

LAW COMMISSION BILL, 2022

(Bill No. 10 of 2022)

EXPLANATORY STATEMENT

The object of this Bill is to establish the Seychelles Law Commission which will be responsible for reviewing the laws of Seychelles with a view to propose legislative amendments or new legislation to the Government and the National Assembly. The main tasks of the Commission will be: (1) Law Reform; (2) Law Revision; and (3) Legislative Scrutiny. Further, the Commission will be given the responsibility of compiling the Seychelles Law Reports.

Law Reform

The Commission will be an advisory body to the Republic that will monitor and review the laws of Seychelles. The Commission will recommend new legislation and amendments to existing laws. In conducting its work, the Commission will need to conduct public consultation and in-depth research in respect of the laws of Seychelles for the purposes of providing legislative solutions to societal challenges and ensuring that Seychelles keeps abreast with legislative developments around the world.

Law Revision

The Commission will take up the functions of the Law Revision Commissioner and as such, the Bill proposes the repeal of the Statute Law Revision Act, Cap. 232. The Commission will build on the milestones achieved under the Government's ongoing Law Revision Project which ends in December 2022.

Legislative scrutiny

The Commission will engage in both pre-legislative scrutiny and post-legislative scrutiny. This will be a critical function of the Commission. Legislative scrutiny is usually an exercise undertaken by the Members of the National Assembly. Currently, the National Assembly undertakes pre-legislative scrutiny through its Scrutiny of Bills Committee where the

Members of the National Assembly examines and analyses legislative proposal with a view to improving the quality of the proposed law. However, there are significant capacity constraints on the National Assembly to facilitate post-legislative scrutiny (PLS). PLS is an inquiry into laws passed by the National Assembly to determine whether the laws are achieving their intended objectives or consequences and to analyse how the law is working in practice and if there are any changes needed. The Commission is intended to assist the National Assembly as far as possible in undertaking PLS.

Seychelles Law Report

The Commission will be responsible for the compilation of the Seychelles Law Reports subject to the approval of the Chief Justice.

The Commission will be governed by Commissioners which will include the Attorney General, judges and lawyers who will consult the public and key stakeholders on proposals of the Commission. The day-to-day administration and activities will be spearheaded by the person who is appointed as the Director of the Commission. The Director will be supported by other technical staff.

Dated this 9th day of June, 2022.

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

LAW COMMISSION BILL, 2022

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A BILL

FOR

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF THE SEYCHELLES LAW COMMISSION; TO SET OUT THE PROCEDURES UNDER WHICH THE COMMISSION MAY REVISE, REVIEW AND REFORM THE LAWS OF SEYCHELLES; AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

ENACTED by the President and the National Assembly.

PART 1

PRELIMINARY

Short title and commencement

1.(1) This Act may be cited as the Law Commission Act, 2022.

(2) This Act comes into operation on such date as the President may, by notice published in the Gazette, appoint.

Interpretation

2.(1) In this Act, unless the context otherwise requires —

“**Commission**” means the Seychelles Law Commission established under section 3;

“**Director**” means the Director of the Seychelles Law Commission appointed under section 6;

“**Judiciary**” includes the Court of Appeal, Supreme Court and Magistrates' Court;

“**Law Commissioner**” means a person specified in section 4(1)(a) to (d) and does not include the Director;

“**Minister**” means the Minister responsible for legal affairs;

“**revision date**” means a date appointed by notice under section 10(1);

“**Registrar**” means the Registrar of the Court of Appeal and the Registrar of the Supreme Court;

“**Seychelles National Library**” means the Seychelles National Library established under section 42 of the Seychelles National Institute for Culture Heritage and the Arts Act, 2021;

“**Seychelles National Archives**” means the Seychelles National Archives established under section 27 of the Seychelles National Institute for Culture Heritage and the Arts Act, 2021.

PART 2

THE COMMISSION

Establishment of Commission

3.(1) There is established a Commission to be known as the “Seychelles Law Commission”.

