SEYCHELLES FISHERIES AUTHORITY ACT, 2024

(Act 7 of 2024)

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SEYCHELLES FISHERIES AUTHORITY ACT, 2024

(Act 7 of 2023)

I assent

Wavel Ramkalawan
President

23rd July, 2024

AN ACT TO PROVIDE FOR AN AUTHORITY TO OVERSEE THE EFFICIENT MANAGEMENT AND SUSTAINABLE DEVELOPMENT OF THE FISHERIES SECTOR ON A PAR WITH INTERNATIONAL NORMS, STANDARDS AND BEST PRACTICES AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

ENACTED by the President and the National Assembly.

PART I - PRELIMINARY

Short title

1. This Act may be cited as the Seychelles Fisheries Authority Act, 2024.

Interpretation

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

"Authority" means the Seychelles Fisheries Authority established under section 3;

"Board" means the board of the Authority established under section 6(1);

"Commission" means the Commission established under section 5 of the Public Enterprises Act, 2023;

"Commissioner" means a Commissioner appointed under section 9 of the Public Enterprises Act, 2023;

"fisheries" includes fishing, fishing related activities and aquaculture;

"member" means a member of the Board of the Authority appointed under section 6; and

"Minister" means the minister responsible for fisheries.

PART II - ESTABLISHMENT OF THE AUTHORITY

Establishment of the Authority

3.(1) There is established an Authority known as the Seychelles Fisheries Authority.

(2) The Authority is a body corporate.

Functions of the Authority

4. The functions of the Authority are to —

(a) promote, develop and regulate fisheries;

(b) advise the government on all matters related to fisheries;

(c) assist in the formulation of national policies with respect to fisheries and lead the implementation of these policies;

(d) assist in negotiations and represent Seychelles on matters related to fisheries;

(e) promote and conduct scientific and development research related to fisheries;

(f) enter into agreements in consultation with the authority responsible for ports, for the management or joint management of ports, harbours and related facilities;

(g) administer the laws relating to fisheries and aquaculture and regulations made thereunder and other written laws relating to fisheries; and

(h) advise the government on the manpower training requirements of Seychelles with regard to the fisheries sector.

Powers of the Authority

5. In the discharge of its functions, the Authority may —

(a) enter into contracts, own, lease or dispose of movables or immovables;

(b) own, operate or charter any vessel;

(c) form companies under the Companies Act for the purposes of this Act;

(d) enter into partnerships or joint ventures;

(e) hold shares in, or debentures of, any company;

(f) conduct monitoring, control and surveillance operations;

(g) register fishermen and fishing boat owners in the form and manner as may be prescribed;

(h) maintain a record of fishing vessels;

(i) engage in any activity either alone or in conjunction with any other Ministry, department, Authority, organisation, State, international body or organisation for the purpose of promoting sustainable fisheries;

(j) charge such fees for licenses, permits, authorisations and use of any facility or service provided by the Authority; and

(k) give security over any of its assets for the purpose of borrowing under section 19.

Board of the Authority

6.(1) The affairs of the Authority shall be managed by a Board consisting of seven members appointed by the President, in consultation with the national committee responsible for the nomination of senior corporate executives and non-executive officials and the Minister.

(2) The Board shall comprise of a Chairperson, a Vice-Chairperson, a nominee from the Ministry of Finance, a nominee from the Ministry responsible for fisheries and three other members.

(3) The three other members under subsection (2) shall be persons with proven integrity, relevant cognitive experience and demonstrated capacity in matters relating to economics, industry, trade, finance, law, corporate governance and administration.

(4) The Chief Executive Officer of the Authority shall be an ex-officio member of the Board.

(5) The appointment of the members shall be published in the *Gazette*.

Term of appointment of members

7.(1) The members shall hold office for a period of three years and shall be eligible for re-appointment.

(2) Where the post of any member for any reason becomes vacant before the expiration of his or her term —

(a) the Chairperson of the Board, or the Vice Chairperson in the absence of the Chairperson, shall immediately notify the President; and

(b) a replacement member shall, within three months from the date the vacancy arose, be appointed for the remaining term of office of that member.

