

CENTRAL BANK OF SEYCHELLES ACT, 2004

(Act 12 of 2004)

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CENTRAL BANK OF SEYCHELLES ACT, 2004

(Act 12 of 2004)

I assent



J. A. Michel
President

23rd December, 2004

AN ACT to repeal and replace the Central Bank of Seychelles Act, 1982 (Cap 26).

ENACTED by the President and the National Assembly.

PART I – PRELIMINARY

1. This Act may be cited as the Central Bank of Seychelles Act, 2004. Short title

Interpretation

2.

In this Act –

“the Bank” means the Central Bank of Seychelles established by section 3;

“bank” means a bank as defined in the Financial Institutions Act;

“the Board” means the Board of Directors of the Central Bank of Seychelles appointed under section 5;

“Consolidated Fund” means the fund established by article 151 of the Constitution of the Republic of Seychelles;

“financial institution” means a financial institution as defined in the Financial Institutions Act and, for the purpose of this Act, all branches, agencies and offices of a financial institution in Seychelles are deemed to be one financial institution;

“foreign currency” means the national currency of a foreign country that is fully convertible to other internationally accepted currencies;

“Deputy Governor” means the Deputy Governor of the Bank appointed under section 6;

“General Reserve” means the General Reserve established under section 16;

“Government agency” means a statutory corporation or a limited liability company of which the Government holds more than 51 percent of the issued share capital or which is controlled by another limited liability company of which more than 51 percent of the issued share capital is held by the Government;

“Governor” means the Governor of the Bank appointed under section 6;

“notes and coins” means currency notes and coins issued or deemed to have been issued by the Bank; and

“total monetary liabilities” means notes and coins in circulation together with deposits held by the Bank and repayable on demand.

PART II – ESTABLISHMENT, AUTONOMY, OBJECTIVES AND FUNCTIONS OF THE BANK

3. (1) There is hereby established the Central Bank of Seychelles which shall be a body corporate with perpetual succession and a common seal.

Establishment
of the Central
Bank of
Seychelles

(2) The Bank shall, in discharging its functions, act independently and no person shall seek improperly to influence the Board or any of the Bank’s officers or employees, in the discharge of his or her functions or interfere in the activities of the Bank.

4. The objectives of the Bank are –

Objectives of
the Bank

- (a)** to regulate the issue, supply and availability of money and its international exchange;
- (b)** to promote price stability and the maintenance of both domestic and external value of the Seychelles currency;
- (c)** to advise the Government on banking, monetary and financial matters, and in particular on the monetary implications of proposed fiscal or credit policies or operations of the Government;

- (d) to promote internal and external monetary stability;
- (e) to promote a sound financial structure;
- (f) to foster financial conditions conducive to the orderly and balanced economic development of Seychelles; and
- (g) to perform such other functions as may be assigned to the Bank by any law.

PART III – BOARD OF DIRECTORS, HEAD OFFICE AND BRANCHES

The Board of
Directors

5. (1) There shall be a Board of Directors of the Bank which shall be responsible for the policy and affairs of the Bank and in which all the powers of the Bank shall be vested.

(2) The Board shall consist of –

- (a) the Governor;
- (b) the Deputy Governor; and
- (c) four other members.

(3) The term of office of a member of the Board referred to in subsection (2) (c) shall be six years and the members are eligible for re-appointment.

The Governor,
Deputy
Governor,
Members

6. (1) The Governor, the Deputy Governor and the other members of the Board shall be persons of recognised standing and experience in financial matters who hold a professional qualification or university degree.

(2) The Governor and the Deputy Governor shall be appointed by the President on such terms and conditions as the President may determine and the other members of the Board shall be appointed by the President on the recommendation of the

Governor on such terms and conditions as may be determined by the President.

(3) The Governor or, in his or her absence, the Deputy Governor shall –

- (a) preside at the meetings of the Board;
- (b) be the chief executive officer of the Bank responsible to the Board for the execution of its policy and the day-to-day management of the Bank; and
- (c) subject to the provisions of this Act, Rules made in accordance with section 8 (1) or any resolution of the Board, have the power to act, contract and sign instruments and documents on behalf of the Bank and to delegate such powers to other officers of the Bank.

7. (1) A person shall not be appointed to be the Governor, Deputy Governor or member of the Board if the person –

- (a) does not fulfil the requirements of section 6(1);
- (b) is a director, officer, employee or shareholder of any bank, other financial institution or other entity under the regulatory jurisdiction of the Bank;
- (c) is mentally or physically incapable of carrying out his or her functions under this Act;
- (d) is insolvent or has been declared bankrupt whether in Seychelles or elsewhere or enters into an arrangement or composition with his creditors; or
- (e) has been convicted of a felony involving dishonesty whether in Seychelles or elsewhere.

