

SEYCHELLES PORTS AUTHORITY (AMENDMENT) ACT, 2024*(Act 4 of 2024)***ARRANGEMENT OF SECTIONS****Sections**

1. Short title
2. Amendment of section 2
3. Amendment of section 4
4. Amendment of section 5
5. Insertion of new section 6A
6. Repeal and replacement of section 7
7. Insertion of new section 7A
8. Repeal and replacement of section 8
9. Insertion of new section 8A, 8B, 8C and 8D.
10. Insertion of new section 10A.
11. Amendment of section 16
12. Amendment of section 17
13. Insertion of new section 19A and 19B
14. Amendment of section 20
15. Insertion of Schedule



SEYCHELLES PORTS AUTHORITY (AMENDMENT) ACT, 2024

(Act 4 of 2024)



I assent

Wavel Ramkalawan
President

13th June, 2024

AN ACT TO AMEND THE SEYCHELLES PORTS AUTHORITY ACT (CAP 321).

ENACTED by the President and the National Assembly.

Short title

1. This Act may be cited as the Seychelles Ports Authority (Amendment) Act, 2024.

Amendment of section 2

2. Section 2 of the Seychelles Ports Authority Act, in this Act referred to as the “principal Act” is amended —

- (a) by inserting, in alphabetical order, the following new definitions —

“Board” means the Board of the Authority constituted under section 4;

“Chairperson” means the Chairperson of the Board appointed under section 4(2);

“Chief Executive Officer” means the Chief Executive Officer of the Authority appointed under section 7;

“Deputy Chief Executive Officer” means the Deputy Chief Executive Officer of the Authority appointed under section 7A;

“harbour” means the Port Victoria and any bay, roadstead or place within ten nautical miles from any coast within the Republic of Seychelles;

“Harbour Master” means the Harbour Master appointed under section 8;

“pilot” means a person appointed under section 8B;

“port and harbour dues” means the dues and rates prescribed by this Act;

“port facility” means a location where the vessel or port interface takes place including anchorages, berths and approaches;

“Port Victoria” means the Port Victoria as delineated in the Schedule;

“Public Enterprise Monitoring Commission” means the Public Enterprise Monitoring Commission established under section 5 of the Public Enterprise Act, 2023;

“quay” means any quay, wharf, jetty, dolphin, landing place or other structure used for berthing or mooring vessels and includes pier, bridge, roadway or footway immediately adjacent and affording access thereto;

“Seychelles Fishing Authority” means the Seychelles Fishing Authority established under the Seychelles Fishing Authority (Establishment) Act, Cap 214;

“Seychelles Maritime Safety Authority” means the Seychelles Maritime Safety Authority established under the Seychelles Maritime Safety Authority Act, 2019;

“vessel” includes any ship, boat or any other description of vessel, artificial craft or water craft including non-displacement craft, WIG craft and seaplanes used in navigation and used or capable of being used as a means of transportation on or in water, whether or not it is actually afloat and whether or not it has any means of propulsion, and also includes every article or thing or collection of things being or forming part of the tackle, apparel, furniture, equipment, cargo, stores or ballast of a vessel;

- (b) in the definition of “Minister”, by repealing the words “Transport”, and substituting it with the words “ports and maritime affairs”.
- (c) by repealing the definition of “Port” and substituting it with the following —

“Port” means any land, landing place, building, shed, port facility, quay, wharf and any other place vested in the Authority or under its control as may be defined or designated under this Act;”

Amendment of section 4**3. Section 4 of the principal Act is amended —****(a) in subsection (1) —**

- (i)** by repealing the word “five” and substituting it with the word “seven”;
- (ii)** by inserting after the words “members appointed by the”, the words “President in consultation with the”;

(b) by repealing subsection (2) and substituting it with the following —

“(2) The President shall upon recommendation of the Minister appoint the Chairperson and Vice Chairperson from amongst the members of the Board.”

(c) by repealing subsection (7) and substituting it with the following —

“(7) The salary and allowances and other terms and conditions of service of the Chairperson, Vice-Chairperson and members of the Board shall be in accordance with Government policies.”

(d) by inserting immediately after subsection (7), the following new subsections —

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

(9) The Board may set up committees to assist the Board in matters regarding investment, audits, administration and other matters as may be determined by the Board.

