

SEYCHELLES INFRASTRUCTURE AGENCY BILL, 2021

(Bill No 54 of 2021)

OBJECTS AND REASONS

The object of this Bill is to establish an Agency known as the Seychelles Infrastructure Agency.

Once enacted, the Seychelles Infrastructure Agency will provide technical services for Government construction projects and maintenance of Government properties.

The technical services to be provided by the Agency shall comprise structural surveys, appraisal of projects, concept planning, detailed designs, cost estimates, procurement of construction or consultancy services through tendering, tender evaluation, awards and supervision during the construction stage.

The Agency shall in addition provide property management and maintenance services to ministries and Government departments administering buildings and properties.

For proper policy guidance and administration of the Agency, the Bill seeks to establish the Inter-Ministerial Committee. This Committee will be the Board of Directors of the Agency. Chaired by the Minister responsible for lands, the composition and functions of the Committee are specified in Part III of the Bill.

In Part IV, the Bill provides for the appointment of The Chief Executive Officer, who will be head of the Agency, and responsible for the management of the day-to-day affairs of the Agency. Under him or her will be the Chief Operations officer and other staff of the Agency. It is proposed that the Chief Executive Officer of the Agency shall be an ex-officio member and secretary of the Inter-Ministerial Committee.

In Part V, the Bill seeks to fund the Agency through monies appropriated by the National Assembly. Delegated funds, accounts and audit, accountability,

annual operational plans and annual reports are also made provision for under this Part.

Finally, Part VI of the Bill deals with miscellaneous matters. Transfer of assets and liabilities, transfer of staff and employees, acquisition and disposal of land, application of certain provisions of the Penal and protection of acts done in good faith are dealt with under this Part. In addition, the Minister is mandated to make regulations for the better carrying into effect, the provisions of the Bill.

Dated this 28th day of OCTOBER, 2021.

**FRANK D.R. ALLY
ATTORNEY-GENERAL**

SEYCHELLES INFRASTRUCTURE AGENCY BILL, 2021

(Bill No. 54 of 2021)

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SEYCHELLES INFRASTRUCTURE AGENCY BILL, 2021

(Bill No. 54 of 2021)



A BILL

FOR

AN ACT TO ESTABLISH THE SEYCHELLES INFRASTRUCTURE AGENCY AND TO PROVIDE FOR OTHER RELATED MATTERS.

ENACTED by the President and the National Assembly.

PART I - PRELIMINARY

Short title

1. This Act may be cited as the Seychelles Infrastructure Agency Act, 2021.

Interpretation

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

“Agency” means the Seychelles Infrastructure Agency established under section 3;

“Chief Executive Officer” means the Chief Executive Officer of the Agency appointed under section 10;

“Chief Operations Officer” means a Chief Operations Officer provided for under section 11;

“Committee” means the Inter- Ministerial Committee established under section 7;

“member” means a member of the Committee;

“Minister” means the Minister responsible for lands and housing.

PART II - SEYCHELLES INFRASTRUCTURE AGENCY

Establishment of the Agency

3.(1) There is hereby established for the purpose of this Act, an agency known as the Seychelles Infrastructure Agency.

(2) The Agency is a body corporate.

Object of the Agency

4. The object of the Agency is to provide technical services for civil engineering and construction projects to all government ministries, departments and agencies other than those specified in the Schedule, and to provide maintenance to government properties.

Functions of the Agency

5. The functions of the Agency shall be to —

- (a) advise on strategic planning of infrastructure and physical development projects;
- (b) advise on the financial and cost implications for infrastructure and physical development projects, and on maintenance and property management requirements;
- (c) provide surveys and assessments of physical conditions for government infrastructure and buildings;
- (d) provide project designs, procurement of construction services and supervision of project implementation;
- (e) provide technical support for procurement and supervision of services for maintenance of government infrastructure and buildings;
- (f) advise on quality standards and policies for government infrastructure and buildings, and for construction services utilised by the government;
- (g) record and keep register of rating of performance by contractors providing construction services for government projects;
- (h) outsource and manage consultancy contracts for any specialised services in the construction sector on behalf of the government; and
- (i) perform such other functions as the Minister may deem necessary.