Disqualification
removal,
resignation
etc. of
members

(2) Where the Governor, the Deputy Governor or a member of the Board, at any time after his or her appointment -

- (i) becomes disqualified under subsection (1);
- (ii) has been absent without good cause from two or more successive meetings of the Board during a period of twelve months; or
- (iii) is convicted of an offence or is found to have committed an act of misconduct in the office which substantially prejudices the interests of the Bank,

the President shall remove him or her from office.

(3) No member of the Board shall be removed from office on any ground other than those specified in subsection (2).

(4) The Governor, the Deputy Governor or a member of the Board may resign his or her office by letter addressed to the President and –

- (a) in the case of the Governor or the Deputy Governor giving not less than three months' notice;
- (b) in any other case, giving not less than one month's notice.

Rules

8. (1) The Board may, subject to this Act, make rules –

- (a) regulating the meetings of the Board, the functions of members of the Board and such other matters relating to the conduct of the business of the Board as it thinks fit;
- (b) regulating the organisation of the Bank, the distribution of functions and responsibilities within the Bank, providing for delegation of

decision-making authority and such other internal matters as it considers necessary to ensure the proper and efficient management of the Bank.

(2) The Board may establish, in addition to the audit division referred to in section 45, such other divisions and units as it may deem necessary to assist it in the performance of its functions.

(3) The Board may appoint and employ at such remuneration, terms and conditions as it may determine, the officers and employees of the Bank.

9. (1) The Board may meet as often as is necessary for the discharge of its responsibilities under this Act but it shall meet not less than 8 times in a year. Meetings of the Board shall be convened by the Governor and may also be convened upon the written request of two members of the Board.

Proceedings of
the Board

(2) Meetings of the Board shall be convened by notice to members of the Board at least two working days before the date of the meeting except that an emergency meeting of the Board may be convened on shorter notice.

(3) A quorum for a meeting of the Board is four provided that any matter requiring urgent action may be determined by three members present at a meeting acting unanimously. The Board may by rules provide for the holding of meetings of the Board and voting at such meetings by teleconferencing or by any other electronic means of communication.

(4) Each member of the Board shall have one vote and the decisions of the Board shall be made by a simple majority of the votes cast by the members present at a meeting. In the event of an equality of votes, the Governor or the Deputy Governor presiding at the meeting shall have a casting vote.

(5) Subject to section 47(1), the proceedings of the Board shall be confidential unless the Board decides to publish all or any part of its deliberations or decisions.

(6) Minutes shall be kept of each Board meeting and shall be signed by the Governor or the Deputy Governor and the secretary of the Board.

Avoidance of
conflict of
interests

10.(1) No member of the Board shall act as a delegate or representative of any commercial, financial, agricultural, industrial or other entity or accept directions therefrom in respect of the member's functions under this Act.

(2) No officer or employee of the Bank shall accept or perform, without the written approval of the Board, any assignment outside his or her functions at the Bank.

(3) All members of the Board shall fully disclose to the Board any commercial, financial, agricultural, industrial or other interest that they may have in any matter which becomes the subject of consideration or action by the Board. If such interest appears to the Board to constitute a conflict of interests, the relevant member shall refrain from taking any part whatsoever in any decision affecting that matter.

(4) No person, being a member of the Board or any officer or employee of the Bank, shall accept any gift, be it in the form of a credit on favourable terms and conditions or otherwise or other monetary or non-monetary advantage for himself or herself or any person with whom he or she may have any family, business or financial connection, which would, if accepted, affect or appear to affect the proper performance of his or her duties under this Act.

(5) Any person who contravenes any provision of this section shall be guilty of an offence and liable to a fine of R10,000 and to imprisonment for six months.

11.(1) A member of the Board or an officer or employee of the Bank shall not disclose to any person any confidential information relating to the affairs of the Bank or any bank or other financial institution or other person, which he or she has acquired in the performance of his or her duties under this Act or any other law, except for the purpose of the performance of his or her duties or when required by law or ordered by a court to do so.

Confidentiality

(2) Any person who contravenes subsection (1) shall be guilty of an offence and liable on conviction to a fine of R20,000 and to imprisonment for 1 year.

12.(1) A member of the Board or an officer or other employee or agent of the Bank shall not be liable for damages for anything done or omitted to be done in good faith in the discharge or purported discharge of his or her functions under this Act or any other Act .

Protection of
acts in good
faith

(2) A member of the Board or an officer or other employee or agent of the Bank shall be indemnified by the Bank against all costs, losses and expenses incurred by such person in respect of any liability arising from the discharge or purported discharge, in good faith, of any function under this Act.

(3) The Bank may take such action as it may think fit under the circumstances against any member of the Board or an officer or other employee or agent of the Bank referred to in subsection (1) or (2).

