

HEALTH CARE AGENCY ACT, 2013

(Act 10 of 2013)

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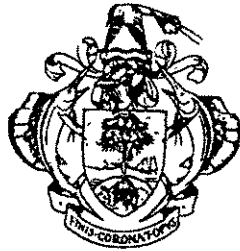
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HEALTH CARE AGENCY ACT, 2013

(Act 10 of 2013)

I assent



A handwritten signature in cursive script, appearing to read "Michel".

J. A. Michel
President

14th November, 2013

AN ACT to establish a Health Care Agency and to provide for matters connected therewith or incidental thereto.

ENACTED by the President and the National Assembly.

PART I – PRELIMINARY

1. This Act may be cited as the Health Care Agency Act, 2013 and shall come into operation on such date as the Minister may, by Notice published in the *Gazette*, appoint.

Short title and commencement

Interpretation

2. In this Act—

“Agency” means the Health Care Agency established under section 3;

“Board” means the Health Care Agency Board established under section 7;

“Chief Executive Officer” means the Chief Executive Officer appointed under section 11;

“community health care facility” means a facility specified in Part B of the First Schedule;

“community health care services” means primary health care services delivered or provided by a —

- (a) community health care facility;
- (b) person employed by the Agency, in the course of that person's employment, at a place other than a community health care facility;

“Deputy Chief Executive Officer” means the Deputy Chief Executive Officer appointed under section 12;

“Director of Seychelles Hospital” means the Director of Seychelles Hospital appointed under section 13;

“Director of Community Health Services” means Director of Community Health Services appointed under section 14;

“essential medicines” means medicines that satisfy the priority health care needs of the population as determined by the Ministry;

“health care services” means primary, secondary and tertiary health care services;

“Member” means a member of the Board;

“Minister” means the Minister responsible for Health, and “Ministry” is construed accordingly;

“prescribed” means prescribed by regulations made under section 24;

“primary health care” means the basic level of promotive, preventive, diagnostic, curative or rehabilitative health services provided by a health care professional at the first point of care, and includes —

- (a) prevention, diagnosis and treatment of common ailments;
- (b) emergency health care;
- (c) reproductive and sexual health service including family planning;
- (d) immunisations, pre-natal care, parent and child health services;
- (e) individual or group health education and promotion services;
- (f) laboratory, X-ray and other diagnostic services;
- (g) nutrition education services;
- (h) health screening;
- (i) home health care;

- (j) dental care;
- (k) environmental health and other public health services;
- (l) mental health services;
- (m) physiotherapy and occupational therapy services;

“secondary health care” means the diagnostic, curative or rehabilitative health care, provided by specialist health care professionals at a health care facility offering secondary health care to which a patient is referred by a primary or secondary health care provider;

“Seychelles Hospital” —

- (a) means the health care facility specified in Part A of the First Schedule which provides health care services and related services to patients admitted or referred to that facility; and
- (b) includes the health care facilities known as—
 - (i) Seychelles Hospital situated at Mont Fleuri, Mahe;
 - (ii) North East Point Hospital situated at North East Point, Mahe; and
 - (iii) Wellness Centre situated at Les Cannelles, Mahe;

“tertiary health care” means a specialised, highly technical level of health care for which a patient is referred by a secondary health care provider.

PART II – HEALTH CARE AGENCY

3.(1) There is hereby established for the purpose of this Act, an agency to be known as the Health Care Agency.

Establishment of
the Health Care
Agency

(2) The Agency shall, by the name assigned to it in subsection (1), be a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate name.

4.(1) The principal object of the Agency is to promote, protect and restore the health of the public.

Object of the
Agency

(2) The Agency in carrying out its objectives shall —

(i) take appropriate measures to prevent, treat and control illness and to prevent disability and death resulting from illness or other causes; and

(ii) meet the prescribed requirements and standards for the provision and delivery of health care services.

