

**CONSOLIDATED TO 30 JUNE 2012**

**LAWS OF SEYCHELLES**  
**PUBLIC DEBT MANAGEMENT ACT**

*[29th December, 2008]*

Act 32 of 2008  
Act 31 of 2009  
Act 2 of 2012

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#### **PART I – PRELIMINARY**

1. This Act may be cited as the Public Debt Management Act.

2. In this Act—

“advance” means a loan to the Government from the Central Bank payable within a period of less than one year in accordance with section 40 of the Central Bank of Seychelles Act, 2004;

“bill” means a zero-coupon debt instrument with a maturity period of twelve months or less;

“bond” means an interest-bearing debt instrument with a maturity period of more than one year;

“book entry system” means a computerized system established or otherwise authorized by the Minister, to register, for the account of holders, the issuance, account status, servicing and redemption of Government securities;

“borrowing plan” means a schedule of anticipated Debt contraction over the forthcoming fiscal year indicating the size, type and repayment terms of the anticipated debt;

“Central Bank” means the Central Bank of Seychelles established by the Central Bank of Seychelles Act, 2004;

“debt and budget execution report” means reports that detail the national debt and guarantees ledger, the level of public debt and the position of the guarantee issued by the Government and the performance to date of the existing debt strategy, as well as a report on the use of funds appropriated for debt service;

“debt management” means the policy and operational functions relating to raising of debt, issuing of guarantees, discharging of obligations and issues emanating therefrom, and other measures intended to achieve the objectives of the debt strategy;

“Debt Strategy” means a strategy that specifies desired characteristics of public debt and the tools required to achieve such characteristics;

“foreign debt” means any loan or debt security raised or issued by the Government or a parastatal organization from outside the Republic;”;

“force majeure” means a natural disaster, emergency, or major economic slow-down requiring policies that lead to exceeding a previously established limit on the Public Debt in relation to the gross domestic product;

“gross domestic product” means the sum of value added of goods and services produced within the Republic;

“guarantee” means the potential liability assumed by the Republic that is contingent on the financial obligation of another legal person and becomes public debt when the party responsible for the payment of the financial obligation fails to make payment when due;

“local debt” means any loan or debt security raised, issued or sold by the Government or a parastatal organisation within the Republic;

“Minister” means the minister responsible for financial matters; and

“Ministry” is construed accordingly;

“National Committee” means the National Debt Management Committee established under section 17;

“parastatal organisation” means a statutory corporation or body or limited liability company which is directly or ultimately under the control of the Government or of any other body which is carrying out a governmental function;

“public debt” means any debt incurred in or outside Seychelles through the raising of loans, the issuing or sale securities, overdrafts or any other means, by the Government and includes advances from the Central Bank to the Government;

“security” means any debt instrument issued under the authority of the Minister as evidence of a local or foreign debt raised under this Act and includes bonds, and bills issued under section 9;

“service cost” in respect of any financial year, in relation to any Debt means the aggregate of the payment required to be made in respect of the debt during the financial year, where such payment is of interest or is towards the repayment of the debt.

“suppliers credit” means financing advanced to the buyer by the supply of goods or services;

“Technical Committee” means the Technical Debt Management Committee” established under section 23;

3. (1) The powers of the Minister under this Act shall be exercised in accordance with the approval of the President.

(2) The Minister may, by Order published in the *Gazette*, delegate to any public officer specified in the order-

(a) his or her function under this Act relating to negotiating a debt;

\*(b) the authority to execute on behalf of the Government any agreement or other instrument relating to a debt raised or guarantee given, under this Act.

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Those powers were delegated to the Principal Secretary responsible for Finance (on the 24<sup>th</sup> August 2009 by S.I 68 of 2009) for the execution of the Loan Agreement, between the Republic of Seychelles and African Development Bank (Development Budget Support for Economic Government Reform Program (EGRP), on behalf of the Government of Seychelles.

## **PART II –DEBTS**

### *Foreign Debt*

4. (1) Subject to the provisions of this Act and on the advice of the National Committee, the Minister has the exclusive right to, for and on behalf of the Republic, raise from outside the Republic, upon such terms and conditions as to interest, repayment or otherwise as may be negotiated by the Minister, debts of such sums which in the opinion of the Minister are necessary to defray expenditure which may lawfully be defrayed.