13.(1) The Bank shall have its head office on Mahe and may establish branch offices at other places in Seychelles.

Head office and
branches of
Bank

(2) The Bank may appoint agents or correspondents from time to time.

PART IV – CAPITAL, PROFITS AND RESERVES

14.(1) The authorised capital of the Bank shall be R10,000,000 and may be increased from time to time by such

Authorised
capital of the
Bank

amounts as may be proposed by the Board in consultation with the President.

(2) The initial paid-up capital of the Bank shall be R1,000,000 and there shall be paid up by the Government such further amounts as may from time to time be proposed by the Board in consultation with the President.

(3) All capital stock of the Bank as and when issued shall be for the sole account of the Government and shall not be transferable or subject to encumbrance.

(4) Notwithstanding any other provision of this Act, the President shall cause to be transferred to the ownership of the Bank non-negotiable, non-interest-bearing securities issued by the Government from time to time for such amount as is necessary for the purpose of preserving the paid-up capital from any impairment whenever, in the opinion of the Board, the assets of the Bank are less than the sum of its liabilities and paid-up capital.

Profits

15.(1) The net profits of the Bank for any financial year shall be determined by the Board after meeting all current expenditure for that year and after making provision for –

- (a) bad and doubtful claims, depreciation of assets and contributions to staff and pension funds; and
- (b) such other purposes as the Board may deem necessary to ensure that the Bank is in a sound financial position to meet its liabilities:

Provided that profits and losses arising under section 28 shall not be included in the calculation of profits and losses of the Bank under this section.

(2) Notwithstanding the provisions of subsection (1), the Board may, with the approval of the President, direct that any expenditure of an exceptional nature shall be a charge upon the

General Reserve and shall be excluded from the calculation of the net profits of the Bank.

16.(1) The Bank shall establish and maintain a General Reserve to which shall be allocated at the end of each financial year of the Bank 50 per cent of the net profits of the Bank until such time as the General Reserve is equal in amount to the authorised capital of the Bank, after which 25 per cent of the net profits shall be allocated to the General Reserve until the General Reserve is equal to twice the authorised capital of the Bank.

General
Reserve

(2) After appropriate allocations have been made to the General Reserve under subsection (1), 50 per cent of the remaining net profits shall be applied to the redemption on behalf of the Government of any securities held by the Bank which have been issued in accordance with section 14(4) or 28(2).

(3) Any remaining net profits after all deductions under subsections (1) and (2) have been made shall be transferred to the Consolidated Fund:

Provided that the Board, in consultation with the President, may direct that further allocations to the General Reserve may be made out of such remaining net profits.

PART V – SEYCHELLES CURRENCY

17. The unit of currency of Seychelles shall be the Seychelles rupee, which shall be divided into one hundred cents.

Unit of currency

18.(1) Notes and coins issued by the Bank shall be legal tender in Seychelles by which, subject to the provisions of subsection (2), a debtor is legally entitled to discharge any monetary debt and a creditor is obliged to accept payment of any monetary claim.

Legal tender

(2) Subject to the provisions of subsections (3) and (4), a tender of payment of money if made in notes and coins shall be legal tender –

- (i) in the case of notes, for the payment of any amount;
- (ii) in the case of coins, for each denomination of coins, for the payment of an amount not exceeding twenty times the face value of that denomination; and
- (iii) in the case of coins for the payment to and from the Bank of any amount.

(3) A note ceases to be legal tender if it is no longer in conformity with the specifications published by the Bank in accordance with section 21 (3) or has ceased to be legal tender under section 23.

(4) A coin that has been illegally dealt with shall cease to be legal tender.

(5) For the purpose of this Act, a coin shall be deemed to have been illegally dealt with if it has been impaired, diminished or lightened otherwise than by fair wear or tear, or has been defaced by any name, word, device or number being stamped or engraved thereon, whether or not the coin has been diminished or lightened.

Bank sole
authority

19. The Bank shall have the sole right to issue legal tender notes and coins denominated in Seychelles rupee. No other person shall in Seychelles issue notes or coins or any documents or tokens which are likely to pass as legal tender.

Issue of notes
and coins

20. The Bank shall -

- (a) arrange for the printing of notes and the minting of coins and for all matters relating thereto including the security of such notes and coins;

- (b) issue, reissue, withdraw and, at its discretion, exchange notes and coins including legal tender notes and coins issued before the commencement of this Act.

21.(1) Notes issued under this Act shall be of such denominations and of such form and design and authenticated in such manner as may, from time to time, be specified by the Board with the approval of the President.

Design etc. of
currency

(2) Coins issued under this Act shall be of such denomination and of such weight, form and design and made of such metal or metals as may, from time to time, be specified by the Board with the approval of the President.

(3) Specifications of notes and coins to be issued by the Bank shall be published in the Gazette.