(2) The Commission is a body corporate capable of owning property and being a party to contracts.

Members of Commission

4.(1) The Commission shall comprise —

- (a) the Attorney General who shall be the chairperson;
- (b) a Justice of Appeal proposed by the President of the Court of Appeal of Seychelles;
- (c) a Judge proposed by the Chief Justice;
- (d) 2 Attorneys-at-Law proposed by the Attorney General;
- (e) the Director who shall be an ex officio member.

(2) A person appointed to be a Law Commissioner pursuant to subsection (1)(b), (c) or (d) shall be appointed for such period, not exceeding 3 years, and on such terms and conditions as may be determined by the Minister.

(3) A Law Commissioner shall be eligible for re-appointment at the expiration of the Law Commissioner's term of office.

(4) A Law Commissioner may resign by giving by written notice addressed to the Attorney General.

(5) The Commission shall regulate its own proceedings.

(6) There shall be paid to the Law Commissioners such allowances as may be determined by the Minister responsible for finance in consultation with the Attorney General.

Functions of the Commission

5. The Commission shall, subject to this Act —

- (a) consolidate, revise and publish the laws of Seychelles in accordance with Part 3 of this Act;
- (b) keep the laws of Seychelles in review in accordance with Parts 3 and 4 of this Act, so that the laws of Seychelles are

relevant and suitable to the changing circumstances and needs of Seychelles;

- (c) consider the reform of the laws in accordance with Part 4 of this Act;
- (d) review draft Bills and draft subsidiary legislation at the request of the Attorney General and make recommendations or propose changes to the Attorney General;
- (e) engage in pre-legislative scrutiny and post-legislative scrutiny in accordance with Part 5 of this Act;
- (f) organize and publish the Seychelles Law Reports and related material in accordance with Part 6 of this Act; and
- (g) perform such other functions that are specified in this Act, any written law or that the Commission, with the approval of the Minister, decides are appropriate.

Director of the Commission

6.(1) There shall be a Director who shall be the administrative head of the Commission.

(2) The Commission shall appoint a suitably qualified person as the Director on such terms and conditions as the Commission may decide.

(3) A person who held or is qualified to hold the post of Judge or Justice of Appeal in Seychelles and has shown outstanding distinction in the practice of law shall be qualified for appointment as Director.

(4) The Director shall be responsible for —

- (a) the administration of the Commission;
- (b) the conduct of legal research for the Commission;
- (c) the preparation of draft legislation, reports and other documents for the use of the Commission;

(d) such other tasks that are necessary to ensure that the Commission fulfils its functions.

(5) Subject to this Act, the Director shall be assisted in the discharge of the Director's duties by such persons as the Commission may appoint.

(6) The Director and the persons appointed under subsection (5) are public officers.

(7) Where the office of the Director is vacant, the Attorney General shall have and perform, *mutatis mutandis*, the powers conferred on the Director by this Act.

Immunity of members of the Commission

7.(1) No personal liability shall be attached to a Law Commissioner, the Director, any staff of the Commission or a member of a committee appointed under this Act in respect of anything done in good faith under the provisions of this Act.

(2) The Law Commissioners and the Director shall be immune from proceedings or suit in respect of any act or thing done *bona fide* for the purposes of carrying the provisions of this Act.

(3) The Attorney General shall represent the Commission in any proceedings or suit.

PART 3 LAW REVISION

Law Revision functions of the Commission

8. The Director, under the supervision and direction of the Commission, shall —

(a) prepare a revised edition of the laws of Seychelles in accordance with the provisions of this Act;

(b) prepare Bills and subsidiary legislation, for approval by the President, where the Commission considers that it is desirable to make amendments to any written law.

Contents of the revised edition

9. Subject to this Act, the revised edition of the laws of Seychelles shall comprise —

- (a) the revised edition of the Constitution;
- (b) the revised edition of Acts;
- (c) the revised edition of the subsidiary legislation;
- (d) the revised edition of the Constitution, Acts or subsidiary legislation that are not in force.