5. The functions of the Agency are to —

Functions of
the Agency

(a) plan, deliver and evaluate primary, secondary and tertiary health care services to the public in accordance with —

(i) Government policies and programmes;

(ii) requirements and standards for the provision or delivery of such services;

(b) provide and deliver health care services within the available budget while meeting priority needs of the population;

- (c) establish procedures and ensure —
 - (i) that the public has access to essential medicines and medical supplies as and when required;
 - (ii) that medicines comply with the requirements under any other written law;
- (d) establish and evaluate structures and processes to improve the quality of health care;
- (e) promote research for the improvement of the health care services;
- (f) participate in the development of Government health policies and plans;
- (g) report accurately, comprehensively and in a timely manner, on the provision and delivery of health care services, to the Minister;
- (h) develop annual plans for infrastructure, equipment, human and financial resources;
- (i) ensure the well-being and continuous professional development of health care professionals;
- (j) collaborate with non government institutions locally and abroad to provide and deliver quality health care services;
- (k) educate patients on their rights and responsibilities relating to health care;
- (l) facilitate participation of the community and other sectors in health planning and evaluation;

- (m) increase the integration, adaptability and responsiveness of the health system; and
- (n) perform such other functions as may be prescribed by the Minister.

6. The Minister may give directions in writing to the Agency on matters of policy and general administration.

Power of the Minister to issue policy directives to the Agency

PART III – HEALTH CARE AGENCY BOARD

7.(1) There is hereby established a Board to be known as the Health Care Agency Board consisting of 13 members appointed by the President by notice published in the *Gazette*, on such terms and conditions as the President may determine.

Establishment and composition of the Board

(2) The Agency shall be administered by the Board which shall consist of—

- (a) a Chairperson and 8 Members qualified and having experience in the fields of health services management, clinical governance, governance and compliance, financial management, business administration, human resources development, law or any other relevant field; and
- (b) the Chief Executive Officer, the Deputy Chief Executive Officer, the Director of the Seychelles Hospital, and the Director of the Community Health Services who shall be *ex officio* members of the Board.

(3) The Members appointed to the Board under subsection (2) (b) shall have no right to vote at any proceedings of the meetings of the Board.

8. The functions of the Board are to—

Functions of the Board

- (a) provide direction to the Chief Executive Officer for the effective performance, functions and discharge of his or her duties;
- (b) set performance targets in consultation with the Minister and monitor the Agency's performance and progress of the targets.

Procedures and proceedings of the Board

9. The Second Schedule has effect with respect to the procedures and proceedings of the Board.

Committees

10.(1) There shall be Committees of the Board to review, monitor and evaluate specific strategic issues, as prescribed.

PART IV – CHIEF EXECUTIVE OFFICER, OTHER OFFICERS AND STAFF OF THE AGENCY

Chief Executive Officer

11.(1) The President shall appoint a person to be the Chief Executive Officer of the Agency, on such terms and conditions as the President may determine.

(2) The Chief Executive Officer shall be appointed for a term of three years and be eligible for re-appointment.

(3) The Chief Executive Officer shall be responsible for the administration and management of the day-to-day operations of the Agency in accordance with the directions of the Board.

Deputy Chief Executive Officer

12.(1) The President shall appoint a person to be the Deputy Chief Executive Officer of the Agency, on such terms and conditions as the President may determine.

(2) The Deputy Chief Executive Officer shall be responsible to the Chief Executive Officer for the performance of his or her functions under this Act and shall —

- (a) perform the functions conferred on the Deputy Chief Executive Officer by the Chief Executive Officer; and

- (b) perform the functions of the Chief Executive Officer whenever the Chief Executive Officer is unable to do so.

13.(1) The Minister shall, in consultation with the Board, appoint a person who is suitably qualified and experienced to be the Director of the Seychelles Hospital, on such terms and conditions as the Minister may determine.

Director of
Seychelles
Hospital

(2) The Director of Seychelles Hospital shall have overall responsibility for the day to day operation of the Seychelles Hospital and for planning, directing and coordinating the provision and delivery of health care services by the Seychelles Hospital.

(3) The Director of Seychelles Hospital shall be responsible to the Chief Executive Officer, for the performance of his or her functions under this Act.

14.(1) The Minister shall, in consultation with the Board, appoint a person who is suitably qualified and experienced to be the Director of Community Health Services, on such terms and conditions as the Minister may determine.

Director of
Community
Health
Services

(2) The Director of Community Health Services shall have overall responsibility for the provision and delivery of community health care services by the health care facilities providing such services.

(3) The Director of Community Health Services shall be responsible to the Chief Executive Officer, for the performance of his or her functions under this Act.