22.(1) In any proceedings in which the genuineness of any currency note or coin purporting to have been issued by the Bank shall be in question, a certificate under the hand of a duly authorised officer of the Bank to the effect that such currency note or coin is genuine or spurious shall be received in all courts of law as conclusive evidence of the genuineness or spuriousness, as the case may be, of such currency note or coin.

Proceedings
relating to
currency notes
and coins

(2) The aforesaid officer shall not be examined or cross-examined with respect to any such certificate.

(3) The penalties for forgery, counterfeiting and alteration of currency notes and counterfeiting, mutilating and defacement of coinage shall be those specified in the Penal Code.

23.(1) The President may, by Order published in the Gazette on the recommendation of the Board, declare that any legal tender notes or coins shall, with effect from such date as may be specified in the Order, cease to be legal tender in Seychelles and provide for any matters incidental to the calling in of such notes or coins:

Demonetisation

Provided that the holders of any such notes or coins, or any legal tender notes or coins that have ceased to be legal tender before the commencement of this Act, shall be entitled at any time to claim payment of the value thereof from the Bank or where a transfer in respect thereof has been made to the Consolidated Fund under subsection (2), from the Consolidated Fund.

(2) When any notes or coins cease to be legal tender under subsection (1), an amount equivalent to the face value of any such notes or coins remaining in circulation five years after they have so ceased to be legal tender shall be transferred from the Bank to the Consolidated Fund and the said amount shall be written off the liabilities of the Bank :

Provided that, in the case of gold and silver coins remaining in circulation for which corresponding assets are held by the Bank, the amount equivalent to their face value shall not be transferred to the Consolidated Fund and shall be written off the liabilities as well as the assets of the Bank.

(3) Where notes or coins are presented for payment under subsection (1) more than five years after they have ceased to be legal tender, the Bank may levy a handling charge of such amount as it may, from time to time, determine.

No right to
recover value
of lost or
mutilated
notes or coins

24. No person shall be entitled to recover from the Bank the value of any lost, stolen, mutilated or imperfect note or coin or of any coin which has been illegally dealt with. The circumstances and conditions under which such value may nevertheless be refunded, as an act of grace, shall be determined by the Bank on the basis of equal and fair treatment.

PART VI – OFFICIAL FOREIGN RESERVES, FOREIGN EXCHANGE RATE REGIME AND FOREIGN EXCHANGE OPERATIONS

Official Foreign
Reserves

25.(1) The Bank shall hold and manage the official foreign reserves of Seychelles.

(2) The official foreign reserves shall be composed of all or any of the following assets on such terms and conditions as the Board may determine -

- (a) gold;
- (b) foreign exchange in the form of currency or bank balances denominated in foreign currencies and held abroad on accounts with the Bank for International Settlements and other banks approved by the Board;
- (c) internationally recognised assets in foreign currencies, including –
 - (i) the ability of Seychelles to make a reserve tranche purchase at the International Monetary Fund; and
 - (ii) the holding of any special drawing rights in the International Monetary Fund by Seychelles;
- (d) bills of exchange and promissory notes denominated in foreign currencies payable at any place outside Seychelles specified by the Board;
- (e) treasury bills denominated in foreign currencies issued by a foreign Government specified from time to time by the Board; and
- (f) securities denominated in foreign currencies and issued or guaranteed by foreign Governments or international institutions specified from time to time by the Board.

(3) The Bank shall maintain the official foreign reserves at a level that would, in the opinion of the Board, enable the Bank

to fulfil its functions under various foreign exchange rate regimes. The Bank shall determine, within limits set out by the Board and taking into account the risk levels it considers acceptable, the composition of the official foreign reserve assets so as to achieve the goals determined by the Board on security, liquidity and return, in that order.

(4) In the event of unfavourable developments affecting the official foreign reserves of Seychelles, it shall be the duty of the Board to propose appropriate remedial measures to be taken by the Government.

(5) The Board, in consultation with the President, shall decide the foreign exchange rate regime to be adopted by the Bank. The foreign exchange rate regime so adopted shall be published in the Gazette.

(6) If a foreign exchange rate regime based on a basket of foreign currencies is adopted, the Board shall determine the choice of foreign currencies and their respective weights in the basket, and such other particulars as are pertinent to the regime.

Rates of
exchange

26.(1) The Bank shall, from time to time, determine the rates at which it will buy, sell or deal in gold and foreign currencies. The Bank may publish the rates so determined.

(2) While determining the exchange rates under subsection (1), the Bank may also determine a mid-rate around which purchasing and selling exchange rates maybe established.

(3) In determining the exchange rates under subsections (1) and (2), the Bank shall have due regard to the obligations which Seychelles has undertaken in accordance with the Articles of Agreement of the International Monetary Fund.

