

# Constitution of Seychelles

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## CHAPTER 1

### THE REPUBLIC OF SEYCHELLES

#### Article 1

Seychelles is a sovereign democratic Republic.

#### Article 2

1. The territory of Seychelles shall consist of –

- a. the islands of the Seychelles Archipelago, as set out in Part 1 of Schedule 1;
- b. the territorial waters and historic waters of Seychelles and the seabed and subsoil underlying those waters;
- c. the airspace above those islands and those waters; and
- d. such additional areas as may be declared by law to be part of the territory of Seychelles.

2. Notwithstanding clause (1), a law may proclaim complete or partial jurisdiction of the Republic over any other area of land, water or airspace.

3. An Act shall declare the limit of the territorial waters and historic waters of Seychelles and may prescribe the limit of the airspace referred to in clause (1)(c).

#### Article 3

There shall be a Public Seal, a National Flag, a National Anthem, a National Emblem and a National Motto, each of which shall be as prescribed by an Act.

#### Article 4

1. The national languages of Seychelles shall be Creole, English and French.

2. Notwithstanding clause (1), a person may use any of the national languages for any purpose but a law may provide for the use of any one or more of the national languages for any specific purpose.

#### Article 5

This Constitution is the supreme law of Seychelles and any other law found to be inconsistent with this Constitution is, to the extent of the inconsistency, void.

#### Article 6

Schedule 2 shall apply for and with respect to the interpretation of this Constitution.

## CHAPTER II

### CITIZENSHIP

#### Article 7

A person who, immediately before the coming into force of this Constitution, was a citizen of Seychelles by birth, descent, naturalization or registration shall, on and after that date, continue by virtue of this Article to be a citizen of Seychelles by birth, descent, naturalization or registration, as the case may be.

#### Article 8

Subject to Article 9, a person born in Seychelles on or after the coming into force of this Constitution, shall become a citizen of Seychelles at the date of birth.

#### Article 9

1. A person shall not become a citizen of Seychelles by virtue of Article 8 if, at the date of birth, neither of the person's parents is a citizen of Seychelles.

2. A person shall not become a citizen of Seychelles by virtue of Article 8 if, at the date of birth, –

a. either of the person's parents possesses such immunity from suit and legal process as is accorded to an envoy of a foreign sovereign power accredited to Seychelles; or

b. either of the person's parents is a citizen of a country with which Seychelles is at war and the birth occurs in a place then under occupation by that country, and neither of the person's parents is a citizen of Seychelles.

#### Article 10

1. This Article shall apply to a person –

a. who would not, but for this Article be or become a citizen of Seychelles;

b. who was born outside Seychelles before Independence Day; and

c. any one of whose grand parents or parents was born in Seychelles.

2. Subject to any Act, a person to whom this Article applies shall be eligible to become a citizen of Seychelles by naturalization or registration.

#### Article 11

A person born outside Seychelles on or after the coming into force of this Constitution shall become a citizen of Seychelles at the date of birth if at that date the person's father

or mother is a citizen of Seychelles.

#### Article 12

1. A person who, on or after the coming into force of this Constitution, marries another person who is or becomes a citizen of Seychelles shall, subject to any Act, be eligible to become a citizen of Seychelles by naturalization and that person shall, for this purpose, be deemed to have completed any qualifying period of residence upon taking up residence in Seychelles.

2. Clause (1) shall apply to a person who is not a citizen of Seychelles or eligible to become a citizen of Seychelles under Article 10 and who, on or after Independence Day, and before the coming into force of this Constitution, married another person who was or became, or who becomes, a citizen of Seychelles, as it applies to a person such as is referred to in clause (1).

#### Article 13

1. Provision may be made by or under an Act –

- a. for the acquisition of citizenship of Seychelles by any person who is not eligible or who is no longer eligible to become a citizen of Seychelles under this Chapter;
- b. for depriving any person of citizenship of Seychelles, if it was unlawfully acquired;
- c. for the renunciation of citizenship of Seychelles by any person; and
- d. for the maintenance of a register of citizens of Seychelles who are also citizens of other countries.

2. A person who is a citizen of Seychelles may concurrently possess the citizenship of another country and a law made for the purposes of clause (1)(a) shall not require, as a condition for the acquisition of citizenship of Seychelles, that a person renounces any other citizenship that the person may possess at the time.

#### Article 14

1. For the purposes of this Chapter –

- a. a person born on a registered ship or aircraft shall be deemed to have been born at the place where the ship or aircraft was registered; and
- b. a person born on an unregistered ship or aircraft belonging to the government of a country shall be deemed to have been born in that country.

2. Any reference in this Chapter to the national status of the father or mother of a person

at the time of the birth of that person shall, in relation to a person born after the death of the father or mother, be construed as a reference to the national status of the father or mother at the time of the father's or mother's death; and accordingly, where that death occurred before the coming into force of this Constitution, the national status that the father or mother would have had if he or she had died on the coming into force of this Constitution shall be deemed to be his or her national status at the time of his or her death.

## CHAPTER III

### PART I

#### SEYCHELLOIS CHARTER OF FUNDAMENTAL HUMAN RIGHTS AND FREEDOMS

##### Article 15

1. Everyone has a right to life and no one shall be deprived of life intentionally.
2. A law shall not provide for a sentence of death to be imposed by any court.
3. Clause (1) is not infringed if there is a loss of life –
  - a. by any act or omission which is made not punishable by any law reasonably justifiable in a democratic society; or
  - b. as a result of a lawful act of war.

##### Article 16

Every person has a right to be treated with dignity worthy of a human being and not to be subjected to torture, cruel, inhuman or degrading treatment or punishment.

##### Article 17

1. Every person has a right not to be held in slavery or bondage.
2. Every person has a right not to be compelled to perform forced or compulsory labour.
3. Labour forced or compelled to be performed pursuant to a law necessary in a democratic society does not infringe clause (2).

##### Article 18

1. Every person has a right to liberty and security of the person.
2. The restriction, in accordance with fair procedures established by law, of the right under clause (1) in the following cases shall not be treated as an infringement of clause (1) –

- a. the arrest or detention in execution of a sentence or other lawful order of a court;
- b. the arrest or detention on reasonable suspicion of having committed or of being about to commit an offence for the purposes of investigation or preventing the commission of the offence and of producing, if necessary, the offender before a competent court;
- c. the arrest or detention to prevent the spread of infectious or contagious diseases which constitute a serious threat to public health;
- d. the arrest or detention for the treatment and rehabilitation of a person who is, or reasonably suspected to be, of unsound mind or addicted to drugs to prevent harm to that person or to the community;
- e. the arrest or detention for the purpose of preventing the unauthorised entry into Seychelles of a person, not being a citizen of Seychelles, or for the purpose of deportation or extradition of that person;
- f. the detention for the rehabilitation and welfare of a minor with the consent of the parent or guardian or of the Attorney-General where such detention is ordered by a competent court.

3. A person who is arrested or detained has a right to be informed at the time of arrest or detention or as soon as is reasonably practicable thereafter in, as far as is practicable, a language that the person understands of the reason for the arrest or detention, a right to remain silent, a right to be defended by a legal practitioner of the person's choice and, in the case of a minor, a right to communicate with the parent or guardian.

4. A person who is arrested or detained shall be informed at the time of the arrest or detention or as soon as is reasonably practicable thereafter of the rights under clause (3).

5. A person who is arrested or detained, if not released, shall be produced before a court within twenty-four hours of the arrest or detention or, having regard to the distance from the place of arrest or detention to the nearest court or the non-availability of a judge or magistrate, or force majeure, as soon as is reasonably practicable after the arrest or detention.

6. A person charged with an offence has a right to be tried within a reasonable time.

7. A person who is produced before a court shall be released, either unconditionally or upon reasonable conditions, for appearance at a later date for trial or for proceedings preliminary to a trial except where the court, having regard to the following

circumstances, determines otherwise –

- a. where the court is a magistrates' court, the offence is one of treason or murder;
- b. the seriousness of the offence;
- c. there are substantial grounds for believing that the suspect will fail to appear for the trial or will interfere with the witnesses or will otherwise obstruct the course of justice or will commit an offence while on release;
- d. there is a necessity to keep the suspect in custody for the suspect's protection or where the suspect is a minor, for the minor's own welfare;
- e. the suspect is serving a custodial sentence;
- f. the suspect has been arrested pursuant to a previous breach of the conditions of release for the same offence.

8. A person who is detained has the right to take proceedings before the Supreme Court in order that the Court may decide on the lawfulness of the detention and order the release of the person if the detention is not lawful.

9. Proceedings under clause (8) shall be dealt with as a matter of urgency by the Supreme Court and shall take priority over other proceedings of the Court listed for hearing on that day.

10. A person who has been unlawfully arrested or detained has a right to receive compensation from the person who unlawfully arrested or detained that person or from any other person or authority, including the State, on whose behalf or in the course of whose employment the unlawful arrest or detention was made or from both of them.

11. A person who has not been convicted of an offence, if kept or confined in a prison or place of detention, shall not be treated as a convicted person and shall be kept away from any convicted person.

12. An offender or a suspect who is a minor and who is kept in lawful custody or detention shall be kept separately from any adult offender or suspect.

13. A female offender or suspect who is kept in lawful custody or detention shall be kept separately from any male offender or suspect.

14. Where a person is convicted of any offence, any period which the person has spent in custody in respect of the offence shall be taken into account by the court in imposing any sentence of imprisonment for the offence.

15. A person shall not be imprisoned merely on the ground of the inability to fulfil a contractual obligation.

16. Clause (15) shall not limit the powers of a court under any law in enforcing its orders.

#### Article 19

1. Every person charged with an offence has the right, unless the charge is withdrawn, to a fair hearing within a reasonable time by an independent and impartial court established by law.

2. Every person who is charged with an offence –

a. is innocent until the person is proved or has pleaded guilty;

b. shall be informed at the time the person is charged or as soon as is reasonably practicable, in, as far as is practicable, a language that the person understands and in detail, of the nature of the offence;

c. shall be given adequate time and facilities to prepare a defence to the charge;

d. has a right to be defended before the court in person, or, at the person's own expense by a legal practitioner of the person's own choice, or, where a law so provides, by a legal practitioner provided At public expense;

e. has a right to examine, in person or by a legal practitioner, the witnesses called by the prosecution before any court, and to obtain the attendance and carry out the examination of witnesses to testify on the person's behalf before the court on the same conditions as those applying to witnesses called by the prosecution;

f. shall, as far as is practicable, have without payment the assistance of an interpreter if the person cannot understand the language used at the trial of the charge;

g. shall not be compelled to testify at the trial or confess guilt;

h. shall not have any adverse inference drawn from the exercise of the right to silence either during the course of the investigation or at the trial; and

i. shall, except with the person's own consent, not be tried in the person's absence unless the person's conduct renders the continuance of the proceedings in the person's presence impracticable and the court has ordered the person to be removed and the trial to proceed in the person's absence.

3. When a person is tried for any offence that person or any other person authorised by that person, in that behalf shall, if either of them so requires and subject to payment of

such reasonable fee as may be specified by or under any law, be given as soon as is practicable after judgment a copy for the use of that person of any record of the proceedings made by or on behalf of the court.

