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CONSTITUTION OF THE REPUBLIC OF SEYCHELLES
(FOURTH AMENDMENT) ACT, 1996

(Act No. 14 of 1996)

I assent



F. A. René
President

19 August, 1996

AN ACT to alter the Constitution.

ENACTED by the President and the National Assembly.

1. (1) This Act may be cited as the Constitution of the Republic of Seychelles (Fourth Amendment) Act, 1996.

Short title
and
commence-
ment

Interpreta-
tion S.I. 38 of
1993

Amendment
of the
Constitution
last amended
by Act 19 of
1995

(2) This Act, other than section 3 (i) and (w), shall come into operation on such date as the President may by notice in the Gazette appoint.

(3) Section 3 (i) and (w) shall come into operation on the day next following the dissolution of the present National Assembly.

2. In this Act, "Constitution" means the Constitution of the Republic of Seychelles as set out in the Constitution of the Republic of Seychelles (Third Republic) (Promulgation) Notice, 1993.

3. The Constitution is amended as follows —

(a) **by repealing article 55** and substituting the following article —

"Vacancy
in the office
of President

55(1) Where the President dies, resigns or is removed from office, the Vice-President shall assume the office of President for the unexpired term of the President with effect from the death, resignation or removal from office of the President.

(2) Where the President ceases to hold office under article 110(3), the Vice-President shall discharge the functions of the President until a person is elected under article 51 to the office of President.

(3) Where the Vice-President discharges the functions of the President under clause (2) or article 56, the Vice-President shall not have power to —

(a) revoke the appointment of a Minister, or

(b) invoke article 110.;"

(b) **by repealing article 56** and substituting the following article —

*Discharge
of functions
of President
during
temporary
absence
from office

56. Where the President is on leave of absence, absent from Seychelles or unable for any other reasons, except for a reason specified in article 55, to discharge the functions of the office of President, the Vice-President shall discharge those functions until the President returns from leave of absence or from outside Seychelles and resumes the functions of the office of President or is able to discharge the functions of the office of President”;

- (c) *in article 66, by inserting after clause (3) the following clause—*

“(3A) The President is politically responsible for a Ministry or department that the President has not specifically assigned to the Vice-President or a Minister.”;

- (d) *by inserting after article 66 the following article—*

“Vice-
President

66A(1) There shall be a Vice-President of Seychelles who shall perform the functions assigned to the Vice-President by the Constitution, an Act or the President.

(2) The President may assign the Vice-President the political responsibility of one or more Ministries.

(3) The Vice-President shall be a person who is qualified to be elected President under article 51.

(4) A candidate at an election for President shall designate a person as the candidate’s Vice-President and on the election of the candidate as President the

person designated as Vice-President by the candidate becomes Vice-President.

(5) A person who is a member of the National Assembly or the Judiciary shall upon becoming Vice-President cease to be a member of the National Assembly or Judiciary.

(6) The term of office of the Vice-President shall be the same as that of the President under article 52.

(7) A person shall not hold office as Vice-President for more than 3 terms.

(8) The Vice-President shall, before starting to perform the functions of Vice-President, take and subscribe the oath of allegiance and the Vice-Presidential oath set out in Schedule 6.

(9) The Vice-President may resign or be removed from office in the same manner as a Minister and articles 73 and 74 shall apply to the Vice-President.

(10) Where the person who is Vice-President ceases to hold office as Vice-President, otherwise than under clause (11), the President shall designate another person as Vice-President for approval by the National Assembly.

(11) Where the Vice President assumes the office of President under article 55(1) —

(a) the President shall, with the approval of the National Assembly, appoint a person to be Vice-President,

(b) the person who at the time is designated Minister shall immediately cease to be designated Minister and the President shall designate a person, who may be the first-mentioned person, for approval by the National Assembly as designated Minister.

(12) Where under article 55(1) the Vice-President assumes the office of President for a term which exceeds two thirds of the term of the President, the Vice-President is only eligible to serve for 2 other terms as President.

(13) The Vice-President shall receive such salary, allowance and gratuity as may be prescribed by an Act and the salary, allowance or gratuity shall be a charge on the Consolidated Fund.”;

(e) **in article 67 —**

(i) **by repealing clause (1)** and substituting the following clause —

“(1) There shall be a Cabinet consisting of the Vice-President and the Ministers.”;

(ii) **in clause (2)**, by repealing the words “the Minister designated by the President under article 75” and substituting the words “the Vice-President”;

(f) **in article 70**, by repealing clause (2) and renumbering clauses (3) and (4) as clauses (2) and (3) respectively;

(g) **by repealing article 71** and substituting the following article —

"Collective
responsibility
of Cabinet

71. The Vice-President and the Ministers shall be individually accountable to the President for the administration of the Ministries and departments assigned to them and shall collectively be responsible for a decision of Cabinet.”;

(h) in article 75 —

(i) *by repealing clause (1)* and substituting the following clause —

“(1) At the time of submitting the names to the National Assembly for its approval of the persons to be appointed Ministers, the President shall designate one person who shall discharge the functions of designated Minister under the Constitution or an Act.”;

(ii) *in clause (2)*, by inserting after the word “clause (1)” the word “or article 66A(10) or (11)”;

(iii) *in clause (3)*, by inserting after the word “clause (1)” the word “or article 66A(10) or (11)”;

(iv) *by repealing clause (4)* and substituting the following clauses —

“(4) Where under the Constitution a function is required to be performed by the President and both the President and the Vice-President are unable to perform the function, the function may be performed by the designated Minister until the President or Vice-President is able to perform the function.