(4) A purchase or sale of special or commemorative coins denominated in a foreign currency shall not be treated as a foreign currency transaction for the purpose of this section.

27.(1) The Bank shall –Transactions
of the Bank

- (a) purchase, sell and conduct any other financial transaction with assets that may be included in the official foreign reserves specified in section 25 (2);
- (b) open and maintain accounts abroad with such banks, financial institutions or other depositories and appoint such correspondents or agents outside Seychelles as may be determined by the Board; and
- (c) provide banking services in accordance with section 38 (b) and, as may be determined by the Board, open accounts for foreign banks.

(2) The Bank shall, in the conduct of its activities enumerated in subsection (1), aim at achieving security, liquidity and return, in that order.

28.(1) The gains arising from any change in the value of the Bank's assets or liabilities in, or denominated in, gold, foreign currencies or other units of account as a result of alterations of the parity of the Seychelles rupee, or of any change in the values, parities or exchange rates of such assets or liabilities with respect to the Seychelles rupee, other than gains arising from the normal trading activity of the Bank, shall be credited to a Revaluation Reserve Account and neither they nor the losses arising from any such change other than losses arising from normal trading activity shall be included in the computation of the annual profits and losses of the Bank.

Revaluation
Reserve Account

(2) The losses arising from any such change other than losses arising from the normal trading activity of the Bank shall be set off against any credit balance in the Revaluation Reserve Account and, notwithstanding any other provision of this Act, if such balance is insufficient to cover such losses, the Government shall issue to the Bank non-negotiable, non-interest-bearing securities to the extent of the deficiency.

(3) Any credit balance in the Revaluation Reserve Account at the end of each financial year of the Bank shall be applied first, on behalf of the Government, to the redemption of any outstanding securities issued under subsection (2).

(4) One-fifth of the remaining balance or an amount equivalent to one per cent of the demand liabilities of the Bank as at the end of the financial year, whichever is greater, shall be transferred to the Consolidated Fund:

Provided that when the remaining balance does not exceed one per cent of the aforesaid demand liabilities, the entire amount of the balance shall be transferred to the Consolidated Fund.

(5) No credit or debit shall be made to the Revaluation Reserve Account except in accordance with the provisions of this section.

PART VII – RELATIONS WITH BANKS AND OTHER FINANCIAL INSTITUTIONS

Deposits with,
and lending by,
the Bank

29. The Bank may, on such terms and conditions as the Board may determine –

- (a) open accounts for, and accept deposits from banks and other financial institutions;
- (b) make loans, advances and rediscounts to banks and other financial institutions in Seychelles for periods not exceeding 180 days.

Clearing
and
payment
systems

30. The Bank may establish or assist banks in establishing facilities for the clearing and settlement of payments, including payments by cheques and other payment instruments, and may issue such directions relating thereto as it deems appropriate.

31.(1) The Bank may, by written notice to each bank or other financial institution at its principal place of business in Seychelles, require the maintenance of such reserves against deposits and other similar liabilities as may be specified in the notice.

Monetary
reserve
requirements

(2) The reserves required under subsection (1) shall be maintained by way of cash holdings or deposits with the Bank in such proportions as the Bank may specify.

(3) The Bank may, if it deems necessary, require secondary reserves to be maintained in such forms and in such proportions as may be specified.

(4) The Bank may require the maintenance of different reserve ratios for different classes of deposit and other similar liabilities and may lay down the method of their computation:

Provided that —

- (a) the Bank shall not, unless the monetary situation so requires, require banks and other financial institutions to hold a total amount of reserves in excess of 40 per cent of the total deposit and other similar liabilities to which reserve ratios are applicable;
- (b) the initial requirement of, or any increase in, the reserve ratios shall take effect after a period of not less than 15 days after the date of notice;
- (c) the Bank may treat the requirements of this subsection as satisfied if the required reserve ratios are maintained on the basis of averages of holdings over such period as the Bank may notify; and

- (d) the required reserve ratios shall be uniform for each class of bank and other financial institution in Seychelles.

(5) The Bank may impose on any bank or other financial institution which fails to maintain required reserves in the appropriate ratio as notified under this section a charge of interest on the amount of deficiency of reserve at a rate determined by the Bank not exceeding twice the highest effective rate of interest charged by that bank or other financial institution as the case may be from any of its customers during the period of such failure.

(6) The charge of interest mentioned in subsection (5) shall be imposed for each day on which the deficiency occurs.

PART VIII - COLLECTION OF INFORMATION AND STATISTICAL DATA

Bank's power
to collect
information

32. (1) The Bank shall monitor the developments in the foreign exchange and credit markets and keep such statistics relating to the balance of payments and other matters as it needs to discharge its functions.

