



LAWS OF SEYCHELLES

LICENCES ACT

CHAPTER 113

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CHAPTER 113

LICENCES ACT

[31st March 1987]

ARRANGEMENT OF SECTIONS

Act 3 of 1986.
 S.I. 12 of 1987.
 S.I. 35 of 1988.
 S.I. 49 of 1988.
 S.I. 53 of 1988.
 S.I. 38 of 1989.
 S.I. 47 of 1991.

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PART 1 — PRELIMINARY

- Short title.** 1. This Act may be cited as the Licences Act.
- Interpretation.** 2. In this Act —
- “Authority” means the Licensing Authority established by section 3(1);
- “Chairman” means the Chairman of the Authority appointed under section 3(3);
- “Director” means the Director of the Authority appointed under section 4(1);
- “Member” means a member of the Authority and includes the Chairman.

PART II — AUTHORITY

Establishment and constitution.

3.(1) There is established for the purposes of this Act the Licensing Authority.

(2) The Authority shall consist of not less than five members appointed by the President by notice published in the Gazette for such term and on such conditions as the President may determine.

(3) The President shall appoint one of the members to be the Chairman of the Authority.

Director,

4.(1) There shall be a Director of the Authority appointed by the President for such term on such conditions as the President may determine.

(2) The Director shall be the Chief Executive Officer of the Authority.

(3) The Director has, in addition to such other functions which the Authority may from time to time assign to him and subject to the direction of the Authority, supervision over and direction of the day-to-day affairs of the Authority.

(4) Subject to any direction of the Authority and, unless

prevented by reasons which appear to be reasonable to the Authority, the Director shall attend and participate in the meetings of the Authority but shall have no right to vote at the meetings.

(5) Where the Director has a direct or indirect interest in a matter which falls to be considered by the Authority, he shall disclose the nature of his interest to the Authority and, unless specifically authorised to do so by the Authority, shall not take part in any deliberation of the Authority with respect to that matter.

5.(1) The Authority may, on such terms and conditions as may be determined by the Authority with the approval of the President, employ such persons as are necessary for the Authority to perform its functions.

staff of the
Authority.

(2) The Authority may in the exercise of its powers under subsection (1), employ, with the approval of the President, a public officer on such terms and conditions as the President may determine.

6.(1) Where a licence is required under this Act, the Authority may-

Functions of the
Authority.

- (a) grant or renew the licence;
- (b) attach or vary conditions of the licence;
- (c) suspend or revoke the licence; or
- (d) otherwise deal with the licence.

(2) Where the Authority deems it fit to consult any other person, Government Ministry, department or agency, in the exercise of its powers under subsection (1), the Authority shall consult such person, Government Ministry, department or agency.

(3) Notwithstanding subsection (1) (c)-

- (a) where any activity, business, trade, profession, premises or goods in respect of which a licence is granted by the Authority is under the control, superintendence or management of a public officer or a Government

Ministry, department, agency, or statutory body that officer, Ministry, department, agency or statutory body may for a breach of any conditions of the licence or for any other reasonable cause suspend the licence for a period of 21 days, where in the opinion of that officer Ministry department, agency or statutory body such action is necessary in the interests of such activity, business, trade, profession, premises, or goods, and shall inform the Authority of such action;

- (6) where pursuant to a conviction of any person by a court for any offence, the court is empowered by any Act to suspend, cancel or revoke a licence issued by the Authority, the court may temporarily suspend the licence for a period of 21 days and shall inform the Authority of such action.

(4) Where a person complains to the Authority against a licensee the Authority may, where it does not consider the complaint frivolous or vexatious,-

- (a) hear and investigate the complaint; and
 (b) subject to this Act, take such measures against the licensee as the Authority considers appropriate.

(5) The Authority shall ensure that a licensee complies with the conditions of his licence.

(6) The Authority shall keep a record of all the licences granted by it.

7. In the exercise of its functions under this Act, the Authority may-

- (a) require any person to furnish any information on any matter relating to a licence or on an application for a licence;
 (b) summon a person to appear before the Authority to answer questions and to produce such documents as the Authority may specify in the summons;

Powers of the Authority.

