
STATUTORY INSTRUMENTS

1976 No. 894

SEYCHELLES

The Seychelles Independence Order 1976*Made - - - 9th June 1976**Laid before Parliament 21st June 1976**Coming into Operation 29th June 1976*

At the Court at Buckingham Palace, the 9th day of June 1976

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue and in exercise of the powers in Her Majesty vested and by virtue and in exercise of the powers in that behalf conferred by the Seychelles Act 1976(a) is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

Citation,
commence-
ment and
construc-
tion.

1.—(1) This Order may be cited as the Seychelles Independence Order 1976.

(2) This Order shall come into operation on 29th June 1976:

Provided that the Governor of Seychelles acting in accordance with the advice of the Prime Minister may at any time after 9th June 1976, exercise any of the powers conferred upon the President by section 4(3)(a) of this Order or Article 83(1) of the Constitution of Seychelles established by the Order to such extent as may, in his opinion, be necessary or expedient to enable that Constitution to function as from 29th June 1976.

(3) Save where the context otherwise requires, expressions used in sections 1 to 18 (inclusive) of this Order have the same meaning as in the Constitution set out in Schedule I to this Order and the provisions of Article 119 of that Constitution shall apply for the purposes of interpreting those sections as they apply for the purposes of interpreting that Constitution.

Revoca-
tions.

2. The Orders mentioned in Schedule II to this Order are revoked with effect from the appointed day.

Establish-
ment of
Constitu-
tion.

3. Subject to the provisions of this Order the Constitution set out in Schedule I to this Order (hereinafter referred to as "the Constitution") shall come into effect in Seychelles at the commencement of this Order.

Existing
laws.

4.—(1) Subject to the provisions of this section, the existing laws shall, notwithstanding the revocation of the existing Orders or the establishment of a Republic in Seychelles, continue in force after the commencement of this Order as if they had been made in pursuance of this Order.

(a) 1976 c. 19.

(2) The existing laws and any Act of Parliament of the United Kingdom or Order of Her Majesty in Council (other than the Seychelles Act 1976 or this Order) having effect as part of the law of Seychelles or any part thereof immediately before the commencement of this Order shall be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with this Order.

(3) The President may by order made at any time before 28th December 1976 make such amendments to:—

(a) the existing laws; or

(b) any Act of Parliament of the United Kingdom or Order of Her Majesty in Council (other than the Seychelles Act 1976 or this Order) having effect as part of the law of Seychelles or any part thereof immediately before the commencement of this Order,

as may appear to him to be necessary or expedient for bringing those laws or that Act of Parliament or Order into conformity with the provisions of this Order or otherwise for giving effect or enabling effect to be given to those provisions.

(4) Where any matter that falls to be prescribed or otherwise provided for under the Constitution by Parliament or by any other authority or person is prescribed or provided for by or under an existing law (including any amendment to any such law made under this section) or is otherwise prescribed or provided for immediately before the commencement of this Order, by or under the existing Orders, that prescription or provision shall, as from the commencement of this Order, have effect as if it had been made under the Constitution by Parliament or, as the case may be, by the other authority or person.

(5) The provisions of this section shall be without prejudice to any powers conferred by this Order upon any person or authority to make provision for any matter, including the amendment or repeal of any existing law.

(6) For the purposes of this section, the expression “ the existing laws ” means all Ordinances, laws or statutory instruments having effect as part of the law of Seychelles or any part thereof immediately before the commencement of this Order (including any Ordinance, law or statutory instrument made before the commencement of this Order and coming into operation on or after the commencement of this Order) which were made or had effect as if they were made in pursuance of the existing Orders.

5.—(1) Where any office has been established by or under the existing Orders and the Constitution establishes a similar or an equivalent office, any person who immediately before the commencement of this Order holds or is acting in the former office shall, so far as is consistent with the provisions of the Constitution, be deemed to have been appointed or elected as from the commencement of this Order to hold or to act in the latter office in accordance with the provisions of the Constitution and to have taken the oath of allegiance and any other necessary oath under the Constitution:

Existing
offices.

Provided that any person who, under the existing Orders or under any existing law, would have been required to vacate his office at the expiration of any period or on the attainment of any age shall vacate his office at the expiration of that period or upon the attainment of that age.

(2) Where any office of Minister (other than the office of Prime Minister) is established under the existing Orders immediately before the commencement of this Order an equivalent office shall be deemed to have been established, from the commencement of this Order, under the Constitution, and any person holding that office immediately before the commencement of this Order shall be deemed to have been appointed, immediately after the assumption of office by the first President of the Republic of Seychelles, to hold the equivalent office in accordance with the provisions of the Constitution.

(3) The President may, at any time after the commencement of this Order, require any person who continues in office by virtue of the provisions of this section to take an oath of allegiance and any oath for the due execution of his office that is prescribed by or under an Act of Parliament.

(4) The provisions of this section shall be without prejudice to the provisions of section 9 or 10 of this Order.

(5) In this section "existing law" means such a law as is referred to in section 4(6) of this Order.

Citizenship. 6. (1) Any person who, at the commencement of this Order, is entitled to be registered as a citizen of Seychelles under Article 5 or 8 of the Constitution shall, until he becomes a citizen of Seychelles or until 29th June 1977 (whichever is the earlier) and subject to the provisions of subsection (3) of this section, have the status of a citizen of Seychelles.

(2) Any person who has the status of a citizen of Seychelles by virtue of the provisions of this section shall be regarded as such a citizen for the purposes of the provisions of the Constitution (other than Chapter II or Article 65(1)) and the provisions of any other law for the time being in force in Seychelles (other than a law made or having effect as if made in pursuance of Article 10 of the Constitution).

(3) Where provision is made by any law for the time being in force for depriving any person of citizenship of Seychelles those provisions shall apply to the status conferred by this section and any person may be deprived of the status conferred by this section and any person may be deprived of that status under those provisions accordingly.

Declaration of emergency. 7. If, immediately before the commencement of this Order, a Proclamation by the Governor of Seychelles under section 4 of the Preservation of Public Security Ordinance^(a) is in force, then, there shall be deemed to be in force, from the commencement of this Order, a declaration under Article 28(1) of the Constitution that has been approved by the National Assembly at the commencement of this Order, and that declaration shall, unless it is sooner revoked continue in force until 28th December 1976.

First President. 8.- (1) If at the commencement of this Order the person named in Article 31 of the Constitution is not alive or is for any reason incapable of or disqualified from becoming the first President of the Republic of Seychelles, the first President of the Republic of Seychelles shall be the person who immediately before the commencement of this Order was the Prime Minister of Seychelles and if, at the commencement of this Order, there is no person who was the Prime Minister of Seychelles, the office of

(a) Laws of Seychelles, Cap. 36 Revision 1971.

President shall be deemed to have become vacant at the commencement of this Order and the provisions of Article 36 of the Constitution shall apply accordingly.

(2) The first President shall, as soon as practicable after the commencement of this Order, take the oaths prescribed for the purposes of Article 38 of the Constitution.

(3) Notwithstanding anything in the Constitution, where the person named in Article 31 of the Constitution or the person who was the Prime Minister of Seychelles immediately before the commencement of this Order or the person who under the provisions of subsection (1) of this section becomes the first President of Seychelles and accordingly vacates his seat in the National Assembly such seat shall be filled not by means of an election but by the appointment by the first President of Seychelles of a person duly qualified to be a member of the National Assembly and such person shall be deemed for the purposes of the Constitution and this Order to have been elected as a member of the National Assembly.

(4) The person appointed under the provision of subsection (3) of this section shall, before taking his seat in the National Assembly, take the oaths prescribed for the purposes of Article 75 of the Constitution.

9.- (1) In this section "the interim period" means the period beginning from the commencement of this Order and ending on the day upon which Parliament is first dissolved after the commencement of this Order or, if that dissolution occurs before 6th June 1976 and the President by order made on the day of that dissolution so prescribes, ending on 6th June 1979.

Electoral
Areas and
Elections.

(2) Notwithstanding anything in Articles 59, 60 and 65 of the Constitution, the provisions of any regulations made under the Seychelles Electoral Provisions Order 1970(a) or under section 32(1)(a) of the Seychelles (Constitution) Order 1975 and in force immediately before the 29th June 1976 shall have effect on and after that day as if they were regulations made under the Constitution and may be amended or revoked by the President by subsequent regulations:

Provided that after the expiration of the interim period such regulations or any regulations amending these regulations shall cease to have effect.

10.- (1) The persons who, immediately before the 29th June 1976, are elected or appointed members of the House of Assembly established by the existing Constitution (in this section referred to as "the existing Assembly") shall on and from that day be deemed to be members of the National Assembly established by the Constitution and, subject to subsections (2), (3) and (4) of this section, shall hold their seats in the National Assembly in accordance with the provisions of the Constitution.

Parliamen
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(2) Where an appointed member of the existing Assembly is deemed, under the provisions of subsection (1) of this section, to be a member of the National Assembly he shall continue to be subject to the provisions of sections 36 and 37 of the existing Constitution as if that Constitution had not been revoked by this Order and sections 36 and 37 of the existing Constitution shall continue to apply, subject to such adaptations or modifications by the President as may be necessary to bring them into conformity with the Constitution, to the appointment to, and the removal

of members so appointed from, membership of the National Assembly as they did with respect to the appointment to and removal from membership of the existing Assembly.

(3) If any person who becomes a member of the National Assembly by virtue of subsection (1) of this section is not a Seychelles citizen on 29th June 1976 he shall be deemed for the purpose of Article 60 of the Constitution to have ceased to be a Seychelles citizen on the expiration of one month after 29th June 1976 if he is not then a Seychelles citizen.

(4) If any person who becomes a member of the National Assembly by virtue of subsection (1) of this section is on the 29th June 1976 interested in any government contract for the purposes of paragraph (d) of Article 61(1) of the Constitution and if he is still interested on the expiration of one month after the 29th June 1976 he shall be deemed for the purposes of that paragraph to have become interested in that contract on the expiration of that period.

(5) The person who immediately before the 29th June 1976 is the Speaker of the existing Assembly shall as from that day be the Speaker of the National Assembly established by the Constitution as if he had been appointed as such in pursuance of the Constitution and shall hold his office in accordance with the provisions of the Constitution.

(6) Any person who becomes a member of the National Assembly by virtue of subsection (1) of this section and who, since he was last elected or nominated as a member of the existing Assembly, has made or has been deemed to have made an oath or affirmation of allegiance in accordance with the existing Constitution shall be deemed to have complied with the requirements of Article 75 of the Constitution relating to the making of such an oath or affirmation.

Dissolution of Parliament. 11. Parliament unless sooner dissolved shall stand dissolved on 6th June 1979.

Procedure of National Assembly. 12. The rules and orders of the existing Assembly established by the existing Constitution as in force immediately before the commencement of this Order, shall, until it is otherwise provided in pursuance of Article 81 of the Constitution, be the rules of procedure of the National Assembly but shall be construed with such modifications, adaptations, qualifications and exceptions, as may be necessary to bring those rules into conformity with the Constitution.

Legal proceedings. 13.—(1) All proceedings that, immediately before the commencement of this Order, are pending before any court established by or under the existing Order, the Seychelles (Civil Appeals) Order 1967(a) and the Admiralty Jurisdiction (Seychelles) Order 1961(b) may be continued and concluded after the commencement of this Order before the corresponding court established by or under the Constitution.

(2) Any decision given before the commencement of this Order by any such court as aforesaid shall for the purpose of its enforcement or for the purpose of any appeal therefrom, have effect after the commencement of this Order as if it were a decision of the corresponding court established by or under the Constitution.

(a) 1967 III, p. 5414.

(b) S.I. 1961 2032 (1961 III, p. 3697).

14. Where under any law in force in Seychelles immediately before the commencement of this Order any prerogatives or privileges are vested in Her Majesty those prerogatives or privileges shall, from the commencement of this Order, vest in the President.

Prerogatives
and
privileges
of Crown.

15.—(1) Subject to the provisions of this section, any property and assets which immediately before the commencement of this Order are vested in Her Majesty or in the Governor of Seychelles, for the purposes of the Government of Seychelles, shall, from the commencement of this Order, vest in the President on behalf of the Government of Seychelles.

Property
and assets.

(2) Any property which, immediately before the commencement of this Order, is liable to *escheat* or to be forfeited to Her Majesty for the purposes of the Government of Seychelles, shall, from the commencement of this Order, be liable to *escheat* or be forfeited to the President on behalf of the Government of Seychelles.

(3) Where, immediately before the commencement of this Order, any person holds any property or assets in trust for Her Majesty or for the Governor of Seychelles for the purposes of the Government of Seychelles, that person shall, from the commencement of this Order, hold such property or assets on the like trust for the President.

16.—(1) All rights, liabilities and obligations of:—

(a) Her Majesty in respect of the Government of Seychelles; and

(b) the Governor of Seychelles or the holder of any other office under the Crown in respect of the Government of Seychelles on behalf of that Government,

Rights,
liabilities,
and
obligations.

shall, from the commencement of this Order, be rights, liabilities and obligations of the President on behalf of the Government of Seychelles and, subject to the provisions of any law, shall be enforceable by or against the President accordingly.

(2) In this section, rights, liabilities and obligations include rights, liabilities and obligations arising from contract or otherwise (other than any rights referred to in subsections (1), (2) and (3) of section 15 of this Order and any rights, liabilities or obligations of Her Majesty in respect of the Government of Seychelles arising under any treaty, convention or agreement with another country or with any international organisation).

17. Until other provision is made in that behalf by Parliament in pursuance of Article 116 of the Constitution and subject to the other provisions of that Article, there shall be paid to the holders of the offices to which that Article applies the salaries payable to the holders of the corresponding offices immediately before the commencement of this Order.

Remunera-
tion of
certain
officers.

18. Parliament may alter any of the provisions of this Order in the same manner as it may alter any of the provisions of the Seychelles Act 1976 which form part of the law of Seychelles.

Alteration
of this
Order.

N. E. Leigh

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CONSTITUTION OF SEYCHELLES

CHAPTER I

THE REPUBLIC

- Declaration of Republic. 1. Seychelles is a sovereign Republic.
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CHAPTER II

CITIZENSHIP

- Persons who become citizens on Independence Day. 4. (1) Every person who, having been born in Seychelles, is on the day prior to Independence Day a citizen of the United Kingdom and Colonies shall become a citizen of Seychelles on Independence Day.
- (2) Every person who, on the day prior to Independence Day, is a citizen of the United Kingdom and Colonies—
- (a) having become such a citizen under the British Nationality Act 1948 by virtue of his having been naturalised by the Governor of the former colony of Seychelles as a British subject before that Act came into force; or
- (b) having become such a citizen by virtue of his having been naturalised or registered by the Governor of the former colony of Seychelles under that Act,
- shall become a citizen of Seychelles on Independence Day.
- (3) Every person who, having been born outside Seychelles, is on the day prior to Independence Day a citizen of the United Kingdom and Colonies shall, if his father becomes, or would but for his death have become, a citizen of Seychelles by virtue of paragraph (1) or paragraph (2) of this Article, become a citizen of Seychelles on Independence Day.
- (4) Every woman who, having been married to a person who becomes, or would but for his death have become, a citizen of Seychelles under the previous paragraphs of this Article, acquired citizenship of the United Kingdom and Colonies, automatically or by registration, on the grounds of that marriage, shall become a citizen of Seychelles on Independence Day.
- Persons entitled to be registered as citizens. 5. Any woman who, on Independence Day, does not become a citizen of Seychelles under the provisions of Article 4, and is or has been married to a person—
- (a) who becomes a citizen of Seychelles by virtue of the preceding Article; or
- (b) who, having died before Independence Day would, but for his death, have become a citizen of Seychelles by virtue of that Article,
- shall be entitled, upon making application, in such manner as may be prescribed by or under an Act of Parliament, to be registered as a citizen of Seychelles:

Provided that the right to be registered as a citizen of Seychelles under this Article shall be subject to such exceptions or qualifications as may be prescribed in the interests of national security or public policy.

6. Every person born in Seychelles after the day prior to Independence Day shall become a citizen of Seychelles at the date of his birth:

Persons born in Seychelles after the day prior to Independence Day.

Provided that a person shall not become a citizen of Seychelles by virtue of this Article if at the time of his birth—

- (a) his father possesses such immunity from suit and legal process as is accorded to an envoy of a foreign sovereign power accredited to Seychelles and neither of his parents is a citizen of Seychelles; or
- (b) his father is a citizen of a country with which Seychelles is at war and the birth occurs in a place then under occupation by such country.

7. A person born outside Seychelles after the day prior to Independence Day shall become a citizen of Seychelles at the date of his birth if at that date his father is a citizen of Seychelles otherwise than by virtue of this Article or Article 4(3) of this Chapter.

Persons born outside Seychelles after the day prior to Independence Day.

8. Any woman who after the day prior to Independence Day marries a person who is or becomes a citizen of Seychelles shall be entitled, upon making application in such manner as may be prescribed by or under an Act of Parliament, to be registered as a citizen of Seychelles:

Marriage to citizen of Seychelles.

Provided that the right to be registered as a citizen of Seychelles under this Article shall be subject to such exceptions or qualifications as may be prescribed in the interests of national security or public policy.

9.—(1) Every person who under this Chapter or any other law is a citizen of Seychelles or under any enactment for the time being in force in any country to which this Article applies is a citizen of that country shall, by virtue of that citizenship, have the status of a Commonwealth citizen.

Commonwealth citizens.

(2) Every person who is a British subject without citizenship under the British Nationality Act 1948(a), continues to be a British subject under section 2 of that Act or is a British subject under the British Nationality Act 1965(b) shall, by virtue of that status, have the status of a Commonwealth citizen.

(3) Save as may be otherwise provided by Parliament, the countries to which this Article applies are the United Kingdom and Colonies, Canada, Australia, New Zealand, India, Sri Lanka, Ghana, Malaysia, Nigeria, Cyprus, Sierra Leone, Tanzania, Jamaica, Trinidad and Tobago, Uganda, Kenya, Malawi, Malta, Zambia, The Gambia, Singapore, Guyana, Lesotho, Botswana, Barbados, Mauritius, Swaziland, Tonga, Fiji, The Bahamas, Grenada, Southern Rhodesia, Bangladesh, Nauru, Papua New Guinea, and Western Samoa.