4. Except for the offence of genocide or an offence against humanity, a person shall not be held to be guilty of an offence on account of any act or omission that did not, at the time it took place, constitute an offence, and a penalty shall not be imposed for any offence that is more severe in degree or description than the maximum penalty that might have been imposed for the offence at the time when it was committed.

5. A person who shows that the person has been tried by a competent court for an offence and either convicted or acquitted shall not be tried again for that offence or for any other offence of which the person could have been convicted at the trial for that offence, save upon the order of a superior court in the course of appeal or review proceedings relating to the conviction or acquittal.

6. A person shall not be tried for an offence if the person shows that the person has been pardoned for that offence in accordance with an Act made pursuant to Article 60(2).

7. Any court or other authority required or empowered by law to determine the existence or extent of any civil right or obligation shall be established by law and shall be independent and impartial; and where proceedings for such a determination are instituted by any person before such a court or other authority the case shall be given a fair hearing within a reasonable time.

8. Subject to clause (9), all proceedings of every court and proceedings for the determination of the existence or extent of any civil right or obligation before any court or other authority, including the announcement of the decision of the court or other authority, shall be held in public.

9. Anything in clause (8) shall not prevent the court or other authority from excluding from the proceedings, except for the announcement of the decision of the court or other authority, persons other than the parties thereto, their legal representatives and legal practitioners to such extent as the court or other authority –

a. may by law be empowered so to do and may consider necessary in the circumstances where publicity would prejudice the interests of justice, or in interlocutory proceedings, or in the interests of public morality, the welfare of persons under the age of eighteen

years or the protection of the privacy of persons concerned in the proceedings; or

b. may by law be empowered or required to do so in the interests of defence, public safety or public order.

10. Anything contained in or done under the authority of any law necessary in a democratic society shall not be held to be inconsistent with or in contravention of –

a. clause (1), (2)(e) or (8), to the extent that the law in question makes necessary provision relating to the grounds of privilege or public policy on which evidence shall not be disclosed or witnesses are not competent or cannot be compelled to give evidence in any proceedings;

b. clause (2)(a), to the extent that the law in question imposes upon any person charged with an offence the burden of proving particular facts or declares that the proof of certain facts shall be prima facie proof of the offence or of any element thereof;

c. clause (2)(e), to the extent that the law in question imposes conditions that must be satisfied if witnesses called to testify on behalf of an accused person are to be paid their expenses out of public funds;

d. clause (5), to the extent that the law in question authorises a court to try a member of a disciplinary force for an offence notwithstanding any trial and conviction or acquittal of that member under the disciplinary law of that force, so, however, that any court so trying such a member and convicting the member shall in sentencing the person to any punishment take into account any punishment awarded the member under that disciplinary law.

11. Every person convicted of an offence shall be entitled to appeal in accordance with law against the conviction, sentence and any order made on the conviction.

12. For the purposes of clause 2(i), a person who has, in accordance with law, been served with a summons or other process requiring the person to appear at the time and place appointed for the trial and who does not so appear shall be deemed to have consented to the trial taking place in the person's absence.

13. Every person convicted of an offence and who has suffered punishment as a result of the conviction shall, if it is subsequently shown that there has been a serious miscarriage of justice, be entitled to be compensated by the State according to law.

1. Every person has a right not to be subjected –

a. without the consent of that person, to the search of the person or property or premises of that person or to the unlawful entry by others on the premises of that person;

b. without the consent of the person or an order of the Supreme Court, to the interception of the correspondence or other means of communication of that person either written, oral or through any medium.

2. Anything contained in or done under the authority of any law shall not be held to be inconsistent with or in contravention of clause (1) (a) to the extent that the law in question makes provision –

a. that is reasonably required in the interest of defence, public safety, public order, public morality, public health, the administration of Government, town and country planning, nature conservation and the economic development and well-being of the country;

b. that is reasonably required for the purpose of protecting the rights or freedoms of other persons;

c. that authorises an officer or agent of the Government or a local authority, or a body corporate established by law for public purposes, to enter on the premises of any person in order to inspect or value those premises or anything therein for the purpose of any tax, rate, due or duty or in order to carry out work connected with any property that is lawfully on those premises and that belongs to the Government or that authority or body corporate, as the case may be; or

d. that authorises, for the purpose of enforcing of the judgment or order of a court in any civil proceedings, the search of any person or property by order of a court or the entry upon any premises by such order, except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be necessary in a democratic society.

#### Article 21

1. Every person has a right to freedom of conscience and for the purpose of this Article this right includes freedom of thought and religion, freedom to change religion or belief and freedom either alone or in community with others and both in public and in private, to manifest and propagate the religion or belief in worship, teaching, practice and observance.

2. The freedom to manifest and propagate a religion or belief may be subject to such limitations as may be prescribed by a law and necessary in a democratic society –
  - a. in the interests of defence, public safety, public order, public morality or public health;or
  - b. for the purpose of protecting the rights or freedoms of other persons.
3. A person attending any place of education shall not be compelled to impart or receive religious instruction or to take part in or attend any religious ceremony or observance.
4. Subject to this Constitution or any other law, a person shall not be compelled to take any oath that is contrary to the religion or belief of that person or to take any oath in a manner that is contrary to that religion or belief.
5. A person shall not be required to profess any religion as a qualification for public office.
6. A law shall not make provision for the establishment of any religion or the imposition of any religious observance.
7. Anything in this Article shall not preclude any religious community or denomination from providing religious instruction for persons of that community or denomination in the course of any education provided by that community or denomination.

## Article 22

1. Every person has a right to freedom of expression and for the purpose of this Article this right includes the freedom to hold opinions and to seek, receive and impart ideas and information without interference.
2. The right under clause (1) may be subject to such restrictions as may be prescribed by a law and necessary in a democratic society –
  - a. in the interest of defence, public safety, public order, public morality or public health;
  - b. for protecting the reputation, rights and freedoms or private lives of persons;
  - c. for preventing the disclosure of information received in confidence;
  - d. for maintaining the authority and independence of the courts or the National Assembly;
  - e. for regulating the technical administration, technical operation, or general efficiency of telephones, telegraphy, posts, wireless broadcasting, television, or other means of communication or regulating public exhibitions or public entertainment; or
  - f. for the imposition of restrictions upon public officers.

## Article 23

1. Every person has a right to freedom of peaceful assembly and association and for the purpose of this Article this right includes the right to assemble freely and associate with other persons and in particular to form or to belong to political parties, trade unions or other associations for the protection of the interests of that person and not to be compelled to belong to any association.

2. The right under clause (1) may be subject to such restrictions as may be prescribed by a law and necessary in a democratic society –

a. in the interests of defence, public safety, public order, public morality or public health;

b. in respect of the registration of associations or political parties;

c. for the protection of the rights and freedoms of other persons,

d. for imposition of restrictions –

i. on persons who are not citizens of Seychelles; or

ii. on public officers or members of the disciplinary forces.

## Article 24

1. Subject to this Constitution, every citizen of Seychelles who has attained the age of eighteen years has a right –

a. to take part in the conduct of public affairs either directly or through freely chosen representatives;

b. to be registered as a voter for the purpose of and to vote by secret ballot at public elections which shall be by universal and equal suffrage;

c. to be elected to public office; and

d. to participate, on general terms of equality, in public service.

2. The exercise of the rights under clause (1) may be regulated by a law necessary in a democratic society.

## Article 25

1. Every person lawfully present in Seychelles has a right of freedom of movement and for the purpose of this Article this right includes the right to move freely within Seychelles, the right to reside in any part of Seychelles, the right to leave Seychelles and the right not to be expelled from Seychelles

2. Every person who is a citizen of Seychelles has a right to enter Seychelles and, subject

to clause (3) (d), not to be expelled from Seychelles.

3. The right under clause (1) may be subject to such restrictions as are prescribed by a law necessary in a democratic society –

- a. in the interests of defence, public safety, public order, public morality or public health;
- b. for protecting the rights and freedoms of other persons;
- c. for the prevention of a crime or compliance with an order of a court;
- d. for extradition of persons from Seychelles; or
- e. for lawful removal of persons who are not citizens of Seychelles from Seychelles.

4. A law providing for the extradition of persons from Seychelles shall not authorise the extradition to a country in respect of an offence punishable with death in that country unless that country undertakes not to carry into effect a sentence of death in respect of the offence.

5. A law providing for the lawful removal from Seychelles of persons lawfully present in Seychelles shall provide for the submission, prior to removal, of the reasons for the removal and for review by a competent authority of the order of removal.

#### Article 26

1. Every person has a right to property and for the purpose of this Article this right includes the right to acquire, own, peacefully enjoy and dispose of property either individually or in association with others.

2. The exercise of the right under clause (1) may be subject to such limitations as may be prescribed by law and necessary in a democratic society –

- a. in the public interest;
- b. for the enforcement of an order or judgment of a court in civil or criminal proceedings;
- c. in satisfaction of any penalty, tax, rate, duty or due;
- d. in the case of property reasonably suspected of being acquired by the proceeds of drug trafficking or serious crime;
- e. in respect of animals found trespassing or straying;
- f. in consequence of a law with respect to limitation of actions or acquisitive prescription;
- g. with respect to property of citizens of a country at war with Seychelles;
- h. with regard to the administration of the property of persons adjudged bankrupt or of persons who have died or of persons under legal incapacity; or

i. for vesting in the Republic of the ownership of underground water or unextracted oil or minerals of any kind or description.

3. A law shall not provide for the compulsory acquisition or taking of possession of any property by the State unless –

a. reasonable notice of the intention to compulsorily acquire or take possession of the property and of the purpose of the intended acquisition or taking of possession are given to persons having an interest or right over the property;

b. the compulsory acquisition or taking of possession is necessary in the public interest for the development or utilisation of the property to promote public welfare or benefit or for public defence, safety, order, morality or health or for town and country planning;

c. there is reasonable justification for causing any hardship that may result to any person who has an interest in or over the property;

d. the state pays prompt and full compensation for the property;

e. any person who has an interest or right over the property has a right of access to the Supreme Court whether direct or on appeal from any other authority for the determination of the interest or right, the legality of the acquisition or taking of possession of the property, the amount of compensation payable to the person and for the purpose of obtaining prompt payment of compensation.

4. Where the property acquired by the State under this Article is not used, within a reasonable time, for the purpose for which it was acquired, the State shall give, to the person who owned it immediately before the acquisition of the property, an option to buy the property.

5. A law imposing any restriction on the acquisition or disposal of property by a person who is not a citizen of Seychelles shall not be held to be inconsistent with clause

#### Article 27

1. Every person has a right to equal protection of the law including the enjoyment of the rights and freedoms set out in this Charter without discrimination on any ground except as is necessary in a democratic society.

2. Clause (1) shall not preclude any law, programme or activity which has as its object the amelioration of the conditions of disadvantaged persons or groups.