(2) The authority conferred upon the Minister by subsection (1) shall be exercised in accordance with the Debt Strategy and borrowing plan referred to in section 29(1)(a).

5. Where the Government with the approval of the Minister acquires any asset under an agreement which provides for payment for such asset to be made outside the Republic subsequent to the date of the acquisition of the asset, the sum of money payable under such

agreement shall, for the purposes of this section, be deemed to be debt raised by the Minister outside the Republic.

**6.** (1) Subject to subsections (2), (3) and (4) all monies raised by contracting foreign debt under section 4 shall be paid into the Consolidated Fund.

(2) Subsection (1) shall not apply to any sum of money deemed to have been borrowed in accordance with section 5;

(3) Where a foreign debt has been raised for any development project for which a special fund has been established under the Development Loans Act, 1977, or section 7 of the Public Finance Act, 1996 the Minister may, by order published in the *Gazette*, direct that the whole or such part of the amount of the loan as the Minister may specify shall be paid into the fund;

(4) Where any foreign debt has been raised for the purpose of a parastatal organisation, the Minister may, by Order published in the *Gazette*, direct that the whole or such part of the amount of the debt as the Minister may specify, shall be paid into a special fund established for that purpose and every fund so established shall be deemed to be a fund established under section 8 of the Public Finance Act and shall be regulated in the accordance with that Act.

**7.** (1) The Minister may, with the consent of the lender and upon such terms and conditions as the Minister may determine—

- (a) repay any loan prior to the redemption date of that loan, or loan Debt Security,
- (b) convert the terms of a loan; or
- (c) consolidate two or more loans or Debt Securities into a single loan or security or replace a loan or security by a different form of debt.

(2) The Minister shall, in exercising the powers conferred upon him or her under subsection (1), have regard to the interests of sustainable public debt management.

#### *Local Debt*

**8.** (1) Subject to the provisions of this Act and on the advice of the National Committee, the Minister has exclusive right to, for and on behalf of the Government, in the manner provided for in this Act, raise debt from within the Republic of such sums which in the opinion of the Minister are necessary to defray expenditures which may be lawfully defrayed.

(2) The authority conferred upon the Minister by subsection (1) shall be exercised in accordance with the Debt Strategy and borrowing plan referred to in section 29(1)(a).

**9.** (1) A local Debt may be raised by —

- (b) the issue, by the Minister, of Government bills, bonds; or
- (c) any other method consistent with the Debt Strategy and borrowing plan that the Minister considers appropriate.

(2) Nothing in sub-section (1) shall affect stocks issued on or before the date of coming into operation of this section.

**10.** Where a local debt is raised under section 8 of this Act—

- (a) loans shall be raised upon the best and most favourable terms and conditions as may be advised by the National Committee;

- (b) the issued securities shall, to the best possible extent, be auctioned through market-based procedures;
- (c) all treasury bills and bonds issued on behalf of the Government maybe traded or transferred in a manner consistent with regulations governing securities, trades, and transfer;
- (d) a security issued by the Government, shall be held by investors in book entry system, the system of which shall be maintained by the Central Bank or by whoever conducts security auctions on behalf of the Government;
- (e) treasury bills issued may provide for maturity at a date not later than one year after their date of issue;
- (f) bonds shall be redeemable at a par on a date to be named when issuing them;
- (g) on the date appointed for the redemption of a security or any part of the security, all the interest on the principal moneys represented thereby shall cease to accrue whether payment of the principal has been demanded or not;
- (h) interest on the securities, if payable, shall be paid quarterly or at such longer intervals as the Minister may direct;
- (i) subject to section 34(1)(b) of the Central Bank of Seychelles Act, 2004, the Government may, on such terms and conditions as may be agreed with the Central Bank, appoint the Central Bank as agent to undertake issue and management of securities;
- (j) stocks, bonds and bills issued under this Act may be given in pledge in all civil and commercial transactions and such pledging shall be proved by a transfer inscribed in a special register kept for that purpose approved by the National Committee.