10. Parliament may make provision—

Powers of Parliament.

- (a) for the acquisition of citizenship of Seychelles by persons who are not eligible or who are no longer eligible to become citizens of Seychelles by virtue of the provisions of this Chapter:

(a) 1948 c. 56.

(b) 1965 c. 34.

- (b) for depriving of his citizenship of Seychelles any person who is a citizen of Seychelles otherwise than by virtue of Article 4, 6 or 7 of this Chapter;
- (c) for the renunciation by any person of his citizenship of Seychelles;
- (d) for the maintenance of a register of citizens of Seychelles who are also citizens of other countries;
- (e) for depriving of his citizenship of Seychelles any citizen of Seychelles who has attained the age of 21 years after the day prior to Independence Day and who, being a citizen of some other country, has not, within such period after his attainment of that age as may be prescribed, renounced his citizenship of that other country or, if the law of that other country does not permit him to renounce his citizenship of that other country, made such declaration as may be prescribed; and
- (f) for prescribing the manner in which applications under Articles 5 and 8 of this Chapter are to be made.

Interpreta-
tion.

11.—(1) Any reference in this Chapter to the father of a person shall, in relation to a person born out of wedlock, be construed as a reference to the mother of that person.

(2) For the purposes of this Chapter, a person born aboard a registered ship or aircraft, or aboard an unregistered ship or aircraft of the government of any country, shall be deemed to have been born in the place in which the ship or aircraft was registered or, as the case may be, in that country.

(3) Any reference in this Chapter to the national status of the father of a person at the time of that person's birth shall, in relation to a person born after the death of his father, be construed as a reference to the national status of the father at the time of the father's death; and where that death occurred before Independence Day and the birth occurred after the day prior to Independence Day the national status that the father would have had if he had died on Independence Day shall be deemed to be his national status at the time of his death.

CHAPTER III

PROTECTION OF FUNDAMENTAL HUMAN RIGHTS AND FREEDOMS OF THE INDIVIDUAL

Fundamen-
tal rights
and freedoms
of the
individual.

12. It is hereby recognised and declared that in Seychelles there have existed and shall continue to exist without discrimination by reason of race, place of origin, political opinions, colour, creed or sex, but subject to respect for the rights and freedoms of others and for the public interest, each and all of the following human rights and fundamental freedoms, namely—

- (a) the right of the individual to life, liberty, security of the person and the protection of the law;
- (b) freedom of conscience, of expression, of assembly and association; and
- (c) the right of the individual to protection for the privacy of his home and other property and from deprivation of property without compensation,

and the provisions of this Chapter shall have effect for the purpose of affording protection to the said rights and freedoms subject to such limitations of that protection as are contained in those provisions, being limitations designed to ensure that the enjoyment of the said rights and freedoms by any individual does not prejudice the rights and freedoms of others or the public interest.

13.—(1) No person shall be deprived of his life intentionally save as execution of the sentence of a court in respect of a criminal offence of which he has been convicted. Protection of right to life.

(2) A person shall not be regarded as having been deprived of his life in contravention of this Article if he dies as the result of the use, to such extent and in such circumstances as are permitted by law, of such force as is reasonably justifiable—

- (a) for the defence of any person from violence or for the defence of property;
- (b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;
- (c) for the purpose of suppressing a riot, insurrection or mutiny; or
- (d) in order to prevent the commission by that person of a criminal offence,

or if he dies as the result of a lawful act of war.

14.—(1) No person shall be deprived of his personal liberty save as may be authorised by law in any of the following cases, that is to say— Protection of right to personal liberty.

- (a) in consequence of his unfitness to plead to a criminal charge or in execution of the sentence or order of a court, whether in Seychelles or elsewhere, in respect of a criminal offence of which he has been convicted;
- (b) in execution of the order of a court punishing him for contempt of that court or of another court;
- (c) in execution of the order of a court made to secure the fulfilment of any obligation imposed on him by law or for payment of debt;
- (d) for the purpose of bringing him before a court in execution of the order of a court;
- (e) upon reasonable suspicion of his having committed, or being about to commit, a criminal offence;
- (f) under the order of a court or with the consent of his parent or guardian, for his education or welfare during any period ending not later than the date upon which he attains the age of eighteen years;
- (g) for the purpose of preventing the spread of an infectious or contagious disease;
- (h) in the case of a person who is, or is reasonably suspected to be, of unsound mind or addicted to drugs or alcohol, for the purpose of his case or treatment or the protection of the community;
- (i) for the purpose of preventing the unlawful entry of that person into Seychelles, or for the purpose of effecting the expulsion, extradition or other lawful removal of that person from Seychelles or the taking of proceedings relating thereto;
- (j) upon reasonable suspicion of his being likely to commit a breach of the peace.

(2) Any person who is arrested or detained shall be informed as soon as reasonably practicable, in a language that he understands, of the reasons for his arrest or detention.

(3) Any person who is arrested or detained—

(a) for the purpose of bringing him before a court in execution of the order of a court;

(b) upon reasonable suspicion of his having committed, or being about to commit, a criminal offence; or

(c) upon reasonable suspicion of his being likely to commit a breach of the peace.

and who is not released, shall be afforded reasonable facilities to consult a legal representative of his own choice and shall be brought without undue delay before a court; and if any person arrested or detained as mentioned in subparagraph (b) of this paragraph is not tried within a reasonable time, then, without prejudice to any further proceedings that may be brought against him, he shall be released either unconditionally or upon reasonable conditions, including in particular such conditions as are reasonably necessary to ensure that he appears at a later date for trial or for proceedings preliminary to trial; and if any person arrested or detained as mentioned in subparagraph (c) of this paragraph is not brought before a court within a reasonable time in order that the court may decide whether to order him to give security for his good behaviour then, without prejudice to any further proceedings that may be brought against him, he shall be released unconditionally.

(4) Any person who is unlawfully arrested or detained by any other person shall be entitled to compensation therefor from that other person or from any other person or authority on whose behalf that other person was acting.

(5) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this Article to the extent that the law in question authorised the taking during a period of public emergency of measures that are reasonably justifiable for the purpose of dealing with the situation that exists in Seychelles during that period.

Protection
from slavery
and forced
labour.

15.—(1) No person shall be held in slavery or servitude.

(2) No person shall be required to perform forced labour.

(3) For the purposes of this Article, the expression “forced labour” does not include—

(a) any labour required in consequence of the sentence or order of a court;

(b) labour required of any person while he is lawfully detained which, though not required in consequence of the sentence or order of a court, is reasonably necessary in the interests of hygiene or for the maintenance of the place at which he is detained;

(c) any labour required of a member of a disciplined force in pursuance of his duties as such or, in the case of a person who has conscientious objections to service as a member of a naval, military or air force, any labour that that person is required by law to perform in place of such service; or

(d) any labour required during a period of public emergency or in the event of any other emergency or calamity that threatens the life

or well-being of the community, to the extent that the requiring of such labour is reasonably justifiable, in the circumstances of any situation arising or existing during that period or as a result of that other emergency or calamity, for the purpose of dealing with that situation.

16. No person shall be subjected to torture or to inhuman or degrading punishment or other such treatment.

Protection
from
inhuman
treatment.
Protection
from
deprivation
of property.

17.—(1) No property of any description shall be compulsorily taken possession of, and no interest in or right over property of any description shall be compulsorily acquired, except where the following conditions are satisfied, that is to say—

- (a) the taking of possession or acquisition is necessary or expedient in the interests of defence, public safety, public order, public morality, public health, nature conservation, town and country planning or the development or utilisation of any property in such a manner as to promote the public benefit; and
- (b) there is reasonable justification for the causing of any hardship that may result to any person having an interest in or right over the property; and
- (c) provision is made by a law applicable to that taking of possession or acquisition—
 - (i) for the prompt payment of adequate compensation; and
 - (ii) securing to any person having an interest in or right over the property a right of appeal according to such law only for the determination of his interest or right, the legality of the taking of possession or acquisition of the property, interest or right, and the amount of any compensation to which he is entitled, and for the purpose of obtaining prompt payment of the compensation.

(2) No person, other than a citizen of Seychelles, who is entitled to compensation under this Article in respect of property, or interests in or rights over property, of any description which he had acquired with funds originating overseas shall be prevented from remitting, within a reasonable time after he has received any amount of that compensation, the whole of that amount (free from any deductions, charge or tax made or levied in respect of its remission) to any country of his choice outside Seychelles.

(3) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of the last preceding paragraph to the extent that the law in question authorises—

- (a) the attachment, by order of a court, of any amount of compensation to which a person is entitled in satisfaction of the judgment of a court or pending the determination of civil proceedings to which he is a party;
- (b) the imposition of reasonable restrictions on the manner in which any amount of compensation is to be remitted; or
- (c) the imposition of any deduction, charge or tax that is made or levied generally in respect of the remission of monies from Seychelles and that is not discriminatory within the meaning of Article 24(2) of this Constitution.

(4) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of paragraph (1) of this Article—

(a) to the extent that the law in question makes provision for the imposition of limitations on the use of property or the taking of possession or acquisition of property or any interests in or rights over any property—

- (i) in satisfaction of any tax, rate, duty or due;
- (ii) by way of penalty for breach of the law or forfeiture in consequence of a breach of the law;
- (iii) as an incident of a grant, lease, tenancy, mortgage, charge, sale, pledge, contract, permission or licence;
- (iv) in the execution of judgments or orders of courts;
- (v) by way of the taking of a sample for the purposes of any law;
- (vi) where the property consists of an animal upon its being found trespassing or straying;
- (vii) by reason of its being in a dilapidated or dangerous state or injurious to the health of human beings, animals, trees or plants;
- (viii) in consequence of any law with respect to the limitation of actions or acquisitive prescription; or
- (ix) for so long only as may be necessary for the purposes of any examination, investigation, trial or inquiry, or, in the case of land, the carrying out thereon of work of reclamation, drainage, soil conservation or the conservation of other natural resources, or work relating to agricultural development or improvement (being work that the owner or occupier of the land has been required, and has, without reasonable and lawful excuse, refused or failed to carry out),

except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society; or

(b) to the extent that the law in question makes provision for the taking of possession or acquisition of any of the following property (including an interest in or right over property), that is to say—

- (i) enemy property;
- (ii) property of a person who has died or is unable, by reason of legal incapacity, to administer it himself, for the purpose of its administration for the benefit of the persons entitled to the beneficial interest therein;
- (iii) property of a person adjudged bankrupt or a body corporate in liquidation, for the purpose of its administration for the benefit of the creditors of the bankrupt or body corporate and, subject thereto, for the benefit of other persons entitled to the beneficial interest in the property; or
- (iv) property subject to a trust, for the purpose of vesting the property in persons appointed as trustees under the instrument creating the trust or by a court or, by order of a court, for the purpose of giving effect to the trust.

(5) Nothing in this Article shall affect the making or operation of any law so far as it provides for the vesting in the Republic of the ownership of underground water or unextracted oil or minerals of any kind or description.

(6) Nothing in this Article shall affect the making or operation of any law for the compulsory taking of possession in the public interest of any property, or the compulsory acquisition in the public interest of any interest in or right over property, where that property, interest or right is held by a body corporate established by law for public purposes in which no monies have been invested other than monies provided by Parliament.

18.—(1) Except with his own consent, no person shall be subjected to the search of his person or his property or the entry by others on his premises.

Protection
of privacy
of home
and other
property.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this Article to the extent that the law in question makes provision—

- (a) in the interests of defence, public safety, public order, public morality, public health, the administration of Government, town and country planning, nature conservation, the development or utilisation of mineral resources including oil, or the development or utilisation of any other property in such a manner as to promote the public benefit;
 - (b) for the purpose of protecting the rights or freedoms of other persons;
 - (c) that authorises an officer or agent of the Government or a local authority, or a body corporate established by law for public purposes, to enter on the premises of any person in order to inspect or value those premises or anything therein for the purpose of any tax, rate, due or duty or in order to carry out work connected with any property that is lawfully on those premises and that belongs to the Government, authority or body corporate, as the case may be; or
 - (d) that authorises, for the purpose of enforcing the judgment or order of a court in any civil proceedings, the search of any person or property by order of a court or the entry upon any premises by such order,
- except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

19.—(1) If any person is charged with a criminal offence, then unless the charge is withdrawn the case shall be afforded a fair hearing within a reasonable time by an independent and impartial court established by law.

Provisions
to secure
protection
of law.

(2) Every person who is charged with a criminal offence—

- (a) shall be presumed to be innocent until he is proved or has pleaded guilty;
- (b) shall be informed as soon as reasonably practicable in a language that he understands and in detail, of the nature of the offence;
- (c) shall be given adequate time and facilities for the preparation of his defence;
- (d) shall be permitted to defend himself in person, or, at his own expense, within a reasonable time, by a legal representative of his own choice, or, where so prescribed, by a legal representative provided at the public expense;
- (e) shall be afforded facilities to examine, in person or by his legal representative, the witnesses called by the prosecution before any court, and to obtain the attendance and carry out the examination

of witnesses to testify on his behalf before that court on the same conditions as those applying to witnesses called by the prosecution; and

(f) shall be permitted to have without payment the assistance of an interpreter if he cannot understand the language used at the trial of the charge,

and, except with his own consent, the trial shall not take place in his absence unless he so conducts himself as to render the continuance of the proceedings in his presence impracticable and the court has ordered him to be removed and the trial to proceed in his absence.

(3) When a person is tried for any criminal offence, the accused person or any person authorised by him in that behalf shall, if he so requires and subject to payment of such reasonable fee as may be specified by or under any law, be given within a reasonable time after judgment a copy for the use of the accused person of any record of the proceedings made by or on behalf of the court.

(4) No person shall be held to be guilty of a criminal offence on account of any act or omission that did not, at the time it took place, constitute such an offence, and no penalty shall be imposed for any criminal offence that is severer in degree or description than the maximum penalty that might have been imposed for that offence at the time when it was committed.

(5) No person who shows that he has been tried by a competent court for a criminal offence and either convicted or acquitted shall again be tried for that offence or for any other criminal offence of which he could have been convicted at the trial of that offence, save upon the order of a superior court in the course of appeal or review proceedings relating to the conviction or acquittal.

(6) No person shall be tried for a criminal offence if he shows that he has been granted a pardon by competent authority for that offence.

(7) No person who is tried for a criminal offence shall be compelled to give evidence at the trial.

(8) Any court or other authority required or empowered by law to determine the existence or extent of any civil right or obligation shall be established by law and shall be independent and impartial; and where proceedings for such a determination are instituted by any person before such a court or other authority the case shall be given a fair hearing within a reasonable time.

(9) Except with the agreement of all the parties thereto, all proceedings of every court and proceedings for the determination of the existence or extent of any civil right or obligation before any other authority, including the announcement of the decision of the court or other authority, shall be held in public.

(10) Nothing in the last foregoing paragraph shall prevent the court or other authority from excluding from the proceedings (except the announcement of the decision of the court or other authority) persons other than the parties thereto and their legal representatives to such extent as the court or other authority—

(a) may by law be empowered so to do and may consider necessary or expedient in circumstances where publicity would prejudice the interests of justice, or in interlocutory proceedings, or in the interests

of public morality, the welfare of persons under the age of eighteen years or the protection of the privacy of persons concerned in the proceedings; or

(b) may by law be empowered or required to do so in the interests of defence, public safety or public order.

(11) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of—

(a) paragraph (2)(a) of this Article to the extent that the law in question imposes upon any person charged with a criminal offence the burden of proving particular facts or declares that the proof of certain facts shall be *prima facie* proof of a criminal offence or of any element thereof;

(b) paragraph (2)(e) of this Article, to the extent that the law in question imposes conditions that must be satisfied if witnesses called to testify on behalf of an accused person are to be paid their expenses out of public funds;

(c) paragraph (5) of this Article, to the extent that the law in question authorises a court to try a member of a disciplined force for a criminal offence notwithstanding any trial and conviction or acquittal of that member under the disciplinary law of that force, so, however, that any court so trying such a member and convicting him shall in sentencing him to any punishment take into account any punishment awarded him under that disciplinary law.

(12) In this Article “criminal offence” means a felony, misdemeanour or contravention punishable under the law of Seychelles.

(13) For the purposes of paragraph (2) of this Article a person who has been served with a summons or other process requiring him to appear at the time and place appointed for his trial and who does not so appear shall be deemed to have consented to the trial taking place in his absence.

20.—(1) Except with his own consent, no person shall be hindered in the enjoyment of his freedom of conscience, and for the purposes of this Article the said freedom includes freedom of thought and religion, freedom to change his religion or belief, and freedom, either alone or in community with others and both in public and in private, to manifest and propagate his religion or belief in worship, teaching, practice and observance.

Protection
of freedom
of
conscience.

(2) Except with his own consent (or, if he is a minor, the consent of his guardian) no person attending any place of education shall be required to receive religious instruction or to take part in or attend any religious ceremony or observance if that instruction, ceremony or observance relates to a religion which is not his own.

(3) No religious community shall be prevented from or hindered in providing religious instruction for persons of that community in the course of any education provided by that community, whether or not that community is in receipt of any Government subsidy, grant or other form of financial assistance designed to meet, in whole or in part, the cost of such course of education.

(4) No person shall be compelled to take any oath that is contrary to his religion or belief or to take any oath in a manner that is contrary to his religion or belief.

(5) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this Article to the extent that the law in question makes provision—

- (a) in the interests of defence, public safety, public order, public morality or public health; or
- (b) for the purpose of protecting the rights or freedoms of other persons, including the right to observe and practise any religion or belief without the unsolicited intervention of persons professing any other religion or belief; or
- (c) with respect to standards or qualifications to be required in relation to places of education including any instruction (not being religious instruction) given at such places,

except so far as that provision, or as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

(6) References in this Article to a religion shall be construed as including references to a religious denomination, and cognate expressions shall be construed accordingly.

Protection
of freedom
of
expression.