#### Article 28

1. The State recognises the right of access of every person to information relating to that person and held by a public authority which is performing a governmental function and the right to have the information rectified or otherwise amended, if inaccurate.
2. The right of access to information contained in clause (1) shall be subject to such limitations and procedures as may be prescribed by law and are necessary in a democratic society including –
  - a. for the protection of national security;
  - b. for the prevention and detection of crime and the enforcement of law;
  - c. for the compliance with an order of a court or in accordance with a legal privilege;
  - d. for the protection of the privacy or rights or freedoms of others;
3. The State undertakes to take appropriate measures to ensure that information collected in respect of any person for a particular purpose is used only for that purpose except where a law necessary in a democratic society or an order of a court authorises otherwise.
4. The State recognises the right of access by the public to information held by a public authority performing a governmental function subject to limitations contained In clause (2) and any law necessary in a democratic society.

#### Article 29

The state recognises the right of every citizen to protection of health and to the enjoyment of the highest attainable standard of physical and mental health and with a view to ensuring the effective exercise of this right the State undertakes –

- a. to take steps to provide for free primary health care In State institutions for all its citizens;
- b. to take appropriate measures to prevent, treat and control epidemic, endemic and other diseases;
- c. to take steps to reduce infant mortality and promote the healthy development of the child;
- d. to promote individual responsibility in health matters;
- e. to allow, subject to such supervision and conditions as are necessary in a democratic society, for the establishment of private medical services.

#### Article 30

The state recognises the unique status and natural maternal functions of women in society

and undertakes as a result to take appropriate measures to ensure that a working mother is afforded special protection with regard to paid leave and her conditions at work during such reasonable period as provided by law before and after childbirth.

#### Article 31

The State recognises the right of children and young persons to special protection in view of their immaturity and vulnerability and to ensure effective exercise of this right the State undertakes –

- a. to provide that the minimum age of admission to employment shall be fifteen years, subject to exceptions for children who are employed part-time in light work prescribed by law without harm to their health, morals or education;
- b. to provide for a higher minimum age of admission to employment with respect to occupations prescribed by law which the State regards as dangerous, unhealthy or likely to impair the normal development of a child or young person;
- c. to ensure special protection against social and economic exploitation and physical and moral dangers to which children and young persons are exposed;
- d. to ensure, save in exceptional and judicially recognised circumstances, that a child of young age is not separated from his parents.

#### Article 32

1. The State recognises that the family is the natural and fundamental element of society and the right of everyone to form a family and undertakes to promote the legal, economic and social protection of the family.
2. The right contained in clause (1) may be subject to such restrictions as may be prescribed by law and necessary in a democratic society including the prevention of marriage between persons of the same sex or persons within certain family degrees.

#### Article 33

The State recognises the right of every citizen to education and with a view to ensuring the effective realisation of this right undertakes –

- a. to provide compulsory education, which shall be free in State schools, for such minimum period, which shall not be less than ten years, as may be prescribed by law;
- b. to ensure that the educational programmes in all schools are aimed at the complete development of the person;

- c. to afford, on the basis of intellectual capability, every citizen equal access to educational opportunities and facilities beyond the period of compulsory education;
- d. to allow, subject to such reasonable restrictions, supervision and conditions as are necessary in a democratic society, any person, organisation or institution to establish and maintain a private school;
- e. to respect the right of parents to choose whether to send their children to a State or private school.

#### Article 34

The State recognises the right of every citizen to adequate and decent shelter conducive to health and well being and undertakes either directly or through or with the cooperation of public or private organisations to facilitate the effective realisation of this right.

#### Article 35

The State recognises the right of every citizen to work and to just and favourable conditions of work and with a view to ensuring the effective exercise of these rights the State undertakes –

- a. to take necessary measures to achieve and maintain a high and stable level of employment, as is practicable, with a view to attaining full employment;
- b. subject to such restrictions as are necessary in a democratic society, to protect effectively the right of a citizen to earn a dignified living in a freely chosen occupation, profession or trade;
- c. to promote vocational guidance and training;
- d. to make and enforce statutory provisions for safe, healthy and fair conditions of work, including reasonable rest, leisure, paid holidays, remuneration which guarantees, as a minimum, dignified and decent living conditions for the workers and their families, fair and equal wages for work of equal value without distinction and stability of employment;
- e. to promote machinery for voluntary negotiations between employers and workers or their organisations with a view to the regulation of conditions of employment by means of collective agreements;
- f. to promote the establishment and use of appropriate machinery for conciliation and voluntary arbitrations for the settlement of labour disputes;

g. subject to such restrictions as are necessary in a democratic society, and necessary for safeguarding public order, for the protection of health or morals and the rights and freedoms of others, to ensure the right of workers to organise trade unions and to guarantee the right to strike.

#### Article 36

The State recognises the right of the aged and the Right of the disabled to special protection and with a view to ensuring the effective exercise of this right undertakes –

a. to make reasonable provision for improving quality of life of and for the welfare and maintenance of the aged and disabled;

b. to promote programmes specifically aimed at achieving the greatest possible development of the disabled.

#### Article 37

The State recognises the right of every citizen to a decent and dignified existence and with a view to security ensuring that its citizens are not left unprovided for by reason of incapacity to work or involuntary unemployment undertakes to maintain a system of social security.

#### Article 38

The State recognises the right of every person to live in and enjoy a clean, healthy and ecologically balanced environment and with a view to ensuring the effective realisation of this right the State undertakes –

a. to take measures to promote the protection, preservation and improvement of the environment;

b. to ensure a sustainable socio-economic development of Seychelles by a judicious use and management of the resources of Seychelles;

c. to promote public awareness of the need to protect, preserve and improve the environment.

#### Article 39

1. The State recognises the right of every person to take part in cultural life and to profess, promote, enjoy and protect the cultural and customary values of the Seychellois people subject to such restrictions as may be provided by law and necessary in a democratic society including –

- a. the protection of public order, public morals and public health;
  - b. the prevention of crime;
  - c. the protection of the rights and freedoms of other persons.
2. The State undertakes to take reasonable steps to ensure the preservation of the cultural heritage and values of the Seychellois people.

## PART II

### FUNDAMENTAL DUTIES

#### Article 40

It shall be the duty of every citizen of Seychelles –

- a. to uphold and defend this Constitution and the law;
- b. to further the national interest and to foster national unity;
- c. to work conscientiously in a chosen profession, occupation or trade;
- d. to contribute towards the well-being of the community;
- e. to protect, preserve and improve the environment; and
- f. generally, to strive towards the fulfilment of the aspirations contained in the Preamble of this Constitution.

## PART III

### STATE OF EMERGENCY AND SAVINGS

#### Article 41

1. The President may, where the President has reason to believe that –
  - a. a grave threat to national security or public order has arisen or is imminent; or
  - b. a grave civil emergency has arisen or is imminent,in Seychelles or in any part of Seychelles, by a Proclamation published in the Gazette, declare that a state of emergency exists in Seychelles or that part of Seychelles, as the case may be.
2. A declaration made under clause (1) shall cease to have effect on the expiration of a period of seven days beginning with the date of the publication of the declaration unless, before the expiration of the period, it is approved by a resolution passed by not less than two-thirds of the number of members of the National Assembly.
3. The President shall, within seventy-two hours after the publication of the Proclamation under clause (1), send to the Speaker of the National Assembly the facts and

circumstances leading to the declaration of the state of emergency and the Speaker shall, within seven days after the publication, cause the declaration and the facts and circumstances leading to the declaration to be considered by the Assembly.

4. Subject to clause (5), a declaration of emergency approved by the National Assembly under clause (2) shall continue in force until the expiration of a period of three months beginning with the date of its approval or until such earlier date as may be specified in the resolution.

5. The National Assembly may, by a resolution passed by the votes of a majority of members of the National Assembly, at any time, revoke a declaration approved by the National Assembly under this Article.

6. Whenever an election to the office of President results in a change in the holder of that office a declaration under this Article which is in force immediately before the day on which the President assumes office shall cease to have effect on the expiration of seven days beginning with that day.

7. Notwithstanding clause (1) , where the National Assembly resolves under clause (2) that the declaration of a state of emergency should not continue or revokes a declaration of state of emergency under clause (5), the President shall not, within thirty days of the resolution or revocation, declare a state of emergency based wholly or mainly on the same facts unless the National Assembly has, by a resolution passed by the votes of a majority of its members, authorised the making of the declaration.

8. Where due to circumstances prevailing at the time of a declaration of a state of emergency under clause (1) it is impracticable to publish in the Gazette the Proclamation under that clause, the Proclamation may be published in such manner as the President may determine so as to give it as much publicity as is possible and such publication shall be deemed to be a sufficient compliance with clause (1) for the purposes of this Article.

9. Clauses (2) to (6) and (8) shall apply in respect of a declaration of emergency made under clause (7).

#### Article 42

1. Where the National Assembly is in session but not sitting when a declaration is made under Article 41(l) or (7), where shall immediately summon the Assembly to meet on a date that is not more than seven days after the publication the declaration.

2. Where the National Assembly stands dissolved when a declaration is made under Article 41(1) or (7), the President shall, in the Proclamation making the declaration, summon the members of the dissolved Assembly to meet on a date that is not more than seven days after the making of the declaration and the members may, until a new National Assembly first meets, meet and continue to meet for the purpose of discharging the functions of the National Assembly for the purposes of Article 41.

3. For the purposes of clause (2), the Speaker or Deputy Speaker immediately before the dissolution of the National Assembly shall preside over the sittings of the National Assembly.

#### Article 43

1. This Article shall apply during any period of public emergency.

2. Notwithstanding this Chapter but subject to clause (3), a law may provide for the taking during a period of public emergency of such measures as are strictly required to meet the exigencies of the situation.

3. A law referred to in clause (2) shall not provide for the taking of measures that are inconsistent with Articles 15, 16, 17, 18(3), 19(2) to (6) and (11), 21 and 27.

4. Where a law referred to in clause (2) provides for the detention of persons provision shall be made in the law –

a. that, as soon as is reasonably practicable and in any case not more than seven days after the commencement of the detention, the person detained shall be furnished with a statement in writing, in, as far as practicable a language that the person understands, specifying in detail the grounds upon which the person is detained;

b. that not more than seven days after the commencement of the detention, a notice shall be published in the Gazette and a local daily newspaper of wide circulation in Seychelles stating the name of the person detained and the particulars of the law under which the detention was made;

c. that not more than a month after the detention and thereafter at intervals of not more than three months the detention of the person shall be reviewed by an independent and impartial tribunal appointed by the President from candidates proposed by the Constitutional Appointments Authority for this purpose;

d. that the person detained shall be entitled to choose and be afforded reasonable facilities

to consult a legal practitioner, to appear, in person or through the legal practitioner, before the tribunal, and that where the law so provides the services of the legal practitioner shall be at public expense;

e. that the person detained shall be released forthwith if the tribunal reviewing the detention is satisfied that it is not reasonably necessary or expedient for the purpose of the emergency to continue with the detention;

f. where the tribunal reviewing the detention of a person does not order the release of the person the tribunal may make recommendation to the authority detaining the person concerning the necessity or expediency of continuing with the detention and a copy of the recommendation shall be served on the person detained.

5. A tribunal appointed under clause (4) (c) shall have a Judge as chairman.

#### Article 44

1. A law made in relation to a disciplinary force of Seychelles may, in so far as it is necessary in a democratic society, provide for derogation against the provisions of the Charter, other than Article s 15, 16, and 17.