Revision date and periodic revision of the laws of Seychelles

10.(1) The Attorney General may by notice published in the Gazette appoint a date to be a revision date for the laws of Seychelles.

(2) Notwithstanding subsection (1), the Attorney General may, by notice published in the Gazette, appoint a date other than the revision date specified under subsection (1) as a special revision date for any particular written law.

(3) The Director, under the supervision and direction of the Commission, shall prepare the revised edition of the laws of Seychelles pursuant to subsection (1) or revise the particular written law specified in the notice pursuant to subsection (2).

(4) In every case under subsection (3), the Commission shall insert an appropriate note in the laws of Seychelles with reference to the revision date of any written law.

Laws to be omitted from revised edition

11.(1) The Commission shall omit from a revised edition the laws specified in Schedule 1.

(2) The Attorney General shall, by notice published in the Gazette, indicate any law omitted pursuant to this section.

(3) No written law omitted from the revised edition of the laws of Seychelles, under the authority of this Act or by omission or otherwise, shall be deemed to be without force and validity by reason only of the fact that the written law is so omitted.

(4) Schedule 1 may be amended by the President.

Revision powers of the Commission

12.(1) Subject to this Act, the Commission shall have the powers of revision set out in Schedule 2.

(2) Nothing done under this section shall empower the Commission to make any alteration or amendment to the substance or otherwise affecting the meaning of any law or provision of any law.

(3) Schedule 2 may be amended by the President.

Process to correct errors of substance in the laws of Seychelles

13.(1) Notwithstanding section 12, where in any case it appears necessary to the Commission to alter the substance of any law, the Director shall draft a Bill or subsidiary legislation setting out the alterations and amendments to any enactment.

(2) Every Bill drafted pursuant to subsection (1) shall, if the President approves, be introduced in the National Assembly.

(3) Every subsidiary legislation drafted pursuant to subsection (1) shall, if the person or authority empowered by an Act to make the subsidiary legislation approves, be laid before the National Assembly.

Format and marking of revised edition

14.(1) A revised edition of the laws of Seychelles may be contained in such of the following formats as the Commission thinks fit —

- (a) bound books;
- (b) a collection of booklets;

- (c) loose-leaf books;
 - (d) CD-ROM or other means of electronic storage;
 - (e) a databank accessible by remote computer; or
 - (f) any other format.
- (2) The revision date of a revised edition shall be —
- (a) marked upon every page of a revised edition in printed format; and
 - (b) displayed upon every page of a revised edition in any other format, in such manner that it is also marked upon a printed copy of that page.
- (3) Different revision dates may be marked or displayed upon different pages of a revised edition.
- (4) The legislative history may be inserted in any revised law.

Bringing revised edition into force

15.(1) The President may, by order published in the Gazette, direct that the revised edition of the laws of Seychelles prepared under section 10 shall come into force on such date as the President may appoint in the order.

(2) The President shall sign at least 9 copies of a revised edition, prepared in accordance with this Act, sealed with the Public Seal, and the President shall cause one copy of the revised edition to be deposited in —

- (a) the office of the President;
- (b) the office of the Vice-President;
- (c) the office of the Speaker of the National Assembly;
- (d) the office of the Minister;
- (e) the chambers of the President of the Court of Appeal of Seychelles;

- (f) the chambers of the Chief Justice;
- (g) the chambers of the Attorney General;
- (h) the Seychelles National Archives;
- (i) the Seychelles National Library; and
- (j) any other office as the President may determine.

Status and effect of revised edition

16.(1) A revised edition of the laws of Seychelles, brought into force under section 15, shall be deemed to be, for all purposes whatsoever, the sole authentic edition of the laws of Seychelles.

(2) Subsection (1) shall not affect the operation of any law which comes into force after the revision date and which repeals, alters or amends any law included in the revised edition.

(3) Wherever in any document of whatever kind reference is made to any enactment affected by the operation of this Act, the reference shall, where necessary and practicable, be construed as a reference to the corresponding provision in the revised edition of the laws of Seychelles.