21.—(1) Except with his own consent, no person shall be hindered in the enjoyment of his freedom of expression, that is to say, freedom to hold opinions and to receive and impart ideas and information without interference, and freedom from interference with his correspondence or other means of communication.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this Article to the extent that the law in question makes provision—

- (a) in the interests of defence, public safety, public order, public morality or public health;
- (b) for the purpose of protecting the reputations, rights and freedoms of other persons or the private lives of persons concerned in legal proceedings, preventing the disclosure of information received in confidence, maintaining the authority and independence of the courts, or regulating the technical administration or the technical operation of telecommunications, telephony, telegraphy, posts, wireless broadcasting, television, public exhibitions or public entertainments; or
- (c) for the imposition of restrictions upon public officers,

except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

Protection
of freedom
of assembly
and
association.

22.—(1) Except with his own consent, no person shall be hindered in the enjoyment of his freedom of assembly and association, that is to say, his right to assemble freely and associate with other persons and in particular to form or belong to political parties, trade unions or other associations for the protection of his interests.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this Article to the extent that the law in question makes provision—

- (a) in the interests of defence, public safety, public order, public morality or public health;

- (b) for the purpose of protecting the rights or freedoms of other persons; or
 - (c) for the imposition of restrictions upon public officers,
- except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

23.—(1) No person shall be deprived of his freedom of movement, and for the purposes of this Article the said freedom means the right to move freely throughout Seychelles, the right to reside in any part of Seychelles, the right to enter Seychelles, the right to leave Seychelles and immunity from expulsion from Seychelles.

Protection
of freedom
of
movement.

(2) Any restriction on a person's freedom of movement that is involved in his lawful detention shall not be held to be inconsistent with or in contravention of this Article to the extent that the law in question makes provision—

- (a) for imposing restrictions on the movement or residence within Seychelles or on the right to leave Seychelles of persons generally or any class of persons in the interests of defence, public safety, public order, public morality or public health, except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society;
- (b) for imposing restriction, by order of a court, on the movement or residence within Seychelles of any person or on any person's right to leave Seychelles either in consequence of his having been found guilty of a criminal offence or for the purpose of ensuring that he appears before a court at a later date for trial for such a criminal offence or for proceedings preliminary to trial or for proceedings relating to his extradition or lawful removal from Seychelles;
- (c) for imposing restrictions on the movement or residence within Seychelles of any person who is not a citizen of Seychelles or for excluding or expelling any such person from Seychelles;
- (d) for imposing restrictions on the acquisition or use by any person of any property in Seychelles;
- (e) for imposing restrictions on the movement or residence within Seychelles or the right to leave Seychelles of any public officer;
- (f) for the removal of a person from Seychelles to be tried or punished in some other country for a criminal offence under the law of that other country or to undergo imprisonment in some other country in execution of the sentence of a court in respect of a criminal offence of which he has been convicted; or
- (g) for imposing restrictions on the right of any person to leave Seychelles that are reasonably required in order to secure the fulfilment of any obligations imposed on that person by law, except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

24.—(1) Subject to the provisions of this Article—

- (a) no law shall make any provision that is discriminatory either of itself or in its effect; and

Protection
from
discrimina-
tion on the
grounds of
race, etc.

(b) no person shall be treated in a discriminatory manner by any person acting by virtue of any written law or in the performance of the functions of any public office or any public authority.

(2) In this Article, the expression “discriminatory” means affording different treatment to different persons attributable wholly or mainly to their respective descriptions by race, place of origin, political opinions, colour or creed whereby persons of one such description are subjected to disabilities or restrictions to which persons of another such description are not made subject or are accorded privileges or advantages which are not accorded to persons of another such description.

(3) Nothing contained in any law shall be held to be inconsistent with or in contravention of paragraph (1)(a) of this Article to the extent that the law in question makes provision—

(a) for the appropriation of revenues or other funds of Seychelles or for the imposition of taxation (including the levying of fees for the grant of licences);

(b) with respect to persons who are not citizens of Seychelles;

(c) for standards or qualifications (not being standards or qualifications specifically relating to race, place of origin, political opinions, colour or creed) to be required of any person who is appointed to or acts in, any public office, any office in the service of a local authority or of a body corporate established by any law for public purposes; or

(d) for authorising the taking during a period of public emergency of measures that are reasonably justifiable for the purpose of dealing with the situation that exists in Seychelles during that period.

(4) Paragraph (1)(b) of this Article shall not apply to—

(a) anything that is expressly or by necessary implication authorised to be done by any provision of law that is referred to in the preceding subparagraph; or

(b) the exercise of any discretion relating to the institution, conduct or discontinuance of civil or criminal proceedings in any court that is vested in any person by or under this Constitution or any other law.

(5) Subject to the provisions of paragraph (2) of this Article nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of paragraph (1) of this Article—

(a) if the law in question was in force immediately before the 1st October 1975 and has continued in force at all times since that day; or

(b) to the extent that it repeals and re-enacts any provision which has been contained in any written law which has continued in force at all times since immediately before that day.

(6) Subject to the provisions of the next following paragraph, no person shall be treated in a discriminatory manner in respect of access to shops, hotels, lodging-houses, public restaurants, eating-houses, licensed premises or places of public entertainment or in respect of access to places of public resort maintained wholly or partly out of public funds or dedicated to the use of the general public.

(7) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this Article

to the extent that the law in question makes provision whereby persons of any such description as is mentioned in paragraph (2) of this Article may be subjected to any restriction on the rights and freedoms guaranteed by Articles 18, 20, 21, 22 and 23 of this Constitution, being such a restriction as is authorised by Article 18(2), Article 20(4), Article 21(2), Article 22(2) or Article 23(2)(a) as the case may be.

25.—(1) Where a person is detained by virtue of a law that authorises the taking during a period of public emergency of measures that are reasonably justifiable for the purpose of dealing with the situation that exists in Seychelles during that period, the following provisions shall apply, that is to say—

Protection
of persons
detained
under
emergency
laws.

- (a) he shall, as soon as reasonably practicable and in any case not more than seven days after the commencement of his detention, be furnished with a statement in writing, in a language that he understands, specifying in detail the grounds upon which he is detained;
- (b) not more than fourteen days after the commencement of his detention, a notification shall be published in the *Gazette* stating that he has been detained and giving particulars of the provision of law under which his detention is authorised;
- (c) not more than one month after the commencement of his detention and thereafter, during his detention at intervals of not more than six months, his case shall be reviewed by an independent and impartial tribunal established by law and presided over by a legally qualified person appointed by the Chief Justice;
- (d) he shall be afforded reasonable facilities to consult a legal representative of his own choice who shall be permitted to make representations to the tribunal; and
- (e) at the hearing of his case by the tribunal he shall be permitted to appear in person or by a legal representative of his own choice.

(2) On any review by a tribunal in pursuance of this Article of the case of a detained person, the tribunal may make recommendations concerning the necessity or expediency of continuing his detention to the authority by which it was ordered but unless it is otherwise provided by law, that authority shall not be obliged to act in accordance with any such recommendations.

(3) Nothing contained in paragraph (1)(d) or (e) of this Article shall be construed as entitling a person to legal representation at public expense.

26.—(1) If any person alleges that any of the provisions of this Chapter has been, is being or is likely to be contravened in relation to him (or, in the case of a person who is detained, if any other person alleges such a contravention in relation to the detained person), then, without prejudice to any other action with respect to the same matter which is lawfully available that person (or that other person) may apply to the Supreme Court for redress.

Enforcement
of
protective
provisions.

(2) The Supreme Court shall have original jurisdiction—

- (a) to hear and determine any application made in pursuance of the preceding paragraph;
- (b) to determine any question which is referred to it in pursuance of the next following paragraph.

and may make such orders, issue such writs and give such directions as it may consider appropriate for the purpose of enforcing or securing the enforcement of any of the provisions of this Chapter:

Provided that the Supreme Court may decline to exercise its powers under this paragraph if it is satisfied that adequate means of redress for the contravention alleged are or have been available to the person concerned under any other law.

(3) If in any proceedings in any subordinate court any question arises as to the contravention of any of the provisions of this Chapter, the person presiding in that court may, and shall, if any party to the proceedings so requests, refer the question to the Supreme Court unless, in his judgment, which shall be final, the raising of the question is merely frivolous or vexatious.

(4) Where any question is referred to the Supreme Court in pursuance of the last foregoing paragraph, the Supreme Court shall give its decision upon the question and the court in which the question arose shall dispose of the case in accordance with that decision or, if that decision is the subject of an appeal to the Seychelles Court of Appeal, in accordance with the decision of the Seychelles Court of Appeal.

(5) No appeal shall lie from any determination by the Supreme Court that an application made in pursuance of paragraph (1) of this Article is merely frivolous or vexatious.

(6) The Supreme Court shall have such powers in addition to those conferred by this Article as may be prescribed by law for the purpose of enabling that court more effectively to exercise the jurisdiction conferred on it by this Article.

(7) The Chief Justice may make rules for the purposes of this Article with respect to the practice and procedure of the Supreme Court (including rules with respect to the time within which applications may be brought and references shall be made to the Supreme Court).

Period of public emergency. **27.** In this Chapter "period of public emergency" means any period during which—

(a) Seychelles is at war; or

(b) a declaration made under the provisions of Article 28 of this Constitution is in force.

Declarations relating to emergencies or threatened emergencies. **28.** (1) The President may at any time by Proclamation published in the *Gazette* declare that—

(a) a state of public emergency exists; or

(b) a situation exists which, if it is allowed to continue, may lead to a state of public emergency.

(2) (i) A declaration made under this Article shall cease to have effect on the expiration of a period of twenty-one days commencing with the day upon which the declaration is made unless before the expiration of that period it has been approved by a resolution of the National Assembly.

(ii) In reckoning any period of twenty-one days for the purposes of this subsection no account shall be taken of any time during which Parliament is dissolved.

(3) A declaration made under this Article may at any time before it has been approved by a resolution of the National Assembly be revoked by the President by a Proclamation published in the *Gazette*.

(4) A declaration made under this Article and approved by a resolution of the National Assembly in terms of paragraph (2) of this Article shall continue in force until the expiration of a period of six months beginning with the day of its being so approved or until such earlier date as may be specified in the resolution.

(5) Notwithstanding the provisions of paragraph (4) of this Article, a declaration made under this Article and approved by a resolution of the National Assembly in terms of paragraph (2) of this Article may at any time be revoked by a resolution of such Assembly supported by a majority of all the members thereof.

(6) (a) Whenever an election to the office of the President results in a change in the holder of that office any declaration made under this Article which is in force immediately before the day on which the President assumes office shall cease to have effect on the expiration of seven days commencing with that day.

(b) The expiry or revocation of any declaration made under this Article shall not affect the validity of anything previously done under such declaration.

29.—(1) In this Chapter, unless the context otherwise requires—

“contravention”, in relation to any requirement, includes a failure to comply with that requirement, and cognate expressions shall be construed accordingly;

“court” means any court of law or tribunal having jurisdiction in Seychelles, excepting, save in Articles 13 and 15 of this Constitution and this Article, a court established by or under a disciplinary law;

“disciplinary law” means a law regulating the discipline of any disciplined force;

“disciplined force” means—

(a) a naval, military or air force;

(b) any police force of Seychelles;

(c) the prison service of Seychelles;

“legal representative” means a person lawfully in or entitled to be in Seychelles and entitled to practise law in Seychelles;

“member”, in relation to a disciplined force, includes any person who, under the law regulating the discipline of that force, is subject to that discipline.

(2) Nothing contained in Articles 21, 22 or 23 of this Constitution shall be construed as precluding the inclusion in the terms and conditions of service of public officers of reasonable requirements as to their communication or association with other persons or as to their movements or residence.

(3) In relation to any person who is a member of a disciplined force of Seychelles, nothing contained in or done under the authority of the disciplinary law of that force shall be held to be inconsistent with or in contravention of any of the provisions of this Chapter other than Articles 13, 15 and 16.

Interpreta-
tion and
savings.

(4) In relation to any person who is a member of a disciplined force that is not a disciplined force of Seychelles and who is present in Seychelles in pursuance of arrangements made between the Government and another government or an international organisation, nothing contained in or done under the authority of the disciplinary law of that force shall be held to be inconsistent with or in contravention of any of the provisions of this Chapter.

(5) No measure taken in relation to a person who is a member of a disciplined force of a country with which Seychelles is at war and no law, to the extent that it authorises the taking of any such measures, shall be held to be inconsistent with or in contravention of any of the provisions of this Chapter.

CHAPTER IV

THE EXECUTIVE

The President

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| The Office of President. | 30. There shall be a President of the Republic of Seychelles who shall be the Head of State. |
| First President. | <p>31.—(1) The first President shall be James Richard Marie Mancham.</p> <p>(2) The first President shall be deemed to have assumed office at the coming into operation of this Constitution.</p> |
| Election of President after dissolution of Parliament. | <p>32.—(1) Whenever Parliament is dissolved an election shall be held to the office of President in such manner as is prescribed by this Article and, subject thereto, by or under an Act of Parliament.</p> <p>(2) A person shall be qualified for election as President if, and shall not be so qualified unless, he—</p> <ul style="list-style-type: none"> (a) is a citizen of Seychelles; and (b) is qualified for election to the National Assembly. <p>(3) Nominations in the election of a President shall be delivered to the returning officer on such day and at such time as may be prescribed by or under an Act of Parliament; the nomination of a candidate in an election of a President shall not be valid unless it is supported, in such manner as may be prescribed by or under an Act of Parliament, by not less than one thousand persons registered as voters for the purposes of elections to the National Assembly.</p> <p>(4) Where, at the expiration of the time for the delivery of nominations, only one qualified candidate is validly nominated in an election of a President the returning officer shall declare him to be elected and where, at the expiration of that time, more than one qualified candidate is validly nominated the following provisions shall apply—</p> <ul style="list-style-type: none"> (a) every person nominated as a Parliamentary candidate shall, at the time of his nomination, declare in such manner as may be prescribed by or under an Act of Parliament which of the candidates in the election of President he supports and if he does not so declare his nomination as a Parliamentary candidate shall be void; (b) a candidate in an election of President may enter upon the nomination paper of any Parliamentary candidate, if so requested by the candidate, his endorsement of that person's candidature but the |

nomination of a Parliamentary candidate shall be valid notwithstanding that the nomination paper is not so endorsed;

- (c) where the Parliamentary election is contested in any constituency a poll shall be taken in that constituency at which the votes shall be given by ballot and the ballot papers shall be in such form as to disclose both the names of the Parliamentary candidates and the name of the candidate for President which each of the Parliamentary candidates supports;
- (d) the returning officer shall declare to be elected as President the candidate who receives the greatest number of valid votes cast in the Parliamentary election;
- (e) for the purpose of determining the number of votes cast for a candidate for election as President, every valid vote cast in favour of a Parliamentary candidate shall be reckoned as a vote for the candidate for President which that Parliamentary candidate supports and in any constituency in which no poll is required to be taken the Parliamentary candidate declared elected shall be deemed to have received the valid votes of all persons registered as voters in that constituency for the purposes of elections to the National Assembly;
- (f) where there is an equality of votes entitling more than one candidate to be declared elected under subparagraph (d) of this paragraph, one of those candidates shall be selected as President in such manner as Parliament may prescribe;
- (g) the returning officer may declare the result of the election of President, notwithstanding that any question relating to the Parliamentary election in any constituency has not been finally determined, if he is satisfied that any candidate for President has received the votes of more than half of the number of all the persons registered in Seychelles as voters for the purposes of elections to the National Assembly.

(5) Where, at the expiration of the time for the delivery of nominations in an election of a President, no qualified candidate is validly nominated a fresh election of a President shall be commenced and held in the manner provided by the foregoing provisions of this Article.

(6) Where, at the expiration of the time for the delivery of nominations in the election of a President, more than one qualified candidate is validly nominated and any of those candidates dies before the commencement of the poll in the Parliamentary election, the poll in the Parliamentary election shall be countermanded, fresh nominations of Parliamentary candidates shall take place in every constituency and a fresh election of a President shall be held in accordance with the foregoing provisions of this Article.

(7) Where—

- (a) any candidate in an election of a President dies during the period commencing with the taking of the poll in the Parliamentary election and ending when the results of the election have been ascertained and that candidate would, but for his death, have been entitled to have been declared elected as President under paragraph (4) of this Article by reason of the number of votes he received; or
- (b) any person who has been declared elected as President under this Article dies before he assumes the office of President,

the new National Assembly shall meet on such day (not being more than fourteen days after the result of the election is ascertained or, as the case may be, the death of the person declared elected) as the Speaker shall appoint and shall elect a person to the office of President in such manner as is prescribed by Article 36(4) of this Constitution and subject thereto by Parliament.

(8) A person elected to the office of President under this Article shall assume that office on the day upon which he is declared elected.

(9) In this Article—

“Parliamentary candidate” means a candidate in the Parliamentary election;

“the Parliamentary election” means the general election to elect a new National Assembly following any dissolution of Parliament;

“the returning officer” means the returning officer specified in Article 39 of this Constitution.

Tenure of
office of
President.

33. A person assuming the office of President in accordance with the provisions of this Constitution shall, unless he ceases to hold office by virtue of the provisions of Article 34 or 35 of this Constitution or resigns, continue in office until the person elected at the next election of President following a dissolution of Parliament assumes office.

Removal of
President on
grounds of
incapacity.

34.—(1) If the Cabinet resolves, upon a motion supported by the votes of a majority of all the members of the Cabinet, that the question of the mental or physical capacity of the President to discharge the functions of his office ought to be investigated and so informs the Chief Justice, the Chief Justice shall appoint a board consisting of not less than three persons selected by him from among persons who are qualified as medical practitioners under the law of Seychelles or under the law of any other country in the Commonwealth, and the board shall inquire into the matter and shall make a report to the Chief Justice stating the opinion of the board whether or not the President is, by reason of any infirmity of body or mind, incapable of discharging the functions of his office.

(2) If the board reports that the President is incapable of discharging the functions of the office of President, the Chief Justice shall certify in writing accordingly and thereupon the President shall cease to hold office.

(3) Where the Cabinet resolves that the question of the mental or physical capacity of the President to discharge the functions of his office should be investigated the President shall, until another person assumes the office of President or the board appointed in pursuance of paragraph (1) of this Article reports that the President is not incapable of discharging the functions of his office (whichever is the earlier), cease to perform the functions of his office and those functions shall be performed by such Minister as the Cabinet shall appoint:

Provided that any person performing the functions of the office of President under this paragraph shall not preside at Cabinet meetings or exercise the powers of the President to revoke the appointment of the Prime Minister or any other Minister or to dissolve Parliament.