(5) Where under the Constitution a function, not being a function related to a Ministry or department assigned to the Vice-President by the President under article 66A(2), is required

to be performed by the Vice-President and the Vice-President is unable to perform the function, the function may be performed by the designated Minister until the Vice-President is able to perform the function.

(6) A restriction or limitation which the Constitution imposes on the President or Vice-President with regard to the exercise of the function of President or Vice-President shall apply to the designated Minister when performing a function under clause (4) or clause (5).”;

(i) **in article 78**, by repealing paragraph (b) and substituting the following paragraph —

“(b) not more than 10 members elected on the basis of the scheme of proportional representation specified in Schedule 4.”;

(j) **in article 81** —

(i) **in clause (1)** —

A **by repealing paragraph (g)** and substituting the following paragraph —

“(g) if the person is elected President or becomes the Vice-President or is appointed a Minister;”;

B **by repealing paragraph (h)** and substituting the following paragraph —

“(h) if, in the case of a proportionally elected member —

- (i) the political party which nominated the person as member nominates another person as member in place of the first-mentioned person and notifies the Speaker in writing of the new nomination;
- (ii) the person ceases to be a member of the political party of which that person was a member at the time of the election; or
- (iii) the political party which nominated the person as a member is dissolved or otherwise ceases to exist;”;

C *by repealing paragraph (i) and substituting the following paragraph —*

- “(i) if, in the case of a directly elected member who was nominated for election by a political party —
 - (i) the person notifies the Speaker in writing that the person has ceased to be a member of that political party; or
 - (ii) the political party which nominated the person for election notifies the

Speaker in writing that the person has ceased to be a member of the political party and the Electoral Commissioner confirms in writing to the Speaker that the Commissioner has received a written petition requesting the holding of fresh election for the purpose of electing a new member to represent the electoral area which the member represents signed or marked to the satisfaction of the Commissioner by at least one third of the number of registered voters who are entitled to vote in the electoral area;”;

- (ii) *by repealing clause (2A);*
- (k) **in article 86**, by repealing clause (1)(C);
- (l) **in article 92(2)**, by repealing the words “by a Minister designated by the President” and substituting the words “by the Vice-President or the designated Minister”;
- (m) **in article 93** —
 - (i) *in clause (1)* —
 - A. by repealing the words “A Minister” and substituting the words “The Vice-President or a Minister”;

- B. *in paragraph (b)*, by inserting after the words "falls within the" the words "Vice-President's or";
- (ii) *by repealing clause (2)* and substituting the following clause—
- "(2) The Vice-President, a Minister or, where a matter falls within the responsibility of the President, the Vice-President or a Minister designated by the President shall attend a meeting of the National Assembly when it is necessary for the purpose referred to in clause (1)(b) or (c).";
- (n) *in article 94(1)*, by repealing the words "exercised by a Minister" and substituting the words "exercised by the Vice-President or a Minister";
- (o) *in article 112(3)* —
- (i) *in subclause (b)*, by repealing the semi colon and substituting a full stop;
- (ii) *by repealing subclause (c)*;
- (p) *in article 115(2)(b)*, by inserting after the word "President" the words ", Vice-President";
- (q) *in article 140* —
- (i) *in clause (3)*, by inserting after the words "clause (1)(a)" the words "or clause (4)(a) or (b)";
- (ii) *in clause (4)* —
- A. *in subclause (b)*, by repealing the full stop at the end of the subclause and substituting a semi colon;
- B. *by inserting after subclause (b)* the following subclauses —

- “(c) the two members of the Constitutional Appointments Authority appointed under clause (1)(a) or subclause (a) or (b) of this clause fail to propose a list of candidates for the office of member and Chairman of the Authority to the President within the time prescribed in clause (3), the National Assembly shall propose the list of candidates to the President who shall within 7 days after receiving the list appoint one of the candidates as member and Chairman of the Authority;
- (d) the President fails to appoint the third member and Chairman of the Authority within the time prescribed in clause (3) or subclause (c) of this clause, the National Assembly shall appoint the third member and Chairman;
- (e) the third member and Chairman of the Constitutional Appointments Authority ceases to hold office other than by expiration of the period of office, clauses (1)(b) and (3) and this clause shall apply to the appointment of the third member and Chairman as if the period specified in clause (1)(b) begins on the date the member and Chairman ceases to hold office.”;

(r) **in article 143(2)(d) —**

- (i) by inserting after the words “Minister or” the words “the Vice-President or”;
- (ii) by inserting after the word “under this Constitution” the words “or has been designated as a candidate’s Vice-President at an election for President”;