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

Amendment of section 5

4. Section 5 of the principal Act is amended —

- (a) by repealing the word “Chairman” wherever it appears and substituting it with the word “Chairperson”;
- (b) by repealing the words “Chief Executive Officer” wherever they appear and substituting them with the words “Vice Chairperson”.

Insertion of new section 6A

5. The principal Act is amended by inserting immediately after section 6, the following new section —

“Powers of the Authority

6A. Subject to this Act and any other law, the Authority may do all things necessary for the carrying out of its duties, functions or powers under this Act, including —

- (a) acquire premises necessary or convenient for the exercise of its functions and for that purpose buy, take on lease or exchange, hire or otherwise acquire immovable property and interests, rights, concessions, grants, powers and privileges in respect of such property;
- (b) buy, take in exchange, hire or otherwise acquire movable property necessary or convenient for the exercise of its functions;
- (c) maintain, alter or improve property acquired by it;

- (d) mortgage or charge any assets or part of any assets, sell, exchange, lease, dispose of, turn to account or otherwise deal with any assets or part of any assets which are not required for the exercise of its functions for such consideration as the Board may determine;
- (e) draw, make, accept, endorse, discount, execute and issue for the purposes of its functions promissory notes, bills of exchange, bills of lading, securities and other negotiable or transferable instruments;
- (f) insure against losses, damages, risks and liabilities which may be incurred;
- (g) make contracts and enter into suretyships or give guarantees in connection with the exercise of its functions and modify or rescind such suretyships or guarantees;
- (h) enter into, renew, cancel or abandon arrangements with any government or authority, local or otherwise, that may seem conducive to the exercise of any of its functions and obtain from such government or authority, rights, privileges and concessions;
- (i) establish and administer such funds and reserves not specifically provided for in this Act as the Board may consider appropriate or necessary for the proper exercise of the Authority's functions;
- (j) pay remuneration and allowances and grant leave of absence;
- (k) construct dwellings, outbuildings, or improvements for use or occupation by its members of staff on

land purchased, taken on lease, in exchange or otherwise acquired by the Authority;

- (l) provide such services and facilities as the Board considers proper and charge for such services and facilities such fees as the Board may determine;
- (m) grant leases, subleases or other interests or concessions in respect of land or buildings within the Port and its environs on such terms and conditions and subject to the payment of rent or other consideration as the Authority may think fit;
- (n) grant loans to employees of the Authority for purposes approved by the Authority;
- (o) provide training for employees of the Authority;
- (p) generally do anything that is calculated to facilitate, or is incidental or conducive to, the exercise of the Authority's functions under this Act or any other law."

Repeal and replacement of section 7

6. The principal Act is amended by repealing section 7 and substituting it with the following —

“The Chief Executive Officer

7.(1) The Board shall, in consultation with the President through the Minister, appoint the Chief Executive Officer of the Authority.

(2) The Chief Executive Officer shall be appointed for such term as the Board may determine, not exceeding three years and shall be eligible for reappointment.

(3) The salary and allowances and other terms and conditions of service of the Chief Executive Officer shall be in accordance with Government policies.

(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.”

Insertion of new section 7A.

7. The principal Act is amended by inserting immediately after section 7, the following new section —

“Appointment of a Deputy Chief Executive Officer

7A.(1) The Board shall, in consultation with the President through the Minister, appoint the Deputy Chief Executive Officer of the Authority.

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

(3) The salary and allowances and other terms and conditions of service of the Deputy Chief Executive Officer shall be in accordance with Government policies.

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

Repeal and replacement of section 8

8. The principal Act is amended by repealing section 8 and substituting it with the following —

“Appointment of a Harbour Master

8.(1) The Board shall appoint a Harbour Master on such terms and conditions as the Board shall determine.

(2) The Harbour Master shall perform his or her functions under the direction of the Chief Executive Officer which shall include —

- (a) enforcement of this Act and subsidiary legislation made under this Act;
- (b) assisting in drafting policies and standards in line with both national and international maritime laws to ensure conformity with the operations of the Authority;
- (c) acting as the operational maritime advisor to the Board, the Ministry and management of the Authority on matters concerning port safety and

security, port maritime operations and port management;

- (d) planning and coordination of maritime port operations and services on behalf of the Authority; and
- (e) ensuring that the Port's mandate to the Authority has efficient ship-to-shore interface.

(3) Where any vessel is sunk or abandoned in any harbour, the Harbour Master shall contact the Seychelles Maritime Safety Authority as receiver of wrecks to request the appropriate disposal of the vessel.”