(4) The revised edition of the laws of Seychelles shall not be held to operate as new laws, but shall be construed and have effect as a consolidation and as a declaratory form of the written laws that have been revised and published therein, and shall not be construed as a legislative endorsement of any judicial interpretation of a pre-existing law.

Rectification of clerical and other errors

17.(1) If any clerical or printing error in or omission from a revised edition of the laws of Seychelles brought into force under section 15 is found, the Attorney General, acting on the advice of the Commission,

- (a) may correct the error or omission in such manner as may be consistent with the powers of revision conferred on the Commission by section 12; and

(b) shall give notice in the Gazette of any corrections so made.

(2) No error in or omission from a revised edition brought into force under section 15 shall affect the validity or lawfulness of any act or omission by any person which would otherwise have been valid or lawful.

Keeping of laws passed or made in Seychelles

18.(1) The Attorney General, Clerk of the National Assembly, Registrar and the Director shall —

- (a) keep a copy of every law made after this Act comes into force in electronic format and any other format; and
- (b) provide a copy of any law upon request by the President, Speaker of the National Assembly, President of the Court of Appeal or the Chief Justice.

(2) The Attorney General, Clerk of the National Assembly, Registrar and the Director shall keep a hardcopy and an electronic database of any law omitted from the revised edition of the laws of Seychelles by virtue of Schedule 1.

Laws to be accessible to the Public

19.(1) The Commission shall cause to be prepared and made available an electronic version of the latest revised edition of the laws of Seychelles that is accessible, free of charge, to any person.

(2) The Commission may print or cause to be printed by the Government printer or such other printer an edition of the laws of Seychelles or any written law prepared in accordance with this Act for sale to the public at such fees as may be determined by the Commission in consultation with the Attorney General.

Offence

20.(1) A person who knowingly makes any alteration to a revised edition of the laws of Seychelles, with the intent to deceive any person as to the true text of the law, commits an offence and is liable on conviction to a

term of imprisonment not exceeding 5 years or a fine of level 4 on the standard scale, or to both such fine and imprisonment.

(2) Subsection (1) applies whether the alteration is made in Seychelles or elsewhere.

PART 4 LAW REFORM

Law reform functions of the Commission

21.(1) The functions of the Commission under this Part are to keep the laws of Seychelles under review with a view to ensuring the systematic development and reform of the laws, including in particular —

- (a) the codification of any unwritten rule of law;
- (b) the elimination of anomalies;
- (c) the repeal of obsolete and unnecessary enactments;
- (d) the reduction of separate enactments;
- (e) the proposal of new laws;
- (f) the adoption of new or more effective and economical methods for the administration of the law and the dispensation of justice; and
- (g) in general, the simplification, improvement and modernisation of the law and, subject to section 22, the Commission may in these respects act of its own volition.

(2) For the purpose of carrying out its functions, the Commission shall —

- (a) consider any subject referred to it by the National Assembly or the Judiciary in such manner as determined by the Commission;
- (b) receive and consider any proposal for the reform of the laws

of Seychelles which may be made by members of the public in such manner as determined by the Commission;

- (c) at the request of a Minister, provide assistance to the Government by undertaking the examination of any particular law and making recommendations for the reform of that law;
- (d) produce reports and discussion papers, and draft new and amending Bills or subsidiary legislation in furtherance of the Commission's functions;
- (e) consider the impact on the statute law of any judicial decision and review judicial decisions of the courts, and propose any necessary action to keep such decisions and the laws of Seychelles in conformity.

(3) The Commission shall provide to the Minister in accordance with the Minister's direction such reports as the Minister may require in relation to particular matters.

Approval of work programme

22. The Commission shall, before setting a work programme for any year, seek the approval of the President, in consultation with the Cabinet of Ministers, and the implementation of such programme is subject to that approval and the degree of priority decided by the President.

