

COMPOUNDING OF PRESCRIBED OFFENCES BILL, 2024

(Bill No. 2 of 2024)

**EXPLANATORY STATEMENT OF OBJECTS AND REASONS
FOR THE BILL**

The Bill seeks to establish a legislative framework enabling the Attorney General to offer alleged offenders of offences specified in this Bill the option to settle through an administrative penalty, thereby diverting them from the traditional criminal justice system. This diversionary measure allows for alternative enforcement methods while ensuring accountability for the commission of specified offences, without overburdening the criminal justice system.

As a result of compounding, no criminal prosecution shall be initiated by the Attorney General or any other relevant authority against the offender for the commission of the specified offence.

Dated this twenty-eighth (28th) day of MARCH, 2024.

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

COMPOUNDING OF PRESCRIBED OFFENCES BILL, 2024

(Bill No. 2 of 2024)

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COMPOUNDING OF PRESCRIBED OFFENCES BILL, 2024

(Bill No. 2 of 2024)



A BILL

FOR

AN ACT TO PROVIDE FOR THE COMPOUNDING BY THE ATTORNEY GENERAL OF PRESCRIBED OFFENCES AND TO PROVIDE FOR OTHER CONNECTED OR INCIDENTAL MATTERS.

ENACTED by the President and the National Assembly.

Short title

1. This Act may be cited as the Compounding of Prescribed Offences Act, 2024.

Interpretation

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

“alleged offender” means —

- (a) a person who has committed an offence under a relevant enactment for which a fixed penalty may be imposed; or
- (b) a person who has committed a prescribed offence and who has been issued with a fixed penalty notice for the prescribed offence but who has failed to pay the fixed penalty within the time limit prescribed for payment in the fixed penalty notice or under the relevant enactment and who is therefore liable to be criminally prosecuted for that offence;

“Committee” means the committee established under section 9 and includes an *ad hoc* committee;

“compounding amount” means the amount that the Attorney General shall determine and offer the alleged offender in the offer to compound;

“fixed penalty” means the amount of fixed penalty for a prescribed offence under a relevant enactment;

“fixed penalty notice” means the fixed penalty notice issued to an alleged offender under a relevant enactment, offering the alleged offender an opportunity to discharge his or her liability to conviction for the prescribed offence on payment of a fixed penalty;

“Minister” means the Minister responsible for legal affairs;

“offer to compound” means the written offer made by the Attorney General to an alleged offender inviting the alleged offender to compound a prescribed offence;

“prescribed offences” means the offences specified under the Second Schedule;

“proceedings” means criminal proceedings in respect of a prescribed offence;

“Registrar” means the Registrar of the Supreme Court and includes a Deputy Registrar, Assistant Registrar or any other officer of the Registry of the Supreme Court or Magistrates' Court;

“Registry” means the registry of the Supreme Court or Magistrates' s Court;

“relevant enactment” means an Act specified in the First Schedule and includes any relevant regulations made under the Act; and

“working days” excludes Saturday, Sunday, a public holiday or a day where the Registry is not open.

Purposes of this Act

3. The purposes of this Act are —

- (a) to establish a legislative framework for the Attorney General to give an alleged offender of a prescribed offence the opportunity to pay an administrative penalty so as to divert the matter from the criminal justice system;
- (b) make use of alternative methods of enforcing the law and holding an alleged offender of prescribed offences accountable for the commission of a prescribed offence without burdening the criminal justice system.

Compounding of offences

4.(1) Where a person is alleged to have committed a prescribed offence for which a fixed penalty notice was issued to that person or for which a

fixed penalty may be imposed under a relevant enactment, the Attorney General may invite, or offer the option to, the alleged offender to compound the prescribed offence.

(2) The prescribed offences are set out in the Second Schedule.

(3) An offer to compound a prescribed offence shall be in writing in the form prescribed in the Third Schedule.

(4) The offer to compound shall specify —

- (a) the prescribed offence alleged to have been committed by the alleged offender;
- (b) a statement that upon the expiration of the time limit to pay the fixed penalty for the prescribed offence the alleged offender has committed, the alleged offender had failed to pay the fixed penalty;
- (c) the offer to compound the prescribed offence;
- (d) the compounding amount;
- (e) the time limit to accept the offer and pay the compounded amount;
- (f) the consequences of compounding or not compounding the prescribed offence; and
- (g) the acceptance or non-acceptance of the offer to compound by the alleged offender.

(5) An offer to compound may be signed by the Attorney General or any subordinate officer of the Office of the Attorney General acting for and on behalf of the Attorney General.

(6) Upon receiving the offer to compound the prescribed offence, the

alleged offender may accept the offer and remit the compounded amount to the registry.

(7) The acceptance of the offer to compound and payment of the compounded amount shall be deemed as conclusive evidence of admission of the commission of the prescribed offence and acceptance to compound the prescribed offence.

(8) Notwithstanding subsection (1), an alleged offender who was issued with a fixed penalty notice but failed to pay the fixed penalty within the time limit specified in the fixed penalty notice or who committed a prescribed offence for which a fixed penalty could be imposed and who has not been served with summons in respect of proceedings for such offence may apply in writing to the Attorney General to compound the offence.