Insertion of new sections 8A, 8B, 8C and 8D.

9. The principal Act is amended by inserting immediately after section 8 the following new sections —

“Deputy Harbour Master

8A.(1) The Board may appoint the Deputy Harbour Master of the Authority.

(2) The Deputy Harbour Master shall discharge the functions of the Harbour Master —

- (a) during a vacancy in the office of the Harbour Master; or
- (b) during the period in which the Harbour Master is absent from duty or is unable to perform the functions of that office.

(3) The Deputy Harbour Master shall perform such other functions as the Harbour Master may delegate to him or her.

Salvage operations

8B.(1) The Authority shall, through the Harbour Master and subject to any permission required by the Chief Executive Officer, have the power to conduct salvage operations in the inner harbour, outer harbour, Seychelles waters, high seas or in another foreign jurisdiction.

(2) For the purpose of subsection (1), the Authority shall be remunerated in accordance with the framework in place governing salvage, depending on the jurisdiction where the salvage activity occurred.

Recovery of harbour dues by court proceedings

8C. Without prejudice to any other remedy, the Authority may recover harbour dues payable in respect of a vessel from the owner, master or agent of such vessel by proceedings in any court of competent jurisdiction.

Pilotage

8D.(1) The Board may appoint such number of qualified persons as the Board may deem fit to act as pilots in and for any one or more of the Seychelles islands.

(2) Any pilot shall, besides the conduct of ships and vessels, discharge such other duties as the Authority may delegate.

(3) The Authority shall, as soon as possible after the appointment of a pilot, furnish a security bond through an approved guarantee society in the sum of SCR15, 000.

(4) The bond under subsection (3) shall be a condition for —

(a) the careful pilotage of ships and vessels, which

the pilot shall conduct in the execution of his or her office; and

- (b) his or her proper observance of all laws and regulations or orders affecting his or her office.

(5) The Authority shall not be responsible to any party aggrieved by any act done by any pilot in the execution of his or her office beyond the amount of the security bond of such pilot, and such responsibility shall cease on the production by the Authority of the said bond.

(6) Any party aggrieved by any act of a pilot in the execution of his or her office may recover from the Authority and the guarantee society the amount of such security bond or any portion of it which may seem just to a competent court.

(7) A list of pilots appointed under this Act shall be affixed to a conspicuous part of the office of the Authority, and disseminated by any appropriate means.

(8) There shall be compulsory pilotage for vessels of 150 Gross Tonnage and above coming in, going out, anchoring, berthing, unberthing and shifting into the inner harbour, except where the Harbour Master issues exemptions and conditions, whenever required.

(9) Notwithstanding anything in any written law, the owner or master of a vessel navigating under circumstances in which pilotage is compulsory shall be answerable for any loss or damage caused by the vessel or by any fault of the navigation of the vessel in the same manner as he or she would if pilotage were not compulsory.”

Insertion of new section 10A.

10. The principal Act is amended by inserting immediately after section 10, the following new section —

“Specific powers

10A.(1) The Authority shall be responsible for the management and administration of all ports in Seychelles.

(2) Notwithstanding subsection (1) the Minister may, by order, designate any areas within or in the vicinity of the harbour as an artisanal and semi-industrial fishing port of Seychelles.

(3) The Minister in consultation with the Minister responsible for fisheries may make regulations with respect to the administration and control of any artisanal and semi-industrial fishing port of Seychelles and, for that purpose may confer or impose powers and duties on the Seychelles Fishing Authority, including powers to make changes and levy fees in prescribed circumstances.

(4) The Minister may, by order, define and designate any harbour, port, port facility, quay, port security area, and define lawful wharves, landing places, mooring places and marinas for the purposes of regulations made under this Act.

(5) All activities conducted on the premises demarcated as port premises shall be subject to terms and conditions specified by the Authority.”

Amendment of section 16

11. Section 16 of the principal Act is amended by repealing subsection (3) and substituting it with the following —

“(3) The provisions relating to audit of accounts or the law governing the monitoring of public enterprises shall apply in respect of the appointment of auditors to audit the accounts of the Authority.”

Amendment of section 17

12. The principal Act is amended by repealing section 17 and substituting it with the following —

“Annual report

17. The Authority shall prepare an annual report on its operations and shall, within three months after the end of each financial year submit it together with a copy of its annual audited accounts and any report by the auditors on its management and accounting practices, to the —

- (a) Minister;
- (b) Minister of Finance; and
- (c) Public Enterprise Monitoring Commission.”

