

CONSOLIDATED TO 30 JUNE 2012

LAWS OF SEYCHELLES

SEYCHELLES AGRICULTURAL AGENCY ACT

Act 4 of 2009

[12th January, 2009]

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PART I - PRELIMINARY

1. This Act may be cited as the Seychelles Agricultural Agency Act.
2. In this Act —

“Agency” means the Seychelles Agricultural Agency established under section 3;

“Board” means the Board established under section 14;

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

“Fund” means the Fund established under section 10;

“Minister” means the Minister responsible for Agriculture and
“Ministry” is construed accordingly;

“member” means a member of the Board.

PART II – AGENCY

- 3.(1) There is established the Seychelles Agricultural Agency.
- (2) The Agency shall be a body corporate.
4. The objects of the Agency are —
 - (a) to facilitate and support the enhancement of national food security;
 - (b) to facilitate the increase of the contribution of agriculture in the country's gross domestic product;
 - (c) to facilitate the modernisation and development of the agricultural sector.
- 5.(1) The functions of the Agency are —
 - (a) to assist in the formulation of national agricultural policies and implementation of those policies;
 - (b) to support the development of the agricultural sector by providing technical assistance and services to that sector;
 - (c) to facilitate formal and informal training of food producing entrepreneurs and technical personnel;

- (d) to facilitate the maximization of local production of meat, such as pork and broiler poultry, table eggs and valorise other livestock types;
 - (e) to facilitate the maximization of local production of arable crops;
 - (f) to encourage and promote agricultural production at household level;
 - (g) to encourage the exploitation of spices, floriculture, essential oils and traditional plantation crops for export as value added products and raw materials;
 - (h) to promote the production of organic crops;
 - (i) to promote small scale agro-processing in collaboration with other organisations;
 - (j) to assist with the stocking of adequate amounts of quality agricultural inputs and supplies to meet the requirements of the agricultural sector;
 - (k) to ensure compliance with regulatory frameworks;
 - (l) to implement programmes and projects relating to agriculture and collaborate with relevant agencies in the implementation of those programmes and projects;
 - (m) to participate in meetings, seminars and discussions relating to agriculture at national, regional and international level;
 - (n) to perform such other functions that the Minister may, by Order published in the Gazette, prescribe.
- (2) Subject to this Act, the Agency may in the performance of its functions
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- (a) receive funds due to the Agency, and give full and valid discharge and sign receipt therefor;
 - (b) with the consent of the Minister given in consultation with the Minister of National Development, buy or sell immovable property;
 - (c) hold and manage movable and immovable properties;
 - (d) lease, rent or take on lease or rent any property on such terms as it thinks fit;

- (e) with the consent of the Minister given in consultation with the Minister responsible for Finance, borrow money in the manner and subject to the conditions that the Minister responsible for Finance may determine;
- (f) with the consent of the Minister given in consultation with the Minister responsible for Finance, mortgage or charge the Agency's undertaking or property or any part of the undertaking or property as security for any debt, liability or obligation of the Agency;
- (g) do such other acts or things which may be necessary for the proper performance of its functions under this Act.

6. The Minister —

- (a) shall exercise supervision over the Agency in the performance of its functions and exercise of its powers; and
- (b) may issue policy directives to the Agency.

7.(1) The President shall appoint a person who the President considers is suitably qualified and experienced to be Chief Executive Officer of the Agency on terms and conditions that the President may determine.

(2) The Chief Executive Officer shall be responsible for —

- (a) the implementation of policies under the guidance of the Board; and
- (b) the control and management of the day to day business, of the Agency.

8. The employment of persons working in the Department of Natural Resources, immediately before the coming into operation of this Act, may be terminated.

9.(1) The Agency may employ such officers and other members of staff as may be reasonably necessary for the proper performance of the Agency's functions, on such terms and conditions as the Agency may determine.

(2) Every employee shall be under the administrative control of the Chief Executive Officer.

10.(1) The Agency shall establish a Fund —

- (a) into which shall be paid funds received by or on behalf of the Agency; and

- (b) out of which payments required to be made by the Agency shall be effected.

(2) The funds of the Agency referred to in section 10(1) (a) shall consist of —

- (a) moneys voted by the National Assembly for the use of the Agency;
- (b) moneys accruing to the Agency from its operations; and
- (c) moneys received by the Agency from any other source including loans, donations or grants.

