

CONSOLIDATED TO 30 JUNE 2012

**LAWS OF SEYCHELLES
AGENCY FOR SOCIAL PROTECTION ACT**

[27th December, 2011]

Act 25 of 2011

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PART I – PRELIMINARY

1. This Act may be cited as the Agency for Social Protection Act.
2. In this Act —

“Agency” means the Agency for Social Protection established under section 3;

“Applicant” means a person applying for social assistance under this Act;

“Beneficiary” means a person benefiting from social assistance under the this Act;

“Board” means the Board of the Agency established under section 6;

“Chairperson” means the Chairperson of the Board appointed under section 6(2);

“Chief Executive Officer” means the Chief Executive Officer of the Agency appointed under section 11;

“Deputy CEO” means the Deputy Chief Executive Officer of the Agency appointed under section 12;

“Member” means Member of the Board of the Agency;

“Minister” means the Minister responsible for Social Affairs;

“Review Panel” means the Review Panel established under section 25;

“social assistance” means all welfare assistance received under this Act, and all social security benefits paid under the Social Security Act, 2010;

“standard measure” means a set of weights as prescribed by regulations under this Act;

PART II – AGENCY FOR SOCIAL PROTECTION

3. There is hereby established for the purpose of this Act an Agency for Social Protection.

4. The objects of the Agency shall be to ensure efficient and effective management, administration and payment of social assistance.

5. The functions of the Agency shall be to —

- (a) administer social assistance;
- (b) administer payment of benefits in accordance with the Social Security Act, 2010;
- (c) collect, collate, maintain and administer and analyse information necessary for the payment of social assistance;
- (d) maintain records for reconciliation of transfer payments;
- (e) maintain a national data base of all applicants for, and beneficiaries of social assistance; and
- (f) establish a compliance mechanism to ensure that the integrity of the social assistance system is maintained.

PART III - THE BOARD

6.(1) The affairs of the Agency shall be managed by a Board of seven Members appointed by the President and shall consist of —

- (a) a representative of the Ministry responsible for Social Affairs;
- (b) a representative of the Ministry responsible for Finance;
- (c) a representative of the Ministry responsible for Employment;
- (d) a representative of the Seychelles Chamber of Commerce and Industry (SCCI);
- (e) a representative from the Civil Society nominated by the Liaison Unit for Non-Governmental Organisations (LUNGOS); and
- (f) two other Members, who shall be of good standing and repute, nominated by the President.

(2) The President shall appoint one of the Members as the Chairperson of the Board.

(3) The President shall publish the names of the Chairperson and Members of the Board in the official gazette and every appointment shall take effect from the date of publication.

(4) The Chairperson and Members shall hold office for a period of three years and are eligible for re-appointment at the end of a term of office.

(5) The Chairperson and Members of the Board shall be paid such allowances as the Minister may determine.

(6) Where before the expiry of the term of office of a person holding office of Chairperson, or any other member, a vacancy arises for any reason whatsoever, the person appointed to fill such vacancy shall hold office for the unexpired period of the term for which his or her predecessor in office would have held office if such vacancy had not arisen.

(7) The Chairperson and other Members may be removed from office by the President, if any of them —

- (a) ceases to be a citizen of Seychelles;
- (b) is adjudged insolvent;
- (c) is convicted of any offence involving moral turpitude;

- (d) is unfit to continue in office by reason of infirmity of the body or mind;
- (e) is found guilty of any misconduct or breach of trust in the discharge of his or her duties; or
- (f) commits any offence that calls into question his or her professional standing.

(8) The Chairperson and other members may resign from his or her appointment by giving one month notice in writing to the President and on such resignation being accepted, the Chairperson or Member shall be deemed to have vacated his or her office.

(9) A Member shall be deemed to have vacated his or her office if he or she absents himself or herself from three consecutive meetings of the Board without the leave of the Chairperson.

(10) The Chairperson or a Member who has been removed from office under subsection (7) shall not be eligible for re-appointment.

7.(1) The Board shall meet at such times and places and shall observe such rules and procedures in regard to the transaction of business at its meetings including the quorum at meetings as may be prescribed by regulations:

Provided that there shall not be less than six meetings every year and not more than two months shall intervene between one meeting and the next meeting.

(2) The Chairperson may by written notice convene a special meeting of the Board for any purpose specified in the notice.