(s) **in article 148 —**

- (i) **in clause (3)**, by inserting after the words “clause (1)(a)” the words “or clause (4)(a) or (b)”;

(ii) **in clause (4) —**

- A. **in subclause (b)**, by repealing the full stop at the end of the subclause and substituting a semi colon;
- B. **by inserting after subclause (b)** the following subclause —

“(c) the two members of the Public Service Appeal Board appointed under clause (1)(a) or subclause (a) or (b) of this clause fail to propose a list of candidates for the office of member and Chairman of the Board to the President within the time prescribed in clause (3), the National Assembly shall propose the list of candidates to the President who shall within 7 days after receiving the list appoint one of the candidates as member and Chairman of the Board;

- (d) the President fails to appoint the third member and Chairman of the Public Service Appeal Board within the time prescribed in clause (3), the National Assembly shall appoint the third member and Chairman.
 - (e) the third member and Chairman of the Public Service Appeal Board ceases to hold office other than by expiration of the period of office, clauses (1)(b) and (3) and this clause shall apply to the appointment of the third member and Chairman as if the period specified in clause (1)(b) begins on the date the member and Chairman ceases to hold office.”;
- (t) **in article 154(9)**, in the definition of Minister, by inserting after the word “finance” the words “and includes the Vice-President where the Vice-President is responsible for the Ministry or department of finance”;
- (u) **in Schedule 2**, by inserting in its alphabetical order the following definition—
- “designated Minister” means the Minister designated under article 75;”;
- (v) **in Schedule 3, in paragraph 2(1)(a)**, by inserting after the word “election” where it occurs first the words “the name of the other person the candidate designates as the candidate’s Vice- President together with a written consent accepting to be so designated signed by the other person and attested to the satisfaction of the Electoral Commissioner by a notary in Seychelles and”;

(w) **in Schedule 4 —**

- (i) *by repealing paragraph 2* and substituting the following paragraph —

“2. A political party which has nominated one or more candidates in a general election and has polled in respect of the candidates in aggregate 10% or more of the votes cast at the election may nominate a proportionally elected member for each 10% of the votes polled.”;

- (ii) *by repealing paragraph 3;*

- (iii) *by renumbering paragraphs 4 and 5* as paragraphs 3 and 4 respectively.;

(x) **in Schedule 5 —**

- (i) *in paragraph 1 —*

A. *in subparagraph (1)(a)*, by inserting after the word “President,” the word “Vice-President,”;

B. *in subparagraph 2*, by inserting after the word “President” wherever it appears the words “or Vice-President”;

- (ii) *in paragraph 2(a)*, by inserting after the word “President” the words “or Vice-President”;

- (iii) *in paragraph 6 —*

A. *in subparagraph (1)*, by inserting after the word “President” wherever it occurs the words “Vice-President.”;

B. *by repealing subparagraph (2)* and substituting the following sub-paragraph —

“(2) The Ombudsman shall, where the report is not required to be sent to the President, Vice-President or Minister, send a copy of the report to the President and where relevant to the Vice-President and any relevant Minister.”;

C. *in subparagraph (5)*, by inserting after the word “President” the words “, Vice-President”;

(y) **in Schedule 6**, by inserting at the end of the Schedule the following —

“ Vice-Presidential Oath

I do swear/solemnly and sincerely declare and affirm/that I will faithfully and diligently perform any duties and discharge any functions in the office of Vice-President, that I will be faithful to the Republic of Seychelles, **that I will uphold the Constitution and the laws of Seychelles and that I will dedicate my abilities to the service and welfare of the people of Seychelles without fear or favour, affection or ill will.**

SO HELP ME GOD ”;

4. (1) ~~On the coming into operation of this Act —~~

Transitional

- (a) the Minister who immediately before the coming into operation of this Act was the Minister designated first in the order of preference shall become, subject to subsection (2) hold office as and perform the function of Vice-President in accordance with the Constitution;
- (b) the Minister who immediately before the coming into operation of this Act was the Minister designated second ~~in the order of preference shall become, subject to subsection (2) hold office as and perform the function of designated Minister in accordance with the Constitution.~~

(2) On the resignation of the President —

- (a) the person who becomes Vice-President as a result of the operation of subsection (1) shall not assume the office of President under article 55(1);
- (b) the functions of the President shall be discharged by the incumbent President until the election of the President but the incumbent President shall not have power to revoke the appointment of a Minister or invoke article 110.

(3) Until the enactment of the Act under article 66A(12) the person who becomes Vice-President as a result of the operation of this section shall continue to receive the salary, allowance and gratuity the person was receiving as Minister designated first in the order of preference immediately before becoming Vice-President.

(4) The period which the person who becomes Vice-President under subsection (1)(a) serves as Vice-President pursuant to that subsection shall not be counted for the purposes of article 66A(7).

I certify that 23 members of the National Assembly voted for the Bill at the sitting of the National Assembly held on 23rd July, 1996 when the Bill as a whole was put to the vote in the Assembly.

F. MacGregor
Speaker of the National Assembly

I certify that this is a correct copy of the Bill which was passed
by the National Assembly on 23rd July, 1996.

Sheila Gemmell
Clerk to the National Assembly