(3) The funds of the Agency shall be applied in —

- (a) the discharge of expenses properly incurred in the performance of its functions;
- (b) the payment of remuneration to the members and employees of the Agency; and
- (c) the repayment of sums borrowed by the Agency.

(4) No money shall be withdrawn from the Fund except on the signature of the Chairperson appointed under section 16 or —

- (a) the Chief Executive Officer; and
- (b) the member responsible for financial matters designated by the Board.

(5) The net profits of the Agency determined after the expenses of each financial year and making provision for bad and doubtful debts, depreciation of assets and any other purpose which the Agency thinks necessary shall be dealt with in accordance with directions given by the Minister in consultation with the Minister responsible for Finance.

11.(1) The financial year of the Agency shall be the calendar year.

(2) The Agency shall keep proper accounts and other relevant records in the form and manner approved by the Auditor General.

(3) Article 158 of the Constitution shall apply in respect of the auditing of the accounts of the Agency.

12.(1) (a) Subject to paragraph (b), the Agency shall prepare a business plan at least ninety days before the beginning of each financial year and submit it to the Minister for the Minister's approval;

(b) The first business plan shall be submitted to the Minister within the period specified by the Minister.

(2) The business plan shall —

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

(3) The financial plan referred to in subsection 2(c) shall include estimates of expenditure and revenue for the following financial year.

(4) The Agency may amend the business plan with the approval of the Minister.

13. The Agency shall, as soon as possible but not later than three months after the end of each financial year, submit to the Minister an annual report dealing generally with the activities of the Agency during that year.

PART III – BOARD OF AGENCY

14. The President shall establish a Board, consisting of not less than seven or more than ten members who, in the opinion of the President, have knowledge and experience likely to contribute to the successful direction of the affairs and operations of the Agency.

15.(1) The Board consists of the following members —

- (a) the Chief Executive Officer;
- (b) a senior officer of the Ministry;
- (c) a senior representative of the Ministry of Environment;
- (d) a senior representative of the Ministry of Finance;
- (e) a representative of the Seychelles Chamber of Commerce and Industry;
- (f) a representative of the organisation responsible for the development of the outer islands;
- (g) a representative of the Farmers' Association;

(h) three other persons who have wide knowledge and experience in matters relating to agriculture.

(2) The President shall appoint the members.

(3) Appointments to the Board shall be signified by notice in the Gazette.

16. The President shall appoint a Chairperson and vice-Chairperson from among the members.

17. Each member shall hold office for a period of three years and is eligible to be re-appointed.

18.(1) The Chairperson may resign from office by a letter addressed to the President and the resignation shall take effect from the date on which the President receives the letter.

(2) A member other than the Chairperson may resign from office by a letter addressed to the President and transmitted through the Chairperson and the resignation shall take effect from the date on which the President receives the letter.

(3) The President may remove a member from office upon being satisfied that the member —

(a) is, for whatever reason, permanently incapable of discharging the duties of a member;

(b) has been absent, without leave of the Board, from three consecutive meetings of the Board;

(c) has neglected the duties of a member; or

(d) is guilty of misconduct.

(4) Where a member resigns or is removed from office, the President shall appoint a person to hold office for the remaining period of office of that member and shall cause the name of that person to be published in the Gazette.

19.(1) Subject to subsection (2), the Board shall meet whenever necessary or expedient for the transaction of the Board's business and meetings of the Board are to be held at the places and times that the Agency determines.

(2) The Board shall meet at least three times a year.

(3) The Chairperson may at any time call a special meeting of the Board within seven days of a written request addressed to the Chairperson by at least three members.

(4) The Chairperson shall preside at all meetings of the Board at which he or she is present, and in the absence of the Chairperson from a meeting, the vice-Chairperson shall preside.

(5) Where the Chairperson and the vice-Chairperson are absent from a meeting of the Board, the members shall elect from among themselves a chairperson to preside at that meeting.

(6) A quorum for a meeting of the Board shall be five members.

(7) A decision of the Board shall be taken by simple majority of votes of the members present and voting, and each member has one vote but in the event of an equality of votes, the Chairperson or vice-Chairperson or the chairperson elected under subsection (5) shall have, in addition to an original vote, a casting vote.

20.(1) Where a member is temporarily absent from Seychelles or temporarily incapable of performing the functions of such member's office, the President may nominate a fit person to act in the place of that member during the period of absence or incapacity.