2. A law of a country other than Seychelles whose disciplinary force is lawfully in Seychelles in pursuance of arrangements made between the Government of Seychelles and another government or an international organisation shall, in so far as the law applies to that disciplinary force, not be held to be inconsistent or in contravention of the provisions of the Charter.

3. A law which authorises the taking of any measure against a member of a disciplinary force of a country with which Seychelles is at war shall not be held to be inconsistent with the Charter.

4. A law referred to in clause (3) shall not provide for the doing of anything which constitutes the crime of genocide or a crime against humanity.

#### PART IV

#### REMEDIES

#### Article 45

This Chapter shall not be interpreted so as to confer on any person or group the right to engage in any activity aimed at the suppression of a right or freedom contained in the Charter.

## Article 46

1. A person who claims that a provision of this Charter has been or is likely to be contravened in relation to the person by any law, act or omission may, subject to this Article, apply to the Constitutional Court for redress.
2. An application under clause (1) may, where the Constitutional Court is satisfied that the person whose right or freedom has been or is likely to be contravened is unable to do so, be made by another person acting on behalf of that person, with or without that person's authority.
3. The Constitutional Court may decline to entertain an application under clause (1) where the court is satisfied that the applicant has obtained redress for the contravention under any law and where the applicant has obtained redress in the Constitutional Court for any matter for which an application may be made under clause (1), a court shall not entertain any application for redress for such matter except on appeal from a decision of such court.
4. Where the Constitutional Court on an application under clause (1) is satisfied that adequate means of redress for the contravention alleged are or have been available to the person concerned in any other court under any other law, the Court may hear the application or transfer the application to the appropriate court for grant of redress in accordance with law.
5. Upon hearing of an application under clause (1) the Constitutional Court may –
  - a. declare any act or Omission which is the subject of the application to be a contravention of the Charter;
  - b. declare any law or the provision of any law which contravenes the Charter void;
  - c. make such declaration or order, issue such writ and give such directions as it may consider appropriate for the purpose of enforcing or securing the enforcement of the Charter and disposing of all the issues relating to the application;
  - d. award any damages for the purpose of compensating the person concerned for any damages suffered;
  - e. make such additional order under this Constitution or as may be prescribed by law.
6. Where the Constitutional Court makes a declaration under clause (5)(b) the Court shall, subject to any decision in appeal therefrom, send a copy of the declaration to the

President and the Speaker.

7. Where in the course of any proceedings in any court, other than the Constitutional Court or the Court of Appeal, a question arises with regard to whether there has been or is likely to be a contravention of the Charter, the court shall, if it is satisfied that the question is not frivolous or vexatious or has already been the subject of a decision of the Constitutional Court or the Court of Appeal, immediately adjourn the proceedings and refer the question for determination by the Constitutional Court.

8. Where in an application under clause (1) or where a matter is referred to the Constitutional Court under clause (7), the person alleging the contravention or risk of contravention establishes a prima facie case, the burden of proving that there has not been a contravention or risk of contravention shall, where the allegation is against the State, be on the State.

9. The court in which the question referred to in clause (7) arose shall dispose of the case in accordance with the decision of the Constitutional Court, or if that decision is the subject of an appeal to the Court of Appeal, in accordance with the decision of the Court of Appeal.

10. The Chief Justice may make rules for the purpose of this Article with respect to the practice and procedure of the Constitutional Court in relation to the jurisdiction and power conferred upon it by or under this Article , including rules with respect to the time within which an application or a reference may be made or brought.

## PART V

### PRINCIPLES OF INTERPRETATION

#### Article 47

Where a right or freedom contained in this Charter is subject to any limitation, restriction or qualification, that limitation, restriction or qualification –

- a. shall have no wider effect than is strictly necessary in the circumstances; and
- b. shall not be applied for any purpose other than that for which it has been prescribed.

#### Article 48

This Chapter shall be interpreted in such a way so as not to be inconsistent with any international obligations of Seychelles relating to human rights and freedoms and a court shall, when interpreting the provision of this Chapter, take judicial notice of –

- a. the international instruments containing these obligations;
- b. the reports and expression of views of bodies administering or enforcing these instruments;
- c. the reports, decisions or opinions of international and regional institutions administering or enforcing Conventions on human rights and freedoms;
- d. the Constitutions of other democratic States or nations and decisions of the courts of the States or nations in respect of their Constitutions.

#### Article 49

In this Chapter, unless the context otherwise requires –

“Charter” or Seychellois Charter of Fundamental Human Rights and Freedoms” means Part 1 of this Chapter;

“contravene”, in relation to a requirement or condition in this Chapter, includes a failure to comply with the requirement or condition;

“court” means any court of law or tribunal having jurisdiction in Seychelles excepting, save as in Article s 19 and 46, a court established by or under a disciplinary law;

“democratic society” means a pluralistic society in which there is tolerance, proper regard for the fundamental human rights and freedoms and the rule of law and where there is a balance of power among the Executive, Legislature and Judiciary;

“disciplinary force” means –

- a. a naval, military or air force;
- b. the police force of Seychelles;
- c. the prison service of Seychelles;
- d. any other similar force established by law.

“disciplinary law” means a law regulating the discipline of a disciplinary force;

“governmental authority” includes a department, division, agency or instrumentality of the Government and any statutory body or body set up by administrative action for governmental or official purposes;

“legal practitioner” means a person lawfully in or entitled to be in Seychelles and entitled to practise law in Seychelles;

“member”, in relation to a disciplinary force, includes any person who, under the law regulating the discipline of that force, is subject to that discipline;

“minor” means an individual who has not attained the age of eighteen years;

“period of public emergency” means any period during which –

- a. Seychelles is at war; or
- b. a declaration made under Article 41 is in force;

“person” means an individual or a body corporate;

“public officer” includes a person employed by a governmental authority.

## CHAPTER IV

### THE PRESIDENT

#### Article 50

There shall be a President of Seychelles who shall be the Head of State, Head of Government and Commander-in-Chief of the Defence Forces of Seychelles.

#### Article 51

1. A person is qualified for election as President if –

- a. the person is a citizen of Seychelles;
- b. the person is not disqualified from registration as a voter under this Constitution.

2. Subject to clause (6), Schedule 3 shall have effect with regard to the election of the President.

3. The Constitutional Court shall have jurisdiction to hear and determine whether a person has been validly elected to the office of President.

4. An application under clause (3) may be made by a person entitled to vote at an election of the President, a person who was a candidate at the election or the Attorney General.

5. Where a person other than the Attorney-General makes an application under this Article, the Attorney-General may intervene and may appear or be represented in the proceedings.

6. A law may provide for –

- a. the circumstances and manner in which and the imposition of conditions upon which an application may be made to the Constitutional Court for the determination of a question under clause (2);

- b. the powers, practice and procedure of the Constitutional Court in relation to the application; and

- c. any matter, not otherwise provided for in Schedule 3, which is necessary or required to

ensure a true, fair and effective election of the President.

## Article 52

1. Subject to this Article , a person elected as President shall hold office for a term of five years –

- a. beginning with the date next following the date of election; or
- b. where another person holds office as President on the date next following the date of election, beginning on the date next following the date on which the office next becomes vacant.

2. A person shall hold office as President under this Constitution for not more than three terms.

3. The office of President becomes vacant –

- a. on the expiration of the period specified in clause (1);
- b. where an election for the office of President is held before the expiration of five years referred to in clause (1), on the day following the date of declaration of the election of President; or
- c. where the incumbent dies or resigns or is removed from office under this Constitution.

4. Where, but for this clause, the office of President would become vacant on a particular date by reason of the operation of clause (3)(a), but on that date an election held under Article 51 has not resulted in the election of the President, the incumbent President shall continue to hold office until the end of the day on which the President is elected under Article 51.

5. The President may, by writing addressed to the Speaker, resign from the office of President.

6. Where a period of public emergency subsists at the time when the term of office of President would end, the National Assembly may, by resolution approved by a majority of the members of the Assembly, extend the term of office of President –  
where Seychelles is at war, for not more than twelve months at a time but up to a maximum aggregate period of forty-eight months, and a period of extension shall not extend beyond the duration of the current session of the National Assembly or beyond the period by which the session of the National Assembly is extended in the same circumstances under this Constitution.

## Article 53

1. This Article shall have effect with regard to the removal of the President from office on the ground of mental or physical incapacity.
2. Where the Cabinet resolves, upon a motion supported by the votes of a majority of all the members of the Cabinet, that the question of the mental or physical capacity of the President to discharge the functions of the office of President ought to be investigated, the Cabinet shall so inform the Chief Justice.
3. Where notice in writing signed by not less than half the number of members of the National Assembly of a motion requesting that the question of the mental or physical capacity of the President to discharge the functions of the office of President ought to be investigated is given to the Speaker, the Speaker shall –
  - a. where the National Assembly is sitting or has been summoned to meet within five days, cause the motion to be considered by the Assembly as soon as is practicable within seven days of the notice;
  - b. where the National Assembly is not then sitting, summon the Assembly to meet on a date within fourteen days of the notice and cause the motion to be considered at that meeting.
4. Where a motion under clause (3) is proposed for consideration by the National Assembly, the Assembly shall not debate the motion but the Speaker shall forthwith cause a vote to be taken on the motion and, if the motion is supported by the votes of not less than two-thirds of the number of its members, shall declare the motion to be passed and shall deliver a copy of the motion to the President and the Chief Justice.
5. Where the Chief Justice is informed under clause (2) or receives a copy of a motion under clause (4), the Chief Justice shall appoint a medical board consisting of not less than three persons selected by the Chief Justice from among persons who are qualified as medical practitioners under a law, and the medical board 'shall inquire into the matter and shall make a report to the Chief Justice stating the opinion of the board as to whether or not the President is, by reason of any infirmity of body or mind, incapable of discharging the functions of the office of President.
6. Where under clause (5) the medical board reports that the President is capable of discharging the functions of the office of President, the Chief Justice shall inform

accordingly –

- a. where the investigation was carried out at the instance of the Cabinet, the Cabinet; or
- b. where the investigation was carried out at the instance of the National Assembly, the Speaker, and, as soon as is practicable, thereafter the Cabinet shall inform the President accordingly or the Speaker shall inform the President and the National Assembly accordingly, as the case may be.

7. Where under clause (5) the medical board reports that the President is incapable of discharging the functions of the office of President, the Chief Justice shall certify in writing accordingly and –

- a. where the investigation was carried out at the instance of~ the Cabinet, submit the findings to the Cabinet, and the Cabinet shall inform the President of the findings and submit the findings to the Speaker; or
- b. where the investigation was carried out at the instance of the National Assembly, submit the findings to the Speaker and the Speaker shall inform the President of the findings.

8. Where the Speaker receives a report under clause (7), the Speaker shall, –

- a. where the National Assembly is sitting or has been summoned to meet within five days, cause the findings of the medical board to be considered by the Assembly as soon as is practicable; or
- b. where the National Assembly is not sitting, immediately summon the Assembly to meet and cause the findings of the medical board to be considered at that meeting.