Termination of appointment of Members

8.(1) The office of a member shall become vacant when a member —

(a) resigns from office by giving not less than twenty-eight days' notice in writing to the Minister;

(b) is removed from office by the President upon recommendation of the Minister;

(c) becomes disqualified from being a member under section 9;

(d) has been found guilty of an offence committed under this Act;

(e) is convicted of a criminal offence involving dishonesty or fraud;

(f) dies;

(g) is absent from office for 3 consecutive meetings without the written consent of the Chairperson; or

(h) completes his or her tenure in office.

(2) Where a vacancy occurs on the Board, the President shall, upon the recommendation of the Minister, appoint a person to replace the member for the remainder of the term of the member whose office has become vacant.

Ineligibility

9. A person shall be ineligible to hold office as a member if such person —

(a) holds the office of Commissioner or any office on the Public Enterprise Monitoring Commission;

(b) serves as the Chief Executive Officer or an official or member of staff of the Authority;

(c) has a conflict of interest under section 10;

(d) has been convicted of an offence involving dishonest or fraudulent acts within or outside the Republic;

(e) is adjudged insolvent under the Insolvency Act;

(f) is adjudged to be of unsound mind;

(g) has been terminated from public office due to poor performance, misconduct, or disciplinary proceedings;

(h) has been disqualified by the Court from serving as a public officer.

Conflict of interest

10.(1) A member, Chief Executive Officer or any officer of the Authority who has a direct or indirect personal or financial interest in any matter relating to the Authority or with the affairs of the Authority which explicitly or implicitly could impair his or her objectivity shall be considered to have a conflict of interest for the purpose of this Act.

(2) For the purposes of section 9(c), a member has a conflict of interest in a subject matter before the Authority if the subject matter relates to property or a pecuniary interest owned, directly or indirectly, in any service provider or licensee in any fisheries related activity or by a relative of that member.

(3) If an interest referred to in subsections (2) arises by way of succession or testamentary disposition or for any other reason, the member shall —

(a) immediately notify the Authority in writing; and

(b) divest himself or herself from such interest within a period of three months of such interest being acquired; or

(c) resign from the Authority.

(4) At the time of his or her appointment, each member shall submit to the Authority a statement in writing to the effect that he or she does not have any interest referred to in subsections (1) or (2).

Chairperson

11.(1) The Chairperson of the Board shall —

(a) determine the agenda, date and time of the Authority's meetings and administer the meetings;

(b) represent the Authority at official and public organisations and events; and

(c) sign contracts and agreements as authorised by the Authority.

Meeting of the Board

12. The meetings of the Board shall be held in accordance with the requirements of Schedule 2 of the Public Enterprises Act, 2023.

Establishment of committees

13.(1) The Board may, for the efficient performance of its functions, establish such committees as it considers necessary.

(2) The Board shall determine the terms of reference for the functioning of the committees and the remuneration of the members.

(3) The functioning of a committee under subsection (2) shall not divest the Board of that function and the Board in the exercise of that function may amend or rescind any decision of the committee.

(4) On the establishment of a committee under subsection (1), the Board —

(a) shall appoint to the committee at least one member of the Board, who shall be the Chairperson of the committee; and

(b) may appoint as members of the committee, on such terms and conditions as the Board may determine, persons who are not members of the Board.

(5) The opinions or recommendations made by a committee appointed under subsection (1) are not binding on the Board but may be considered by the Board in making decisions related to its functions.

(6) Section 8 shall apply, *mutatis mutandis*, to a member of a committee established under subsection (1).

Meetings of committees

14.(1) The meetings of any committee of the Board may be convened at any time and at any place by the Chairperson of the Board or by the Chairperson of the committee concerned.

(2) The procedure of the committees of the Board shall be determined by the Board.

(3) The Board shall cause minutes of proceedings of, and decisions taken at, the meetings of the committees to be entered in books kept for that purpose.