Powers of the Minister

6. The Minister shall exercise supervision over the Agency in the performance of its functions, and may give policy directives to the agency relating to planning of infrastructure and physical development in line with National development strategies and land use.

PART III - THE INTER-MINISTERIAL COMMITTEE

Establishment and composition of the Committee

7.(1) The Agency shall be administered by an inter-ministerial committee consisting of the following members —

- (a) the Chairperson who shall be the Minister responsible for the parent Ministry of the Agency;
- (b) the Minister responsible for environment and climate change who shall be the Vice-Chairperson;
- (c) a representative of the Department responsible for lands;
- (d) a representative of the department responsible for economic planning;
- (e) a representative of the financial planning and control division of the department of finance;
- (f) a representative of the department of legal affairs;
- (g) a representative of the department of transport;
- (h) a person with extensive experience in auditing or accounting, appointed by the Minister; and
- (i) the Chief Executive Officer who shall be an ex-officio member and the secretary to the Committee.

(2) A member of the Committee shall hold office for a term of 5 years and shall be eligible for re-appointment.

(3) A member of the Committee shall be paid such remuneration and allowances as the President may determine in line with Government policies.

Functions of the Committee

8. The functions of the Committee shall be to —

- (a) review and approve development and project concept plans prepared by the Agency;
- (b) review and determine work and project priorities for implementation by the Agency;
- (c) review and recommend budget priorities for projects to the government based on integrated national development strategies;
- (d) mediate any disputes between the Agency and other ministries, departments or agencies;
- (e) monitor the performance of the Agency on implementation of projects and services; and
- (f) review and approve policies and standards prepared by the Agency.

Meetings of the Committee

9.(1) A meeting of the Committee shall be held at such time and place as may be determined by the Chairperson of the Committee.

(2) Four members of the Committee shall constitute a quorum for a meeting of the Committee.

(3) The decision of a majority of the Members present at a meeting shall constitute a decision of the Committee, and, in the event of an equality of votes on any matter, the person presiding at such meeting shall have a casting vote in addition to his or her vote.

(4) Subject to the provisions of this Act and regulations made under this Act, the Committee may regulate its own proceedings.

PART IV - ADMINISTRATION OF THE AGENCY

Chief Executive Officer

10.(1) The Minister shall appoint a person whom the Minister considers to be suitably qualified and experienced to be Chief Executive Officer of the

Agency, on such terms and conditions of service as the Minister may determine in line with Government policies.

(2) The Chief Executive Officer shall be responsible for the management of the affairs of the Agency in accordance with the policies and directions of the Committee.

(3) The Chief Executive Officer shall be appointed for a term of three years and shall be eligible for reappointment.

(4) The Chief Executive Officer may delegate any of his or her functions to a Chief Operations Officer or any other employee of the Agency.

Chief Operations Officer

11.(1) The Agency shall have a Chief Operations Officer who shall be appointed by the Committee.

(2) The Chief Operations Officer shall be in charge of a division of the Agency assigned to him or her, and shall report to the Chief Executive Officer.

Employment of staff

12.(1) The Agency may employ officers and other members of staff necessary for the effective performance of its functions on the terms and conditions determined by the Committee.

(2) Every employee of the Agency shall be under the administrative control of the Chief Executive Officer.

PART V - FINANCIAL PROVISIONS

Funds of the Agency

13.(1) The funds of the Agency shall consist of moneys appropriated by the National Assembly for the use of the Agency.

(2) The funds of the Agency shall be applied for —

(a) the discharge of the expenses properly incurred by the Agency in the performance of its functions; and

- (b) the payment of remuneration of allowances to the members of the Committee and employees of the Agency.

Delegated funds

14.(1) Funds appropriated for projects involving the implementation and maintenance of government properties shall be delegated to the Agency.

(2) The funds delegated under subsection (1) shall be under the control of the Agency and shall be solely utilised for purposes related to the projects for which they were appropriated.

Accounts and audit

15.(1) The financial year of the agency shall be the calendar year.

(2) The Agency shall maintain proper accounts and other relevant records and prepare a statement of accounts in the form and manner approved by the Auditor General.