PART 5

SCRUTINY OF LEGISLATION

Pre-legislative Scrutiny

23.(1) The Commission may establish guidelines and procedures, or a committee, for the purpose of considering the legal and practical efficacy of the following proposed laws submitted to the Commission —

- (a) a draft Bill that the President has approved and the Vice-President or a Minister proposes to introduce into the National Assembly;

- (b) draft subsidiary legislation that the President, a Minister or an authority proposes to make or approve for making;
- (c) such other documents as the Commission considers that the Commission should accept for scrutiny and advice, in such manner as the Commission decides.

(2) The Commission shall take all reasonable steps to have such draft laws considered in a timely manner.

(3) After considering the proposed law, the Commission shall report on its conclusions to the Minister and, if appropriate, the Commission shall attach to such report an amended draft of the Bill or subsidiary legislation, as the case may be.

Post-legislative Scrutiny

24.(1) Subject to subsection (4), the Commission may establish procedures, or a committee, for the purposes of —

- (a) reviewing the implementation of a specific law;
- (b) evaluating whether a specific law is achieving its intended outcomes;
- (c) determining such other matters relevant to the specific law.

(2) For the purpose of carrying out its functions under subsection (1), the Commission shall receive and consider any requests from the Speaker of the National Assembly, the Judiciary, a Ministry, a public authority or any member of the public.

(3) After considering the existing law, the Commission shall report on its conclusions to the Minister and, if appropriate, the Commission shall attach to such report a draft law to amend the existing law.

(4) Any activity under subsection (1) shall be included in the work programme referred to in section 22.

PART 6
LAW REPORTING

Law Reports

25.(1) The Commission may, with the approval of the President of the Court of Appeal and the Chief Justice, publish the Seychelles Law Reports.

(2) The Commission may, on the directions of the President of the Court of Appeal and the Chief Justice, —

- (a) collect and collate the judgments or decisions of the Court of Appeal or the Supreme Court;
- (b) edit and publish the Seychelles Law Report in such form and manner as may be determined by the President of the Court of Appeal and the Chief Justice;
- (c) enter into, approve or supervise consultancy agreements, for the provision of services in relation to the Seychelles Law Reports;
- (d) sell the Seychelles Law Report at such fees as may be determined by the President of the Court of Appeal and the Chief Justice by notice published in the Gazette;
- (e) perform such tasks that are necessary for the publication and maintenance of the Seychelles Law Reports.

(3) The President of the Court of Appeal and the Chief Justice shall appoint a committee to prepare the Seychelles Law Reports for review by the Commission.

(4) The President of the Court of Appeal and the Chief Justice shall co-chair the committee appointed under subsection (3).

(5) There shall be paid to the members of the Committee appointed under subsection (3) such allowances as may be determined by the Minister responsible for finance in consultation with the Attorney General.

PART 7

FINANCIAL PROVISIONS

Funding of the Commission

26.(1) The funds available to the Commission shall comprise —

- (a) monies allocated by National Assembly from the Consolidated Fund;
- (b) monies given to the Commission by a foreign country, international organization or a non-governmental agency or body for a general or specific purpose, or for the remuneration and benefit of a consultant;
- (c) donations, endowments and other gifts received by the Commission on the approval of the Minister.

(2) The funds of the Commission may be applied for any purposes in connection with or for the furtherance of the functions of the Commission.

Accounts and Estimates of the Commission

27.(1) The Commission shall prepare estimates of the receipts and expenditure of the Commission for each financial year, and the estimates shall be submitted to the Minister at such times as the Minister may direct after the ensuing financial year.

(2) A copy of all estimates of receipts and expenditure in respect of the financial year shall, upon adoption by the Commission, be sent to the Minister responsible for finance.

(3) The accounts and statement of accounts of the Commission shall be audited by the Auditor General or by such other person appointed and paid by the Auditor General.

(4) As soon as the accounts and statement of accounts of the Commission have been audited under subsection (3), the Commission shall send to the Minister a copy of the statement of accounts together with a copy of any report made by the Auditor General on the accounts or statements of the Commission.