(4) Any minutes referred to in subsection (3) which purport to be signed by the Chairperson of the meeting to which the minutes relate or by the Chairperson of the next following meeting of the Board or the committee, as the case may be, shall be accepted for all purposes as prima facie evidence of the proceedings of and decisions taken at that meeting.

PART III - CHIEF EXECUTIVE OFFICER, DEPUTY CHIEF EXECUTIVE OFFICER AND STAFF OF AUTHORITY

Appointment of Chief Executive Officer and Deputy

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

(2) A Chief Executive Officer, or Deputy Chief Executive Officer shall hold office on a full-time basis and on such other terms and conditions as may be determined by the Board and specified in their instruments of appointment.

(3) A person may not be appointed as the Chief Executive Officer or hold office as such, if he or she would be ineligible to be appointed as a member of the Board of the Authority under section 9.

(4) The Chief Executive Officer shall be *ex officio* member of the Board.

(5) Subject to the control of the Board, the Chief Executive Officer shall —

(a) exercise supervision over the day-to-day affairs of the Authority and control and administration of the employees and staff of the Authority;

(b) sign documents and correspondence on behalf of the Authority; and

(c) be the accounting officer of the funds of the Authority.

(6) The Chief Executive Officer may delegate any of the powers assigned to him or her to the Deputy Chief Executive Officer or to any employee of the Authority.

(7) The Chief Executive Officer shall submit to the Authority reports with regard to the operations, undertakings and activities of the Authority.

Deputy Chief Executive Officer of Authority

16.(1) The Deputy Chief Executive Officer may act in the office of 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.

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

(3) 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.

(4) The validity of anything done by the Deputy Chief Executive Officer shall not be called into 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 on the ground that the occasion for the Deputy Chief Executive Officer to act had not arisen or had ceased.

Other staff

17.(1) The Chief Executive Officer may employ such number of staff with the approval of the Board as he or she considers necessary to carry out the functions of the Authority.

(2) Subject to the approval of Board, the Chief Executive Officer may determine the terms and conditions of service of the staff employed under subsection (1).

Appointment of experts

18.(1) The Authority may appoint or engage persons having technical or other special knowledge to assist the Authority in performing its functions.

(2) The Authority shall determine the remuneration of persons engaged under subsection (1).

PART IV - FINANCIAL PROVISIONS

Funds of the Authority

19.(1) The funds of the Authority shall consist of —

(a) the moneys accruing to the Authority from its operations, including the licence fees and charges received by the Authority;

(b) the moneys, from time to time, received by the Authority with the approval of the Minister by way of donations and grants;

(c) such money that may be raised with the approval of the Minister and the Minister responsible for finance;

(d) moneys lawfully borrowed by the Authority with the approval of the Minister responsible for finance;

(e) moneys due on any investment made by the Authority and;

(f) other moneys lawfully received by the Authority for the purpose of its functions.

(2) The Authority may, when it considers it necessary to do so, establish and operate special funds for the purpose of, or in relation to, any loan borrowed by the Authority under this section.

(3) The funds of the Authority shall be applied for —

(a) the payment or discharge of expenses of the Authority;

(b) the payment of remuneration to members of the Authority and officers and other staff of the Authority;

(c) payment of dividends;

(d) repayment of interest on all charges and expenses incurred in connection with loans;

(e) any other expenses as may be approved by the Authority; and

(f) any special funds set up under subsection (2).

Accounts and audit of Authority

20.(1) The financial year of the Authority shall be the calendar year.

(2) The Authority shall, within 3 months from the end of each financial year, prepare and submit to the Minister a statement of accounts and its activities in respect of that financial year or in respect of such other period as the Minister may direct.

(3) Where the accounts and statement of accounts of the Authority in respect of a financial year have been audited, the Authority shall furnish, not later than 3 months after the end of the financial year, to the Minister and the Minister responsible for finance, a copy of the statement together with a copy of any report by the Auditor-General on the statement of accounts or on the accounts of the Authority.