(4) A motion for the purposes of paragraph (1) of this Article may be proposed at any meeting of the Cabinet by any member thereof.

(5) For the purposes of this Article a certificate of the Chief Justice that the President or a Minister approved by the Cabinet to perform the functions of the President is, by reason of physical or mental infirmity, unable to discharge the functions of his office shall, in respect of any period for which it is in force, be conclusive and shall not be questioned in any court.

35.—(1) If notice in writing is given to the Speaker of the National Assembly, signed by not less than one-third of all the members of the Assembly, of a motion alleging that the President has committed any violation of the Constitution or any gross misconduct and specifying the particulars of the allegations and proposing that a tribunal be established under this Article to investigate those allegations, the Speaker shall—

Removal of
President for
violation of
Constitution
or gross
misconduct.

(a) if Parliament is then sitting or has been summoned to meet within five days, cause the motion to be considered by the Assembly within seven days of the notice; or

(b) if Parliament is not then sitting (and notwithstanding that it may be prorogued), summon the Assembly to meet within twenty-one days of the notice and cause the motion to be considered at that meeting.

(2) Where a motion under this Article is proposed for consideration by the National Assembly, the Assembly shall not debate the motion but the person presiding in the Assembly shall forthwith cause a vote to be taken on the motion and, if the motion is supported by the votes of not less than two-thirds of all the members of the Assembly, shall declare the motion to be passed.

(3) If a motion is declared to be passed under paragraph (2) of this Article—

(a) the Chief Justice shall appoint a tribunal which shall consist of a Chairman and not less than two other members selected by the Chief Justice from among persons who hold or have held high judicial office;

(b) the tribunal shall investigate the matter and shall report to the National Assembly whether they find the particulars of the allegations specified in the motion to have been substantiated;

(c) the President shall have the right to appear and be represented before the tribunal during its investigation of the allegations against him.

(4) If the tribunal report to the National Assembly that the tribunal finds that the particulars of any allegation against the President specified in the motion have not been substantiated no further proceedings shall be taken under this Article in respect of that allegation.

(5) If the tribunal report to the National Assembly that the tribunal finds that the particulars of any allegation specified in the motion have been substantiated the Assembly may, on a motion supported by the votes of not less than three-quarters of all the members of the Assembly, resolve that the President has been guilty of such violation of the Constitution or, as the case may be, such gross misconduct as is incompatible with his continuance in office as President and, if the Assembly so resolves, the President shall cease to hold office upon the third day following the passage of the resolution unless he sooner dissolves Parliament.

(6) No proceedings shall be taken or continued under this Article at any time when Parliament is dissolved.

Vacancy in
the office of
President.

36.—(1) If the office of President becomes vacant by reason of the death or resignation of the President or by reason of the President's ceasing to hold office by virtue of Article 34 or 35 of this Constitution, until a President assumes office in accordance with this Article or Article 32 of this Constitution, the functions of the office of President shall be performed by such Minister, including the Prime Minister, as the Cabinet shall appoint.

(2) Unless Parliament is dissolved and notwithstanding that it may be prorogued, the National Assembly shall meet on the seventh day after the office of President becomes vacant, or on such earlier day as may be appointed by the Speaker, and shall elect a person qualified in accordance with Article 32(2) of this Constitution to the office in such manner as is prescribed by this Article and, subject thereto, by Parliament.

(3) If the office of President becomes vacant as aforesaid a person elected as President under this Article shall assume the office of President on the day upon which he is declared to be elected.

(4) In an election of a President under this Article—

(a) the names of the candidate or candidates for election shall be submitted for the approval of the National Assembly;

(b) the votes of the members of the Assembly shall be given by ballot in such manner as not to disclose how any particular member voted and where no candidate has received the number of votes entitling him to be declared elected at any ballot a further ballot or ballots shall be taken until a candidate is declared elected;

(c) the candidate who receives the votes of a majority of all the members of the Assembly in a ballot shall be declared elected:

Provided that, if after two ballots have been taken no candidate is declared elected, the candidate who, at any subsequent ballot, receives the votes of the majority of the members of the Assembly present and voting in the election shall be declared elected.

Discharge of
functions of
President
during
absence,
illness, etc.

37.—(1) Whenever the President is absent from Seychelles or considers it desirable so to do by reason of illness or any other cause he may, by directions in writing, authorise the Prime Minister or any Minister to discharge such of the functions of the office of President as he may specify and the Prime Minister or other Minister so authorised may, subject to the provisions of paragraph (3) of this Article, discharge those functions until his authority is revoked by the President.

(2) If the President is incapable by reason of physical or mental infirmity of discharging the functions of his office or the infirmity is of such a nature that the President is unable to authorise another person under this Article to perform those functions, such Minister, including the Prime Minister, as the Cabinet shall appoint shall perform the functions of the office of President subject to the provisions of paragraph (3) of this Article.

(3) Any person performing the functions of the office of President under paragraph (1) or (2) of this Article shall not preside at Cabinet meetings or exercise the powers of the President to revoke the appointment of the Prime Minister or any other Minister or to dissolve Parliament.

(4) Any person performing the functions of the office of President by virtue of paragraph (2) of this Article shall cease to perform those functions if he is notified by the President that the President is about to resume those functions.

(5) For the purposes of this Article, a certificate of the Chief Justice that the President is incapable by reason of physical or mental infirmity of discharging the functions of his office and the infirmity is of such a nature that the President is unable to authorise another person under this Article to perform the functions of his office shall, in respect of any period for which it is in force, be conclusive and shall not be questioned in any court:

Provided that any such certificate as is referred to in this paragraph shall cease to have effect if the President notifies any person under paragraph (4) of this Article that he is about to resume the functions of the office of President.

38. A person assuming the office of President shall, before entering upon the office, take and subscribe such oaths as may be prescribed by Parliament.

Oath of President.

39.—(1) The Chief Justice shall be the returning officer for the purposes of elections to the office of President.

Returning officer at elections of President.

(2) Any question which may arise as to whether—

(a) any provision of this Constitution or any law relating to the election of a President under Article 32 or 36(2) of this Constitution has been complied with; or

(b) any person has been validly elected as President under those Articles,

shall be referred to and determined by the returning officer whose decision shall not be questioned in any court.

40.—(1) The President shall receive such salary and allowances as may be prescribed by resolution of the National Assembly which shall be a charge on the general revenues of the Republic.

Salary and allowances of President.

(2) The salary and allowances of the President shall not be altered to his disadvantage during his period of office.

(3) A person who has held the office of President shall receive such pension or, upon the expiration of his term of office, such gratuity as may be prescribed by resolution of the National Assembly, which shall be a charge on the general revenues of the Republic.

41.—(1) Whilst any person holds or performs the function of the office of President no criminal proceedings shall be instituted or continued against him in respect of anything done or omitted to be done by him either in his official capacity or in his private capacity and no civil proceedings shall be instituted or continued in respect of which relief is claimed against him in respect of anything done or omitted to be done in his private capacity.

Protection of President in respect of legal proceedings.

(2) Where provision is made by law limiting the time within which proceedings of any description may be brought against any person, the term of any person in the office of President shall not be taken into account in calculating any period of time prescribed by that law which determines whether any such proceedings as are mentioned in paragraph (1) of this Article may be brought against that person.

The Cabinet

The Prime Minister. **42.**—(1) There shall be a Prime Minister of the Republic of Seychelles who shall be appointed by the President from among the Members of the National Assembly:

Provided that if occasion arises for making an appointment to the office of Prime Minister while Parliament is dissolved, any person who was a Member of the Assembly before the dissolution may be appointed as Prime Minister.

(2) The Prime Minister shall continue in office until a person elected at the next election of President under Article 32 or 36 of this constitution assumes office:

Provided that the office of Prime Minister shall become vacant—

- (a) if the appointment of the holder of the office is revoked by the President;
- (b) if the holder of the office ceases to be a member of the National Assembly for any reason other than a dissolution of Parliament; or
- (c) if the holder of the office assumes the office of President in accordance with the provisions of Article 36(1) of the Constitution.

(3) The Prime Minister shall not enter upon the duties of his office unless he has taken and subscribed the oath of allegiance and such oaths for the due execution of his office as may be prescribed by Parliament.

(4) If the Prime Minister is absent from Seychelles or is incapable by reason of illness or any other cause of discharging the functions of his office, the President may appoint a person from among the members of the National Assembly to perform the functions of the office of Prime Minister and any person so appointed may discharge those functions accordingly:

Provided that a person appointed under this paragraph shall cease to perform the functions of the office of Prime Minister—

- (a) if his appointment is revoked by the President;
- (b) if he ceases to be a member of the National Assembly otherwise than by reason of a dissolution of Parliament; or
- (c) upon the assumption by any person of the office of President.

(5) Where the Prime Minister is performing the functions of the office of President under the provisions of Article 34 or 37 of this Constitution he may appoint a person, from among the members of the National Assembly, to perform the functions of the office of Prime Minister and any person so appointed may discharge those functions accordingly:

Provided that a person appointed under this paragraph shall cease to perform the functions of the office of Prime Minister—

- (a) if his appointment is revoked by the Prime Minister;
- (b) if he ceases to be a member of the Assembly otherwise than by reason of a dissolution of Parliament; or
- (c) if the Prime Minister ceases to perform the functions of the office of President.

The Ministers. **43.**—(1) There shall be such offices of Ministers of the Government as may be established by Act of Parliament which offices shall not exceed ten in number or such number as may be prescribed by Act of Parliament.

(2) Appointments to the office of Minister shall be made by the President from among the members of the National Assembly by instrument in writing under his hand:

Provided that if occasion arises for making an appointment to the office of Minister while Parliament is dissolved a person who was a member of the Assembly before the dissolution may be appointed as a Minister.

(3) The office of a Minister shall become vacant—

- (a) if the holder of the office ceases to be a member of the National Assembly otherwise than by reason of a dissolution of Parliament;
- (b) if the holder of the office is removed from office by the President;
- (c) if the holder of the office assumes the office of President under the provisions of Article 36(1) of the Constitution; or
- (d) upon the assumption by any person of the office of President.

44.—(1) There shall be a Cabinet which shall consist of the Prime Minister and the Ministers.

Cabinet.

(2) There shall preside at meetings of the Cabinet—

- (a) the President;
- (b) in the absence of the President for any reason the Prime Minister; or
- (c) in the absence for any reason of both the President and the Prime Minister such Minister as the President may designate.

(3) The Cabinet may act notwithstanding any vacancy in its membership.

(4) The quorum shall be the majority of the members of the Cabinet.

45.—(1) There shall be a Secretary to the Cabinet who shall be appointed by the President.

Secretary to the Cabinet.

(2) The office of the Secretary to the Cabinet shall become vacant—

- (a) if the holder of the office is removed from office by the President; or
- (b) upon the assumption by any person of the office of President.

(3) The Secretary to the Cabinet shall—

- (a) be responsible to the President for securing the general efficiency of the public service;
- (b) have charge of the Cabinet Office and shall be responsible, in accordance with such instructions as may be given to him by the President, for arranging the business for, and keeping the minutes of the Cabinet and for conveying decisions of the Cabinet to the appropriate person or authority; and
- (c) have such other functions as may be prescribed by Act of Parliament or as the President may from time to time direct.

Executive functions

46.—(1) The executive power of the Republic shall vest in the President and, subject to the provisions of this Constitution, shall be exercised by him either directly or through officers subordinate to him.

Functions of President.

(2) In the exercise of any function conferred upon him by this Constitution or any other law the President shall, unless it is otherwise provided, act in his own deliberate judgment and shall not be obliged to follow the advice tendered by any other person or authority.

(3) Nothing in this Article shall prevent Parliament from conferring functions on persons or authorities other than the President.

Particular
functions
of the
President.

47. The President shall, in particular, be responsible for the Foreign Affairs, Defence and Internal Security of Seychelles and shall hold the office of Commander-in-Chief of the Republic of Seychelles.

Functions
of Prime
Minister.

48. The Prime Minister shall be the principal Minister and the leader of Government business in the National Assembly, and shall be responsible, under the direction of the President, for such business of the Government of Seychelles (including the administration of any department of government) as the President may assign to him.

Functions of
Cabinet and
Ministers.

49. (1) The Cabinet shall be responsible for advising the President with respect to the policy of the Government and with respect to such other matters as may be referred to it by the President.

(2) A Minister shall be responsible, under the direction of the President, for such business of the Government of Seychelles (including the administration of any department of Government) as the President may assign to him.

(3) Without prejudice to the generality of paragraph (2) of this Article, except for the purpose of submitting questions relating to such matters to the Cabinet and conducting government business relating to such matters in the National Assembly, a Minister shall not be charged under this Article with responsibility for—

- (a) the discharge by the courts of Seychelles of their judicial functions;
- (b) the initiation, conduct and discontinuance of criminal proceedings;
- (c) the audit of the accounts of Seychelles;
- (d) the making of appointments (including appointments on promotion, appointments on transfer and the confirmation of appointments) to public offices, the removal or disciplinary control (including the withholding of increments of salary) of persons holding or acting in such offices and the grant of any benefits in relation to pensions and gratuities in pursuance of Article 107 of this Constitution.

(4) For the purpose of paragraph (3)(d) of this Article, the office of a judge of the Supreme Court or a Justice of the Court of Appeal or a member of the personal staff of the President shall be deemed to be a public office.

(5) Subject to the provisions of this Constitution, where any Minister has been charged with the responsibility for a matter or department of Government in pursuance of this Article, he shall exercise general direction and control over the work relating to that matter and over that department and, subject to such direction and control by the Minister, the work and the department shall be under the supervision of a public officer (in this Constitution referred to as a Permanent Secretary) appointed for the purpose:

Provided that a Permanent Secretary may be appointed to supervise the work relating to several matters and departments.

50.—(1) The President, acting in his discretion, may summon a special meeting of the Cabinet whenever he thinks fit.

Summoning
of Cabinet.

(2) In the absence of the President for any reason the Prime Minister may summon a meeting of the Cabinet.

51. The President or, in his absence for any reason, the Prime Minister, acting in his discretion, may summon any public officer to a meeting of the Cabinet whenever, in the opinion of the President or, as the case may be, the Prime Minister, the business before the Cabinet renders the presence of the officer desirable.

Summoning
of persons
to Cabinet.

52.—(1) There shall be an Attorney-General of the Republic who shall be appointed by the President and shall be the principal legal adviser to the Government.

Attorney-
General.

(2) A person shall not be qualified to be appointed to the office of Attorney-General unless he is qualified to be appointed to the office of a judge of the High Court.

(3) The office of the Attorney-General shall become vacant—

(a) if the holder of the office is removed from office by the President;
or

(b) upon the assumption by any person of the office of President.

53.—(1) The Attorney-General shall have power, in any case in which he considers it desirable so to do—

Powers of
Attorney-
General.

(a) to institute and undertake criminal proceedings against any person before any civil court established for Seychelles in respect of any offence alleged to have been committed by that person;

(b) to take over and continue any criminal proceedings as aforesaid that have been instituted or undertaken by any other person or authority; and

(c) to discontinue, at any stage before judgment is delivered, any criminal proceedings as aforesaid instituted or undertaken by himself or any other person or authority.

(2) The powers of the Attorney-General under paragraph (1) of this Article may be exercised by him in person or by officers subordinate to him acting under and in accordance with his general or special instructions.

(3) The powers conferred upon the Attorney-General under subparagraphs (1)(b) and (c) of this Article shall be vested in him to the exclusion of any other person:

Provided that where any other person or authority has instituted criminal proceedings, nothing in these subparagraphs shall, save when the Attorney-General has exercised his powers under subparagraph (1)(b) of this Article, prevent the withdrawal of those proceedings by or at the instance of that person or authority and with the leave of the court.

(4) For the purpose of this Article, any appeal from any determination in any criminal proceedings before any court, or any case stated or question of law reserved for the purpose of any such proceedings, to any other court established for Seychelles shall be deemed to be part of those proceedings.

(5) In the exercise of the powers conferred on him by this Article, the Attorney-General shall not be subject to the direction or control of any other person or authority.

Prerogative
of mercy.

54. The President may—

- (a) grant to any person convicted of any offence a pardon, either free or subject to lawful conditions;
- (b) grant to any person a respite, either indefinite or for a specified period, of the execution of any punishment imposed on that person for any offence;
- (c) substitute a less severe form of punishment for any punishment imposed on any person for any offence; and
- (d) remit the whole or part of any punishment imposed on any person for any offence or of any penalty or forfeiture otherwise due to the Government on account of any offence.

Advisory
committee
on the
Prerogative
of Mercy.

55.—(1) There shall be an advisory committee on the Prerogative of Mercy which shall consist of such persons as may be appointed by the President.

(2) The President may appoint different persons to the advisory committee for the purposes of advising him in relation to persons convicted by courts-martial and for the purposes of advising him in relation to persons convicted by other courts.

(3) A member of the advisory committee shall hold office during the pleasure of the President.

(4) Where any person has been sentenced to death for any offence the President shall cause the question of the exercise, in relation to that person, of the powers conferred by Article 54 of this Constitution, to be considered at a meeting of the advisory committee.

(5) Subject to the provisions of paragraph (4) of this Article, the President may refer to the advisory committee any question as to the exercise of the powers conferred upon him by Article 54 of this Constitution.

(6) The President, if present, shall preside at any meeting of the advisory committee.

(7) The President may determine the procedure of the advisory committee.

Constitution
of offices.

56.—(1) Subject to the provisions of this Constitution and of any Act of Parliament, the powers of constituting and abolishing offices for the Republic shall vest in the President.

(2) The President may, by statutory instrument, declare that an office constituted by him shall not be an office in the public service.

(3) Appointments to an office declared by the President not to be an office in the public service shall be made by the President.

CHAPTER V

PARLIAMENT

Composition

Legislative
power.

57. The legislative power of the Republic shall vest in the Parliament of Seychelles which shall consist of the President and a National Assembly.

58. The National Assembly shall consist of twenty-five elected members or such other number as may be prescribed by or under an Act of Parliament who, subject to the provisions of this Constitution, shall be elected in such manner as may be prescribed by or under an Act of Parliament.

Composition
of National
Assembly.