Insertion of new sections 19A and 19B.

13. The principal Act is amended by inserting, immediately after section 19, the following new sections —

“Liability of a master or agent of a vessel

19A. In the event of default of obligations by a vessel, the master, owner or appointed agent of the vessel shall be liable to the Authority for breach of this Act or regulations made under this Act by the vessel and shall bear the costs payable to the Authority.”

Offences and penalties

19B.(1) Any person who has not been appointed a pilot under this Act, and pilots any ship or vessel into or out of the harbour limits as prescribed by this Act, commits an offence and shall be liable on conviction to a fine not exceeding level 7 on the Standard Scale without prejudice in any such case to any action in

damages in which he or she may be answerable for any act done by him or her.

(2) Any master or other person in charge of a ship or vessel, who willfully employs as a pilot any person who is not qualified under this Act to act as a pilot commits an offence and shall be liable on conviction to a fine not exceeding level 7 on the Standard Scale or to imprisonment not exceeding two years or to both.

(3) Subsection (2) shall not apply where any unqualified person is employed as a pilot to conduct a ship or vessel when such ship or vessel was in distress, or under circumstances which rendered it necessary for the master or person in charge of the ship or vessel to avail himself or herself of the best assistance which could be procured at the time.”

Amendment of section 20

14. Section 20 of the principal Act is amended —

- (a) by renumbering the existing section as subsection (1);
- (b) by inserting after subsection (1), the following new subsections —

“(2) Without limiting the generality of subsection (1), regulations made under that subsection may provide for —

- (a) the control of traffic in the harbour, wharves, landing places, quays, buoys and of lighters or small craft, plying boats, motor boats employed in the harbour for the transport of persons and goods, and the tariff for such boats;
- (b) the prohibition, control and regulation of persons and goods entering or leaving the Port area;

- (c) the control of vessels in the Port and harbour area, the landing of cargo, the berthing, mooring and departure of ships;
 - (d) pilotage, towage, anchorage, light, supplying of water to any vessel in the harbour and other dues to be paid to the Authority in respect of any vessel entering or leaving the harbour;
 - (e) the powers of the Harbour Master and all matters concerning port operations by the Authority;
 - (f) the tariffs to be charged by the Authority;
 - (g) the remittance or reduction of any charges due under this Act;
 - (h) the control and directing of all marinas legally operating in Seychelles;
 - (i) the management systems and logistics of ports; and
 - (j) the control of marine pollution, garbage, waste water or sewage release from vessels within the harbour.
- (3) Regulations made under subsection (1) and (2) may provide for offences and in respect of those offences may provide —
- (a) for penalties of fines not exceeding level 7 on the Standard Scale or imprisonment not exceeding two years;
 - (b) where appropriate, imposition of fixed penalties in respect of an offence, and by officers for such purpose;

- (c) that the payment of a fixed penalty may discharge the person of liability from prosecution for an offence.”.

Insertion of Schedule

15. The principal Act is amended by inserting immediately after section 21, the following new Schedule —

“SCHEDULE

(Section 2)

Port Victoria

Port Victoria shall be the area enclosed by the following coordinates:

Starting at Mahe Island bearing 000° by 4.6 nautical miles (Lat 04°53'S; Long 055°31'E), thence by a straight line in a north easterly direction to Fregate Island bearing 276° by 5.9 nautical miles (Lat 04° 36' S; Long 056° 03' E), thence by a straight line in a north north westerly direction to Grande Soeur Island bearing 230° by 7.7 nautical miles (Lat 04°12' S; Long 055° 58' E), thence by a straight line in a westerly direction to Aride Island bearing 094° by 7.5 nautical miles (Lat 04° 12' S; Long 055° 32' E), thence by a straight line in a north north westerly direction to North Island bearing 115° by 7 nautical miles (Lat 04° 20' S; Long 055° 08' E), thence by a straight line in a southerly direction to Silhouette Island bearing 030° by 10.8 nautical miles (Lat 04° 40' S; Long 055° 08' E), back to the starting point at Mahe Island bearing 0000 by 4.6 nautical miles or any other harbour as designated by the Minister under section 10A(4).”

I certify that this is a correct copy of the Bill which was passed by the National Assembly on 29th May, 2024.



Mrs. Tania Isaac
Clerk to the National Assembly