15.(1) The Agency shall employ officers and other members of staff as are reasonably necessary for the effective performance of the Agency's functions, on such terms and conditions determined by the Agency and subject to procedures applicable to employees of public bodies.

Officers and
other staff of
the Agency

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

PART V – FINANCIAL PROVISIONS

Fund of the
Agency

16.(1) The Agency shall function through the moneys appropriated by the Appropriation Act subject to the provisions of this Act and be administered in the same manner and in accordance with the same procedures applicable to the funds of the public service and from which all payments by the Agency shall be made.

(2) The fund of the Agency shall consist of—

- (a) moneys appropriated by an Appropriation Act, approved by the National Assembly for the use of the Agency; and
- (b) moneys received by the Agency by way of grants, donations and gifts from any legal source, whether domestic or foreign.

(3) The fund of the Agency may be applied for—

- (a) the payment or discharge of expenses, debts and other obligations incurred in the performance of the functions of the Agency; and
- (b) the payment of remuneration to the members of the Board and officers and employees of the Agency.

Fees and
Revenue
generated
by Agency

17.(1) The Agency may charge fees at prescribed rates, for health care services other than primary health care services, provided or delivered by it.

(2) The moneys received by the Agency by way of fees or charges for services provided by the Agency shall be paid into the Consolidated Fund.

18.(1) The financial year of the Agency shall be the calendar year.

Accounts and
audit

(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) Article 158 of the Constitution shall apply in respect of the auditing of the accounts of the Agency.

(4) Where the accounts and statement of accounts of the Agency in respect of any financial year has been audited, the Agency shall submit to the Minister and the Minister for Finance, a copy of the statement together with a copy of any report of the Auditor General on the accounts or statement of accounts of the Agency.

19. The Agency shall prepare, within three months following every calendar year, an annual report giving full account of its activities during the previous year and forward copies together with the statement of account audited under section 18 to the Minister and the Minister shall cause the report to be tabled before the National Assembly.

Annual
report

20. The Agency shall prepare and submit to the Minister and the Minister responsible for Finance, at least 90 days before the beginning of each financial year an annual financial statement for the next financial year showing separately—

Financial
statement

- (a) the expenditure which is proposed to be met from internal sources of the Agency; and
- (b) the sum required from the government to meet other expenses distinguishing revenue expenditure from other expenditure.

PART VI – MISCELLANEOUS

Application of
the Penal Code

21. All members of the Board or Committees, the Chief Executive Officer, the Deputy Chief Executive Officer, the Director of Seychelles Hospital, the Director of Community Health Services and officers and employees of the Agency shall be deemed to be employed in the public service for the purpose of sections 91 to 96 of the Penal Code.

Protection of
acts done in
good faith

22. Any suit or other legal proceedings shall not lie against the Agency, Chairperson, members, officers or employees of the Agency in respect of an act done or intended to be done in good faith in pursuance of this Act.

Disclosure of
information

23. A member of the Board or a Committee, the Chief Executive Officer, the Deputy Chief Executive Officer, the Director of Seychelles Hospital, the Director of Community Health Services, an officer, employee or agent of the Agency, who without lawful authority or reasonable excuse discloses, publishes or communicates to another person any information acquired by reason of their office or employment, commits an offence and is liable on conviction to a fine not exceeding SCR20,000.

Regulations

24.(1) The Minister may in consultation with the Board, make regulations for giving effect to the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the Minister may make regulations —

- (a) amending the Schedules;
- (b) prescribing fees and charges in connection with public health services other than primary health care services, provided or delivered by the Agency;
- (c) prescribing requirements and standards for the provision or delivery of health care services by the Agency;

- (d) for Board committees;
- (e) prescribing any matter required to be prescribed under this Act.

25.(1) All officers and other employees of the Ministry, whose duties involved the provision or delivery of health care services, employed prior to the commencement of this Act shall be deemed to be officers and employees of the Agency on conditions no less favourable than those subsisting prior to the commencement of this Act.

Savings and
transitional
provisions

(2) All agreements, deeds, bonds, arrangements relating to the the provision of health care services to which the Government was a party, immediately prior to the coming into operation of this Act, shall continue in force as if the Agency had been a party to the deed, bond, agreement, arrangement at the commencement of this Act.