9. Where the National Assembly, when it meets pursuant to clause (8), resolves by the votes of not less than two-thirds of the number of its members that the finding of the medical board be adopted, the President shall cease to hold office on the passing of the resolution.

#### Article 54

1. Where notice in writing signed by not less than half the number of the members of the National Assembly of a motion alleging that the President has committed a violation of this Constitution or a gross misconduct and specifying the particulars of the allegation and proposing that the Constitutional Court investigates the allegations is given to the Speaker, the Speaker shall –

- a. if the National Assembly is then sitting or has been summoned to meet within five days, cause the motion to be considered by the Assembly within seven days of the notice;  
or
  - b. if the National Assembly is not sitting, summon the Assembly to meet on a date within fourteen days of the notice and cause the motion to be considered at that meeting.
2. Where a motion under clause (1) is proposed for consideration by the National Assembly, the Assembly shall not debate the motion but the Speaker shall forthwith cause a vote to be taken on the motion and, if the motion is supported by the votes of not less than two-thirds of the number of its members, shall declare the motion to be passed.
3. Where a motion is declared to be passed under clause (2) –
- a. the Speaker shall deliver a copy of the motion to the President and the Chief Justice;
  - b. the Chief Justice shall place the matter before the Constitutional Court;
  - c. the constitutional Court shall investigate the matter and report to the Speaker whether it finds that the particulars of the allegation specified in the motion constitute a prima facie case for the removal of the President; and
  - d. the Constitutional Court in investigating the matter under paragraph (c) may summon and examine any witnesses or otherwise exercise all the powers of the Supreme Court.
4. The President shall have the right to appear and be represented before the Constitutional Court during its investigation of the allegation.
5. Where the Constitutional Court reports to the Speaker that the Court finds that the particulars of an allegation against the President specified in the motion do not constitute a prima facie case for the removal of the President, no further proceedings shall be taken under this Article in respect of that allegation.
6. Where the Constitutional Court reports to the Speaker that the Court finds that the particulars of an allegation against the President specified in the motion constitute a prima facie case for the removal of the President, the Speaker shall, within ten days after a report is made to the Speaker pursuant to clause (3)(c) –
- a. where the National Assembly is sitting or has been summoned to meet within five days, cause the findings of the Court to be considered, as soon as is practicable, by the Assembly; or
  - b. where the National Assembly is not sitting, immediately summon the National

Assembly and cause the findings of the Court to be considered by the Assembly.

7. Where the National Assembly when it meets pursuant to clause (6) resolves by the votes of not less than two-thirds of the number of its members that the finding of the Constitutional Court be adopted, the President shall cease to hold office on the passing of the resolution.

#### Article 55

1. Where the office of the President becomes vacant by reason of the death or resignation of the President or by reason of the President ceasing to hold office under Article 53 or Article 54 or Article 110(3), the Minister designated to discharge the functions of the office of President under Article 75 shall discharge those functions until a person is elected under Article 51 to the office of President.

2. A person discharging the functions of the office of President shall not have power to

- a. revoke the appointment of a Minister; or
- b. invoke Article 110.

#### Article 56

Whenever the President –

- a. is going to be absent from Seychelles; or
- b. by reason of illness which the President considers will be of short duration, considers it desirable to do so, the President may, by instrument in writing, subject to such restrictions and exceptions – as the President may specify in the instrument, request the Minister designated to discharge the functions of the office of President under Article 75 to discharge those functions during the period of the absence or illness.

#### Article 57

A person assuming the office of President shall, before entering upon the office, take and subscribe before the Chief Justice or another Judge the oath of allegiance and the Presidential oath prescribed in this Constitution.

#### Article 58

1. The President shall receive such salary, allowances and gratuity as may be prescribed by an Act.

2. Where the person holding the office of President ceases to hold office otherwise than by being removed under Article 54, the person shall receive such pension, gratuity or

allowance as may be prescribed by an Act.

3. The salary, allowance, pension or gratuity, as the case may be, payable under this Article to the President or a person who has ceased to be President shall be a charge on the Consolidated Fund and shall not be altered to the disadvantage of the President or the person who has ceased to be President.

4. Clauses (2) and (3) shall apply to a person who held office as President under any previous Constitution of Seychelles.

#### Article 59

1. Whilst any person holds, or discharges under Article 55 or Article 56 the functions of, the office of President no criminal proceedings shall be instituted or continued against the person in respect of anything done or omitted to be done by the person in either an official or private capacity and no civil proceedings shall be instituted or continued in respect of which relief is claimed against the person in respect of anything done or omitted to be done in such private capacity.

2. Notwithstanding Article 18(6) or Article 19(1) or (7) or any other law, proceedings such as are referred to in clause (1) may be brought within three years of a person ceasing to hold or discharge the functions of the office of President unless the period prescribed by law for bringing the proceedings concerned had expired before the person assumed or commenced to discharge those functions.

3. Where provision is made by law limiting the time within which proceedings such as are referred to in clause (1) may be brought against any person, a period of time during which a person holds, or discharges the functions of, the office of President shall not be taken into account in calculating any period of time prescribed by that law which determines whether any such proceedings may be brought against that person.

#### Article 60

1. The President may, after obtaining the advice of the advisory committee appointed under Article 61 –

a. grant to any person convicted of any offence a pardon, either free or subject to lawful conditions;

b. grant to any person a respite, either indefinite or for a specified period, of the execution of any punishment imposed on that person for any offence;

- c. substitute a less severe form of punishment for any punishment imposed on any person for any offence; or
- d. remit the whole or part of any punishment imposed on any person for any offence or of any penalty or forfeiture otherwise due to the Republic on account of any offence.
2. Except as otherwise permitted by or under an Act, the exercise of the power conferred by clause (1) shall not be held out, offered or promised in advance of conviction.
3. Nothing in this Article shall prevent the establishment by an Act of systems of probation, parole or release on licence, or any similar system.
4. Any reference in this Article to a conviction or the imposition of a punishment, penalty, sentence or forfeiture includes a reference to a conviction or the imposition of a punishment, penalty, sentence or forfeiture by a court-martial or other military court.
5. This Article shall not apply in relation to any conviction by a court established under the law of a country other than Seychelles that has jurisdiction in Seychelles in pursuance of arrangements made between the Government of Seychelles and another government or an international organisation relating to the presence in Seychelles of members of a disciplinary force of that other country or in relation to any punishment imposed in respect of any such conviction or any penalty or forfeiture resulting from any such conviction.

#### Article 61

There shall be an advisory committee on the power of pardon under Article 60 which shall consist of not less than three and not more than five persons as may be appointed for a term of seven years by the President from candidates proposed by the Constitutional Appointments Authority.

#### Article 62

1. Subject to this Constitution and to any other law, the powers of establishing and abolishing offices for the Republic shall vest in the President.
2. The President may, by order, declare that an office established by the President under clause (1) shall not be an office in the public service.
3. Appointment to an office declared by the President not to be an office in the public service shall be made by the President from candidates proposed by the Constitutional Appointments Authority.

4. Appointment to an office, established by the President under clause (1), other than an office referred to in clause (2), shall be made by the President or by a person or body authorised by the President.

#### Article 63

1. Where under this Constitution, an appointment to an office or the designation of a person for any purpose by the President is expressed to be subject to the approval of the National Assembly, particulars of the proposed appointment or designation shall be sent to the Speaker and the Speaker shall cause the National Assembly to vote on the proposed appointment or designation.

2. The Speaker shall notify the President of the decision of the National Assembly and only if the decision is in favour of the appointment or designation may the appointment or designation be made.

#### Article 64

1. The President may, with the approval of a majority of members of the National Assembly, appoint a person as Ambassador, High Commissioner or any other principal representative of Seychelles to represent Seychelles abroad.

2. The President may receive envoys accredited to Seychelles.

3. The President may execute or cause to be executed treaties, agreements or conventions in the name of the Republic.

4. A treaty, agreement or convention in respect of international relations executed by or under the authority of the President shall not bind the Republic unless it is ratified by a. an Act; or

b. a resolution passed by the votes of a majority of the members of the National Assembly.

#### Article 65

The President shall –

a. at the beginning of each year; and

b. before a dissolution, pursuant to Article 106(2) (a) or (b), of the National Assembly, deliver to the Assembly a message on the state of the nation.

### CHAPTER V

### THE EXECUTIVE

## Article 66

1. The executive authority of the Republic shall vest in the President and shall be exercised in accordance with this Constitution and the laws of Seychelles.
2. The executive authority vested in the President under this Article shall extend to the execution and maintenance of this Constitution and the laws of Seychelles and to all matters with respect to which the National Assembly has power to make laws.
3. Subject to this Constitution, the functions conferred on the President by clause (1) may be exercised by the President directly or through subordinate officers.
4. Nothing in this Article shall prevent the National Assembly from conferring, by or under an Act, functions on a person other than the President or on an authority.

## Article 67

1. There shall be a Cabinet consisting of the Ministers.
2. The President or, in the absence of the President for any reason, the Minister designated by the President under Article 75 shall preside at meetings of the Cabinet.
3. Subject to clause (2), the Cabinet shall determine its own procedure in connection with its meetings.

## Article 68

The Cabinet shall be responsible for advising the President with respect to the policy of the Government and with respect to such other matters as may be referred to it by the President.

## Article 69

1. There shall be such number of Ministers, not being less than seven or more than fourteen, as the President may, from time to time, determine.
2. The President may, with the approval of a majority of the members of the National Assembly, appoint a person who is a citizen of Seychelles and who has attained the age of eighteen years to the office of Minister.
3. Where a person who is a member of the National Assembly is appointed to the office of Minister, the person shall, on assuming the office, cease to be a member of the Assembly.
4. A person shall, before assuming office as Minister, subscribe before the President the oath of allegiance and such other oath, as may be prescribed by an Act, for the due

execution of the functions of that office.

5. A Minister shall receive such salary, allowances and gratuity as may be prescribed by an Act.

6. The salary, allowances or gratuity payable under clause (5) shall be a charge on the Consolidated Fund.

#### Article 70

1. A Minister has such title, portfolio and responsibility as may be determined from time to time by the President and a Minister may be assigned the responsibility of more than one Ministry at any time.

2. Except as provided by or under an Act, all Ministries or departments of Government must be the political responsibility of a Minister and the President is politically responsible for any Ministry or department that has not been specifically allocated under this Article .

3. Nothing in this Article operates to prevent the conferring of functions on a Minister by or under an Act.

4. Ministers shall perform their functions under clause (1) under the direction of the President.

#### Article 71

The Ministers shall individually be accountable to the President for the administration of their ministries and shall collectively be responsible for a decision made by the Cabinet.

#### Article 72

A Minister, unless the Minister –

a. dies;

b. resigns; or

c. is removed from office under and in accordance with this Constitution, shall hold office until immediately before the beginning of the term of the person next elected, after the Minister's appointment, to the office of President.

#### Article 73

1. A Minister may resign from office by delivering to the President a notice of resignation but the resignation shall not have effect until it is received by the President.

2. The President may and, where the National Assembly has passed a vote of censure in

respect of the Minister under Article 74, shall, by instrument In writing, remove a Minister from office.

3. The President shall cause to be published in the Gazette notice of the fact of the resignation or removal of a Minister from office.