Annual report

21.(1) The Authority shall, within 3 months after the end of its financial year, prepare an annual report on its operations which, together with a copy of its annual audited accounts as well as any report by the auditors on its management and accounting practices, shall be submitted to —

(a) the Minister responsible for finance;

(b) the Minister: and

(c) the Commission.

(2) An annual report of the Authority shall conform to the requirements of Schedule 3 of the Public Enterprises Act, 2023.

(3) The Minister shall cause the reports referred to under subsection (1) to be laid before the National Assembly within six months after the end of the financial year of the Authority.

PART V - MISCELLANEOUS

Power of Minister to issue directions

22. The Minister may give to the Authority written directions on the policy to be followed by the Authority or those of a general nature relating to the performance of its functions or its management that do not contradict this Act or any other governing law and the Authority shall comply with the directions.

Power to make regulations

23. The Minister may make regulations to provide for all matters which, by or under this Act, are required or permitted to be prescribed or necessary to be provided to carry out or to give effect to the provisions of this Act.

Application of sections 91 to 96 of the Penal Code

24. All officers and employees of the Authority shall be deemed to

be employed in the public service for the purposes of sections 91 to 96 of the Penal Code.

Acts done in good faith

25. No liability, whether civil or criminal, shall attach to the Authority, a member of the Board of the Authority or its staff in respect of an act done or omission made in good faith in the performance of the functions of the Authority or such member as the case may be.

Repeal and savings

26.(1) The Seychelles Fishing Authority (Establishment) Act (Cap 214) is repealed.

(2) Any regulations and directions issued and notifications made under the repealed Act shall continue in effect until they are repealed or amended under this Act.

Transitional

27. Upon the coming into operation of this Act —

(a) all acts done or commenced by or under the repealed Act prior to the date of operation of this Act, and where such act is within the powers of the Authority, shall be carried on and completed by or under this Act;

(b) all acts done, decisions taken, licences or authorisations granted by the Minister or by the Authority, the Chief Executive Officer, officers or employees of the Authority under the repealed Act which were validly done, taken, or granted under any written laws or pursuant to the repealed Act shall continue to have effect in accordance with their terms or until amended, annulled, or withdrawn in accordance with this Act;

(c) all agreements, deeds, bonds or arrangements which fall within the scope of the objects and functions of the Authority under the repealed Act, to which the Authority is a party, and that exists immediately before the date of coming into force of this Act, shall continue in force and shall be enforceable by or against the Authority as if the Authority had been a party to such deeds, bonds, agreements, or arrangements;

(d) all debts, obligations and liabilities incurred, all contracts entered into, and all matters engaged to be done by or for the Government immediately before such day for or in connection with the objects of the Authority under the repealed Act shall be deemed to have been incurred by the Authority and the Authority shall have all powers necessary to take possession of, recover and deal with such assets, and discharge such liabilities;

(e) all suits and legal proceedings pending or which could have been instituted by or against the Authority immediately before such day for any matter in relation to the Authority under the repealed Act shall be continued or instituted as if the Authority was a party to them;

(f) all officers and other employees of the Authority under the repealed Act shall be deemed to be officers and employees of the Authority on conditions not less favourable than those existing immediately prior to the said date of repeal.

Transfer of assets, rights and liability

28.(1) As from the date of commencement of this Act, all immoveable and moveable property vested in the Seychelles Fishing Authority established by section 3 of the Seychelles Fishing Authority (Establishment) Act (Cap 214) immediately before that date and used and managed by the Seychelles Fishing Authority shall, subject to subsection (2), be transferred to and vest in the Authority.

(2) If any question arises as to whether any particular immoveable and moveable property or any particular asset, right, interest, liability or obligation has been transferred to or vested in the Authority under subsection (1), a certificate signed by the Minister shall be conclusive evidence that the property, asset, right, interest, liability or obligation was or was not so transferred or vested as the case may be.

I certify that this is a correct copy of the Bill which was passed by the National Assembly on 9th July, 2024.

Mrs. Tania Isaac
Clerk to the National Assembly