of those Funds shall have been vested in the Republic and shall have been paid into the Consolidated Fund with effect from 26/12/2006.*

- (2) *The Whitton Charitable Trust Act has been repealed by Act 9 of 2006.*