59.—(1) For the purpose of the election of eight of the elected members of the National Assembly Seychelles (excluding the Outlying Islands, as defined in Schedule IV to this Constitution) shall be divided into eight constituencies having such boundaries as may be prescribed by or under an Act of Parliament.

Election of
members.

(2) Each of the constituencies mentioned in paragraph (1) of this Article shall return one elected member to the National Assembly.

(3) Where by or under an Act of Parliament a greater or lesser number than twenty-five elected members is prescribed, Seychelles (excluding the Outlying Islands as defined in Schedule IV to this Constitution) may, for the purposes of paragraph (1) of this Article be divided into such number of constituencies as may be so prescribed and each constituency shall return one elected member to the National Assembly.

(4) For the purpose of the election of the remaining seventeen elected members or, where by or under an Act of Parliament such number is increased or decreased, the election of such number as may be so prescribed, Seychelles shall consist of one national constituency which shall return seventeen members, or such other number as may be prescribed by or under an Act of Parliament, elected by proportional representation, the method of determination of which shall include the application of the ratio between the total number of constituency votes cast and the total number of seats to be filled so that such seats are distributed among the parties in proportion to their share of the said constituency votes, from a list or lists presented by any party contesting the election in the manner prescribed by or under an Act of Parliament.

60. Subject to the provisions of Article 61 of this Constitution, a person shall be qualified to be elected as a member of the National Assembly if, and shall not be qualified to be so elected unless—

Qualifica-
tions for
election
to the
National
Assembly.

- (a) he is a citizen of Seychelles;
- (b) he has attained the age of twenty-one years;
- (c) he has resided in Seychelles for a period of, or periods amounting in the aggregate to, not less than twenty-four months before the date of his nomination for election;
- (d) he is registered or qualified to be registered as a voter at elections to the National Assembly; and
- (e) he is able to speak, and, unless incapacitated by blindness or other physical cause, to read the English language with sufficient proficiency to enable him to take part in the proceedings of the National Assembly.

61.—(1) No person shall be qualified to be elected as a member of the National Assembly who—

Disqualifi-
cation for
election
to the
National
Assembly.

- (a) is, by virtue of his own act, under any acknowledgment of allegiance, obedience or adherence to a foreign power or state;
- (b) has been adjudged or otherwise declared bankrupt under any law in force in Seychelles and has not been discharged;
- (c) is under sentence of death imposed on him by a court of law having jurisdiction in Seychelles, or is serving a sentence of imprisonment

- (by whatever name called) of or exceeding six months imposed on him by such a court or substituted by competent authority for some other sentence imposed on him by such a court, or is under such sentence of imprisonment the execution of which has been suspended;
- (d) is a party to, or a partner in a firm or a director or manager of a company which is a party to, any contract with the Government of Seychelles for or on account of the public service, and has not, within the period of one month immediately preceding the nomination day, published in the English language in the *Gazette* and in a newspaper circulating in Seychelles, a notice setting out the nature of such contract, and his interest, or the interest of any such firm or company, therein;
- (e) is a person adjudged or otherwise declared to be of unsound mind under any law for the time being in force in Seychelles or detained as a criminal lunatic;
- (f) holds, or is acting in, any public office;
- (g) is disqualified for election by any law in force in Seychelles by reason of his holding, or acting in, any office the functions of which involve--
- (i) any responsibility for, or in connection with, the conduct of any election; or
 - (ii) any responsibility for the compilation or revision of any electoral register; or
- (h) is disqualified for membership of the National Assembly by any law in force in Seychelles by virtue of being concerned in any offence relating to elections.

(2) No person who holds the office of President shall be qualified for election as a member of the National Assembly to represent any of the constituencies referred to in Article 59(1).

(3) For the purposes of subparagraph (c) of paragraph (1) of this Article --

- (a) two or more terms of imprisonment that are required to be served consecutively shall be regarded as a single term of imprisonment for the aggregate of those terms;
- (b) no account shall be taken of a sentence of imprisonment imposed as an alternative to or in default of payment of a fine.

(4) In this Article, "nomination day" means, in relation to any election, the day upon which nomination papers in respect of the constituency in which the election is held are required, by or under an Act of Parliament, to be delivered to the returning officer.

Vacation of
seat of
elected
member
during
term.

62. (1) An elected member of the National Assembly shall vacate his seat in the National Assembly--

- (a) on a dissolution of the National Assembly;
- (b) if he is absent from the meetings of the National Assembly in such circumstances and for such period as may be prescribed in the rules of procedure of the National Assembly;
- (c) if he ceases to be a citizen of Seychelles;
- (d) if he becomes a party to any contract with the Government of Seychelles for or on account of the public service or if any firm in which he is a partner or any company of which he is a director or manager becomes a party to any such contract, or if he becomes a partner in a firm or a director or manager of a company which is a party to such contract;

Provided that, if in the circumstances it appears to him to be just so to do, the President may exempt any elected member from vacating his seat under the provisions of this paragraph, if such member, before becoming a party to such contract as aforesaid, or before or as soon as practicable after becoming otherwise interested in such a contract (whether as a partner in a firm or as a director or manager of a company) has disclosed to the President the nature of such contract and his interest therein;

(e) if any circumstances arise that, if he were not a member, would cause him to be disqualified for election as such by virtue of subparagraphs (a), (b), (e), (f), (g) or (h) of Article 61(1) of this Constitution; or

(f) in the circumstances mentioned in Article 63 of this Constitution.

(2) An elected member of the National Assembly may resign his seat therein by writing under his hand addressed to the Speaker and the seat shall become vacant when the writing is received by the Speaker (or, if the office of Speaker is vacant or the Speaker is for any reason unable to perform the functions of his office, by such other person as may be specified in the rules of procedure of the National Assembly).

63.—(1) Subject to paragraph (2) of this Article, if an elected member of the National Assembly is sentenced by a court of law having jurisdiction in Seychelles to death or to imprisonment (by whatever name called) for a term of or exceeding six months, he shall forthwith cease to discharge his functions as a member of the National Assembly and his seat in the National Assembly shall become vacant at the expiration of a period of thirty days thereafter:

Vacation of
seat on
sentence.

Provided that the Speaker may, at the request of the member, from time to time extend that period of thirty days to enable the member to pursue any appeal in respect of his conviction or sentence, so however that extensions of time exceeding in the aggregate of one hundred and fifty days shall not be granted without the approval of the National Assembly signified by resolution.

(2) If at any time before the member vacates his seat he receives a free pardon or his conviction is set aside or his sentence is reduced to a term of imprisonment of less than six months or a punishment other than imprisonment is substituted, his seat in the National Assembly shall not become vacant under the provisions of the preceding paragraph and he may again discharge his functions as a member of the National Assembly.

(3) For the purposes of this Article—

(a) two or more terms of imprisonment that are required to be served consecutively shall be regarded as a single term of imprisonment for the aggregate period of those terms; and

(b) no account shall be taken of a sentence of imprisonment imposed as an alternative to or in default of the payment of a fine.

64.—(1) There shall be a Speaker of the National Assembly who shall be appointed from among persons who are not members of the National Assembly by the President, acting after consultation with the Prime Minister and with such other elected members of the National Assembly as appear to the President, acting in his discretion, to be the leaders of parties represented in the National Assembly.

Speaker.

(2) The Speaker shall hold office during the President's pleasure and, subject thereto, for such period as may be specified in the instrument by which he is appointed, and shall not vacate his office by reason only of a dissolution of the National Assembly.

(3) Any appointment made under paragraph (1) of this Article shall be by instrument under the Public Seal.

(4) No person shall be appointed as Speaker if—

(a) he is not a citizen of Seychelles;

(b) he is a person disqualified for election as a member of the National Assembly by virtue of any provisions of Article 61(1) of this Constitution, other than sub-paragraph (d) or Article 61(2).

(5) A person shall vacate the office of Speaker—

(a) if he announces the resignation of his office to the National Assembly or if by writing under his hand addressed to the National Assembly and received by the Clerk of the National Assembly he resigns that office;

(b) if he ceases to be a citizen of Seychelles;

(c) if any circumstances arise that would cause him to be disqualified for election as a member by virtue of any provision of Article 61(1) of this Constitution, other than sub-paragraph (d), or Article 61(2);

(d) on the expiration of thirty days from the date of his appointment if he was at that date a party to, or a partner in a firm or a director or manager of a company which is a party to, any contract with the Government of Seychelles for or on account of the public service and if, before the expiration of that period, he has not disclosed to the National Assembly the nature of such contract and his interest, or the interest of such firm or company, therein and the National Assembly has not exempted him from vacating his office under this paragraph; or

(e) if any circumstances arise that, if he were an elected member of the National Assembly, would cause him to vacate his seat under sub-paragraph (d) of Article 62(1) of this Constitution.

The
franchise.

65.—(1) Every citizen of Seychelles who has attained the age of twenty years, or such age as Parliament may by law prescribe, shall, unless he is disqualified by Parliament from registration as a voter for the purposes of elections to the National Assembly, be entitled to be registered as such a voter under a law in that behalf, and no other person may be so registered.

(2) Every person who is registered in any constituency as a voter for the purposes of elections to the National Assembly shall, unless he is disqualified by Parliament from voting in such elections under the provisions of Schedule III to this Constitution, be entitled so to vote in that constituency in accordance with the provisions made by or under an Act of Parliament in that behalf; and no other person may so vote.

Electoral
Commissions.

66.—(1) The President shall establish an Electoral Boundaries Commission for the purposes of reviewing the boundaries of the constituencies into which Seychelles is divided by Article 59(1) of this Constitution—

(a) at such time (being not less than two or not more than three years after the coming into force of this Constitution) as the President may approve;

(b) at such times (being not less than two or not more than seven years since the boundaries of those constituencies were last reviewed) as the President may from time to time approve:

(c) whenever Parliament has made provision altering the number of seats on the National Assembly;

(d) whenever a census of the population has been held in pursuance of any law.

(2) The President shall establish an Electoral Supervisory Commission for the purposes of supervising the registration of voters and the conduct of elections whenever Parliament is dissolved or he otherwise considers it to be necessary.

(3) A Commission established by the President under paragraphs (1) or (2) of this Article shall consist of a Chairman and two other members who shall be appointed by the President.

(4) A person shall not be qualified for appointment as Chairman of a Commission established under this Article unless he holds or has held high judicial office.

(5) A person shall not be qualified for appointment as a member of an Electoral Commission if he is a member of the National Assembly.

(6) If, after the establishment of a Commission under this Article and before the Commission stands dissolved, the office of Chairman or any member of the Commission falls vacant or the holder of the office becomes unable for any reason to discharge his functions as a member of the Commission, the President may appoint another person qualified for appointment to be the Chairman or, as the case may be, a member of the Commission.

(7) An Electoral Boundaries Commission established under paragraph (1) of this Article shall stand dissolved upon the date on which the report of the Commission relating to the review of the boundaries of the constituencies is delivered to the President, and an Electoral Supervisory Commission established under paragraph (2) of this Article shall stand dissolved on such date (not being earlier, in the case of a Commission established upon a dissolution of Parliament, than the date upon which Parliament first sits after that dissolution) as the President may determine.

(8) In the exercise of its functions under this Constitution neither an Electoral Boundaries Commission nor an Electoral Supervisory Commission shall be subject to the direction or control of any other person or authority.

(9) (a) The decisions of the Commission established under this Article shall be that of the majority and in the case of an equal division of votes the Chairman shall have the casting vote.

(b) Subject to the provisions of this paragraph, a Commission shall regulate its own procedure.

67.—(1) An Electoral Boundaries Commission shall review the boundaries of the constituencies as soon as possible after it has been established and may, in accordance with the provisions of this Article, recommend the alteration of the boundaries of the constituencies to such extent as it considers desirable:

Functions
and Report
of Electoral
Boundaries
Commission.

Provided that a Commission established by reason of the holding of a census of the population may, if the Commission considers that the changes in the distribution of population reported in the census do not justify an alteration in the boundaries, so report to the President without entering upon a review of the boundaries of the constituencies.

(2) An Electoral Boundaries Commission shall, except as provided in the proviso to paragraph (1) of this Article, make a report to the National Assembly stating its recommendations.

(3) The National Assembly may, by resolution approve or reject the recommendations of an Electoral Boundaries Commission but may not vary them; and, if so approved, the recommendations shall be embodied in a Bill which, if passed by the National Assembly and assented to by the President, shall have effect as from the next dissolution of Parliament.

Elections
subject to
supervision
of
Commission

68. During any period when an Electoral Supervisory Commission is established under Article 66(2) of this Constitution the registration of voters and the conduct of elections in every constituency shall be subject to the direction and supervision of the Commission.

Determina-
tion of
questions
as to
membership
of the
National
Assembly.

69. (1) The Supreme Court shall have jurisdiction to hear and determine any question whether --

(a) any person has been validly elected as a member of the National Assembly; or

(b) any elected member of the National Assembly has vacated his seat therein or is required by virtue of Article 62 or Article 63 of this Constitution to cease to perform his functions as a member.

(2) An application to the Supreme Court for the determination of any question under subparagraph (a) of the preceding paragraph may be made by any person entitled to vote in the constituency and at the election to which the application relates or by any person who was a candidate in that area at that election or by the Attorney-General; and an application for the determination of any question under subparagraph (b) of the preceding paragraph may be made by any person entitled to vote at an election in the constituency for which the member concerned was returned or by any elected member of the National Assembly or by the Attorney-General:

Provided that if such an application is made by a person other than the Attorney-General, the Attorney-General may intervene and may then appear or be represented in the proceedings.

(3) Parliament may make provision with respect to--

(a) the circumstances and manner in which and the imposition of conditions upon which any application may be made to the Supreme Court for the determination of any question under paragraph (1) of this Article; and

(b) the powers, practice and procedure of the Supreme Court in relation to any such application.

(4) No appeal shall lie from the determination by the Supreme Court of any questions in proceedings under paragraph (1) of this Article:

Provided that an appeal shall lie to the Seychelles Court of Appeal, with the leave of that Court, from any such determination by the Supreme Court in so far as it involves any decision as to the interpretation of this Constitution.

Clerk and
staff of
National
Assembly.

70. (1) There shall be a Clerk of the National Assembly and such other offices in the department of the Clerk of the Assembly as may be prescribed by resolution of the National Assembly.

(2) Power to appoint persons to hold or act in the office of Clerk of the National Assembly shall vest in the Speaker of the Assembly:

Provided that no person shall be appointed to hold the office of Clerk of the Assembly unless a proposal for the appointment of that person has been submitted to the Assembly and the Assembly has resolved that he should be appointed.

(3) Subject to the provisions of paragraph (4) of this Article, the Clerk of the National Assembly shall vacate his office when he attains the age of fifty-five years.

(4) The Clerk of the National Assembly may be removed from office by resolution of the Assembly for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour but shall not be otherwise removed.

(5) Power to appoint persons to hold or act in any office in the department of the Clerk of the National Assembly (other than the office of Clerk) and to exercise disciplinary control over persons holding or acting in such offices and to remove such persons from office shall vest in the Speaker of the Assembly.

(6) (a) Before exercising the powers conferred by paragraph (5) of this Article to appoint any person to hold or to act in any office to which this paragraph applies or to remove any person holding such an office from office, the Speaker of the National Assembly shall consult the Public Service Commission, and if the Speaker acts otherwise than in accordance with the recommendation of the Commission he shall, as soon as practicable thereafter, inform the Assembly that he has so acted.

(b) This paragraph applies to any office in the department of the Clerk of the National Assembly, other than any office in respect of which the annual emoluments do not exceed such sum as may be prescribed by resolution of the Assembly.

Legislation and procedure in National Assembly

71.—(1) Subject to the provisions of this Constitution, the legislative power of Parliament shall be exercised by bills passed by the National Assembly and assented to by the President.

Exercise of
legislative
power of
Parliament.

(2) Where a bill is presented to the President for assent he shall either assent or withhold his assent.

(3) Where the President withholds his assent to a bill, the bill shall be returned to the National Assembly.

(4) Where the President withholds his assent to a bill, the bill shall not again be presented for assent:

Provided that if, in the case of a bill returned to the Assembly, the Assembly resolves within six months of the bill being so returned, upon a motion supported by the votes of not less than two-thirds of all the members of the Assembly where the bill is not one to which Article 72 applies, or not less than four-fifths of all the members of the Assembly where the bill is one to which Article 72 applies, that the bill should again be presented for assent, the bill shall be so presented.

(5) Where a bill is again presented to the President for assent in accordance with the provisions of paragraph (4) of this Article the President shall assent to the bill within twenty-one days of its presentation, unless he sooner dissolves Parliament.

(6) When a bill that has been duly passed is assented to in accordance with the provisions of this Constitution it shall become law and the President shall thereupon cause it to be published in the *Gazette* as a law.

(7) No law made by Parliament shall come into operation until it has been published in the *Gazette*, but Parliament may postpone the coming into operation of any such law and may make laws with retrospective effect.

(8) All laws made by Parliament shall be styled “ Acts ” and the words of enactment shall be “ enacted by the Parliament of Seychelles ”.

Alteration of
Constitution.

72.—(1) Subject to the provisions of Article 12 and of this Article, Parliament may alter this Constitution or (in so far as it forms part of the law of Seychelles) the Seychelles Act 1976.

(2) A bill for an Act of Parliament under this Article shall not be passed unless—

(a) not less than thirty days before the first reading of the bill in the National Assembly the text of the bill is published in the *Gazette*; and

(b) the bill is supported on second and third readings by the votes of not less than two-thirds of all the members of the Assembly.

(3) In so far as it alters Chapter IV, Chapter V or Chapter VI of this Constitution a bill for an Act of Parliament shall not be passed unless—

(a) not less than thirty days before the first reading of the bill in the National Assembly the text of the bill is published in the *Gazette*; and

(b) the bill is supported on second and third readings by the votes of not less than four-fifths of all the members of the Assembly.

(4) In this Article—

(a) references to this Constitution or the Seychelles Act 1976 include references to any law that amends or replaces any of the provisions of this Constitution or that Act; and

(b) references to the alteration of this Constitution, the Seychelles Act 1976, or of any Chapter or Article of this Constitution include references to the amendment, modification or re-enactment, with or without amendment or modification, of any provision for the time being contained in this Constitution, that Act, Chapter or Article, the suspension or repeal of any such provision and the making of different provision in lieu of such provision, and the addition of new provisions to this Constitution, that Act, Chapter or Article.