(3) Any suit or legal proceedings pending or which have been instituted by or against the Government, immediately before the commencement of this Act, and which relate to the provision of health care services shall be continued or instituted as if the Agency had been a party to the suit or proceeding, as from the commencement of this Act.

26.(1) Any movable property vested in the Government immediately prior to the commencement of this Act and used or managed by the Ministry for the provision or delivery of health care services shall be transferred and vested in the Agency at the commencement of this Act.

Transfer of
property to
the Agency

(2) Where a question arises as to whether a particular movable property 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 was or was not transferred or vested.

FIRST SCHEDULE*Section 2***Health Care Facilities****Part A****Seychelles Hospital****Part B****Community Health Care Facilities**

1. Anse Aux Pins Health Centre
 2. Anse Boileau Health Centre
 3. Anse Royale Hospital and Health Centre
 4. Baie Lazare Health Centre
 5. Beau Vallon Health Centre
 6. Beolierie Health Centre
 7. English River Health Centre
 8. Glacis Health Centre
 9. Grand Anse Praslin Health Centre
 10. La Digue Logan Hospital
 11. Les Mamelles Health Centre
 12. Mont Fleuri Health Centre
 13. North East Point Home for the Elderly
 14. Port Glaud Health Centre
 15. Praslin Hospital and Health Centre
 16. Silhouette Health Centre
 17. Souvenir Health Centre
 18. Takamaka Health Centre
 19. Youth Health Centre
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SECOND SCHEDULE

Section 9

Procedures and proceedings of the Board

1. A member of the Board shall hold office for a period of three years and is eligible for re-appointment but shall not be eligible to hold office for more than three terms.

Terms of office
of members

2.(1) The Chairperson or any member of the Board may resign from office by giving three months notice to the President.

Vacation of
office

(2) The President may remove the Chairperson or any member from office if the President is satisfied that the Chairperson or member, as the case may be—

- (a) is for whatever reason incapable of performing the functions of his or her office;
- (b) has neglected his or her duties as the Chairperson or a member or is guilty of misconduct;
- (c) is convicted of an offence and is sentenced to a term of imprisonment of three months or more; or
- (d) is absent for three consecutive meetings of the Board without prior leave of the Chairperson and in the case of the Chairperson, the Minister.

(3) Where a member resigns or is removed from office, or for whatever reason, the office of a member becomes vacant before the expiry of the term of office of that member, the President shall appoint a person to hold office for the remaining period of office of that member and shall cause the name of that person to be published in the Gazette.

(4) The validity of a proceeding of the Board is not affected by a vacancy among its members or a defect in the appointment or qualification of a member.

Meetings of Board

3.(1) Subject to subparagraph (2), the Board shall meet whenever necessary or expedient for the transaction of the Board's business and the meetings are to be held at the places and times that the Board determines.

(2) The Board shall meet at least four times a year.

(3) A quorum for a meeting of the Board shall be five members.

Chairperson to preside over meeting

4.(1) The Chairperson shall preside at a meeting of the Board.

(2) In the absence of the Chairperson, the members present shall elect from among themselves a member who shall preside at the meeting of the Board.

Decisions of Board

5. The decisions of the Board shall be taken by a simple majority of votes of the members present and voting, and each member shall have one vote but in the event of an equality of votes, the Chairperson or other person presiding at the meeting shall have a casting vote.

Power of Board to co-opt

6.(1) The Board may co-opt a person to take part in its proceedings on a matter, where the Board is satisfied that the experience or qualifications of that person are likely to assist the Board on that matter.

(2) A person co-opted under subparagraph (1) has no right to vote on any matter before the Board.

Disclosure of interest

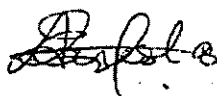
7. The Chairperson or a member of the Board who is directly or indirectly interested in a matter being dealt with by the Board shall —

- (a) disclose the nature of such interest before or at a meeting of the Board; and
- (b) not take part in any deliberation or decision of the Board with respect to that matter.

8. Subject to the provisions of this Act, the Board shall regulate its own proceedings.

Regulation of
proceedings

I certify that this is a correct copy of the Bill which was passed by the National Assembly on 5th November, 2013.



Azarel Ernesta
Clerk to the National Assembly