(3) The Chairperson or, in the absence of the Chairperson, a Member elected by the members present to preside at the meeting, shall preside at a meeting of the Board.

(4) Questions arising at a meeting of the Board shall be decided by a majority of the votes of the members present and, in the event of an equality of votes, the Chairperson or the member presiding shall have a second or casting vote.

(5) Subject to this Act, the Board shall regulate its own proceedings.

8. The functions of the Board shall be to —

- (a) formulate a standard measure for provision of supplementary income, goods and services to persons in need;
- (b) review on a quarterly basis, the standard measure formulated for the immediately preceding period;

- (c) establish appropriate internal procedures and review policies for the effective operation of the Agency.

9. Chairperson or a Member of the Board who has direct or indirect financial, personal or other interest in any matter which is to be discussed at a meeting of the Board and which entails or may entail a conflict of interest —

- (a) shall disclose the nature of such interest before or at a meeting of the Board; and
- (b) shall not take part in any deliberation or decision in respect of that matter or vote therein.

10. The Board may, subject to such conditions and restrictions as it may impose, delegate to the Chief Executive Officer such of its powers as are necessary to enable the Chief Executive Officer to transact effectively the day-to-day affairs of the Agency.

11.(1) There shall be a Chief Executive Officer of the Agency appointed by the President on such terms and conditions as the President may determine.

(2) The Chief Executive officer in addition to such other functions which the Board may from time to time assign, shall be responsible for the supervision and directions of the affairs of the Agency.

(3) Subject to any direction of the Board, the Chief Executive Officer shall participate in the meetings of the Board but shall not have the right to vote.

12.(1) The President may appoint a Deputy Chief Executive Officer on such terms and conditions as the President may determine.

(2) The Deputy Chief Executive 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 holding that office is absent from duty or from Seychelles or is, for any reason, unable to perform the functions of that office.

(3) While the Deputy Chief Executive is acting in the Office of the Chief Executive Officer, the Deputy Chief Executive Officer has and may exercise all the powers, and shall perform all duties of the Chief Executive Officer under this Act.

(4) Where a power or function of the Chief Executive Officer under this Act is exercised or performed by the Deputy Chief Executive Officer, the power or function shall, for the purposes of this Act be deemed to have been exercised or performed by the Chief Executive Officer.

(5) The validity of anything done by the Deputy Chief Executive Officer shall not be called in question on the ground that the occasion for the appointment had not arisen, that there was a defect or irregularity in or with the appointment, that the appointment had ceased to have effect or the ground that the occasion for the Deputy Chief Executive Officer to act had not arisen or had ceased.

13. The agency may employ such officers and other staff as are necessary for the Agency to perform its functions on such terms and conditions as may be determined by the Board and according to the procedures applicable to such employees of public bodies.

PART III – APPLICATION FOR SOCIAL ASSISTANCE

14.(1) An application for social assistance shall be made to the Agency in the form and manner as prescribed by regulations.

(2) The Agency may, in writing, direct an applicant for social assistance to furnish such particulars as the Agency may consider necessary, and the applicant shall comply with the direction.

(3) Where there is a new application or for renewal of application by a person receiving social assistance under this Act, the Agency may —

- (a) approve a new application or renewal of application;
 - (b) attach conditions prior to approving the application;
 - (c) refuse a new application or renewal of application;
 - (d) suspend the issuance of the assistance;
 - (d) revoke the assistance;
- (4) In the exercise of its functions under this Act, the Agency may —
- (a) require any person or public authority to furnish any information on matters relating to an application for social assistance;
 - (b) call upon a person to appear before the Agency to answer questions and to produce such documents as the Agency may specify;
 - (c) nominate, appoint or authorise any person or any public authority to enquire and report on any matters relating to —
 - (i) an application for social assistance;

- (ii) alleged breach of conditions of social assistance which has been issued;
- (iii) renewal, revocation or suspension of social assistance; or
- (iv) a complaint against an applicant or beneficiary;

(5) The Agency shall consult any person or public authority where it deems it fit to consult before exercising its powers under subsection (4).

15.(1) Where the Agency is satisfied upon such enquiry as it may consider necessary, that the applicant or beneficiary of a social assistance —

- (a) has furnished false, misleading or inaccurate information or has concealed or failed to disclose a material fact in the application; or
- (b) has contravened any written law or any conditions of the social assistance received, the Agency may refuse to renew, reject, suspend or revoke the social assistance being afforded:

Provided that the decision to revoke the social assistance shall not take effect within 14 days from the date of the decision, or if a request for review is lodged under section 24 pending the determination of the review.