Restriction
on certain
measures.

73. Except on the recommendation of the President, signified by the Minister for Finance, the National Assembly shall not—

(a) proceed upon any bill (including any amendment to a bill) which, in the opinion of the person presiding or the Attorney-General makes provision for any of the following purposes—

(i) for the imposition of taxation or the alteration of taxation otherwise than by reduction;

(ii) for the imposition of any charge upon the Consolidated Fund or any other public fund of Seychelles or the alteration of any such charge otherwise than by reduction;

(iii) for the payment, issue or withdrawal from the Consolidated Fund of Seychelles or any other fund of the Government of Seychelles of any monies not charged thereon or any increase in the amount of such payment, issue or withdrawal; or

(iv) for the composition or remission of any debt due to the Government; or

(b) proceed upon any motion (including any amendment to a motion) the effect of which in the opinion of the person presiding or the Attorney-General is that provision would be made for any of the purposes aforesaid; or

(c) receive any petition, that, in the opinion of the person presiding, requests that provision be made for any of these purposes.

74.—(1) The President may, at any time, attend and address the National Assembly.

President
may address
National
Assembly.

(2) The President may send messages to the National Assembly and any such message shall be read, at the first convenient sitting of the Assembly after it is received, by the Prime Minister or by a Minister designated by the President.

75. The Speaker of the National Assembly, before assuming the duties of his office, and every member of the Assembly before taking his seat therein, shall take and subscribe before the Assembly the oath of allegiance.

Oaths to be
taken by
Speaker and
members.

76.—(1) The Speaker, or, in his absence, a member of the National Assembly (not being a Minister) elected by the National Assembly for that sitting shall preside at each sitting of the National Assembly.

Presiding
in the
National
Assembly.

(2) References in this Article to circumstances in which the Speaker is absent include references to circumstances in which the office of Speaker is vacant.

77. If objection is taken by any member of the National Assembly present, that there are present in the Assembly (besides the person presiding) less than thirteen members of the Assembly and, after such interval as may be prescribed in the rules of procedure of the Assembly, the person presiding ascertains that the number of persons present is still less than thirteen members of the Assembly, he shall thereupon adjourn the Assembly.

Quorum in
National
Assembly.

78.—(1) All questions proposed for decision in the National Assembly shall be determined by a majority of the votes of the members present and voting, save as otherwise provided in this Constitution.

Voting.

(2) If the person presiding is the Speaker he shall have neither an original nor a casting vote, but if he is a member elected in accordance with the provisions of paragraph (1) of Article 76 he shall not have an original vote but shall have and shall exercise a casting vote if on any question the votes are equally divided.

(3) All members of the National Assembly shall be entitled to vote therein.

Validity of proceedings. **79.** The National Assembly shall not be disqualified for the transaction of business by reason of any vacancy in the membership thereof (including any vacancy not filled when the National Assembly is first constituted or is reconstituted at any time), and any proceedings therein shall be valid notwithstanding that some person who was not entitled so to do sat or voted in the Assembly or otherwise took part in the proceedings.

Unqualified person sitting or voting. **80.** Any person who sits or votes in the National Assembly knowing or having reasonable grounds for knowing that he is not entitled to do so shall be liable to a penalty not exceeding five hundred rupees or such other sum as may be prescribed by Parliament for each day on which he so sits or votes in the Assembly, which shall be recoverable by action in the Supreme Court at the suit of the Attorney-General.

Procedure in National Assembly. **81.** Subject to the provisions of this Constitution, the National Assembly may determine its own procedure.

Language. **82.** The official language of the National Assembly shall be English but a member of the National Assembly may address the chair in French or in Creole.

Summoning, prorogation and dissolution of Parliament

Summoning of Parliament. **83.—(1)** Subject to the provisions of this Article each session of Parliament shall be held at such place within Seychelles and shall commence at such time as the President may appoint.

(2) There shall be a session of Parliament at least once in every year so that a period of twelve months shall not intervene between the last sitting of the National Assembly in one session and the first sitting thereof in the next session.

(3) Whenever Parliament is dissolved a general election of members of the National Assembly shall be held and the first session of the new Parliament shall commence within three months from the date of that dissolution.

Prorogation and dissolution of Parliament. **84.—(1)** The President may at any time prorogue Parliament.

(2) Subject to the provisions of this Constitution, the President may at any time dissolve Parliament.

(3) Subject to the provisions of paragraph (4) of this Article, Parliament, unless sooner dissolved, shall continue for five years from the date of its first sitting after any dissolution and shall then stand dissolved.

(4) At any time when the Republic is at war, Parliament may from time to time extend the period of five years specified in paragraph (3) of this Article for not more than twelve months at a time:

Provided that the life of Parliament shall not be extended under this paragraph for more than five years.

(5) If, after the dissolution of Parliament and before the holding of the general election of members of the National Assembly, the President considers that, owing to the existence of a state of war or of a state of public emergency in Seychelles or any part thereof, it is necessary to recall Parliament, the President may summon the Parliament that has been dissolved to meet and that Parliament shall be deemed to be the Parliament

for the time being, but the general election of members of the National Assembly shall proceed and the Parliament that has been recalled shall, if not sooner dissolved, again stand dissolved on the day appointed for the nomination of candidates in that general election.

85.—(1) The President may at any time summon a meeting of the National Assembly.

Sittings of
National
Assembly.

(2) Subject to the provisions of paragraph (1) of this Article and of Article 35(1) and of Article 36(2) of this Constitution, the sittings of the National Assembly in any session of Parliament after the commencement of that session shall be held at such times and on such days as the Assembly shall appoint.

CHAPTER VI

THE JUDICIARY

The Supreme Court

86.—(1) There shall be a Supreme Court for Seychelles having such powers and jurisdiction as may be provided by any law for the time being in force in Seychelles.

Constitution
of Supreme
Court.

(2) The judges of the Supreme Court shall be a Chief Justice and such number of Puisne Judges as may be prescribed by law:

Provided that the office of a judge of the Supreme Court shall not, without his consent, be abolished during his continuance in office.

(3) The Chief Justice of the Supreme Court shall be a person qualified for appointment under paragraph (5) of this Article and shall be appointed by the President, by instrument under the Public Seal.

(4) The Puisne Judges of the Supreme Court shall be persons qualified as aforesaid and shall be appointed by the President, by instrument under the Public Seal, after consultation with the Public Service Commission sitting with the Chief Justice as Chairman.

(5) The qualifications for appointment as a judge of the Supreme Court shall be such as may be prescribed by any law for the time being in force in Seychelles:

Provided that a person who has been appointed as a judge of the Supreme Court may continue in office notwithstanding any subsequent variation in the qualifications so prescribed.

87.—(1) Subject to the following provisions of this Article, a judge of the Supreme Court shall vacate his office when he attains the age of sixty-two years:

Tenure of
office of
judges of
Supreme
Court.

Provided that a judge who has attained that age may continue in office for such period as may be necessary to enable him to deliver judgment or to do any other thing in relation to any proceeding commenced before him before he attained that age.

(2) A judge of the Supreme Court may be removed from office only for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour, and shall not be so removed except in accordance with the provisions of paragraph (3) of this Article.

(3) A judge of the Supreme Court shall be removed from office by the President, by instrument under the Public Seal, only after the question of the removal of that judge from office has been referred by the President to a tribunal appointed by the President under the provisions of paragraph (4) of this Article.

(4) If the President considers that the question of removing a judge of the Supreme Court from office for inability as aforesaid or misbehaviour ought to be investigated, then—

(a) the President shall appoint a tribunal which shall consist of a Chairman and not less than two other members selected by the President from among persons who, in the case of the investigation of that judge's inability to discharge the functions of his office arising from infirmity of body or mind, are qualified as medical practitioners under the laws of Seychelles or under the laws of any other Commonwealth country and in the case of the investigation of that judge's inability to discharge the functions of his office for any other cause or for misbehaviour hold or have held high judicial office; and

(b) the tribunal shall inquire into the matter and report on the facts thereof to the President and advise the President whether or not he should remove that judge from office. The President shall act in accordance with the advice of the tribunal.

(5) The provisions of the Commissions of Inquiry Ordinance^(a) as in force immediately before the coming into operation of this Constitution shall, subject to the provisions of this Article, apply as nearly as may be in relation to tribunals appointed under paragraph (4) of this Article or, as the context may require, to the members thereof as they apply in relation to Commissions or Commissioners appointed under that Ordinance and for that purpose shall have effect as if they formed part of this Constitution.

(6) If the question of removing a judge of the Supreme Court from office has been referred to a tribunal under paragraph (4) of this Article the President may suspend the judge from performing the functions of his office, and such suspension may at any time be revoked by the President, and shall in any case cease to have effect if the tribunal recommends to the President that he should not remove that judge from office.

Acting
judges of
Supreme
Court.

88.—(1) If the office of Chief Justice is vacant, or if the holder thereof is for any reason unable to perform the functions of his office, then, until some other person has been appointed to, or has been appointed to act in, and has assumed the functions of, that office, or until the holder thereof has resumed those functions, as the case may be, such Puisne Judge as the President may appoint for that purpose shall act in the office of Chief Justice.

(2) If the office of Puisne Judge is vacant, or if any such judge is acting as Chief Justice, or is for any reason unable to perform the functions of his office the President, acting after consultation with the Public Service Commission sitting with the Chief Justice as Chairman, may appoint a person possessing such legal qualifications and experience as he may deem appropriate to act as a Puisne Judge of the Supreme Court:

Provided that a person may be so appointed notwithstanding that he has attained the age of sixty-two years.

^(a) Laws of Seychelles, Cap. 17 Revision 1971.

(3) Any person appointed under this Article to act as a Puisne Judge of the Supreme Court may continue so to act until his appointment is revoked by the President, acting after consultation with the Public Service Commission sitting with the Chief Justice as Chairman.

89.—(1) There shall be paid to judges of the Supreme Court such salaries and allowances as may be prescribed by law and those salaries and allowances shall be a charge upon the revenues and other funds of Seychelles.

Salary, allowances and terms of service of judges.

(2) The salary and allowances (other than allowances not taken into account in computing pensions) payable to a judge of the Supreme Court and his terms of service shall not be altered to his disadvantage after his appointment and where a judge is entitled to exercise an option in relation to his salary, allowances or terms of service, the option as exercised by him shall be deemed for the purposes of this paragraph to be to his advantage.

90. A judge of the Supreme Court whose appointment has terminated otherwise than by reason of his removal from office may sit as a judge for the purpose of giving judgment or otherwise in relation to any proceedings commenced before him while his appointment was subsisting.

Judge may sit after appointment has terminated.

91. Any proceedings in the Supreme Court and all business arising therefrom shall be heard and disposed of before a single judge and a judge may exercise all or any part of the powers, authority and jurisdiction vested in the Court.

Proceedings to be heard and disposed of before, and powers of single judge.

92. The Court shall have, and use as occasion requires, a seal bearing on it the device of the Public Seal of Seychelles surrounded by the words “Seychelles Supreme Court”.

Seal of Supreme Court.

93. Before entering upon the functions of his office, every judge of the Supreme Court shall make and subscribe before the President, or some other person authorised in that behalf by the President, oaths or affirmations of allegiance and for the due execution of his office in the forms prescribed by or under an Act of Parliament.

Oaths to be taken by judges of Supreme Court.

The Court of Appeal

94.—(1) There shall be a Court of Appeal for Seychelles having such powers and jurisdiction as may be provided by any law for the time being in force in Seychelles.

Constitution of Court of Appeal.

(2) The Justices of the Court of Appeal shall be—

(a) a President and two or more other Justices of Appeal; and

(b) the Chief Justice and the Puisne Judges of the Supreme Court, who shall be members of the Court *ex-officio*.

(3) In connection with any appeal from a court of Seychelles the Court of Appeal shall, subject to the provisions of this Constitution and any law for the time being in force in Seychelles, have all the powers and jurisdiction that are possessed by that court under any law for the time being in force in Seychelles; and decisions of the Court of Appeal in respect of an appeal from a court of Seychelles shall, subject as aforesaid, be enforced in Seychelles in the same way as decisions of that court.

(4) The Court of Appeal may, in accordance with any directions issued from time to time by the President of that Court, sit in Seychelles or elsewhere for the purpose of exercising any jurisdiction and powers conferred upon it by or under this Article or any rule made under Article 99 of this Constitution.

(5) The Justices of the Court of Appeal shall be persons qualified for appointment under paragraph (9) of this Article.

(6) The President of the Court of Appeal shall be appointed by the President of the Republic.

(7) The other Justices of the Court of Appeal shall be appointed by the President of the Republic after consultation with the Public Service Commission sitting with the Chief Justice as Chairman.

(8) The office of a Justice of the Court of Appeal shall not, without his consent, be abolished during his continuance in office.

(9) A person shall be qualified to be appointed as a Justice of the Court of Appeal if, and shall not be qualified to be so appointed unless, he holds or has held high judicial office.

Tenure of
office of
justices of
Court of
Appeal.

95.—(1) Subject to the following provisions of this Article, the office of a Justice of the Court of Appeal shall become vacant upon the expiration of the period of his appointment to that office.

(2) A Justice of the Court of Appeal may be removed from office only for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour, and shall not be so removed except in accordance with the provisions of paragraph (3) of this Article.

(3) A Justice of the Court of Appeal shall be removed from office by the President of the Republic, by instrument under the Public Seal, only after the question of the removal of that Justice of the Court of Appeal from office has been referred by the President of the Republic to a tribunal appointed by the President of the Republic under the provisions of paragraph (4) of this Article.

(4) If the President of the Republic considers that the question of removing a Justice of the Court of Appeal from office for inability as aforesaid or misbehaviour ought to be investigated, then—

(a) the President of the Republic shall appoint a tribunal which shall consist of a Chairman and not less than two other members selected by the President of the Republic from among persons who, in the case of the investigation of that judge's inability to discharge the functions of his office arising from infirmity of body or mind, are qualified as medical practitioners under the laws of Seychelles or under the laws of any other Commonwealth country and in the case of that judge's inability to discharge the functions of his office for any other cause or for misbehaviour hold or have held high judicial office; and

(b) the tribunal shall inquire into the matter and report on the facts thereof to the President of the Republic and advise the President of the Republic whether or not he should remove that justice from office. The President of the Republic shall act on the advice of the tribunal.

(5) The provisions of the Commissions of Inquiry Ordinance of Seychelles as in force immediately before the coming into operation of this Constitution shall, subject to the provisions of this Article, apply as nearly as may be in relation to tribunals appointed under paragraph (4) of this Article or, as the context may require, to the members thereof as they apply in relation to Commissions or Commissioners appointed under that Ordinance and for that purpose shall have effect as if they formed part of this Constitution.

(6) If the question of removing a Justice of the Court of Appeal from office has been referred to a tribunal under paragraph (4) of this Article the President of the Republic may suspend the Justice from performing the functions of his office, and any such suspension may at any time be revoked by the President of the Republic, and shall in any case cease to have effect if the tribunal recommends to the President of the Republic that he should not remove that Justice from office.

96.—(1) If the office of the President of the Court of Appeal is vacant, or if the holder thereof is for any reason unable to perform the functions of his office, then, until some other person has been appointed to, or has been appointed to act in, and has assumed the functions of, that office, or until the holder thereof has resumed those functions, as the case may be, such one of the Justices of the Court of Appeal as the President of the Republic, acting after consultation with the Public Service Commission sitting with the Chief Justice as Chairman, may appoint for that purpose shall act in the office of President of the Court of Appeal.

Acting
Justices of
Court of
Appeal.

(2) If the office of a Justice of the Court of Appeal is vacant, or if any Justice of the Court of Appeal is acting as the President of the Court, or is for any reason unable to perform the functions of his office the President of the Republic, acting after consultation with the Public Service Commission sitting with the Chief Justice as Chairman, may appoint a person possessing such legal qualifications and experience as he, after consultation with the Public Service Commission sitting with the Chief Justice as Chairman, may deem appropriate to act as a Justice of the Court of Appeal.

(3) Any person appointed under this Article to act as a Justice of the Court of Appeal may continue so to act until his appointment is revoked by the President of the Republic acting in his discretion.

97.—(1) There shall be paid to the Justices of the Court of Appeal such salaries and allowances as may be prescribed by law and those salaries and allowances shall be a charge upon the revenues and other funds of Seychelles.

Salary,
allowances
and terms
of service
of justices.

(2) The salary and allowances (other than allowances not taken into account in computing pensions) payable to a Justice of the Court of Appeal and his terms of service shall not be altered to his disadvantage after his appointment and where a Justice of the Court of Appeal is entitled to exercise an option in relation to his salary, allowances or terms of service the option as exercised by him shall be deemed for the purposes of this paragraph to be to his advantage.

98. The Court shall have, and use as occasion requires, a seal bearing on it the device of the Public Seal of Seychelles surrounded by the words "Seychelles Court of Appeal".

Seal of
Court of
Appeal.

Power to
make Rules
of Court.

99.—(1) Subject to the provisions of this Constitution, the President of the Court of Appeal may make rules for regulating the practice and procedure of the Court of Appeal with respect to appeals from the courts of Seychelles and, in connection with such appeals, for regulating the practice and procedure in any court of Seychelles from which such appeals are brought.

(2) Without prejudice to the generality of paragraph (1) of this Article, rules of court may be made for the following purposes—

- (a) for regulating the sittings of the Court of Appeal, whether in divisions or otherwise, and the selection of Justices for any purpose;
- (b) for regulating the right of practising before the Court of Appeal and the representation of persons concerned in any proceedings in the Court;
- (c) for prescribing cases in which, and conditions upon which, an appellant in a criminal appeal to the Court of Appeal shall be entitled to be present at the hearing of the appeal;
- (d) for providing for summary determination of any appeal which appears to the Court of Appeal to be frivolous or vexatious or to be brought for purposes of delay;
- (e) for prescribing forms and fees in respect of proceedings in the Court of Appeal and regulating the costs of and incidental to any such proceedings;
- (f) for prescribing and regulating the powers and duties of registrars and officers of the Court of Appeal;
- (g) for prescribing the time within which any requirement of the rules is to be complied with;
- (h) for providing for a reference from a decision of a single judge to the Court of Appeal.