**11.** No stamp duty shall be payable on trading and transferring Government Debt Securities.

**12.** The Minister may, at the time of issue of any bills, bonds or stock, impose conditions, not inconsistent with this Act, or any other written law governing the securities market as to any of the following matters—

- (a) the price of issue of the security;
- (b) the denominations in which the security will be issued redeemed and transferred;
- (c) the rate of interest;
- (d) in the case of bonds, the rates of capital appreciation which may accrue to the principal moneys;
- (e) the times and places of the repayment of the principal and payment of interest;

**13.** Any interest on bills, bonds and stock shall be deemed to be interest for the purposes of the Business Tax Act, and the provisions of that Act relating to withholding tax shall apply to such interest unless exempted by any order made under that Act.

**13A.** (1) Notwithstanding any other provisions of Part II the Minister may raise a debt by the issue of bills and bonds for the exclusive use of monetary policy of the Central Bank.

(2) The terms and conditions of the bills and bonds issued under subsection (1) shall be determined by the Ministry and the Central Bank.

(3) The proceeds of the bills and bonds shall be held in an account with the Central Bank.

### **PART III – GUARANTEES**

**14.** (1) Where on the advice of the National Committee, the Minister is satisfied that it is in the public interest that the repayment of any principal money and the payment of the interest and other charges on any Debt raised either within or outside the Republic, requires a Government guarantee, the Minister may issue such a guarantee for and on behalf of the Government.

- (2) The authority conferred upon the Minister by subsection (1) shall be exercised—
- (a) in accordance with the Debt Strategy and borrowing plan referred to in section 29(1)(a);
  - (b) so as to ensure that the net amount guaranteed in any financial year does not exceed the ceiling established by the National Committee in respect of guarantees to be given by the Government in the financial year;
  - (c) subject to the recipient of the guarantee demonstrating to the satisfaction of the National Committee its repayment capacity.

**15.** (1) Where any guarantee is given under section 14, the parastatal organisation for whose benefit the guarantee is given shall reimburse the Government, in the manner that the Minister may direct—

- (a) all sums of money which the Government has paid to fulfil the guarantee;
- (b) all expenses which the Government has incurred in relation to the guarantee; and
- (c) such interest or service charge in relation to any sum of money referred to in paragraph (a) or (b).

(2) All moneys received under subsection (1) shall be paid into the Consolidated Fund.

(3) The National Committee shall issue guidelines on the method of calculating guarantee fees or the need to make provision for Government guarantees.

### **PART IV – GRANTS**

**16.** (1) The Minister shall have the authority to receive for and on behalf of the Government any grant made out to the Government guarantees by any Foreign Government or other person.

(2) Section 6 shall apply, subject to necessary modifications, in relation to any sum of money received by the Government by way of a grant.

### **PART V – DEBT MANAGEMENT COMMITTEES**

**17.** There is established the National Debt Management Committee.

**18.** The functions of the National Committee are to—

- (a) advise the Minister on matters relating to debt management including matters relating to external and domestic borrowing, issuing of government guarantees and acceptance of grants on behalf of Government;
- (b) advise on the formulation of a Debt Strategy and an annual borrowing plan;

- (c) monitor the implementation of the Debt Strategy and borrowing plan approved by the Government and by the National assembly for the ensuing quarter;
  - (d) prepare quarterly debt and budget execution reports;
  - (e) monitor the activities relating to debt management, of all Government departments and institutions involved in the management of debt, guarantees and grants; and
  - (f) advise on the measures to be taken against any person for non-compliance with the provisions of this Act.
- 19.** The National Committee consists of—
- (a) the Principal Secretary of the Ministry who shall be the Chairperson;
  - (b) the Principal Secretary of the Ministry of Foreign Affairs;
  - (c) the Governor of the Central Bank of Seychelles;
  - (d) the Attorney General;
  - (e) the Director General of the Treasury section of the Ministry; and
  - (f) the Director of the Financial Planning Control Division of the Ministry.
- 20.** (1) Subject to subsection (2) the National Committee shall meet whenever necessary or expedient as may be advised by the Technical Committee.
- (2) The National Committee shall meet at least four times a year.
- 21.** The National Committee regulates its own proceedings.
- 22.** (1) The administrative work of the National Committee shall be carried out by a Secretariat.
- (2) The Secretariat shall consist of not less than three and not more than five members, appointed from –
- (a) among the members of the Technical Committee;
  - (b) the Ministry of Finance; and
  - (c) the Central Bank.
- 23.** (1) There is established a sub-committee of the National Committee to be known as the Technical Debt Management Committee.
- (2) The function of the Technical Committee is to provide technical advice to the National Committee in respect of the functions of the National Committee under section 18.
- (3) The co-chairpersons of the Technical Committee are Deputy Governor of the Central Bank and the Director of Public Debt of the Ministry.
- (4) The members of the Technical Committee are the heads of the units involved in debt management from the institutions specified in section 19.
- 24.** Where the need arises and it is in the interest of sustainable public debt management, the National Committee may form other sub-committees to consider and report to the National Committee on any matter referred to it by that Committee.