(2) Prior to making a decision under section 15 the Agency shall give the applicant or beneficiary an opportunity to show cause against such action.

16. Where there is a complaint to the Agency against an applicant or beneficiary and where the Agency does not consider the complaint frivolous or vexatious, the Agency shall —

- (a) inquire into the complaint; and
- (b) subject to this Act, take such measures against the applicant or beneficiary as the Agency considers appropriate.

PART IV – SOCIAL WELFARE ALLOWANCES

17.(1) Any Seychellois citizen above the age of 18 years and resident in Seychelles whose means are insufficient to meet his or her basic household needs may apply for social welfare assistance under section 14.

(2) In this section "resident" means resident in Seychelles for an aggregate period of 11 months in a given year.

18.(1) The Agency shall determine the level of assistance required by the applicant for social assistance.

(2) For the purposes of subsection (1) the Agency shall consider all the circumstances of the applicant having regard to the standard measure prescribed by regulations.

19. An applicant who has been granted social welfare assistance for a period of twelve months, and deliberately fails to be gainfully employed thereafter shall not receive social welfare assistance after the period of twelve months, where the person continues to deliberately fails to be gainfully employed.

20. The amount of supplementary income to which a person is entitled shall be the amount of the short fall of his or her basic household needs ascertained in accordance with the standard measure prescribed by regulations.

21.(1) The means of a person for the purpose of ascertaining his entitlement to social welfare assistance shall be calculated in accordance with the provisions of subsection (2).

- (2) In calculating the means of a person the Agency shall consider —
- (a) all income in cash, including the net cash value of any non-cash earnings and the actual or estimated amount of any income as contributions to the expenses of the household or otherwise;
 - (b) any sums arising from the investment or profitable use of property;
 - (c) the value of any property belonging to such person, which is invested or which, though capable of investment or profitable use, is not so invested or profitably used;
 - (d) all income and the value of all property which such person has directly or indirectly deprived himself in order to qualify himself for the receipt of social welfare assistance;
 - (e) the value of any benefit or privilege enjoyed by such person.

22.(1) The Chief Executive Officer may, in any case where it is reasonable, having regard to all the circumstances of the case, determine that supplementary income allowance shall be paid to a person by way of a single payment to meet an exceptional need.

(2) The maximum sum payable under subsection (1) shall be prescribed by regulations.

(3) In making a determination under subsection (1), the Agency may dispense with inquiry into means or other circumstances and with compliance with any regulations made under this Act.

23. Whenever it appears to the Agency, due to exceptional circumstances the needs of a person can best be met by providing goods or services instead of any payment to which a person would otherwise be entitled under this Act, the Agency may determine that such goods or services be provided to such person.

PART V - REVIEW OF DECISIONS

24. A person aggrieved by any decision of the Agency may submit an application to the Review Panel in the form and manner as prescribed by regulations.

25.(1) There shall be a Review Panel to hear and determine requests for review against the decision of the Agency.

(2) The Review Panel shall consist of a Chairperson and two other members of good standing and repute who shall all be appointed by the President —

(3) A Member of the Review Panel shall be appointed on such terms and conditions as the President may determine.

(4) The Chairperson and other members of the Review Panel shall hold office for a period of three years and are eligible for reappointment.

(5) The President shall at any time terminate the appointment of a member, if any of them —

- (a) ceases to be a citizen of Seychelles;
- (b) is adjudged insolvent;
- (c) is convicted of any offence involving moral turpitude;
- (d) is unfit to continue in office by reason of infirmity of the body or mind;
- (e) is found guilty of any misconduct or breach of trust in the discharge of his or her duties; or
- (f) commits any offence that calls into question his or her professional standing.

(6) The Review Panel shall regulate its own proceedings.

26. The Review Panel may, where it entertains a request for review, decide upon the request by —

- (a) confirming the decision of the Agency;
- (b) varying the decision of the Agency;

- (c) setting aside the decision of the Agency;
- (d) remitting the matter to the Agency to reconsider its decision as directed by the Review Panel.

PART VI - ADMINISTRATION AND FINANCE

27.(1) The funds of the Agency shall consist of money appropriated by an Appropriation Act and paid to the Agency.

