

SEYCHELLES PARKS AND GARDENS AUTHORITY BILL, 2021

(Bill No. 69 of 2021)

OBJECTS AND REASONS

The object of this Bill is to establish a public authority known as the Seychelles Parks and Gardens Authority that will manage and administer parks and gardens designated under this Act.

The affairs of the Authority shall be managed and administered by a Board whose members shall be appointed by the President from among persons having wide experience of, and, having shown capacity in matters relating to environment protection, conservation and business administration.

The Bill is divided into 5 parts.

Part I provides for preliminary matter, such as short title, commencement and interpretation.

Part II provides for the establishment of the Seychelles Parks and Gardens Authority and its functions.

Part III provides for the administration of the Authority by a Board, appointments of its members, terms and conditions of their appointment, proceedings in the meetings of the Board, appointment of a Chief Executive officer and a Deputy Executive Officer, their powers, terms and conditions of their appointment.

Part IV provides for funds of the Authority, insurance cover for property and liabilities, power of Minister to issue directions, preparation of operational plans, accounts and audits and annual returns.

Part V provides for miscellaneous matters such as application of certain provisions of the Penal Code, protection of acts done in good faith, regulation making powers, repeal, savings and transitional.

Dated this 10th day of December, 2021.

**FRANK D.R. ALLY
ATTORNEY-GENERAL**

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ARRANGEMENT OF SECTIONS**SECTIONS****PART I - PRELIMINARY**

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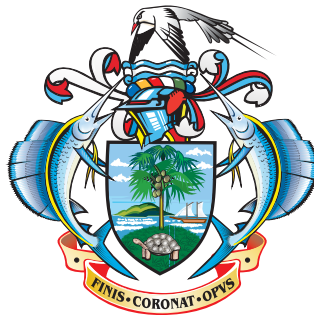
10. Funds of the Authority
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SEYCHELLES PARKS AND GARDENS AUTHORITY BILL, 2021

(Bill No. 69 of 2021)



**A BILL
FOR**

AN ACT TO ESTABLISH THE SEYCHELLES PARKS AND GARDEN AUTHORITY TO MANAGE AND ADMINISTER PARKS AND GARDENS AND OTHER AREAS DESIGNATED AS SUCH AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

ENACTED by the President and the National Assembly.

PART I - PRELIMINARY

Short title and commencement

1. This Act may be cited as the Seychelles Parks and Garden Authority Act, 2021 and shall come into operation on such date as the Minister may, by notice published in the Gazette appoint.

Interpretation

2. In this Act —

“Appeals Board” means the appeals board established under section 73 of the Environment Protection Act, 2016, (Act 18 of 2016);

“Authority” means the Seychelles Parks and Garden Authority established by section 3;

“Board” means the Board established under section 5;

“Chief Executive Officer” means the Chief Executive Officer appointed under section 8;

Gardens —

(a) means the Botanical Gardens, Victoria; and

(b) includes any other gardens or areas of important botanical value designated by the Minister on the recommendation of the Board, by Order published in the *Gazette*;

“Member” means a member of the Board;

“Minister” means the Minister responsible for environment;

“National Botanical Gardens Foundation” means the foundation established under section 3 of the National Botanical Gardens Foundation Act, 2009, (Cap 288);

“National Parks Authority” means the National Parks Authority established under the Environment Protection (Seychelles National Parks Authority) Order (S.I. 30 of 2009) under the Environment Protection Act (Cap. 71); and

“Parks” means a clearly defined geographical space, recognised, dedicated and managed to meet objectives for conservation or

sustainable uses as may be designated by the Minister on the recommendation of the Board, by Order published in the *Gazette*.

PART II - ESTABLISHMENT AND FUNCTIONS OF THE AUTHORITY

Establishment of the Authority

3.(1) There is hereby established an Authority to be known as the Seychelles Parks and Garden Authority.