(2) A person nominated under subsection (1) to act in the place of a member has, and may exercise, at any meeting of the Board all the rights of that member.

21.(1) A member other than the Chairperson, who intends to be absent from meetings of the Board for more than three consecutive months, shall apply to the Chairperson for leave of absence.

(2) If the Chairperson intends to be absent from meetings of the Board for more than three consecutive months, the Chairperson shall apply to the President for leave of absence.

22. The members are to be paid such remuneration as may be determined by the President out of the funds of the Agency.

23.(1) The Board may co-opt a person to advise the Board on matters of a technical nature where the Board is satisfied that the experience or qualifications of that person are likely to assist the Board.

(2) A person co-opted under sub-section (1) has no right to vote on any matter before the Board.

24. A member who is directly or indirectly interested in a matter being dealt with by the Board shall —

- (a) disclose the nature of his or her interest at a meeting of the Board; and

- (b) not take part in any deliberation or decision of the Board with respect to that matter.

25.(1) The Board may regulate its own proceedings.

(2) The validity of a proceeding of the Board is not affected by a vacancy among its members or a defect in the appointment or qualification of a member.

26.(1) The Board may at any time cause to be constituted a specialized standing or ad-hoc committee to consider and report to the Board on any matter relevant to the objects of the Board referred to it by the Board.

(2) The specialised standing or ad-hoc committee constituted under sub-section (1) shall consist of members or other suitably qualified persons or both.

(3) A decision of the specialized standing or ad-hoc committee shall not be acted upon unless approved at a meeting of the Board.

PART IV – TRANSFER OF ASSETS AND LIABILITIES

- 27.(1)** The Government may vest in or transfer to the Agency such —
- (a) movable and immovable properties vested in the Government immediately before the coming into operation of this Act and used or managed by the Department of Natural Resources; and
 - (b) assets, rights, interests, privileges, liabilities and obligations of the Government, relating to the Department of Natural Resources, as the Minister considers appropriate.

(2) Where a question arises as to whether a particular movable or immovable property, asset, right, interest, privilege, liability or obligation has been transferred to or vested in the Agency under sub-section (1), a certificate under the hand of the Minister shall be conclusive evidence that the movable or immovable property, asset, right, interest, privilege, liability or obligation was or was not so transferred or vested.

(3) All agreements, deeds, bonds, arrangements relating to the Department of Natural Resources or to matters which fall within the scope of the objects and functions of the Agency, to which the Government is a party, subsisting immediately before the coming into operation of this Act, shall continue in force on and after that date and shall be enforceable by or against the Agency as if the Agency had been a party to the deed, bond, agreement or arrangement.

28.(1) Where land needed by the Agency in connection with the performance of its functions is owned by a person other than the Republic, and that person is not in favour of selling such land to the Agency, the Minister may propose to the Minister of

National Development that such land be acquired in accordance with the Acquisition of Land in the Public Interest Act.

(2) Any land acquired under subsection (1) shall be transferred to the Agency.

(3) The Agency shall not sell or otherwise dispose of any land vested in it under this section without the consent of the Minister given in consultation with the Minister of National Development.

PART V – MISCELLANEOUS

29. All members, officers and employees of the Agency shall be deemed to be employed in the public service for the purpose of sections 91 to 96 of the Penal Code.

30. No civil or criminal liability shall attach to the Agency, a member, an officer or employee of the Agency in respect of an act done or omission made in good faith in the performance of the functions of the Agency, member, officer or employee as the case may be.

31. Any proceeding pending immediately before the date of commencement of this Act to which the Government was a party on account of any activity or transaction arising out of the performance of the functions of the Department of Natural Resources shall be continued as if the Agency was a party thereto in lieu of the Government.

32.(1) Where anything has been done or commenced by or under the authority of the Government with respect to the Department of Natural Resources prior to the date of commencement of this Act and such thing is within the powers of the Agency, such thing may be carried on and completed by, or under the authority of the Agency.

(2) Notwithstanding subsection (1), a person issued with a permit relating to Agriculture before the commencement of this Act, shall be deemed to have been issued with the permit for a period not exceeding one year after the coming into operation of this Act.

33. The Minister may make regulations for the purpose of carrying into effect the principles and provisions of this Act.

NO SUBSIDIARY LEGISLATION