(3) Rules made under this Article may fix the number of Justices of the Court of Appeal who may sit for any purpose:

Provided that—

- (a) an uneven number of Justices shall sit, which, for the purpose of any final determinations by the Court of Appeal other than the summary dismissal of an appeal, shall not be less than three; and
- (b) any determination by the Court of Appeal on any matter (whether final or otherwise) shall, where more than one Justice sits, be according to the opinion of a majority of the Justices who sit for the purpose of determining that matter.

Oaths to be
taken by
Justices of
Court of
Appeal.

100. Before assuming the functions of his office, the President and the Justices of the Court of Appeal shall each make, before the President of the Republic or such person as may be authorised by the President of the Republic in that behalf, oaths or affirmations of allegiance and for the due execution of his office in the forms prescribed by or under an Act of Parliament.

CHAPTER VII

THE PUBLIC SERVICE

General

Public
Service
Commission.

101.—(1) There shall be a Public Service Commission for Seychelles consisting of a Chairman and four other members one of which shall be drawn from the public service.

(2) The members of the Public Service Commission shall be appointed by the President, acting after consultation with the Prime Minister, by instrument under the Public Seal, for a period of not less than three years.

(3) A person shall not be qualified to be appointed as a member of the Public Service Commission if he is, or has at any time during the three years immediately preceding his appointment been—

(a) an elected member of the National Assembly or an elected or an appointed member of the former Legislative Assembly or House of Assembly;

(b) the holder of an office in any political organisation that sponsors or otherwise supports or has during the said period of three years sponsored or otherwise supported a candidate for election to the National Assembly, the former Legislative Assembly or House of Assembly; or

(c) except in the case of the member drawn from the public service, under paragraph (1) of this Article, a public officer.

(4) A person other than the member drawn from the public service under paragraph (1) of this Article shall not, while he holds or is acting in the office of a member of the Public Service Commission or within a period of five years commencing with the date on which he last held or acted in that office, be eligible for appointment to or act in any public office.

(5) The office of a member of the Public Service Commission shall become vacant—

(a) at the expiration of the period specified in the instrument by which he was appointed;

(b) if he becomes a member of the National Assembly; or

(c) if he is removed from office in accordance with the provisions of paragraph (6) of this Article.

(6) A member of the Public Service Commission shall be removed from office by the President if the President is satisfied that he ought to be removed from office for inability to discharge the functions thereof (whether arising from infirmity of body or mind or any other cause) or for misbehaviour.

(7) During any period when the question of removing a member of the Public Service Commission from office for inability or for misbehaviour is being investigated by, or in pursuance of directions given by, the President, the President acting in his discretion, may suspend that member from performing the functions of his office.

(8) Whenever the office of the Chairman of the Public Service Commission is vacant or the holder thereof is for any reason unable to perform the functions of his office, such one of the other members of the Public Service Commission as the President, after consultation with the Prime Minister, may appoint shall act in the office of the Chairman.

(9) If the office of a member of the Public Service Commission other than the Chairman is vacant or the holder thereof is acting as the Chairman or is for any reason unable to perform the functions of his office, the President, after consultation with the Prime Minister, may appoint a person who is qualified for appointment as a member of the Commission to act as a member of the Commission; and any person so appointed shall, subject to the provisions of paragraph (5) of this Article,

continue so to act until he is notified by the President, acting in his discretion, that the circumstances giving rise to the appointment have ceased to exist.

102.—(1) Subject to the provisions of this Constitution, power to make appointments to public offices, and to remove or exercise disciplinary control over persons holding or acting in such offices, is vested in the President acting in accordance with the advice of the Public Service Commission.

Appointment, etc.
of public
officers.

(2) Before the Public Service Commission advises the President on the appointment of a person to the office of a Permanent Secretary or his removal therefrom the Commission shall consult the Prime Minister.

(3) Parliament may by law make, or provide for the making of, provision with respect to offences against the discipline of any police force or the prison service of Seychelles and the punishment that may be imposed for any such offence; and the power to exercise disciplinary control (including the power to remove a person from office) over members of any such force or the prison service vested in the President, acting in accordance with the recommendation of the Public Service Commission, by this Article shall be exercised in accordance with any such provision relating to the force or service concerned.

(4) The provisions of this Article shall not apply in relation to—

- (a) the Chief Justice, Puisne Judges and Justices of Appeal;
- (b) the office of Secretary to the Cabinet;
- (c) the offices of the Attorney-General, Commissioner of Police and the Director of Audit;
- (d) Diplomatic Representatives being Ambassadors, High Commissioners or any person employed by the Government in any one of its diplomatic missions outside Seychelles, whose office is prescribed to be exempt from the provisions of this Article by an Act of Parliament; and
- (e) any office of a temporary nature, the duties attaching to which are mainly advisory and which is to be filled by a person serving under a contract on non-pensionable terms.

Delegation
of
President's
powers.

103. (1) The President, acting in accordance with the recommendation of the Public Service Commission, may by regulations delegate, to such extent and subject to such conditions as may be specified in the regulations, the powers vested in him by Article 102 of this Constitution (other than powers in relation to the office referred to in paragraph (2) of that Article) to the Chairman of the Commission or to such public officers as may be so specified.

(2) Except in so far as regulations made under this Article otherwise provide, any power delegated by such regulations may be exercised by any person to whom it is delegated without reference to the Public Service Commission.

Performance
of functions
of Public
Service
Commission.

104. (1) No business shall be transacted at any meeting of the Public Service Commission unless the Chairman and not less than two other members of the Commission are present.

(2) Subject to the provisions of paragraph (1) of this Article the Public Service Commission may act notwithstanding any vacancy in its membership or the absence of any member and its proceedings shall be valid notwithstanding that some person who was not entitled so to do took part therein.

(3) Any question proposed for decision at any meeting of the Commission shall be determined by a majority of the votes of the members present and voting, and if on any such question the votes are equally divided, the person presiding shall have and exercise a casting vote.

(4) When the Public Service Commission is meeting to consider the appointment of any person to the office of Puisne Judge, Justice of Appeal, senior magistrate, magistrate, member of any other court subordinate to the Supreme Court and registrar of the Supreme Court or the Court of Appeal and of such other officers of the courts of Seychelles as Parliament may by law prescribe, or the removal of, or the exercise of disciplinary control over any person holding or acting in any such office (other than the office of Puisne Judge or Justice of Appeal), the Chief Justice shall attend as an additional member and preside at the meeting.

(5) When the Public Service Commission is meeting to consider the appointment of any person to an office in the Police Force (other than the office of Commissioner of Police) or the removal of, or the exercise of disciplinary control over, any person holding or acting in such an office, the Commissioner of Police shall be entitled to attend and express his views to the Commission.

(6) Subject to the provisions of this Constitution, the President, acting after consultation with the Prime Minister and the Public Service Commission, may by regulations make provisions for regulating and facilitating the performance by the Commission of its functions under this Constitution, including (without prejudice to the generality of the foregoing power) provision for any of the following matters—

- (a) conferring powers and imposing duties on any public officer or any authority of the Government for the purpose of facilitating the performance by the Commission of those functions;
- (b) the protection and privileges of members of the Commission in respect of the performance of their functions and the privilege of communications to and from the Commission and its members in the case of legal proceedings;
- (c) the definition and trial of offences in relation to the functions of the Commission and the imposition of penalties for such offences:

Provided that no such penalty shall exceed a fine of Rupees 10,000 or imprisonment for a term of one year or both such fine and such imprisonment.

(7) Subject to the provisions of this Constitution and of any regulations made under paragraph (6) of this Article, the Public Service Commission may regulate its own procedure.

(8) Subject to the provisions of paragraph (6) of this Article and of any regulations made thereunder, in the performance of its functions under this Constitution the Public Service Commission shall not be subject to the direction or control of any other person or authority.

105. Power to make appointments to the office of Commissioner of Police, to exercise disciplinary control over and to remove from that office persons holding or acting in that office is vested in the President acting in his absolute discretion.

Appoint-
ment, etc. of
Commis-
sioner of
Police.

106.—(1) Power to make appointments to the office of the Director of Audit shall be vested in the President, after consultation with the Public Service Commission.

Appoint-
ment, etc.
of Director
of Audit.

(2) Subject to the following provisions of this Article, the Director of Audit shall vacate his office when he attains the age of sixty years.

(3) The Director of Audit may be removed from office only for inability to discharge the functions of his office (whether arising from inability of body or mind or any other cause) or for misbehaviour, and shall not be so removed except in accordance with the provisions of paragraph (4) of this Article.

(4) The Director of Audit shall be removed from office by the President if the President, acting in his discretion, is satisfied that he ought to be removed from office for inability as aforesaid or for misbehaviour.

(5) During any period when the question of removing the Director of Audit from office for inability as aforesaid or for misbehaviour is being investigated by, or in pursuance of directions given by, the President, the President, acting in his discretion, may suspend the Director of Audit from performing the functions of his office.

(6) References in paragraphs (2) and (5) of this Article to the Director of Audit do not include references to a person appointed to act in the office of Director of Audit during any period when it is vacant or the holder thereof is unable to perform the functions thereof; and the appointment of such a person may be revoked by the President, acting in his discretion, at any time before the expiration of that period.

Pensions

Applica-
bility of
pensions
law.

107.—(1) Subject to the provisions of Article 109 of this Constitution, the law to be applied to the grant and payment to any officer, or to his widow, children, dependants or personal representatives, of any pension, gratuity or other like allowance (in this Article and Articles 108 and 109 of this Constitution referred to as an “award”) in respect of the service of that officer in a public office shall be that in force on the relevant day or any later law not less favourable to the person concerned.

(2) For the purpose of this Article the relevant day is—

- (a) in relation to an award granted before Independence Day, the day on which the award was granted;
- (b) in relation to an award granted or to be granted on or after Independence Day to or in respect of a person who was a public officer before that day, the day immediately before that day;
- (c) in relation to an award granted or to be granted to or in respect of a person who first becomes a public officer on or after Independence Day, the day on which he becomes a public officer.

(3) For the purposes of this Article, in so far as the law applicable to an award depends on the option of the person to or in respect of whom it is granted or to be granted, the law for which he opts shall be taken to be more favourable to him than any other law for which he might have opted.

Pensions,
etc. charged
on the
Consoli-
dated Fund.

108. Awards granted under any law for the time being in force in Seychelles shall (except so far as they are a charge on some other fund and are duly paid out of that fund to the person to whom payment is due) be a charge on and paid out of the Consolidated Fund.

109.—(1) The power to grant any award under any pensions law for the time being in force in Seychelles (other than an award to which, under that law, the person to whom it is payable is entitled as of right) and, in accordance with any provisions in that behalf in any such law, to withhold, reduce in amount or suspend any award payable under any such law shall vest in the President.

Grant and withholding of pensions, etc.

(2) The power vested in the President by paragraph (1) of this Article shall be exercised by him—

(a) in his discretion in the case of an award payable in respect of the services of any person who, having been a public officer, was, immediately before the date on which he ceased to hold public office, serving—

- (i) as Chief Justice, a judge of the Supreme Court or as President or as a Justice of the Court of Appeal;
- (ii) as Secretary to the Cabinet;
- (iii) as Attorney-General;
- (iv) as Director of Audit;
- (v) as Commissioner of Police; and

(b) in accordance with the recommendation of the Public Service Commission in any other case.

(3) In this Article “pensions law” means any law relating to the grant to any person, or to the widow, children, dependants or personal representatives of that person of an award in respect of the services of that person in a public office.

CHAPTER VIII

FINANCE

110. All revenues or other monies raised or received for the purpose of the Government (not being revenues or other monies that are payable by or under any law into some other fund established for any specific purpose or that may, by or under any law, be retained by the authority that received them for the purpose of defraying the expenses of that authority) shall be paid into and form a Consolidated Fund.

Consolidated Fund.

111.—(1) No money shall be withdrawn from the Consolidated Fund except upon the authority of a warrant under the hand of the President.

Withdrawal of money from the Consolidated Fund or other public funds.

(2) No warrant shall be issued by the President for the purpose of meeting any expenditure unless—

(a) the expenditure has been authorised for the financial year during which the withdrawal is to take place—

- (i) by an Appropriation Act; or
- (ii) by a supplementary estimate approved by resolution of the National Assembly;

(b) the expenditure has been authorised in accordance with the provisions of Article 112 of this Constitution; or

(c) it is expenditure (in this Chapter referred to as “statutory expenditure”) that is charged upon the Consolidated Fund by this Constitution or by any other law:

Provided that where, in the opinion of the President, monies are required to enable him to discharge his responsibilities under Article 47, such monies may be withdrawn from the Consolidated Fund upon the authority of a warrant under the hand of the President.

(3) No monies shall be withdrawn from any public fund other than the Consolidated Fund unless the issue of those monies has been authorised by or under any law.

Authorisa-
tion of
expenditure.

112.—(1) The Minister for Finance shall cause to be prepared and laid before the National Assembly as soon as practicable before or not later than thirty days after the commencement of each financial year estimates of the revenues and expenditure of Seychelles for that year.

(2) The heads of expenditure contained in the estimates (other than statutory expenditure) shall be included in a bill to be known as an Appropriation Bill which shall be introduced into the National Assembly to provide for the issue from the Consolidated Fund of the sums necessary to meet that expenditure and the appropriation of those sums to the purposes specified therein.

(3) If in respect of any financial year it is found—

- (a) that the amount appropriated by the Appropriation Act to any purpose is insufficient or that a need has arisen for expenditure for a purpose to which no amount has been appropriated by that Act; or
- (b) that any monies have been expended for any purpose in excess of the amount appropriated to that purpose by the Appropriation Act or for a purpose to which no amount has been appropriated by that Act;

a supplementary estimate, showing the sum required or spent, shall be laid before the National Assembly.

(4) Where in respect of any financial year any supplementary estimates have been laid before the National Assembly in accordance with the provisions of paragraph (3) of this Article and approved by resolution of the Assembly a supplementary Appropriation Bill shall, as soon as practicable after the end of that year, be introduced into the Assembly to provide for the appropriation to the purposes in question of the sums included in such estimates that have been expended for that year.

(5) Where in respect of any financial year monies have been withdrawn from the Consolidated Fund upon the authority of a warrant issued by the President by virtue of the *proviso* to Article 111(2) of this Constitution, the Minister for Finance shall cause a statement of expenditure in respect of such monies to be prepared and laid before the National Assembly.

Authorisa-
tion of
expenditure
in advance
of appro-
priation.

113. If the Appropriation Act in respect of any financial year has not come into operation by the beginning of that financial year, the National Assembly by resolution may empower the Minister for Finance to authorise the withdrawal of monies from the Consolidated Fund for the purpose of meeting expenditure necessary to carry on the services of the Government until the expiration of four months from the beginning of that financial year or the coming into operation of the Appropriation Act, whichever is the earlier.

Contingen-
cies Fund.

114.—(1) Parliament may by law make provision for the establishment of a Contingencies Fund and for authorising the Minister for Finance to

make advances from that fund if he is satisfied that there is an urgent and unforeseen need for expenditure for which no other provision exists.

(2) When any advance is made from the Contingencies Fund a supplementary estimate shall, as soon as practicable, be laid before the National Assembly for the purpose of authorising the replacement of the amount so advanced.

115.—(1) All debt charges for which Seychelles is liable shall be a Public debt. charge on the Consolidated Fund.

(2) For the purposes of this Article debt charges include interest, sinking fund charges, the repayment or amortisation of debt and all expenditure in connection with the raising of loans on the security of the revenues of Seychelles or the Consolidated Fund and the service and redemption of debt thereby created.

116.—(1) There shall be paid to the holders of the offices to which this Article applies such salary or other remuneration and such allowances as may be prescribed by or under a law enacted by Parliament. Remuneration of certain officers.

(2) The remuneration and allowances payable to the holders of those offices shall be a charge on the Consolidated Fund.

(3) The remuneration prescribed in pursuance of this Article in respect of the holder of any such office and his other terms of service (other than allowances that are not taken into account in computing, under any law in that behalf, any pension payable in respect of his service in that office) shall not be altered to his disadvantage after his appointment.

(4) Where a person's remuneration or other terms of service depend upon his option, the remuneration or terms for which he opts shall, for the purposes of paragraph (3) of this Article, be deemed to be more advantageous to him than any others for which he might have opted.

(5) This section applies to the offices of President, Chief Justice, Puisne Judge, Justice of the Court of Appeal, Secretary to the Cabinet, Attorney-General, Director of Audit and Commissioner of Police.

117.—(1) Subject to the provisions of this Article, no taxation shall be imposed or altered except by or under an Act of Parliament. Imposition of taxation.

(2) Save as provided by paragraphs (3) and (4) of this Article, Parliament shall not confer upon any other person or authority power to impose or to alter (otherwise than by reduction) any taxation.

(3) Parliament may make provision under which the President or a Minister may by order provide that, on or after the publication of a bill (being a bill approved by the President) that it is proposed to introduce into the National Assembly providing for the imposition or alteration of taxation, such provisions of the bill as may be specified in the order shall, until the bill becomes law, have the force of law for such period and subject to such conditions as may be prescribed by Parliament:

Provided that any such order shall, unless sooner revoked, cease to have effect—

(a) if the bill to which it relates is not passed within such period from the date of its first reading in the National Assembly as may be prescribed by Parliament;

- (b) if, after the introduction of the bill to which it relates, Parliament is prorogued or dissolved;
- (c) if, after the passage of the bill to which it relates, the President refuses his assent thereto;
- (d) at the expiration of a period of four months from the date it came into operation or such longer period from that date as may be specified in any resolution passed by the National Assembly after the bill to which it relates has been introduced.

(4) Parliament may confer upon any authority established by law for the purposes of local government power to impose taxation within the area for which that authority is established and to alter taxation so imposed.

(5) Where the Appropriation Act in respect of a financial year has not come into force at the expiration of six months from the commencement of that financial year, the operation of any law relating to the collection or recovery of any tax upon any income or profits or any duty of customs or excise shall be suspended until that Act comes into force:

Provided that—

- (a) in any financial year in which Parliament stands dissolved at the commencement of that year the period of six months shall begin from the day upon which the National Assembly first sits following that dissolution instead of from the commencement of the financial year;
- (b) the provisions of this paragraph shall not apply in any financial year in which Parliament is dissolved after the laying of estimates in accordance with Article 112 of this Constitution and before the Appropriation Bill relating to those estimates is passed by the National Assembly.