(2) The Authority, shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of —

- (a) suing and being sued;
- (b) purchasing or otherwise acquiring, holding, charging or disposing of movable or immovable property;
- (c) borrowing money with the approval of the Minister responsible for finance;
- (d) collecting all dues, rental fees and other monies payable to the Authority under this Act or any other law administered by the Authority; and
- (e) with the permission from the Minister responsible for finance open and maintain such accounts with a financial institution for any specific or general purpose.

(3) The Authority may enter into agreements and arrangements with any organisation in respect of any matter relating to parks and gardens or any matter the Authority deems expedient.

Functions of the Authority

4.(1) The functions of the Authority are —

- (a) promote the participation of Government, the public and businesses in conservation work;

- (b) protect and manage effectively the ecosystems and biodiversity in designated Protected Areas which fall under the jurisdiction of the Authority;
- (c) implement national conservation policies and obligations under multilateral agreements;
- (d) implement forestry practices and management;
- (e) protect habitats and ecosystems from anthropogenic threats such as forest fire, pollution and coral destruction;
- (f) undertake specialist services such as plant identification and offer specialist consultancy services;
- (g) facilitate and conduct research related to biodiversity and protected areas;
- (h) deliver services of a high standard for the users of gardens and parks;
- (i) engage in commercial activities related to the functions of the Authority;
- (j) provide tourism and recreational activities;
- (k) provide gardening and landscaping services, guided tours, and similar services;
- (l) Promote education and awareness activities.

PART III - BOARD OF THE AUTHORITY

Board of the Authority

5.(1) The Authority shall be administered by a Board consisting of seven members appointed by the President in consultation with the Minister from among persons having wide experience of, and knowledge and competence

having shown capacity in, matters relating to the management of parks and gardens, or possessing skills or experience in relevant fields.

(2) The President shall appoint a Chairperson and a Vice-Chairperson of the Board from among the members of the Board.

(3) The salary and allowances and other terms and conditions of service of the Chairperson, Vice-Chairperson and Members of the Board shall be as per Governmental policies.

(4) A member of the Board shall hold office for such period, not exceeding three years, as the President may specify in the instrument of his or her appointment and shall be eligible for reappointment.

(5) A member of the Board may at any time resign by a letter addressed to the President and such member shall cease to be member of the Board from the date on which the President accepts the resignation.

(6) Where a member of the Board vacates office, the President shall, having regard to subsection (1), appoint a person to replace that member for the remaining period of the term of office of that member.

(7) Where the Chairperson, Vice-Chairperson or any member of the Board is temporarily unable to perform the functions of his or her office due to poor health, other infirmity, absence from Seychelles or any other cause, the President may, having regard to the provisions of this Act, appoint a person qualified under subsection (1) to act in the place of the Chairperson, Vice-Chairperson or member, as the case may be.

(8) The Chief Executive Officer shall be an *ex-officio* member of the Board.

(9) The appointment of the Chairperson, Vice-Chairperson and members of the Board shall be published in the *Gazette*.

Meetings of Board

6.(1) The Board shall meet at least once every two months or at such times as may be necessary or expedient for the transaction of business and the

meetings shall be held at such places and times and on such days as the Chairperson shall determine.

(2) The Chairperson shall preside at the meetings of the Board and if, for any reason, he or she is unable to attend any meeting, the Vice-Chairperson shall preside and in the absence of Chairperson and Vice-Chairperson any other member elected by the members present at such meeting shall preside over the meeting of the Board.

(3) Five members of the Board shall form a quorum for the meeting.

(4) The decisions of the Board shall be made by a simple majority of votes of the members present and in any case in which the voting is equal, the member presiding shall have an additional or casting vote.

(5) Where a quorum is present, the validity of any proceeding of the Board shall not be affected by any vacancy amongst its members or by any defect in the appointment of members.

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

(7) Subject to the provisions of this Act and regulations made thereunder, the Board may regulate its own proceedings.