## **PART VI MISCELLANEOUS**

- 25.** Any sum of money due from the Government—



- (a) in respect of any foreign or local debt either by way of repayment or payment of interest;
- (b) by way of interest on or otherwise in respect of any debt security issued under and in accordance with section 9;
- (c) in respect of any guarantee given under section 14,

shall be charge on and be paid out of the Consolidated Fund without further appropriation.

**26.** Any debt incurred in or outside Seychelles by the Government or a parastatal organisation, and which is wholly or partly guaranteed by the Government shall constitute a debt due by the Republic and shall carry an absolute and unconditional commitment by the Government to the timely payment of the principal of the debt, and the interest on it, in accordance with the terms and conditions under which the debt was contracted.

**27.** (1) Notwithstanding any other written law, all Government debt, regardless of its nature or the date on which it was incurred, shall have equal status in relation to claims in respect of payment of the principal and interest of that debt, and shall constitute a first claim against the Consolidated Fund into which the funds are deposited.

(2) Claims referred to in subsection (1) shall not be subordinated to any other claim, except for obligations made in the name of the Republic and ratified by the National Assembly under appropriate treaties or conventions.

**28.** An agreement for a debt raised or guarantee given under this Act shall not have effect until there is published in the *Gazette*, an Order, made by the Minister, giving particulars of—

- (a) the amount of the debt or guarantee;
- (b) the terms for repayment of the debt or guarantee;
- (c) the name of the Government institution or person incurring the debt or receiving the guarantee;
- (d) the interest (if any) payable on the debt;
- (e) the manner in which the debt shall be accounted for; and
- (f) such other particulars of the debt guarantee as the Minister may decide to include in the Order.

**29.** (1) The Minister shall, within three months before the commencement of every financial year cause to be prepared for approval by the Government—

- (a) a Debt Strategy which shall include—
  - (i) its rationale;
  - (ii) description of objectives for debt management and the scope and types of risks being managed;
  - (iii) details of the current debt portfolio including debt ratio to gross domestic product and debt composition; and
  - (iv) the debt management going forward including fiscal and debt projections, assumptions and constraints on the debt choice and the desired debt composition;
- (b) an annual borrowing plan which shall include –
  - (i) total borrowing needs for the next financial year;

- (ii) details of the source of funding; and
- (iii) overall net increase or decrease in public debt.

(2) The Minister shall, within three months after the end of every financial year cause to be prepared for approval by the Government, an annual debt and budget execution report which shall include –

- (a) details of the national debt and guarantee ledger;
- (b) the level of public debt and position of guarantee issued by the Government; and
- (c) the position of the use of funds appropriated for debt repayment.

(3) The Minister shall cause to be published in such manner as the Minister thinks sufficient and proper to ensure publicity, the Debt Strategy and the debt and budget execution report, approved under this section.

**30.** The Minister shall, in the annual estimates of the public revenue and expenditure submitted to the National Assembly under section 29(1)(a), specify the amount required to meet the service cost on all outstanding debt whether by repayment of principal or payment of interest or other charges incurred on the debt during the financial year to which such estimates relate, and the amount expected to be raised from debt grants during that year.

**31.** The authority conferred upon the Minister by sections 4 and 8 shall be exercised in line with the debt management objectives of the Debt Strategy.

**32.** The Minister may make regulations for the better carrying into effect of the purposes and provisions of this Act and without prejudice to the generality of the foregoing, may provide for—

- (a) the method by which any payment in respect of bills or bonds may be made;
- (b) fees and charges for any services provided for in this Act;
- (c) generally the conditions and manner for the better carrying out of the provisions of this Act.