- (c) administer an oath to a person appearing before it or allow that person to make an affirmation or declaration;
- (d) nominate, appoint or authorise any person or any Government Ministry; department or agency to enquire and report on any matter relating to —
 - (i) an application for a licence;
 - (ii) the alleged breach of a condition of a licence;
 - (iii) the renewal, revocation or suspension of a licence; or
 - (iv) a complaint against a licensee,
- (e) without prejudice to the liability of any person under any Act, order-
 - (i) the closure or premises-
 - A. in respect of which a licence has been issued by the Authority; or
 - B. on which any activity, business, trade or profession is being carried on or any goods are stored or kept in breach of a provision of an Act; or
 - (ii) the seizure of any material or equipment used in connection with an activity, business, trade or profession which is being carried out in breach of a provision of an Act.
- (f) call for and obtain the assistance of any police officer, public officer or any person, and use such force as may be necessary, in carrying out any order under paragraph (e).

8.(1) Subject to subsection (2), the Minister may give to the Authority directions of a general character by notice in writing as to the exercise of its functions and powers in relation to matters concerning the public interest and the Authority shall comply with those directions.

**Powers of the
Minister**

(2) In the exercise of his powers under subsection (1), the Minister shall not give a direction to the Authority with respect to a particular application, licence or case.

Meetings of the Authority.

9.(1) The Authority shall meet at such time and at such place as the Chairman may determine.

(2) The Chairman or, in his absence, any member nominated by the President shall preside at any meeting of the Authority.

(3) Three members shall constitute a quorum.

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

(5) The proceedings of the Authority shall be held in private.

(6) Subject to the preceding provisions of this section, the Authority shall regulate its own proceedings.

Disclosure of interest by members.

10. A member who has a direct or indirect interest in any matter which falls to be decided by the Authority-

- (a) shall disclose the nature of his interest at a meeting of the Authority; and
- (b) shall not take part in any deliberation or decision in respect of that matter.

Delegation of powers.

11.(1) The Authority may, subject to such conditions and restrictions as it may impose, delegate to the Director such of its powers as are necessary to enable the Director to transact effectively the day-to-day affairs of the Authority.

(2) The Director may, subject to the approval of the Authority, delegate to an officer of the Authority, such of his functions as he may determine.

Funds of the Authority.

12.(1) The funds of the Authority shall consist of-

- (a) money appropriated by an Appropriation Act and paid to the Authority; and

- (b) such other money as may be lawfully charged by the Authority other than the licence fees received in respect of licences.

(2) The Authority shall apply its funds for the put-pose of meeting expenditures incurred by the Authority in carrying out its functions including the salary of its Director, its staff and such other expenses as may be authorised by the Minister.

13.(1) The Authority shall pay into the Consolidated Fund the licence fee received by it in respect of a licence. **Licence fee.**

(2) The Authority may, in consultation with the Minister, waive or remit any fees in any particular case.

14.(1) The Authority shall keep proper accounts of the Authority and records in relation to the accounts and shall prepare, in respect of each financial year of the Authority, a statement of accounts in such form as the Minister may direct. **Accounts and audit.**

(2) The accounts and statement of accounts of the Authority shall be audited by an auditor appointed by the Minister.

(3) As soon as the accounts and statement of accounts of the Authority in respect of any financial year have been audited, the Authority shall furnish to the Minister a copy of the statement together with a copy of any report made by the auditor on that statement or on the accounts of the Authority.

(4) The Authority shall prepare in respect of each financial year of the Authority a report of its activities and submit a copy of the report to the Minister.

(5) The financial year of the Authority shall end on 31st December in each year.

15. A person who is aggrieved by a decision of the Authority may within 15 days from the date of the decision appeal to the Minister whose decision on the matter shall be final. **Appeals.**

PART III-LICENCES

16.(1) Notwithstanding any thing in any other Act, no person shall- **Licences.**

- (a) engage in or carry on any activity, profession, trade or business specified in Schedule 1;
- (b) keep, use or possess any animal, goods vehicles or vessels specified in Schedule 2; or
- (c) keep or manage any premises specified in Schedule 3, except under and in accordance with a licence granted by the Authority.