Powers of Board

7. The Board shall have all powers necessary for the proper performance of its administrative functions under this Act.

Chief Executive Officer

8.(1) The President may, on the recommendation of the Board, appoint a Chief Executive Officer of the Authority.

(2) The Chief Executive Officer shall be appointed for such term not

exceeding three years as the President may determine, and shall be eligible for reappointment on completion of the term of appointment.

(3) The salary and allowances and other terms and conditions of service of the Chief Executive Officer shall be such as may be determined by the President.

(4) The Chief Executive Officer —

(a) shall be responsible for the implementation of the decisions of the Authority and for the management of the day-to-day affairs of the Authority;

(b) may, subject to the direction of the Board, sign documents on behalf of the Authority;

(c) may delegate any of his or her functions to the Deputy Chief Executive officer or any other employee of the Authority.

Deputy Chief Executive Officer

9.(1) The President may appoint a Deputy Chief Executive Officer of the Authority on the recommendation of the Board.

(2) The Deputy Chief Executive Officer shall be appointed for such term not exceeding three years as the President may determine, and shall be eligible for reappointment on completion of the term of appointment.

(3) The salary and allowances and other terms and conditions of service of the Deputy Chief Executive Officer shall be such as may be determined by the President.

(4) The Deputy Chief Executive Officer shall perform such functions as the Chief Executive Officer may assign or delegate to him or her.

(5) The Deputy Chief Executive Officer may act in the office of the Chief Executive Officer —

- (a) during the vacancy in the office of the Chief Executive Officer; or
- (b) during any period in which the Chief Executive Officer is absent from duty for any reason or is unable to perform the functions of that office.

PART IV - FINANCIAL PROVISIONS

Funds of the Authority

10.(1) The funds of the Authority shall consist of —

- (a) such moneys as may be appropriated by the National Assembly pursuant to an Appropriation Act for the purpose of the Authority;
- (b) any moneys received by the Authority from its operations or other payments;
- (c) any moneys as are from time to time received by the Authority by way of donations, gifts or grants, subject to the approval of the Minister responsible for finance.

(2) The funds of the Authority shall be applied in the discharge of expenses incurred in the carrying out of the functions of the Authority, the payment of remuneration to the Chairperson, members of the Board, officers and other employees of the Authority and in the repayment of any sum borrowed by the Authority.

Insurance

11. The Authority may enter into contract of insurance and take and maintain insurance policies in respect of —

- (a) properties that the Authority manages, holds, owns or occupies; and
- (b) any liability that may arise from the exercise of any of its function under this Act.

Directions by Minister

12.(1) The Minister may, in writing, give general or specific directions to the Authority regarding the performance of its functions under this Act or any other written law administered by it.

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

Operational Plan

13.(1) The Authority shall prepare an operational plan at least 90 days before the beginning of each financial year and submit it to the Minister for his or her approval.

(2) The operational plan shall —

- (a) include a statement of the short and medium term operational objectives;
- (b) outline the strategies that the Authority intends to employ in order to achieve its objectives; and
- (c) include, *inter alia*, a financial plan, a human resources plan and performance indicators.

(3) The financial plan shall include estimates of expenditure and revenue for the financial year next following.

(4) The Authority may amend the operational plan with the approval of the Minister.

Accounts and Audits

14.(1) The financial year of the Authority shall be the calendar year.

(2) The Authority shall keep proper accounts and other relevant records and prepare a statement of accounts in such form as may be approved by the Auditor General.

(3) The accounts of the Authority shall be audited by the Auditor General in accordance with Article 158 of the Constitution.

Annual Reports

15.(1) The Authority shall, as soon as possible after the expiration of each financial year and in any event not later than the 31st day of March in any year, submit to the Minister, and the Minister responsible for finance, an annual report dealing generally with the administration and its activities during the preceding financial year.