(3) The account of the Agency shall be audited by the Auditor General in accordance with Article 158 of the Constitution.

Accountability

16.(1) The Chief Executive Officer shall be the accounting officer of the Agency.

(2) The Chief Executive Officer shall be charged with the responsibility of —

- (a) accounting for all moneys received and the utilisation thereof; and
- (b) the use and care of the assets of the Agency.

Annual operational plan

17.(1) The Agency shall prepare a draft annual operational plan at least 60 days before the commencement of each financial year and submit it to the

Committee for approval, and shall submit a final annual operational plan not later than 30 days after the commencement of the financial year.

- (2) The operational plan shall —
- (a) include a statement of the short and medium term operational objectives;
 - (b) outline the strategies that the Agency intends to employ in order to achieve its objectives; and
 - (c) include, *inter alia*, a financial plan, a human resources plan and performance indicators.

(3) The financial plan referred to under subsection (2) (c) shall include estimates of expenditure and revenue for the financial year next following.

(4) The Agency may amend the operational plan with the approval of the Committee.

Annual report

18. The Agency shall, after the expiration of each financial year and in any event not later than the 31st day of March in any year, submit to the Minister, and the Minister responsible for finance, an annual performance report, outlining the performance of the agency and dealing generally with the administration and activities of the Agency during the preceding financial year.

PART VI - MISCELLANEOUS

Transfer of assets and liabilities

- 19.(1)** The Government may vest in or transfer to the Agency such —
- (a) movable and immovable properties vested in the Government immediately before the coming into force of this Act and used or managed by any Government Ministry, Department or Agency whose functions are being transferred to the Agency; and

- (b) assets, rights, interests, privileges, liabilities of the Government relating to any Ministry, Department or Agency for functions being transferred to the Agency.

(2) Where a question arises as to whether a particular movable or immovable property, asset, right, interest, privilege, liability or obligation has been transferred to or vested in the Agency under subsection (1), a certificate under the hand of the Minister shall be conclusive evidence that the property, asset, right, interest, privilege liability or obligation was or was not transferred or vested.

(3) All agreements, deeds, bonds, agreements relating to matters which fall within the scope of the objects and functions of the Agency, to which the Government is a party, subsisting immediately before the coming into force of this Act, shall continue and shall be enforceable by or against the Agency as if the Agency had been a party to the deed, bond, agreement or arrangement.

Transfer of staff and employees

20.(1) All the persons employed in any Government Ministry, Department or Agency prior to the commencement of this Act, whose functions are being merged and transferred to the Agency, shall in accordance with their respective qualifications and competencies be transferred to the services of the Agency on terms and conditions not less favourable than those enjoyed by them before the transfer.

(2) Until such time as new terms and conditions of service are adopted, the terms and conditions of service as they exist presently shall continue to apply to every person transferred to the service of the Agency under subsection (1) as if the persons were still in the service of the Government.

Acquisition and disposal of land

21.(1) Where land is required by the Agency in connection with the performance of its functions, upon approval of the Committee, the Agency shall request the Minister responsible for lands to acquire such land for that purpose and thereafter transfer or allocate use of the land to the Agency.

(2) The Agency shall not sell, exchange or otherwise dispose of land or interest in land vested in the Agency without the consent of the Minister responsible for lands.

Application of certain provisions of the Penal Code

22. The members and employees of the Agency shall be deemed to be employed in the public service and sections 91 to 96 of the Penal Code shall apply to them.

Protection of acts done in good faith

23. No civil or criminal liability shall attach to the Agency, an officer or employee of the Agency or a member of the Committee in respect of an act done or omission made in good faith in the performance of the functions of the Agency.

Regulations

24. The Minister may make regulations for the carrying into effect the principles and provisions of this Act.

SCHEDULE

(Section 4)

ORGANISATIONS EXCLUDED FROM APPLICATION OF THIS ACT

1. Department of Transport
2. Seychelles Land Transport Agency
3. Non- Budget-Dependent Commercial Public Enterprises
4. Public Utilities Corporation
5. Public Enterprises with specialist technical mandates which include provision of technical services offered by the Agency.
6. Any other Department or Agency as the President may determine.