#### Article 74

1. The National Assembly may, by resolution approved by the votes of not less than twothirds of the number of its members, pass a vote of censure on a Minister.

2. A motion for a resolution under clause (1) shall not be moved in the National Assembly unless –

a. seven days' notice has been given of the motion; and

b. the notice for the motion has been signed by not less than one-third of the number of members of the Assembly.

3. The Speaker shall, upon receipt of the notice of the motion under clause (2) –

a. send a copy of the notice to the President; and

b. unless the Minister has ceased to hold office beforehand,

cause the motion to be debated in the National Assembly within fourteen days after receiving notice of the motion.

4. The Minister in respect of whom a vote of censure is to be debated under clause (3) is entitled to be heard during the debate.

5. Where a vote of censure is passed against a Minister under this Article , the Speaker shall as soon as is practicable thereafter notify the President and the President shall, unless the Minister otherwise ceases to hold office, remove the Minister from office under Article 73(2) not later than seven days after being notified by the Speaker.

#### Article 75

1. The President shall, at the time of submitting the names to the National Assembly for its approval of the persons to be appointed as Ministers, designate two of the persons, in the order of preference, who may, under this Constitution, discharge the functions of the office of President.

2. The approval of the National Assembly under clause (1) shall be by a majority of the members of the Assembly.

Where the National Assembly does not approve the designation of a person under clause

(1) or a person whose designation has been approved under that clause ceases to be a Minister, the President shall designate another person for approval by the National Assembly.

3. Where this Constitution provides for any function of the President to be performed or discharged by a Minister designated under this Article, the Minister whose name has been approved under clause (1) first in order of preference shall perform or discharge that function and, where that Minister for any reason is unable to perform or discharge that function, the Minister approved under clause (1) second in order of preference shall perform or discharge that function.

#### Article 76

1. There shall be an Attorney-General who shall be appointed by the President from candidates proposed by the Constitutional Appointments Authority.

2. A person shall hold office as Attorney-General for a term of not more than seven years and is eligible for reappointment at the end of a term of office.

3. A person shall not be appointed to the office of Attorney-General unless the person is qualified for appointment to the office of Judge.

4. The Attorney-General shall be the principal legal adviser to the Government and, subject to clause (11), shall have power, in any case in which the Attorney-General considers it desirable so to do –

a. to institute and undertake criminal proceedings against any person before any court in respect of any offence alleged to have been committed by that person;

b. to take over and continue any such criminal proceedings that have been instituted or under taken by any other person or authority; and

c. to discontinue at any stage before judgment is delivered any criminal proceedings instituted or undertaken under sub clause (a) or by any other person or authority.

5. The powers of the Attorney-General under clause (4) may be exercised by the Attorney-General in person or by subordinate officers acting in accordance with the general or special instructions of the Attorney-General.

6. Subject to clause (7), the power conferred on the Attorney-General by clause (4) (b) to take over any proceedings or by clause (4) (c) to discontinue any proceedings shall be vested in the Attorney-General to the exclusion of any other person or authority.

7. Where a person or authority, other than the Attorney General, has instituted criminal proceedings, nothing in clause (6) shall prevent the withdrawal of those proceedings by or at the instance of that person or authority and with the leave of the court.

8. Subject to clause (9), for the purposes of this Article, any appeal from any judgment in any criminal proceedings before any court, or any question of law reserved for the purpose of any such proceedings to any other court, shall be deemed to be part of those proceedings.

9. The power conferred on the Attorney-General by clause (4) (c) shall not be exercised in relation to any appeal by a person convicted in any criminal proceedings or to any question of law reserved at the instance of such a person.

10. In the exercise of the – powers vested in the Attorney-General by clause (4), the Attorney-General shall not be subject to the direction or control of any other person or authority.

11. An Act may make provision with respect to the institution of proceedings by a person or authority, other than the Attorney-General, before a military court or a tribunal established by or under the Act for the trial of military offences committed by persons subject to military law, and unless the Act otherwise provides, the power under clause (4) shall not be exercisable by the Attorney-General in relation to any such person in respect of any such offence.

12. The salary, allowances, pension or gratuity payable to the Attorney-General shall be a charge on the Consolidated Fund.

13. Subject to Article 165, the term and conditions on which a person has been appointed to the office of Attorney-General shall not be altered to the disadvantage of the person after the appointment.

## CHAPTER VI

### LEGISLATURE

#### PART 1

#### NATIONAL ASSEMBLY

##### Article 77

There shall be a National Assembly of Seychelles.

##### Article 78

The National Assembly shall consist of –

a. such number of members directly elected in accordance with –

i. this Constitution; and

ii. subject to this Constitution, an Act,

as is equal to the number of electoral areas;

b. such number of members elected on the basis of the scheme of proportional representation specified in Schedule 4 as is equal to one-half of the number of directly elected members or, where one-half of the number of directly elected members results in a whole number and a fraction, as is equal to the whole number immediately following the result.

#### Article 79

1. A general election shall be held during the period starting at the beginning of the fiftyseventh month and ending at the end of the fifty-ninth month of a session of the National Assembly.

2. Where a person ceases to be a directly elected member of the National Assembly under Article 81, a by-election shall be held within 30 days of the person ceasing to be a member of the Assembly unless the cessation occurred within three months before the beginning of the period within which a general election is required to be held under clause (1).

3. Subject to clause (4), a directly elected member of the National Assembly shall be directly elected by secret ballot by persons entitled to vote under this Constitution.

4. where immediately before the day appointed for the holding of an election there is only one candidate for election for an electoral area and that candidate has, since the day immediately following the day of the closing of the nominations for that area, been the sole candidate for the area, no ballot shall be held and

all the persons who were entitled to vote at the election in the electoral area shall be deemed to have cast their votes in favour of the candidate; and

b. the Electoral Commissioner shall declare the candidate to be the directly elected member for the electoral area.

5. Where on the day immediately following the day of closing of nominations for an electoral area more than one candidate stand nominated for that area and on the day

immediately before the day of election only one candidate stands nominated by reason of the withdrawal of nomination of other candidates, the election shall be postponed and a further period of not less than seven days shall be allowed for nomination of other candidates for that area.

6. Where on the day immediately following the day of closing of nominations for an electoral area one or more candidates stand-nominated for that area and one or more of them die before the day of election, the election shall be postponed and a further period of not less than seven days from the date of death of the candidate shall be allowed for nomination of other candidates for that area.

7. The election postponed pursuant to clause (5) or (6) shall be held on such date as the Electoral Commissioner may decide but, in any case, not later than thirty days of the occurrence of the event specified in those clauses which occurred last and the candidates nominated pursuant to those clauses shall, notwithstanding their withdrawal, be deemed to be the candidates for that election.

8. A law may provide for any matter, not otherwise provided for-in this Constitution, which is necessary or required to ensure a true, fair and effective election of members of the National Assembly.

#### Article 80

A person is qualified to be elected as a member of the National Assembly if –

a. the person is qualified to vote at a Presidential or National Assembly election under this Constitution; and

b. the person does not hold or act in any office the functions of which involve –

i. any responsibility for, or in connection with, the conduct of the National Assembly election for which the person wishes to stand; or

ii. any responsibility for the compilation or revision of an electoral register for that National Assembly election.

#### Article 81

1. A person ceases to be a member of the National Assembly and the seat occupied by that person in the of seats Assembly shall become vacant

a. on the dissolution of the Assembly;

b. if the person by notice in writing to the Speaker resigns;

- c. if the person ceases to be a citizen of Seychelles;
- d. if the person is absent without the permission, which shall not be unreasonably withheld, in writing of the Speaker –
  - i. from Seychelles for a continuous period in excess of thirty days; or
  - ii. during a session of the Assembly, for a continuous period in excess of ninety days during which time the Assembly has been summoned to meet and continues to meet;
- e. if any circumstances arise which, if the person were not a member, would, pursuant to Article 80, cause that person to be disqualified for election as a member;
- f. subject to clause (2), if the person becomes party to a contract with the Government for or on account of any public service or if any firm in which the person is a partner or any company of which the person is a director or manager or in which the person has a controlling interest becomes a party to any such contract or if the person becomes a partner in a firm or a director or manager or the-holder of a controlling interest in a company which is a party to such contract;
- g. if the person is elected President or appointed, a Minister;
- h. if, in the case of a proportionately elected member, the person ceases to be a member of the political party of which that person was a member at the time of election;
- i. if, in the case of a directly elected member who was nominated for election by a political party, the person notifies the Speaker in writing that he has ceased to be a member that political party; or
- j. if, in the case of a person who was directly elected as an independent member, the person notifies the Speaker in writing that he is a member of a political party.

2. Where clause (1)(f) applies, if in the circumstances it appears to the National Assembly to be just to do so, the Assembly may except the member from vacating the seat, if the member, before becoming a party to the contract or before or as soon as is practicable after becoming interested in the contract as provided in clause (1) (f), has disclosed in writing to the Speaker the nature of the contract and the interest, or the interest in the firm or company referred to in clause (1)(f), of the member.

3. A political party of which a proportionately elected member was a member at the time of election shall notify the Speaker in writing on the person ceasing to be a member of the party.

4. Subject to this Article and Article 82, where a person who is a proportionately elected member of the National Assembly ceases to be so, the political party of which the person was a member of the time of election may, by notice in writing to the Speaker, replace the person who has ceased to be a member by another person.
5. Where the seat of a directly elected member of the National Assembly becomes vacant under this Article, the Speaker shall, as soon as is practicable within seven days after the vacancy occurs, notify the Electoral Commissioner of this fact.
6. A certificate under the hand of the Speaker certifying that a person has ceased to be a member of the National Assembly shall be conclusive evidence of this fact and of the fact that the seat held by that person is vacant unless –
  - a. the person makes an application under Article 82 to the Constitutional Court within thirty days of the date of the certificate; and
  - b. the Constitutional Court determine that the person is still a member of the National Assembly and that person still occupies that seat.
7. Until the final determination of an application referred to in clause (6) (a) the person who made the application shall continue to be a member of the National Assembly in respect of the seat for which the person was elected.

#### Article 82

1. The Constitutional Court shall have jurisdiction to hear and determine whether –
  - a. a person has been validly elected as a member of the National Assembly; or
  - b. the seat of a member of a National Assembly has become vacant.
2. An application under clause (1) (a) may, in the case of –
  - a. a directly elected member, be made by any person entitled to vote at an election in the electoral area for which the member was returned, any person who was a candidate at the election in the electoral area or the Attorney-General; or
  - b. a proportionately elected member, be made by any member or the Attorney-General.
3. An application under clause (1) (b) may, in the case of –
  - a. a directly elected member, be made by any member, any person entitled to vote at an election in the electoral area for which the member was returned or the Attorney-General;
  - b. a proportionately elected member, be made by any member, or the political party of which the proportionately elected member was a member at the time of election or the

Attorney-General.

5. Where a person, other than the Attorney-General, makes an application under this Article, the Attorney General may intervene and may appear or be represented in the proceedings.

6. An Act may provide for –

- a. the circumstances and manner in which and the imposition of conditions upon which an application may be made to the Constitutional Court for the determination of a question under clause (1); and
- b. the powers, practice and procedure of the Constitutional Court in relation to the application.