(9) Where the Attorney General receives an application under subsection (8), the Attorney General may make an offer to compound to the alleged offender.

Time limit to accept the offer and make payment

5.(1) An alleged offender to whom an offer to compound is made shall accept the offer and pay the compounded amount within a period of not less than 21 working days of the date of the offer to compound or within any other time limit specified in the offer to compound.

(2) An offer to compound may be issued or served on the alleged offender —

- (a) by delivering or tendering it to the alleged offender;
- (b) by delivering or tendering it at the alleged offender's residence, workplace or any other proper address of the alleged offender to a person who is more than 16 years old and who is a member of the alleged offender's household or an employee, agent or manager of the alleged offender;
- (c) by registered post addressed to the alleged offender;

- (d) by affixing it in a conspicuous place at the residence or workplace of the alleged offender or at the premises of the proper address of the alleged offender; or
- (e) by electronic delivery or email at such address provided by the alleged offender.

(3) The proper address of an alleged offender on whom an offer to compound is issued shall, in the case of a body corporate, be the registered or principal office or place of business of that body, and, in any other case, be the address contained in the fixed penalty notice or the last known address of the alleged offender.

(4) Upon receipt of the offer to compound, if the alleged offender agrees to compound the offence —

- (a) the alleged offender shall sign the offer to compound to confirm acceptance to compound the offence; and
- (b) pay the compounded amount to the registrar at the registry or at such other place specified in the offer to compound.

(5) The alleged offender shall return the offer to compound along with the acceptance and documentary proof of payment of the compounded amount to the Office of the Attorney General as specified in the offer to compound.

(6) Where an Acceptance is returned to the Attorney General without a signature but with proof of payment of the compounded amount, the offer to compound shall be deemed accepted and the Attorney General shall treat the prescribed offence as compounded.

Compounded amount

6.(1) The Attorney General shall not make an offer to compound for an amount less than double the amount of the fixed penalty in the fixed penalty notice.

(2) The Attorney may make an offer to compound for an amount less than double of the amount of the fixed penalty where —

- (a) the Attorney General determines that the sentencing pattern of the competent court or appellate court for such offence is a fine less than double the amount of the fixed penalty; or
- (b) the Committee advises the Attorney General that there are just and good grounds to do so.

(3) Notwithstanding subsection (1) and (2), the compounded amount shall not be less than SCR1000/-.

(4) Any amount paid for compounding an offence shall accrue to the Consolidated Fund.

Compounding committee

7.(1) The Attorney General may establish a compounding committee, *ad hoc* or otherwise, to assist the Attorney General in determining the appropriate amount to compound offences under this Act and to make any appropriate recommendations to the Attorney General.

(2) The Attorney General shall determine the composition of the Committee and term and condition of its members.

(3) The Committee shall consider relevant factors, including the appropriate legal provisions, the nature and circumstances of the offence, as well as the extent, gravity, past behavior, and previous convictions of the alleged offender.

(4) The Committee shall regulate its own proceedings and shall keep records and minutes of the proceedings.

Effect of compounding

8.(1) An acceptance by the alleged offender to compound an offence

and the payment of the compounded amount shall constitute or be deemed an admission of the commission of the offence and acceptance to compound the offence, and no prosecution shall be instituted, or, if proceedings have commenced, they shall be discontinued, by the Attorney General or any other relevant person or authority against the alleged offender for the commission of the prescribed offence.

(2) Where an alleged offender who is offered an option to compound an offence under this Act does not agree to compound the prescribed offence, or accepts to compound the prescribed offence but fails to pay the compounded amount within the prescribed time limit under this Act or in the offer to compound, the Attorney General may institute proceedings against the alleged offender for the prescribed offence.

(3) Without prejudice to the power of the Attorney General to discontinue proceedings under article 76 (4) of the Constitution, where an alleged offender who is offered to compound a prescribed offence under this Act accepts to compound the prescribed offence in accordance with this Act outside the time limit prescribed under this Act or specified in the offer to compound, the Attorney General may compound the prescribed offence where proceedings have not commenced against the alleged offender or where proceedings have commenced but the alleged offender has not been served with summons to appear in court in respect of the proceedings.

(4) Where an alleged offender has accepted to compound the prescribed offence and failed to pay the compounded amount within the time limit prescribed under this Act or specified in the offer to compound and proceedings are instituted against the alleged offender for that offence, the fact that the alleged offender has accepted to compound shall not be used against that alleged offender in the proceedings for the prescribed offence under any relevant enactment.

(5) In any proceedings brought against an alleged offender for a prescribed offence that the alleged offender has compounded under this Act by any person or authority, it shall be a defence if such alleged offender proves that the prescribed offence has been compounded under this Act.

Exclusion of time limit

9. Where a provision is made in a relevant enactment or any other enactment limiting the time within which proceedings for a prescribed offence may be brought against an alleged offender, the period of time given to compound the offence under this Act or in the offer to compound shall not be taken into account in calculating the period of time prescribed under the relevant enactment or any related enactment.