(2) Regulations may provide for all matters in respect of a licence under subsection (1) including the levy of a fee or charge in respect of the licence.

(3) The Minister may exempt, subject to such conditions, as he thinks fit, any person or premises from the operation of all or any provisions of the Act.

(4) Where, for any of the purposes set out in subsection (1), a licence is required under any other Act, this Act shall apply to such licence and, notwithstanding anything to the contrary in that other Act, the Authority may exercise its functions and powers in respect of such licence as if it were a licence required under this Act.

Application for a licence

17.(1) An application for a licence shall be made to the Authority and shall contain such particulars as may be prescribed.

(2) The Authority may direct an applicant for a licence to furnish particulars as it may consider necessary and the applicant shall comply with such direction.

Powers of entry etc.

18.(1) The Authority may authorise any person on its staff to exercise any of the powers pursuant to subsection (2).

(2) A person authorised under subsection (1) may, where he has reason to believe that an offence under this Act has been, or is being committed-

- (a) enter and search any premises, vehicle or vessel;
- (b) call for and examine any licence, book or other document;

- (c) take copies or extracts from any book or document or any entry of the book or document.

(3) A person authorised under subsection (1) shall, if so requested, produce his authority to exercise the powers under this section.

19.(1) Any person who without lawful authority or reasonable excuse communicates to another person information which he has acquired in his capacity as a member, officer employee or agent of the Authority is guilty of an offence.

Offences.

(2) Any person who without lawful authority or reasonable excuse-

- (a) wilfully fails to furnish any information when required by the Authority to do so;
- (b) wilfully fails to comply with a summons issued or an order made by the Authority to do so;
- (c) wilfully fails to answer a question put to him by a member in the course of proceedings of the Authority held under this Act;
- (d) knowingly gives false evidence before the Authority;
- (e) wilfully obstructs a member, officer, employee or agent of the Authority in the exercise of his function under this Act; or
- (f) acts in contempt of the Authority,

is guilty of an offence.

(3) A person who in any application for a licence under this Act or pursuant to any requirement under section 7 (a) or any direction under section 17(2) makes any statement which he knows to be false in a material particular is guilty of an offence.

(4) A person who contravenes section 16(1) or, when directed by the Authority, contravenes section 17(2) or contravenes any condition of a licence or contravenes any regulation guilty of an offence.

(5) Where a person is charged with contravening section 16(1), the burden of proving that he is the holder of a licence, shall be on him.

Penalty. 20.(1) Any person who is guilty of an offence under this Act shall on conviction be liable-

- (a) in the case of an offence under section 19(1) or section 19(2) or section 19(4), to a fine of R.20,000 and to imprisonment for 2 years;
- (b) in the case of an offence under section 19(3), to a fine of R. 50,000 and to imprisonment for 5 years.

(2) Without prejudice to any penalties under subsection (1), the Authority may revoke a licence where the holder of a licence granted by the Authority-

- (a) is convicted of an offence under this Act; or
- (b) is convicted of an offence under any other law which disqualifies him upon conviction from holding the licence or which enables on conviction the revocation of the licence.

Regulations. 21.(1) The Minister may make regulations for carrying into effect the provisions of this Act and for matters necessary or required to be prescribed by regulations.

(2) The Minister may by regulations amend the Schedules.

Repeals and modifications. 22.(1) Each Act specified in column 1 of Schedule 4 is hereby repealed to the extent specified in the corresponding entry in column 2 of that Schedule.

(2) Each Act specified in column 1 of Schedule 5 is modified in the manner set out in the corresponding entry in column 2 of that Schedule.

(3) Notwithstanding the repeals effected by subsection (1), licence granted under an Act repealed by that subsection and in force on the day immediately prior to the date of repeal shall,

unless earlier revoked, continue in force for the period for which the licence is granted.

(4) The Authority may exercise any of its functions and powers under sections 6 and 7 in respect of a licence granted under any Act repealed by subsection (1) and in force under subsection (3) as if it were a licence granted under this Act.