(2) In carrying out its monetary policy and supervisory functions and for the purposes of subsection (1), the Bank may require any bank, other financial institution or other entity in Seychelles under the Bank's supervision and any of its directors, officers or employees to furnish, at such time and in such manner as the Bank may specify, such information and statistical data as the Bank considers necessary for the discharge of its functions.

(3) Subject to subsection (4), the Bank may publish, at such times as it thinks fit, the information and data furnished to it under subsection (2) in whole or in part.

(4) Notwithstanding subsection (3), no information disclosing the affairs of a provider of statistical data or a customer

of the bank or other financial institution or other entity under the Bank's supervision or, indirectly, those of another person, shall be published or otherwise disclosed by the Bank unless it is required to do so by law or an order of court or the person concerned has previously consented in writing to the publication or disclosure.

(5) Any person, while performing functions for a bank, other financial institution or other entity under the Bank's supervision required to provide information or statistical data according to subsection (2) who –

- (a) fails, refuses, neglects or unreasonably delays to supply information or statistical data as required by the Bank; or
- (b) in complying with such requirement, furnishes any information or statistical data which he or she knows to be false in any material particular,

shall be guilty of an offence and liable on conviction to a fine of R 20,000 and to imprisonment for six months.

PART IX - VERIFICATIONS, EXAMINATIONS AND INSPECTIONS

33.(1) The Bank may, at any time, cause a verification, examination or inspection to be made by any of its officers or by any other person authorised in that behalf by the Bank, of any bank, other financial institution, other entity or person subject to its supervision or required to provide statistical data.

Verification of
information

(2) Any person authorised to act under subsection (1) shall be subject to the provisions of section 11 and may require any director, officer, or employee of any bank, other financial institution or other entity or person subject to the supervision of the Bank under any law –

(a) to produce for verification, examination or inspection without unnecessary delay, any books, records or other documents in his or her possession containing or likely to contain such information as the person authorised reasonably considers necessary for the purpose of the verification, examination or inspection of statistical data; and

(b) to give any information in his or her possession pertaining to the matter under verification, examination or inspection.

(3) Any person who –

(a) fails, refuses, neglects, or unreasonably delays to comply with any requirement under subsection (2); or

(b) in complying with any such requirement, furnishes any information or statistical data or produces any book, record or other document which the person knows to be false in any material particular,

shall be guilty of an offence and liable on conviction to a fine of R20,000 and to imprisonment for six months.

PART X - RELATIONS WITH THE GOVERNMENT AND GOVERNMENT AGENCIES

Functions as
agent of
Government

34.(1) The Bank may, on such terms and conditions as may be agreed with the Government –

(a) open accounts for and accept deposits in Seychelles rupees and in any foreign currency;

(b) undertake, as agent for the Government, the issue and management of Government securities;

- (c) act as banker and fiscal agent of the Government in its dealings with any international financial institution and as depository of such institution; and
- (d) open accounts for and accept deposits in Seychelles rupees and in any foreign currency from any Government agency.

(2) The Bank shall administer any law, as provided in that law, and may undertake any agency work for the Government in addition to those provided in subsection (1)(b) and (c) and section 35(d), within its area of competence.

35.(1) There shall be appointed by the Board for the purposes of this section, an Exchange Controller on such terms and conditions as may be determined by the Board.

Appointment
of Exchange
Controller

(2) Where the Exchange Controller is for any reason unable to perform the functions of his office the Board may appoint a person to perform such functions until the Exchange Controller resumes such functions.

(3) The powers conferred on the Central Bank by sections 3, 5, 6, 8 and 11 of the Foreign Earnings (Regulation) Act are hereby vested in the Exchange Controller.

(4) The powers of the Minister under the Exchange Control Act to grant or revoke any permission, consent, approval or authority, or to give any direction or give or receive any notice under that Act in respect of any matter or thing that arose or may arise before on or after the coming into operation of this section or to compound any offence under that Act are hereby vested in the Exchange Controller.

(5) Notwithstanding anything to the contrary in any other law, any information obtained by the Exchange Controller by virtue of subsection (3) of this section may be used for the

purpose of any inquiry or trial into or relating to any offence under the Foreign Earnings (Regulation) Act or the Exchange Control Act.

- (6)(a) The Exchange Controller may give a directive in writing to any authorised dealer appointed under the Exchange Control Act requiring such authorised dealer to offer foreign exchange held by such authorised dealer for sale to the Bank or any other person on such terms as may be set out in the directive.
- (b) An authorised dealer who fails, refuses or neglects to comply with a directive given under paragraph (a) shall be guilty of an offence and shall on conviction be liable to a fine of not less than R250,000 and not exceeding R500,000 or to imprisonment for a term not exceeding 5 years.
- (7) The Exchange Controller may delegate any of his powers, other than the power conferred by this subsection, to any officer of the Central Bank.