**33.** Where there is conflict between this Act and any other written law in matters relating to raising of debt, receiving of grants and issuing of guarantees, the provisions of this Act shall prevail.

**34.** The Local Loans Act, the Loans Decree and the Treasury Bills Decree are repealed.

**35.** Notwithstanding section 34—

- (a) all loans, guarantees, advances, bills, bonds and other securities issued under the Local Loans Act, the Loans Decree and the Treasury Bills Decree and subsisting immediately before the commencement of this Act, shall continue to have effect and be binding in the same manner and to the same extent as if they were issued under this Act;
- (b) all statutory instruments made under the Local Loans Act, Loans Decree and Treasury Bills Decree shall, to the extent that they are not inconsistent with this Act, continue in force as statutory instruments made under this Act until amended or repealed by a statutory instrument made under this Act.

**LAWS OF SEYCHELLES**  
**PUBLIC DEBT MANAGEMENT ACT**  
**SUBSIDIARY LEGISLATION**

SECTION 28

The following Orders have been made by the Minister of Finance.

Housing Finance Company Ltd (Guarantee) Order, 2009 (S.I. 71 of 2009)  
African Development Bank Loan Order, 2009 (S.I. 77 of 2009)  
Arab Bank for Economic Development in Africa Loan (No.2) Order, 2009 (S.I. 90 of 2009)  
International Bank for Reconstruction and Development Loan Order, 2010 (S.I. 38 of 2010)  
Development Bank of Seychelles Ltd. (Guarantee) Order, 2010 (S.I. 43 of 2010)  
Development Bank of Seychelles Ltd. (Guarantee) (No.2) Order, 2010 (S.I. 44 of 2010)  
Mauritius Commercial Bank Ltd. Debt Order, 2010 (S.I. 47 of 2010)  
Mauritius Commercial Bank Ltd. Debt (No.2) Order, 2010 (S.I. 48 of 2010)  
Mauritius Commercial Bank Ltd. Debt (No.3) Order, 2010 (S.I. 49 of 2010)  
Barclays Bank (Seychelles) Ltd, Debt Order, 2010 (S.I. 50 of 2010)  
Barclays Bank (Seychelles) Ltd, Debt (No.2) Order, 2010 (S.I. 51 of 2010)  
Barclays Bank (Seychelles) Ltd, Debt (No. 3) Order, 2010 (S.I. 52 of 2010)  
Housing Finance Company Ltd (Guarantee) Order, 2010 (S.I. 54 of 2010)  
Housing Finance Company Ltd (Guarantee) (No.2) Order, 2010 (S.I. 61 of 2010)  
International Bank for Reconstruction and Development Loan Order, 2011 (S.I. 13 of 2011)  
Development Bank of Seychelles Ltd. (Guarantee) (No.2) Order, 2011 (S.I. 16 of 2011)  
Air Seychelles Ltd. (Guarantee) Order, 2011 (S.I. 17 of 2011)  
Bank of Baroda Debt Order, 2011 (S.I.18 of 2011)  
Air Seychelles Ltd. (Guarantee) (No.2) Order, 2011 (S.I. 27 of 2011)  
Seychelles Cable Systems Company Ltd (Guarantee) Order, 2011 (S.I. 42 of 2011)  
Development Bank of Seychelles Ltd. (Guarantee) (No.5) Order, 2011 (S.I. 50 of 2011)  
Development Bank of Seychelles Ltd. (Guarantee) (No.6) Order, 2011 (S.I. 51 of 2011)  
European Investment Bank Debt Order, 2011 (S.I. 73 of 2011)  
European Investment Bank Debt (No.2) Order, 2011 (S.I. 74 of 2011)  
Kuwait Fund for Arab Economic Development Debt (No.3) Order, 2011 (S.I. 75 of 2011)  
Habib Bank Obu Kepz Branch Karachi Pakistan Debt (No.4) Order, 2011 (S.I. 76 of 2011)

Compania Espanola de SEguros de Credito a la Exportation (CESCE) Debt (No.5) Order, 2011 (S.I. 77 of 2011)

Office National Du Ducroire Restructuring Debt (No.8) Order, 2011 (S.I. 95 of 2011)

Kingdom of Spain Restructuring Debt (No. 9) Order, 2011 (S.I. 96 of 2011)

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