(2) The Agency shall apply its funds for the purpose of meeting expenditures incurred by the Agency in the performance of its functions, the payment of emoluments to the members, officer and staff and meeting such other expenses as may be authorised by the Board.

28.(1) The Agency shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form and manner as may be prescribed by regulations.

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

(3) The Agency shall prepare once every calendar year, in such form and within such time as may be prescribed, an annual report giving a full account of its activities during the previous year and copies together with the statement of account audited under subsection (2) thereof, shall be forwarded to the Minister and the Minister shall cause the same to be tabled before the National Assembly.

(4) The Agency shall prepare and submit to the Minister the estimates of income and expenditure of the Agency in respect of each financial year.

(5) The Minister shall submit the report to the National Assembly within one month of the receipt of the report from the Agency.

(6) The financial year of the Agency shall be the period of 12 months ending on 31st December.

PART VII –OFFENCES AND PENALTIES

29.(1) Any person who without lawful authority or reasonable excuse communicates to another person information which the person has acquired while acting as a member, officer, employee or agent of the Agency commits an offence.

- (2) Any person who without lawful authority or reasonable excuse —
 - (a) willfully fails to furnish any information when required by the Agency to do so;

- (b) willfully fails to comply with a summons issued or an order made by the Agency;
- (c) willfully fails to answer a question put to the person by a member in the course of proceedings of the Agency held under this Act;
- (d) knowingly gives false evidence before the Agency;
- (e) willfully obstructs a member, officer, employee or agent of the Agency exercising functions under this Act; or
- (f) acts in contempt of the Agency,

commits an offence.

(3) A person who in an application for social assistance under this Act makes any statement which the person knows to be false commits an offence.

30. Any person who commits an offence where no penalty is provided for shall be liable on conviction to a fine of not less than SCR5000 and not exceeding SCR50,000 or 2 years imprisonment or both.

PART VIII – MISCELLANEOUS

31. No suit or other legal proceedings shall lie against the Agency, any Member, the Chief Executive Officer, employees or any other person acting under the direction of the Agency in respect of anything which is done or purported to be done in good faith in pursuance of this Act.

32. The Members, the Chief Executive Officer, employees or any other person acting under the direction 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.

33. The Social Security Act is amended in section 28 (2) by repealing in paragraph (a) the words “the payment of benefits and other sums” and substituting therefor the words “the payments”.

PART IX – REGULATIONS, REPEAL

34.(1) The Minister may make regulations for carrying into effect the principles and provisions of this Act.

(2) Without prejudice to the generality of subsection (1) regulation may provide for —

- (a) any matter for which regulations are required to be made under this Act;

- (b) the proper and efficient administration of this Act;
- (c) fees, forms, manner and other matters required under this Act;
- (d) all matters which by this Act are required to be prescribed, or which are necessary or convenient to be prescribed for giving effect to this Act.

35.(1) The Social Welfare Act, 2008 is hereby repealed.

(2) Regulations made, directions issued and notification made under the repealed Act shall continue in effect until they are repealed or amended under the provisions of this Act.

36.(1) All acts done, decisions taken, authorisations or permits granted by the Chief Executive Officer, officers or employees of the Social Welfare Agency constituted under the Social Welfare Agency Act, 2008 which were validly done, taken or granted under any written laws or under and in accordance with the repealed Act shall continue to have effect in accordance with the terms or until amended, annulled or withdrawn in accordance with the written law.

(2) All officers and other employees of the Social welfare Agency constituted under the Social Welfare Agency Act, 2008 shall be deemed to be officers and employees of the Agency for social protection on condition not less favourable than those subsisting immediately prior to the said date of the repeal.

LAWS OF SEYCHELLES

AGENCY FOR SOCIAL PROTECTION ACT

SI. 19 of 2012

SUBSIDIARY LEGISLATION

Section 34

Agency for Social Protection (Standard Measure) Regulations, 2012

[20th April 2012]

1. These Regulations may be cited as the Agency for Social Protection (Standard Measure) Regulations, 2012 and shall be deemed to have come into effect on 1st April, 2012.

2. The Agency shall grant to a person entitled to Social Welfare Assistance the following maximum supplementary income allowance —

- (a) Adult Supplementation not exceeding SCR1903;
- (b) Utilities not exceeding SCR444;
- (c) Transport not exceeding SCR250;
- (d) Housing Loan or Rent not exceeding SCR500.