Article 83

1. There shall be a Speaker and a Deputy Speaker of the National Assembly, each of whom shall be elected by the National Assembly, in accordance with the Standing Orders, or, in the absence of Standing orders, in accordance with the procedures approved by the Assembly, from among the members of the Assembly.

2. The National Assembly shall not transact any business, other than the election of the Speaker, at any time when the office of Speaker is vacant.

3. A person holding the office of Speaker or Deputy Speaker shall vacate that office –

- a. when the National Assembly first meets after the holding of a general election;
- b. where the person ceases to be a member of the National Assembly;
- c. where the National Assembly passes a resolution supported by the votes of not less than two-thirds of the number of members of the Assembly requiring the person to vacate the office of Speaker or Deputy Speaker, as the case may be.

4. A person holding the office of Speaker or Deputy Speaker may, by notice in writing addressed to the National Assembly, resign from office and the office shall become vacant when the Clerk to the Assembly receives the notice.

5. where the office of Speaker or Deputy Speaker becomes vacant, the National Assembly shall, unless it is sooner dissolved, elect another member of the Assembly to fill the vacancy at its next sitting after the occurrence of the vacancy or as soon as is practicable thereafter.

6. An Act may provide for the salary, allowances and gratuity of the Speaker and Deputy

Speaker.

7. The salary, allowances or gratuity payable to the Speaker and Deputy Speaker shall be a charge on the consolidated Fund.

8. The Speaker and Deputy Speaker shall, before assuming the functions of their office, take and subscribe the oath of allegiance and such other oath as maybe prescribed by law.

#### Article 84

1. There shall be a Leader of the Opposition who shall be elected by the National Assembly from among its members in accordance with this Article and the Standing orders.

2. A person is not eligible to be elected to the office of Leader of the opposition if the person is a member of the political party which nominated the incumbent President for election, and only members of the National Assembly who are not members of that party may vote in the election.

3. A person elected to the office of Leader of the Opposition shall vacate the office –

- a. if the person ceases to be a member of the National Assembly;
- b. if the person is elected to the office of Speaker or Deputy Speaker;
- c. if the person resigns by notice in writing addressed to the Speaker; or
- d. where the members of the National Assembly entitled to vote at an election to the office pass a resolution requiring the person to vacate the office.

4. An Act may provide for the salary, allowances and gratuity of the Leader of the Opposition.

5. The salary, allowances or gratuity payable to the Leader of the opposition shall be not less than those payable to a Minister and shall be a charge on the Consolidated Fund.

## PART II

### LEGISLATIVE POWER AND ITS EXERCISE

#### Article 85

The legislative power of Seychelles is vested in the National Assembly and shall be exercised subject to and in accordance with this Constitution.

#### Article 86

1. The legislative power vested in the National Assembly shall be exercised by Bills passed by the Assembly and assented to or deemed to have been assented to by the

President.

2. Subject to Article 87, where a Bill is presented to the President for assent, the President shall, within fourteen days of the presentation of the Bill, assent, or, in accordance with this Part, withhold assent, to the Bill.

3. The President shall cause a Bill which has been passed and assented or deemed to have been assented to in accordance with this Constitution to be published in the Gazette whereupon it shall become law.

4. A Bill passed by the National Assembly and assented to or deemed to have been assented to by the President shall be styled an "Act" and the words of enactment shall be "Enacted by the President and the National Assembly".

#### Article 87

1. Where the President is of the opinion that a Bill presented for assent infringes or may infringe this Constitution, the President shall not assent to the Bill and, as soon as is practicable within fourteen days of the presentation of the Bill –

- a. advise the Speaker accordingly; and
- b. refer the Bill to the Constitutional Court for a decision in this respect.

2. Where the President refers a Bill to the Constitutional Court under clause (1), the President shall not, until the Court has made its decision on the Bill, be treated, for the purposes of Article 88, as having withheld assent to the Bill.

3. Where a Bill has been referred to the Constitutional Court under clause (1), the President shall not assent to it and the National Assembly shall not proceed under Article 88(2) until the Court has pronounced its decision thereon.

4. Where the Constitutional Court decides that a Bill referred to it under clause (1) does not infringe this Constitution, the Court shall forthwith inform the President and the Speaker in writing accordingly and the period under Article 86(2) within which the President is required to assent to a Bill shall start to run from the date of the decision of the Court.

5. Where the Constitutional Court decides that a Bill referred to it under clause (1) infringes this Constitution, the Court shall forthwith inform the President and the Speaker in writing accordingly and the President shall return the Bill to the Speaker.

#### Article 88

1. Where the President withholds, within the period provided in Article 86(2), assent to a Bill, not being a Bill referred to in Article 87(5), the President shall, in the case of a refusal, forthwith or, in any event, forthwith after the period of fourteen days referred to in Article 86(2) –

- a. return the Bill to the Speaker; and
- b. inform the Speaker in writing of the reasons why the Bill has not been assented to.

2. Where the President has returned the Bill to the Speaker under clause (1)(a), the National Assembly may, at any time after a period of three months from the date by which the President should have assented to the Bill under Article 86(2), by a notice approved by the votes of not less than two-thirds of the number of members of the Assembly resolve that the Bill should again be presented for the President's assent.

3. Where a Bill is presented for the President's assent under clause (2), notwithstanding that the President withholds assent to the Bill, the President shall be deemed to have assented to the Bill at the expiration of the period of fourteen days referred to in Article 86(2).

#### Article 89

Articles 85 and 86 shall not operate to prevent an Act from conferring on a person or authority power to make subsidiary legislation.

#### Article 90

Except on the recommendation of the President, signified by the Minister for the time being responsible for finance, the National Assembly shall not –

- a. proceed on a Bill, including an amendment to a Bill, which, in the opinion of the person presiding or the Attorney-General provides –
  - i. for the imposition of taxation or the alteration of taxation otherwise than by reduction;
  - ii. for the imposition of any charge on the Consolidated Fund or any other public fund of Seychelles or the alteration of any such charge otherwise than by reduction;
  - iii. for the payment, issue or withdrawal from the Consolidated Fund or any other fund of the Government of Seychelles of any moneys not charged thereon or any increase in the amount of such payment, issue or withdrawal; or
  - iv. for the composition or remission of any debt due to the Government of Seychelles; or
- b. proceed upon any motion, including an amendment to a motion, the effect of which in

the opinion of the person presiding or the Attorney-General is that provision would be made for any matter in paragraph (a)(i) to (iv); or

c. receive any petition, that, in the opinion of the person presiding, requests that that provision be made for any matter in paragraph (a)(i) to (iv).

### PART III

#### ALTERATION OF THE CONSTITUTION

##### Article 91

1. The National Assembly shall not proceed on a Bill to alter Chapter I, Chapter III, this Article , Article 110 or Article 111 unless –

a. the proposed alteration contained in the Bill has been approved on a referendum by not less than sixty percent of the votes cast in the referendum; and

b. the Speaker signifies that such approval has been so given.

2. A Bill to alter this Constitution shall, in the long title state that it is a Bill to alter the Constitution, and shall not be passed by the National Assembly unless it is supported by the votes of not less than two-thirds of the number of members of the Assembly at any stage at which, pursuant to the Standing Orders, the Bill as a whole is put to the vote in the Assembly.

3. In this Article –

a. a reference to this Constitution includes a reference to a law that amends or replaces any provision of this Constitution; and

b. a reference to the alteration of this Constitution includes a reference to the amendment, modification or reenactment, with or without amendment or modification, of any provision of this Constitution, the suspension or repeal of any such provision and the making of different provision in lieu of such provisions, and the addition of a new provision to this Constitution.

### PART IV

#### PROCEDURES IN THE NATIONAL ASSEMBLY

##### Article 92

1. The President may, at any time, attend and address the National Assembly.

2. The President may send a message to the National Assembly and the message shall be read, at the first convenient sitting of the Assembly after it is received by the Speaker, by

a Minister designated by the President.

#### Article 93

1. A Minister may attend meetings of the National Assembly –
  - a. for the purpose of presenting a Bill and in connection with proceedings in the Assembly relating to the passing of a Bill;
  - b. for the purpose of dealing with any matters arising in the Assembly, or explaining to the Assembly any matter, which falls within the Minister's responsibility; or
  - c. for the purpose of answering a written question from a member.
2. A Minister or, where the Minister is the President, the designated Minister shall attend a meeting of the National Assembly when it is necessary for a purpose referred to in clause (1)(b) or (c).

#### Article 94

1. The right to introduce a Bill in the National Assembly may be exercised by a Minister or, subject to clause (2), a member.
2. A member may not, pursuant to clause (1), introduce a Bill which provides for any of the matters specified in Article 90.
3. The Speaker shall, after consultation with the President and the Leader of the Opposition, determine the order of priority for the presentation of Bills to the National Assembly.

#### Article 95

1. Where at a meeting of the National Assembly a quorum is not present and a member who is present objects on that account to the transaction of business and after such interval as may be prescribed in the Standing Orders, the person presiding at the sitting ascertains that a quorum is still not present, the person presiding shall adjourn the meeting of the Assembly.
2. For the purpose of this Article, a quorum shall consist of one half of the number of members at the time.

#### Article 96

1. Subject to this Constitution, questions before a meeting of the National Assembly shall be decided in accordance with the majority of members present and voting.
2. The person presiding at a meeting of the National Assembly shall not vote on any

question to be decided by the Assembly but, in the event of an equality of votes on any question, shall have a casting vote.

#### Article 97

Subject to the Standing Orders meetings of the National Assembly shall be open to the public and may be broadcast.

#### Article 98

1. Subject to clause (2), the Speaker or, in the absence of the Speaker, the Deputy Speaker or, in their absence, a member elected by the National Assembly, shall preside over the deliberations of the Assembly.

2. The first meeting of a session of the Assembly shall, until the Speaker is elected, be presided over by the person who was the Speaker or, in his absence, the Deputy Speaker immediately before that meeting.

#### Article 99

A member shall not take part in the proceedings of the National Assembly, other than the proceedings for the purposes of this Article, until the member has taken and subscribed before the Assembly the oath of allegiance.

#### Article 100

The National Assembly may act, notwithstanding any vacancy in its membership, including any vacancy not filled when the Assembly first meets after an election, and the presence or participation of a person not entitled to be present at, or to participate in, the proceedings of the Assembly shall not invalidate the proceedings.

#### Article 101

Subject to this Constitution, the National Assembly may make Standing Orders for the regulation and orderly conduct of its proceedings and the discharge of business at sittings of the Assembly and for related purposes.

#### Article 102

1. There shall be freedom of speech and debate in the National Assembly and a member shall not be subject to the jurisdiction of any court or to any proceedings whatsoever, other than in proceedings in the Assembly, when exercising those freedoms or performing the functions of a member in the Assembly.

2. Where the National Assembly is in session an arrest shall not be effected against a

member in a way which will interfere with the performance by the member of the functions of the member in the Assembly and, where proceedings are instituted against a member, the court or authority before which the proceedings are being conducted shall so conduct the proceedings as to allow the member to continue to perform the functions of the member in the Assembly.