The Director
of Audit.

118.—(1) There shall be a Director of Audit whose office shall be a public office.

(2) The accounts of the Cabinet, the National Assembly, all government departments and offices (including the Public Service Commission) and those related to monies withdrawn from the Consolidated Fund upon the authority of a warrant issued by the President by virtue of the *proviso* to Article 111(2) of this Constitution and the accounts of all courts of Seychelles shall be audited and reported on annually by the Director, and for that purpose the Director of Audit or any person authorised by him in that behalf shall have access to all books, records, returns and other documents relating to such accounts.

(3) The Director of Audit shall submit his reports made under paragraph (2) of this Article to the Speaker of the National Assembly who shall cause them to be laid before the Assembly; and the Director of Audit shall also send a copy of each report to the Minister for Finance and the Minister for Finance shall cause the copy sent to him to be laid before the Cabinet.

(4) In the exercise of his functions under the provisions of this Article the Director of Audit shall not be subject to the direction or control of any other person or authority.

CHAPTER IX

MISCELLANEOUS

- 119.**— (1) “ Act of Parliament ” means a law enacted by Parliament; Interpretations.
“ Assembly ” means the National Assembly;
“ the Commonwealth ” includes any dependency of a country which is a member of the Commonwealth;
“ the Court of Appeal ” means the Seychelles Court of Appeal in civil and criminal matters established by this Constitution;
“ election ” means an election of a member or members of the National Assembly;
“ financial year ” means the period of twelve months beginning on the first day of January in any year or such other day as Parliament may prescribe;
“ the *Gazette* ” means such publication as may for the time being be appointed by the President to be the publication in which Government notices are published by authority and includes any supplement thereto in which Government notices are published;
“ the Government ” means the Government of Seychelles;
“ high judicial office ” means the office of judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or the Republic of Ireland or a court having jurisdiction in appeals from any such court;
“ Independence Day ” means the day upon which this Constitution comes into operation;
“ Internal Security ” includes the armed forces, the police force, the prisons and immigration services;
“ law ” includes any instrument having the force of law and any unwritten rule of law, and “ lawful ” and “ lawfully ” shall be construed accordingly;
“ meeting ” means in relation to the National Assembly, the sittings of the National Assembly held during a period beginning when the Assembly sits after being summoned at any time and terminating when the Assembly is adjourned *sine die* or at the conclusion of a session;
“ oath ” includes affirmation;
“ the oath of allegiance ” means such oath of allegiance as may be prescribed by law;
“ Parliament ” means the Parliament established by this Constitution;
“ person ” includes any company or association or body of persons, corporate or unincorporate;
“ police force ” means the Seychelles Police force;
“ prescribed ” means prescribed in a law;
“ public office ” means, subject to the provisions of Article 120 of this Constitution, an office of emolument in the public service;
“ public officer ” means a person holding or acting in any public office;
“ the Public Seal ” means the Public Seal of Seychelles;
“ the public service ” means, subject to the provisions of Article 120(2) of this Constitution, the service of the Government in a civil capacity;
“ session ” means, in relation to the National Assembly, the sittings of the Assembly, beginning when it first sits after the coming into operation of this Constitution or after Parliament is prorogued or dissolved at any

time and ending when Parliament is prorogued or is dissolved without having been prorogued;

“Seychelles” means the islands of the Seychelles Archipelago as set out in Schedule I to this Constitution;

“sitting” means, in relation to the National Assembly, a period during which the Assembly is sitting continuously without an adjournment and includes any period during which it is in committee;

“statutory instrument” means any Proclamation, regulation, order, rule, notice or other instrument (not being an Act of Parliament) of a legislative, as distinct from an executive, character and having the force of law;

“subordinate court” means any court established for Seychelles other than---

- (a) the Supreme Court;
- (b) the Seychelles Court of Appeal;
- (c) a court-martial.

(2) In this Constitution, unless it is otherwise provided or required by the context---

- (a) a reference to the holder of an office by the term designating his office shall be construed as including a reference to any person acting in that office or, to the extent of his authority, otherwise performing the functions of that office;
- (b) references to the functions of the President shall be construed as references to his powers and duties in exercise of the executive authority of Seychelles and to any other powers or duties conferred or imposed on him as President by or under this Constitution or any other law.

(3) The Interpretation Act 1889(a) shall apply, with the necessary adaptations, for the purpose of interpreting this Constitution and otherwise in relation thereto as it applies for the purpose of interpreting and otherwise in relation to Acts of Parliament of the United Kingdom.

References
to public
offices.

120. (1) For the purposes of this Constitution a person shall not be treated as holding, or acting in, a public office by reason only that he---

- (a) is on leave of absence pending relinquishment of a public office;
- (b) is receiving a pension or other like allowance from the Government; or
- (c) is the holder of an office in the service or appointment of the Government, or is performing any functions on behalf of the Government, if the only payments he receives in respect of that office or those functions are by way of travelling or subsistence allowances or a refund of out-of-pocket expenses.

(2) In this Constitution references to offices in the public service-

- (a) shall be construed as including the offices of Justices of the Court of Appeal, judges of the Supreme Court, the offices of members of all other courts of law in Seychelles (other than courts-martial) and the offices of members of the Police force; and
- (b) shall not be construed as including the office of Speaker of the Assembly, Minister, Parliamentary Secretary, member of the

(a) 1889 c. 63.

Assembly or member of any Commission or tribunal established by this Constitution.

(3) If it is provided in this Constitution or in any law for the time being in force in Seychelles that an office is not to be regarded as a public office for the purposes of this Constitution, a person shall not be regarded as holding, or acting in, a public office for those purposes by reason only that he holds, or is acting in, that office.

121.—(1) Where any person has vacated any office (including any seat in the Assembly) established by this Constitution, he may, if qualified, again be appointed or elected or otherwise selected to hold that office in accordance with the provisions of this Constitution. Appoint-
ments.

(2) Where a power is conferred by this Constitution upon any person to make any appointment to any office, a person may be appointed to that office, notwithstanding that some other person may be holding that office, when that other person is on leave of absence pending relinquishment of that office; and where two or more persons are holding the same office by reason of an appointment made in pursuance of this paragraph, then, for the purposes of any function conferred upon the holder of that office, the person last appointed to that office shall be deemed to be the sole holder of the office.

(3) In this Constitution, unless it is otherwise provided or required by the context, any reference to power to make appointments to any public office shall be construed as including a reference to power to make appointments on promotion and transfer to that office and the power to appoint a person to act in that office during any period when it is vacant or the holder thereof is unable (whether by reason of absence or infirmity of body or mind or any other cause) to perform the functions of that office.

(4) Where by this Constitution any person is directed, or power is conferred on any person or authority to appoint a person, to act in an office if the holder thereof is unable to perform the functions of that office, the validity of any performance of those functions by the person so directed or of any appointment made in exercise of that power shall not be called in question in any court on the ground that the holder of the office is not unable to perform the functions of the office.

122.—(1) References in this Constitution to the power to remove a public officer from his office shall be construed as including references to any power conferred by any law to require that officer to retire from the public service and to any power or right to terminate a contract on which a person is employed as a public officer. Removal
from office.

(2) Any provision of this Constitution that vests in any person or authority power to remove any public officer from his office shall be without prejudice to the power of any person or authority to abolish any office or to any law providing for the compulsory retirement of public officers generally or any class of public officer on attaining an age specified therein.

(3) If any circumstances arise that, under the provisions of this Constitution, require the President to remove a judge of the Supreme Court or a Justice of the Court of Appeal or the Attorney-General or the Director of Audit from office for inability to discharge the functions of his office, the President, acting in his discretion, may carry out such removal either by dismissing that officer or by requiring him to retire.

(4) Any power conferred by any law to permit any officer mentioned in paragraph (3) of this Article to retire before the date on which, under the provisions of this Constitution, he is required to vacate his office shall vest in the President acting in his discretion.

Resignations.

123. Any person who has been appointed to any office established by this Constitution may resign from that office by writing under his hand addressed to the person or authority by whom he was appointed; and the resignation shall take effect, and the office shall accordingly become vacant—

(a) at such time or on such date (if any) as may be specified in the writing; or

(b) when the writing is received by the person or authority to whom it is addressed or by such other person as may be authorised by that person or authority to receive it,

whichever is the later:

Provided that the resignation may be withdrawn before it takes effect if the person or authority to whom the resignation is addressed consents to its withdrawal.

Saving for jurisdiction of courts.

124. No provision of this Constitution that any person or authority shall not be subject to the direction or control of any other person or authority in the exercise of any functions under this Constitution shall be construed as precluding a court from exercising jurisdiction in relation to any question whether that person or authority has exercised those functions in accordance with this Constitution.

Power to amend and revoke instruments, etc.

125. Where any power is conferred by this Constitution to make any proclamation, order, rules or regulations or to give any directions, the power shall be construed as including a power exercisable in like manner to amend or revoke any such proclamation, order, rules, regulations or directions:

Provided that nothing in this Article shall apply to the power to issue a certificate conferred by Article 34(2) of this Constitution.

References to legislation.

126.—(1) Any reference in this Constitution to a law made before Independence Day shall, unless the context otherwise requires, be construed as a reference to that law as it had effect on the day immediately before Independence Day.

(2) Any reference in this Constitution to a law that amends or replaces any other law shall be construed as including a reference to a law that modifies, re-enacts, with or without amendment, or modifies or makes different provision *in lieu* of that other law.

Revocation.

127. The instruments mentioned in Schedule II to this Constitution are revoked with effect from the appointed day.

SCHEDULE I

Article 119(1)

ISLANDS OF THE SEYCHELLES ARCHIPELAGO

MAHÉ

Islands on the East Coast of Mahé:

Hodoul
St. Anne
Cerf
Faon or Cachée
Long
Moyenne
Round

Beacon or Ile Sèche
Harrison Rock
Anonyme
South East
Brulée or Rat
Souris

Islands on the West Coast of Mahé:

Chauve Souris
Vache Marine
Thérèse

Ilot de l'Islette
Conception

Island on the North Coast of Mahé:

North Islet

Other Islands:

Silhouette
North
Les Mamelles
Récif
Frigate
L'Ilot
Praslin
La Digue
Curieuse
Félicité
Mary Anne
East Sister
West Sister

Ave Maria Rock
Albatross Rocks
Round
St. Pierre
Rat
Aride
North Cousin
South Cousin
Booby or Ile aux fous
Denis or Orixia
Bird or Sea Cow
Plate or Flat
Coëtivy

African Islands, consisting of:

North
South

Eagle or Rémire
D'Arros

St. Joseph Group, consisting of:

St. Joseph
Resource
Fouquet
Benjamin

Carcassaye
Pélican
Aux Chiens
Poule or Pol

Poivre Islands, consisting of:

North
South
West
Etoile
Desroches

Marie Louise
Des Neufs
King Ross or Lampériaire
Boudeuse

Alphonse Group, consisting of:

Alphonse
Bijoutier

St. François

Providence Group, consisting of :

Providence
Cerf or South Bank

St. Pierre

Cosmoledo Group, consisting of :

Menai
Observation Islet
Middle Islet
East Island
West Island
Goëlette

Polite
Wizard
Pagoda
South and other small islets
Astove
Assumption

Aldabra Group, consisting of:

West Island
Middle Island
South Island

Polymnie Island
Cocoanut Island
Euphratis and other small
islets

Farquhar Islands

Article 127

SCHEDULE II

INSTRUMENTS REVOKED BY THIS CONSTITUTION

<i>Order</i>	<i>Reference</i>
The Admiralty Jurisdiction (Seychelles) Order 1961	S.I. 1961/2032 (1961 III, p. 3697).
The Seychelles (Civil Appeals) Order 1967 ...	1967 III, p. 5414.
The Seychelles (Civil Appeals) (Amendment) Order 1968	1968 I, p. 1949.
The Seychelles (Appeals to Privy Council) Order 1967	S.I. 1967/1480 (1967 III, p. 4180).
The Seychelles (Appeals to Privy Council) (Amendment) Order 1968	S.I. 1968/295 (1968 I, p. 894).
The Seychelles (Constitution) Order 1975 ...	1975 III, p. 8585.

Article 65(2)

SCHEDULE III

QUALIFICATIONS AND DISQUALIFICATIONS FOR REGISTRATION AS A VOTER

1. Every person who—

- (a) is a citizen of Seychelles;
- (b) is twenty years of age or over;
- (c) has the requisite residence qualifications; and
- (d) is not disqualified under this Schedule,

shall be entitled to be registered as a voter in respect of a constituency:

Provided that a person who is nineteen years of age and satisfies the other requirements of this paragraph shall be entitled to have his name entered on the register of voters in respect of a constituency but shall not be deemed to be registered as a voter for the purposes of an election unless he has attained the age of twenty years.

2.—(1) In order to have the requisite residence qualification to be registered as a voter in respect of a constituency a person—

- (a) must have resided in Seychelles for any continuous period of twelve months; and
- (b) must be resident in the constituency on the qualifying date.

(2) For the purposes of this paragraph a person who on the qualifying date is resident in the Outlying Islands (as defined in Schedule IV to this constitution) shall, if immediately before being so resident he was resident in a constituency, be deemed to be resident in that constituency on the qualifying date.

(3)(a) For the purposes of this paragraph any question as to a person's residence on the qualifying date shall, subject to the provisions of subparagraph(2) and to the following provisions, be determined by reference to all the facts of the case.

- (b) The place of residence of a person is, generally, that place which is the place of his habitation or home, whereto, when away therefrom, he intends to return. In particular when a person usually sleeps in one place and has his meals or is employed in another place, the place of his residence is where he sleeps.
- (c) Generally, a person's place of residence is where his family is; if he is living apart from his family, with the intent to remain so apart from it in another place, the place of residence of such person is such other place.
- (d) Any person who has more than one place of residence may elect in respect of which place he desires to be registered.
- (e) A person's residence shall not be deemed to have been interrupted—
 - (i) by reason of that person's absence in the performance of any duty arising from or incidental to any office, service or employment held or undertaken by him, if he intends to resume actual residence within six months of giving it up and will not be prevented by the performance of the duty aforesaid; or
 - (ii) by reason of that person's absence for some temporary purpose, or for the purpose of undergoing a course of education or training or of receiving surgical or medical treatment.
- (f) A person who is detained in legal custody at any place shall not by reason thereof be treated as resident there.
- (g) Residence in Seychelles as a prohibited immigrant under the Immigration Ordinance 1960(a) (or any law amending or replacing that Ordinance) shall not be reckoned as residence for the purposes of this paragraph.

3.—(1) No person shall be entitled to be registered as a voter in any constituency who—

- (a) has been adjudged or otherwise declared bankrupt under any law in force in Seychelles and has not been discharged; or
- (b) is under sentence of death imposed on him by a court of law having jurisdiction in Seychelles, or is serving a sentence of imprisonment (by whatever name called) of or exceeding six months imposed on him by such a court or substituted by competent authority for some other sentence imposed on him by such a court, or is under such sentence of imprisonment the execution of which has been suspended; or
- (c) has been adjudged or otherwise declared to be of unsound mind under any law in force in Seychelles or is detained as a criminal lunatic; or
- (d) is disqualified from registering as a voter at any election under the provisions of any law for the time being in force.

(2) For the purpose of sub-paragraph (1)(b) of this paragraph two or more terms of imprisonment that are required to be served consecutively shall be regarded as a single term of imprisonment for the aggregate period of those terms.

4. No person shall be entitled to be registered as a voter in more than one constituency.

5. For the purpose of this Schedule "the qualifying date" means such date as may from time to time be prescribed by the President by order published in the *Gazette*.

Article 59

SCHEDULE IV

OUTLYING ISLANDS

Coëtivy	Denis or Orixia
Bird or Sea Cow	Plate or Flat
<i>African Islands, consisting of:</i>	
North	Eagle or Rémire
South	D'Arros
<i>St. Joseph Group, consisting of:</i>	
St. Joseph	Carcassaye
Resource	Pélican
Fouquet	Aux Chiens
Benjamin	Poule or Pol
<i>Poivre Islands, consisting of:</i>	
North	Boudeuse
South	Marie Louise
West	Des Neufs
Etoile	King Ross or Lampériaire
Desroches	
<i>Alphonse Group, consisting of:</i>	
Alphonse	St. François
Bijoutier	
<i>Providence Group, consisting of:</i>	
Providence	St. Pierre
Cerf or South Bank	
<i>Cosmoledo Group, consisting of:</i>	
Menai	Polite
Observation Islet	Wizard
Middle Islet	Pagoda
East Island	South and other small islets
West Island	Astove
Goëlette	Assumption
<i>Aldabra Group, consisting of:</i>	
West Island	Polymnie Island
Middle Island	Cocoanut Island
South Island	Euphratis and other small islets
<i>Farquhar Islands</i>	

SCHEDULE II TO THE ORDER
ORDERS IN COUNCIL REVOKED BY THIS ORDER

Section 2

<i>Order</i>	<i>Reference</i>
The Admiralty Jurisdiction (Seychelles) Order 1961	S.I. 1961/2032 (1961 III, p. 3697).
The Seychelles Civil Appeals Order 1967 ...	1967 III, p. 5414.
The Seychelles Civil Appeals (Amendment) Order 1968	1968 I, p. 1949.
The Seychelles (Appeals to Privy Council) Order 1967	S.I. 1967/1480 (1967 III, p. 4180).
The Seychelles (Appeals to Privy Council) (Amendment) Order 1968	S.I. 1968/295 (1968 I, p. 894).
The Seychelles (Constitution) Order 1975 ...	1975 III, p. 8585.

EXPLANATORY NOTE

(This Note is not part of the Order.)

By virtue of the Seychelles Act 1976, Seychelles will attain fully responsible status as a Republic within the Commonwealth on 29th June 1976. This Order makes provision for a Constitution for Seychelles to come into effect on that day, including provision for the legislature, the executive government, the judicature and the public service. The Constitution also contains provisions relating to citizenship of Seychelles and fundamental rights and freedoms of the individual.

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