Non-application of the Act

10. This Act does not apply to a prescribed offence committed by an alleged offender for the fourth time or more within a period of twelve months from the date —

- (a) of commission of a similar offence which was earlier compounded;
- (b) of commission of a similar offence for which such alleged offender was earlier convicted.

Transitional

11. The Attorney General may compound prescribed offences committed prior to the coming into operation of this Act, provided that proceedings have not been instituted against the alleged offender or the alleged offender has not been served with summons for the proceedings.

Regulations and amendment of Schedules

12.(1) The Minister, in consultation with the Attorney General, may —

- (a) make regulations, for all matters which by or under this Act are required or necessary to be provided for giving effect to the provisions of this Act.
- (b) by statutory instrument, amend the schedules.

(2) Notwithstanding subsection (1), the Attorney General may, by statutory instrument, amend the form prescribed regarding the offer to compound contained in the Third Schedule.

SCHEDULES

First Schedule

(section 2)

Relevant Enactments

- (i)* Public Health Act, 2015, Act 13 of 2015
- (ii)* Fair Trading Act, 2022, Act 12 of 2022
- (iii)* Road Transport Act, Cap 206
- (iv)* Physical Planning Act, 2021, Act 55 of 2021
- (v)* Nature Reserves and Conservancy Act, 2022, Act 3 of 2022
- (vi)* Environment Protection Act, Act 18 of 2016
- (vii)* Minor Offences (Fixed Penalties) Decree, Cap 132
- (viii)* Licences Act, Cap 113

Second Schedule

(section 2)

Prescribed Offences

The prescribed offences that may be compounded are —

- (a) all the offences that are “prescribed offences” under the Minor Offences (Fixed Penalties) Act, Cap.132 and listed in the Minor Offences (Fixed Penalties) Regulations, S.I. 3 of 1980.
- (b) all offences under relevant enactments providing that a fixed penalty notice may be issued for an offence and for which the Attorney General is instructed to institute proceedings (notwithstanding the provisions for compounding of prescribed offences under the relevant enactments).

Third Schedule

[section 4(2)]

Form of Offer to Compound

Offer to Compound

Compounding of Prescribed Offences Act

TO:

Name: [insert name of the alleged offender]
Address: [insert address of the alleged offender]
N.I.N.: [insert N.I.N of the alleged offender]

FROM:

Attorney General
3rd Floor, The Link Building
Ile du Port, Mahe, Seychelles

WHEREAS you, the alleged offender, are alleged to have committed the prescribed offence set out as item 1 in the schedule hereto.

WHEREAS according to the relevant enactment that creates the prescribed offence, to discharge your liability for a conviction for the prescribed offence you may be liable to pay a fixed penalty set out in item 2 of the Schedule hereto.*

WHEREAS you were served with a fixed penalty notice for the commission of the prescribed offence to pay the fixed penalty set out in item 2 of the Schedule hereto within the time limit prescribed under the Act creating the prescribed offence or such other enactment.*

WHEREAS upon the expiration of the time limit specified to pay the fixed penalty for the prescribed offence, you failed to pay the fixed penalty.*

On the premises, the Attorney General hereby gives you the option to compound the prescribed offence by signifying your acceptance to compound and by paying the compounded amount set out in item 3 of the Schedule within the time limit set out in item 4 of the Schedule at the place specified in item 5 of the Schedule.

If you accept to compound and pay the compounded amount, no criminal proceedings will be instituted against you for the prescribed offence.

If you do not agree to compound the prescribed offence or if you accept but fail to pay the compounded amount within the time limit set out in item 4 and/or at the place set out in item 5 of the Schedule hereto, criminal proceedings may be instituted against you for the prescribed offence.

SCHEDULE

Item 1 Prescribed offence

Item 2 Amount of fixed penalty

Item 3 Compounded amount

Item 4 Time limit to accept offer and pay compounded amount*

Item 5 Place to pay compounded amount: At any of the following registries:-

- (a) Registrar, Supreme Court, Palais de Justice, Ile du Port, Mahe;
- (b) The Assistant Registrar, Magistrates' Court, Grand'Anse, Praslin;
- (c) The Assistant Registrar, Magistrates' Court, Anse Royale.

Dated this.....day of, 202....

.....
Attorney General/Chief Public Prosecutor/ etc...
For and on behalf of the Attorney General

ACCEPTANCE

I,

Name: [insert name of the alleged offender]
Address: [insert address of the alleged offender]
N.I.N.: [insert national identity no.],

the alleged offender to whom this offer to compound is made hereby —

Please indicate with a tick or cross

- 1. Accept the offer
- 2. Confirm payment of the compounded amount
- 3. Do not agree to compound the prescribed offence

Dated this.....day of, 202....

.....
Alleged Offender

NOTE:- The Acceptance to Compound should be delivered to, or received by, the Attorney General within 21 working days of the date of the offer to compound.

That if the last day of the period is a Saturday, Sunday, a public holiday or a day that the registry is not open, the period shall not include that day and the last day for payment shall be the next working day.

RETURN ACCEPTANCE TO:

Attorney General
3rd Floor
The Link Building
Ile du Port, Mahe, Seychelles

or

email: compoundAG@gov.sc

**delete if inapplicable*