(2) The Authority shall within three months of completion of the audit of its account in respect of any financial year, submit to the Minister and the Minister responsible for Finance —

- (a) a copy of its audited statement of accounts;
- (b) a copy of annual report specified under subsection (1) for that financial year together with a copy of the audited statement of accounts and a copy of any report by the Auditor General on the statement of accounts of the Authority.

(3) The Minister shall, within 30 days of receiving the Authority's audited statement of accounts, annual report and the report of the Auditor General on the statement of accounts, specified under subsection (2), cause them to be laid in the National Assembly.

PART V - MISCELLANEOUS

Application of certain Penal Code provisions

16. All members of the Board and officers of the Authority shall be deemed to be employed in the public service for the purpose of sections 91 to 96 of the Penal Code (Cap 158).

Protection of acts done in good faith

17. No civil or criminal proceedings shall lie against the Authority, Chairperson, Vice-Chairperson, or member of the Board or the officers and

other employees of the Authority in respect of an act done or omission made in good faith in the performance of the functions of the Authority, in pursuance of this Act.

Reference in other written laws

18. Any reference in any written law to the National Parks Authority, Marine Parks Authority or the National Botanical Gardens Foundation, its Chief Executive Officer or other officers shall be deemed to be a reference to the Seychelles Parks and Garden Authority, its Chief Executive Officer or other corresponding officers, as the case may be.

Regulations

19. The Minister may, in consultation with the Authority, make regulations for the purpose of carrying into effect the provisions of this Act.

Repeal

20. The Environment Protection (Seychelles National Parks Authority) Order, 2009, (S.I. 30 of 2009) and the National Botanical Gardens Foundation Act, Act 30 of 2009 (Cap 288) are hereby repealed.

Savings and Transitional

21.(1) On the commencement of operation of this Act, the Chief Executive Officers employed with the National Parks Authority and the National Botanical Gardens Foundation and shall cease to hold office until such time the President makes appointments under section 8 or 9.

(2) Subject to subsection (1), on the repeal of the Environment Protection (Seychelles National Parks Authority) Order, 2009, (S.I. 30 of 2009) and the National Botanical Gardens Foundation Act (Cap 288) the officers and other employees of the National Parks Authority and the National Botanical Gardens Foundation and holding office as such immediately before the repeal of the Environment Protection (Seychelles National Parks Authority) Order, 2009, (S.I. 30 of 2009) and the National Botanical Gardens Foundation Act (Cap 288) shall be deemed to be employees of the Seychelles Parks and Garden Authority appointed on the same terms and conditions of employment until these are amended, varied or repealed in accordance with

any scheme of service applicable to the employees of the Seychelles Parks and Garden Authority;

(3) The mention of the particular matters referred to in subsection (2) shall not be held to prejudice or affect the general application of section 31 of the Interpretation and General Provisions Act (Cap 103) with regard to the effect of repeal.

(4) On the commencement of operation of this Act —

- (a) all movable or immovable properties, assets, rights, interests and privileges acquired, accrued by, or vested in, the National Parks Authority and the National Botanical Gardens Foundation shall vest into, and be deemed to be, the assets of the Seychelles Parks and Garden Authority;
- (b) all liabilities and obligations incurred by the National Parks Authority and the National Botanical Gardens Foundation prior to the date of this Act shall be deemed to have been incurred by the Seychelles Parks and Garden Authority;
- (c) any contract or agreement executed by the National Parks Authority and the National Botanical Gardens Foundation prior to the date of the commencement of operation of this Act shall continue to have effect in accordance with its terms as if it was originally made and entered into by the Parks and Garden Authority; and
- (d) any right, privilege obligation or liability acquired or incurred by a person under the Environment Protection (Seychelles National Parks Authority) Order, 2009, (S.I. 30 of 2009) and the National Botanical Gardens Foundation Act (Cap 288) shall not be affected by the repeal and any legal investigation, legal proceedings or remedy in respect of such right, privilege, obligation or liability may be instituted, continued or enforced by or against the Seychelles Parks and Garden Authority.