International
cooperation

- 36.** In relation to international cooperation, the Bank –
- (a) shall represent the Government in all inter-governmental meetings, councils and organisations concerning monetary policy, licensing and supervision of banks and other matters that are within its competence;
 - (b) may provide banking services for the benefit of foreign Governments, foreign central banks and monetary authorities, and for the benefit of international organisations in which it or the Government participates;
 - (c) may participate in international organisations that pursue financial and economic stability

through international monetary cooperation;
and

- (d) may, as agent for the Government, undertake responsibilities and perform transactions concerning the Government's participation in international organisations.

37. Without prejudice to any other provision of this Act, the Government and the Bank shall consult each other on all economic and financial matters that may affect the discharge of their respective statutory functions.

Mutual
consultation

38. The Bank shall render advice and furnish reports on economic and financial matters to the Government when required to do so and the Bank shall be entitled to receive from any public authority any economic and financial information the Bank may reasonably need for that purpose.

Advice and
reports by the
Bank

39. The Government shall consult the Bank on the appropriations of the Government for each financial year and on any proposed legislation affecting the budget and the Bank.

Consultation
on budget

40.(1) The Bank may, at such rates and on such other terms and conditions as may be determined by the Bank, grant temporary advances in Seychelles rupees to the Government in respect of temporary deficiencies of revenue.

Advances to
Government

(2) Subject to subsection (4), the total amount of such advances outstanding, including any advances converted into Government bearer securities in accordance with subsection (3) together with the amount of securities issued or guaranteed by the Government in the ownership of the Bank in accordance with section 41, except those under repurchase agreements, shall not at any time exceed the limit as determined by the Bank and published in the Gazette.

(3) All such advances shall be repaid as soon as possible and shall in any event be repayable not later than six months after

the end of the financial year in which they are granted, and where such advances have not been repaid within such time, any advances will be converted into Government bearer securities at market rates as determined by the Bank.

(4) Notwithstanding subsection (2) the Bank may, in exceptional circumstances, grant a temporary waiver of the limit specified in that subsection, but only if such waiver would not be inconsistent with the monetary policy objectives of the Bank and would not cause the aggregate principal amount disbursed and outstanding on all Bank advances to the Government to exceed the equivalent of, as determined by the Bank, the annual average of the Government's ordinary revenue for the three financial years immediately preceding for which accounts are available. For the purpose of this subsection "revenue" does not include borrowings, grants and other forms of financial assistance.

(5) If, in the opinion of the Bank, the limit as determined by the Bank under subsection (2) is likely to be exceeded, the Bank shall submit to the President a report on the Bank's disbursed and outstanding advances to the Government and the causes that may lead to such excess, together with such recommendations as it may deem appropriate to forestall or remedy the situation and where the limit as determined by the Bank under subsection (4) is exceeded, the Bank shall make further reports and recommendations to the President and to the National Assembly.

Purchase of
treasury bills
etc.,

41. The Bank may purchase or otherwise acquire treasury bills and other securities issued or guaranteed by the Government. Such purchases and other acquisitions by the Bank shall, however, be made only for monetary policy purposes and only on the secondary market at market interest rates.

Debt securities
issued by
Bank

42. The Bank may issue in its own name, for monetary policy purposes, short term debt securities.

Bank's market
operations

43. The Bank may operate in the market, in addition to its undertaking as agent for the Government under section 34(1)(b),

by purchasing, selling or conducting any other financial transaction in the conduct of its monetary policy framework, such as outright (spot and forward) or under repurchase agreements, debt securities issued or guaranteed by the Government and debt securities issued by the Bank.

PART XI - OTHER ACTIVITIES

44. The Bank may —

Activities Bank
may and may
not engage in

- (a) on such terms and conditions as may be determined by the Bank, open accounts for, and accept deposits for the account of, special funds administered by the Government, official aid agencies and international organisations;
- (b) grant loans and advances to any of its Directors, officers and employees—
 - (i) for the purchase, construction or repair of one residential house for his or her personal use against the security of the said house;
 - (ii) for other purposes in a total amount not to exceed for any borrower during the time such loans and advances are outstanding, the annual remuneration received by the borrower from the Bank;

upon terms and conditions determined from time to time by the Board; and

- (c) generally undertake such operations or do such things as are incidental to or consequential upon the exercise of its powers or the performance of its duties under this Act.

- (2) The Bank shall not –
- (a) open accounts for or accept deposits from any person except as provided in this Act;
 - (b) grant advances, loans, guarantees or contingent commitments to or for the benefit of the Government or any Government agency except as provided in this Act;
 - (c) engage in trade, purchase of any interest in any corporation or company, including the shares of any bank or other financial institution unless expressly authorised by the Financial Institutions Act, or otherwise have an ownership interest in any financial, commercial, agricultural, industrial or other undertaking except such interest as the Bank may acquire in the course of satisfaction of debts due to it, provided that all such interests so acquired shall be disposed of at the earliest opportunity; or
 - (d) purchase or retain ownership of immovable property except in so far as is necessary for the conduct of its business or for the provision of housing and recreational or other amenities for its officers and employees.