PART 8
MISCELLANEOUS

Regulations

28. The Minister may, acting on the advice of the Commission, generally make regulations for the proper and efficient carrying out of the functions of the Commission.

Repeal, savings and transitional

29.(1) The Statute Law Revision Act, Cap. 232, is repealed.

(2) Subsection (1) does not affect the validity of anything done under the Statute Law Revision Act or the continuing validity of the revised edition of the laws of Seychelles under the Act.

(3) The Commission may exercise the powers of the Law Revision Commissioner under the Statute Law Revision Act to revise any law that was enacted before 1 January, 2023.

Consequential amendments

30. The Digitization and Publication of Gazette Act, 2020, is amended to the extent specified in Schedule 3.

SCHEDULE 1

(Section 11)

OMITTED LAWS

The following laws may be omitted from a revised edition of the laws of Seychelles —

1. Any Appropriation Act or Supplementary Appropriation Act;
2. Enactments of a temporary nature, limited application or under revision;
3. All provisions prescribing the date when, or manner in which, any written law or part of the written law will come into operation, where

such omission can, in the Law Commissioners' opinion, conveniently be made;

4. All enactments which are expressly repealed;
5. Any enactment authorizing the raising or guaranteeing of a specific loan.

SCHEDULE 2

(Section 12)

REVISION POWERS OF THE COMMISSION

(1) In the preparation of a revised edition of the laws of Seychelles or the revision of a particular law, the Commission shall have the following powers in relation to any enactment other than the Constitution —

- (a) arrange the laws in such order, manner or groups as the Commission may determine;
- (b) add, alter or amend the preamble, long title or short title of any enactment;
- (c) add, alter or amend a table of contents to any enactment;
- (d) add, alter or amend a marginal note, section heading, heading note in an enactment;
- (e) change any reference to a person, office, body, place or thing to reflect a change of name, transfer of function or provision for constructions of the reference;
- (f) change any word or reference to a person or office to make it gender neutral, where it is possible without having to reconstruct a legislative sentence;
- (g) correct any typographical error or other error of spelling, punctuation, grammar or layout;
- (h) change spelling, punctuation and layout;

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- (i) change expressions of date, money, number, time and units of measurement;
 - (j) omit any obsolete or redundant words;
 - (k) alter or amend any word to secure uniformity of expression throughout an enactment;
 - (l) add numbering where there is none and change numbering to correct an error or reflect any other change;
 - (m) substitute for a reference to a law or provision of a law which has been re-acted or replace a reference to the law or provision re-enacting or replacing it;
 - (n) change a cross-reference to a law or provision of a law to correct an error or reflect any other change;
 - (o) include examples, notes, annotations, references to case law and other similar material designed to better explain and present the law,

and to do all other things which appear to the Commission to be necessary to render the revised edition of the laws of Seychelles or a particular law consistent with the current legislative drafting practice in Seychelles.

(2) For avoidance of doubt, in the preparation of a revised edition of the laws of Seychelles or the revision of a particular law, the Commission shall not have the power to —

- (a) change conjunctives and disjunctives in any written law;
- (b) omit any Schedule, map, picture, drawing, diagram or other object in any written law;
- (c) shorten or simplify any phrase or sentence in any written law.

(3) The Director may draft a Bill, under the supervision and direction of the Commission, to revise the Constitution, and such Bill shall, if the President approves, be introduced in the National Assembly.

SCHEDULE 3

(Section 30)

CONSEQUENTIAL AMENDMENTS

1. The Digitization and Publication of Gazette Act, 2020, is amended as follows —

- (a) in section 2 —
 - (i) by repealing the definition of “Law Revision Commissioner”;
 - (ii) by inserting in the proper alphabetical order, the following new definition —

“Director” means the Director of the Seychelles Law Commission appointed under the Law Commission Act, 2022;
- (b) in section 7 by repealing the words “Law Revision Commissioner” and substituting therefor the word “Director”.