PART XII - BUDGET AND ACCOUNTING

The budget
of the Bank

45.(1) The budget of the Bank for each financial year shall be determined by the Board before the 15th day of December of the previous year.

(2) The Board shall cause to be kept the accounts of the Bank in conformity at all times with the applicable law, if any, or international standards and best practices.

(3) The Bank shall, as soon as may be accomplished after the end of every month, make up a periodic financial statement of the condition of the Bank as at the close of business on the last business day of such month and publish the same in the Gazette.

(4) The Bank shall, as soon as may be accomplished after the end of each financial year and within the time limit referred to in section 46(3), make up the annual accounts.

PART XIII – INTERNAL AUDIT

46. An audit division headed by the internal auditor shall perform internal audit functions of the Bank which shall comprise—

Internal audit

- (a) the establishment and maintenance of proper risk management procedures and practices for the Bank and their implementation on a continuing basis;
- (b) the performance of periodic audits of the administration and operations of the Bank to ensure compliance with all laws applicable to the Bank and the implementation of the decisions of the Board;
- (c) audit of the periodic financial statements referred to in section 44(3) and related documents of the Bank and, where these have been properly prepared, certification of the fact;
- (d) submission to the Board, whenever deemed appropriate and at least once every quarter, reports and recommendations on the accounts and records, the budgetary and accounting procedures, the risk management and other controls of the Bank, the efficiency and cost effectiveness at which the Bank operates, and on any other matter within its competence; and

- (e) carrying out any other assignment made by the Board.

PART XIV — AUDIT OF ACCOUNTS

Audit of
accounts

47.(1) The financial year of the Bank shall be the year ending on the 31st day of December.

(2) The Board shall cause to be kept proper books of account and other books and records in relation thereto in which shall be recorded all its financial transactions.

(3) The accounts of the Bank shall be audited by the Auditor General.

(4) The Bank shall within 3 months after the end of each financial year, submit to the President a report on its operations during the year together with a copy of its annual accounts certified by the Auditor General and shall publish the said report and accounts.

Reports for
public
information

48.(1) The Bank shall publish a summary of the decisions taken by the Bank with respect to monetary policy as soon as possible thereafter.

(2) The Bank may publish regular reports on issues related to monetary policy, financial stability or any other matter within its competence and shall annually report to the National Assembly on its activities in the preceding year and on the achievement of its objectives set out in section 4.

PART XV – TAXES, REGULATORY POWERS AND APPEALS

Exemption
from taxes

49. The Bank shall be exempt from stamp duty, business tax, trades tax, goods and services tax and all other taxes, fees and duties on its assets, documents, profits, operations and property.

50. For the purposes of carrying into effect the principles and provisions of this Act, the President may, on the recommendation of the Board, make regulations. Regulations

51.(1) The Central Bank of Seychelles Act, 1982 is hereby repealed. Repeal of Cap 26

(2) With effect from the date of repeal of the aforesaid Act –

- (a) the rights, obligations, assets and liabilities of the Central Bank of Seychelles established by the aforesaid Act (hereinafter referred to as the former Bank) on the day immediately preceding the said date of repeal shall be the rights, obligations, assets and liabilities of the Bank;
- (b) notes and coins issued by the former Bank shall be deemed to have been notes and coins issued by the Bank;
- (c) the regulations made, licences granted, directions issued and notifications made under the repealed Act shall continue in effect until they are amended under the provisions of this Act;
- (d) the officers and other employees of the former Bank shall be deemed to be officers and employees of the Bank on conditions not less favourable than those subsisting immediately prior to the said date of repeal;
- (e) all contracts, deeds, bonds, agreements and other instruments made by the former Bank which subsist or have effect immediately prior to the date of repeal shall have effect against or in

favour of the Bank as if the Bank had been a party thereto;

- (f) all suits, appeals or other legal proceedings instituted by or against the former Bank and pending immediately prior to the date of repeal shall not abate or be discontinued or be in any way prejudicially affected by reason of such repeal and accordingly may be continued and enforced by or against the Bank;
- (g) all acts done, decisions taken, authorisations or permissions granted by the former Bank or by the Board of Directors, officers or employees of the former bank which were validly done, taken or granted under any written law or under and in accordance with the repealed Act shall continue to have effect in accordance with their terms or until amended, annulled or withdrawn in accordance with the written law.

I certify that this is a correct copy of the Bill which was passed by the National Assembly on the 14th December, 2004.



Sheila Banks
Clerk to the National Assembly