3. Where an arrest has been effected against a member, or any proceedings against a member begun, before the beginning of the session of the Assembly, the arrest or proceedings shall not be allowed to interfere with the performance by the member of the functions of the member in the Assembly.

4. The protection afforded under clauses (2) and (3) shall, in the case of a criminal proceedings, end upon the court or authority before which the proceedings are being conducted passing a sentence on the member on the conviction of the member.

5. A member or other person or authority is not liable to civil or criminal proceedings, arrest, imprisonment, fine, damages or compensation by reason of –

- a. an act done under the authority or an order of the Assembly; or
- b. words spoken or used, or a document or writing made or produced under an order made under the authority of the Assembly.

6. Where a person, other than a member of the National Assembly, is aggrieved by the exercise of the right under clause (1), that person may, in writing addressed to the Speaker, submit a reply to the Speaker and the Speaker shall circulate a copy of the reply to every member of the Assembly, and at the commencement of the proceedings of the immediately following sittings of the Assembly, read the reply in the Assembly.

#### Article 103

A process issued by a court shall not be served or executed within the precincts of the National Assembly, as defined by or under an Act.

#### Article 104

1. The National Assembly shall, as soon as is practicable after the beginning of each session of the Assembly, appoint from among its members standing committees and other committees necessary for the efficient discharge of its functions and, without prejudice to the foregoing, the National Assembly shall appoint the following standing committees –

- a. a Finance and Public Accounts Committee; and

b. a Standing Order Committee.

2. The composition of a standing or other committee shall, as far as is practicable, reflect the strength of the political parties and independent members in the Assembly but shall otherwise be regulated by the Standing Orders.

3. For the purposes of effectively performing its functions a standing or other committee may summon any person the committee believes may assist the committee in the performance of its functions and the committee shall have the powers, rights and privileges of the Supreme Court for –

a. enforcing the attendance of witnesses and examining them on oath, affirmation or otherwise;

b. compelling the production of documents; and

c. issuing a commission or request to examine a witness abroad.

4. A debate in the National Assembly may only be initiated in respect of a report or other matter which falls within the competence of a standing or other committee by a member of the standing or other committee.

#### Article 105

1. An Act may provide for the salary, allowances and gratuity of members of the National Assembly.

2. The salary, allowances or gratuity payable to members of the National Assembly shall be a charge on the Consolidated Fund.

3. A member of the National Assembly elected to the office of Speaker, Deputy Speaker or the Leader of the opposition shall not, while holding that office, be paid the salary, allowances or gratuity payable under clause (1).

#### PART V

#### SESSIONS AND DISSOLUTION OF THE NATIONAL ASSEMBLY

#### Article 106

1. A session of the National Assembly shall begin on the first meeting of the Assembly summoned under Article 107 and, unless sooner dissolved under clause (2) (b), Article 110 or Article 111, continue for a period of five years thereafter.

2. The National Assembly shall stand dissolved –

a. subject to clause (3), on the day next following the end of the period of five years

referred to in clause (1);

b. where a general election is held before the period of five years referred to in clause (1), on the day next following the declaration of the results of the election; or

c. in accordance with Article 110 or Article 111.

3. where a period of public emergency subsists at the time when the National Assembly would stand dissolved under clause (2)(a), National Assembly may, by resolution approved by a majority of the members of the Assembly, extend the sessions of the Assembly –

a. where there is a declaration of emergency, for not more than six months at a time but up to a maximum aggregate period of twelve months;

b. where Seychelles is at war, for not more than twelve months at a time but up to a maximum aggregate period of forty-eight months,

and a period of extension shall not extend beyond the duration of the term of office of the President extended in the same circumstances under this Constitution.

#### Article 107

The President shall, by Proclamation published in the Gazette, summon the first meeting of the National Assembly in a session not later than four months after the end of the immediately preceding session of the Assembly.

#### Article 108

Subject to Article 109, each succeeding meeting of the National Assembly after the first meeting of the Assembly shall be held at such place and commence at such time as the Speaker may determine or as may be prescribed by the Standing Orders.

#### Article 109

The President may, at any time by Proclamation published in the Gazette, summon a meeting of the National Assembly.

#### Article 110

1. The President may dissolve the National Assembly in accordance with this Article .

2. Subject to clause (5), the President may, not more than once during a term of office of the President, for any reason which the President considers it to be in the national interest so to do, after giving seven days notice to the Speaker, by Proclamation published in the Gazette, dissolve the National Assembly and the Assembly shall stand dissolved on the

day next following the publication of the Proclamation.

3. Subject to clause (5) where during a term of office of the President the President has once dissolved the National Assembly under clause (2) and the President is of the opinion that it is in the national interest to dissolve the Assembly once again, the President may, after giving to the Speaker –

a. seven days' notice of the intention to dissolve the Assembly; and

b. written notice of the President's intention to resign from office under Article 52(5) on the publication of the Proclamation under this Article ,

by Proclamation, published in the Gazette, dissolve the National Assembly and the Assembly shall stand dissolved and the President shall cease to hold office on the day next following the publication of the Proclamation.

4. Where –

a. the National Assembly votes against any measure or proposal of the Government and on a referendum a majority of the votes cast in the referendum supports the measure or proposal and the Assembly, after the referendum, again votes against the measure or proposal,

b. a proposal to alter Chapter I, Chapter III, Article 91, this Article or Article 111 has been approved on a referendum held pursuant to Article 91 and a Bill to give effect to the proposal is not supported as required by Article 91 (2) in the National Assembly, the President may, after giving seven days' notice to the Speaker, by Proclamation published in the Gazette, dissolve the National Assembly within thirty days of the Assembly voting against the measure or proposal under paragraph (a) or the Assembly not supporting the Bill under paragraph (b) , as the case may be and the Assembly shall stand dissolved on the day next following the publication of the Proclamation.

5. The President shall not dissolve the National Assembly under clause (2) or clause (3) during any period of public emergency in terms of Article 49 or, where proceedings for the removal of the President under Article 53 or Article 54 have commenced, during the pendency of the proceedings.

Article 111

Where the National Assembly at a meeting summoned for this purpose resolves by the affirmative votes of not less-than two-thirds of the number of members of the Assembly

that the Assembly be dissolved, the National Assembly shall stand dissolved on the day next following the passing of the resolution.

## CHAPTER VII

### ELECTORAL AREAS, FRANCHISE AND ELECTORAL COMMISSIONER

#### Article 112

1. Subject to this Article, Seychelles shall be divided into as many electoral areas, as may be prescribed, for the purposes of election of members to the National Assembly and each electoral area shall be represented by one member of the National Assembly.

2. There shall be not less than nineteen electoral areas on Mahé and two electoral areas on Praslin and the Inner Islands shall constitute one electoral area.

3. In determining the number and boundaries of the electoral areas on Mahé and Praslin the Electoral commissioner –

a. shall have regard to –

i. the boundaries of electoral areas which exist at the time of the determination by the Commissioner; and

ii. the natural geographical features of Seychelles;

b. shall ensure that, each electoral area on Mahé shall have, as nearly as is practicable, an equal number of inhabitants and each electoral area on Praslin shall have, as nearly as is practicable, an equal number of inhabitants;

c. shall, for the purposes of the application of Article 78(b), ensure that the total number of electoral areas is, as far as is practicable, a multiple of two.

#### Article 113

A citizen of Seychelles who is registered as a voter in an electoral area shall be entitled to vote, in accordance with law, in the electoral area –

a. at an election for the office of President;

b. at an election of the members of the National Assembly; or

c. in a referendum held under this Constitution,

unless any circumstances have arisen which, if the citizen were not so registered, would cause the citizen to be disqualified under an Act made under Article 114(l) on ground (a) or ground (b) of Article 114(1).

#### Article 114

1. A person who is a citizen of Seychelles and has attained the age of eighteen years is entitled to be registered as a voter unless the person is disqualified from registration under an Act on the ground of

- a. infirmity of mind;
- b. criminality; or
- c. residence outside Seychelles.

2. An Act referred to in clause (1) may provide for different grounds of disqualification with regard to –

- a. an election for the office of President;
- b. an election of the members of the National Assembly; and
- c. a referendum held under this Constitution.

3. A person is not entitled to be registered as a voter in more than one electoral area.

#### Article 115

1. There shall be an Electoral Commissioner who shall be appointed by the President from candidates proposed by the Constitutional Appointments Authority for a term of office of not more than seven years.

2. A person is qualified to be appointed as the Electoral Commissioner if –

- a. the person is qualified to be registered as a voter and is a person of proven integrity and high repute; and
- b. the person is not a candidate in an election under this Constitution or is not the President, a Minister or a member of the National Assembly.

3. Subject to this Constitution, the Electoral Commissioner shall not be subject to the direction or control of any person or authority in the performance of the functions of the commissioner under this Constitution.

4. The Electoral Commissioner shall be paid such salary, allowances and gratuity as may be prescribed by an Act and the salary, allowances or gratuity so payable shall be a charge on the Consolidated Fund.

5. Subject to Article 165, the term and conditions on which a person has been appointed Electoral Commissioner shall not be altered to the disadvantage of the person after the appointment.

6. The Electoral Commissioner shall, at the end of the term of office, vacate the office

and is eligible for reappointment.

#### Article 116

##### 1. The Electoral Commissioner –

a. shall be responsible for the conduct and supervision of the registration of voters and of elections and referenda under this Constitution;

b. shall keep under continuous review the number and boundaries of the electoral areas into which Mahé and Praslin are divided having regard to Article 112(3);

c. shall keep under continuous review the practices and working, including such matters as finance, broadcast and advertising, of political campaigns in respect of elections and referenda under this Constitution;

d. shall have such other functions as may be prescribed by or under this Constitution or an Act.

2. The Electoral Commissioner shall, within ninety days after each election or referendum under this Constitution, submit to the National Assembly and the President a report on the conduct of –

a. the political campaign leading up to the election or referendum; and

b. the election or referendum, together with such recommendations as the Commissioner may consider necessary for the purposes of ensuring true, fair and effective elections and referenda.

3. The Electoral commissioner shall, not later than three years after the coming into force of this Constitution and thereafter three years. after the Commissioner last submitted a report in terms of clause (1)(b), submit to the National Assembly and the President a report in terms of clause (1)(b) together with such recommendations regarding changes in the number or boundaries of the electoral area on Mahé and Praslin which the Commissioner considers necessary in the circumstances.

4. As soon as is practicable within thirty days after the submission of the report under clause (3) the President shall cause to be laid before the National Assembly the draft of an order by the President for giving effect to the recommendations contained in the report relating to changes in the number or boundaries of the electoral areas referred to in the report and the draft may make provision for any matter which appears to the President to be incidental to or consequential upon the other provisions of the draft.

5. When the draft order laid before the National Assembly under clause (4) is approved by resolution of the National Assembly, the President shall make an order, which shall be published in the Gazette, in terms of the draft and the order shall come into force on the next dissolution of the National Assembly after the order is so published.

6. Where the draft order laid before the National Assembly under clause (4) is not approved by resolution of the National Assembly, the President shall refer the matter to the Electoral Commissioner for its reconsideration.

#### Article 117

1. An Act shall provide for the regulation and control by the Electoral Commissioner of –

- a. election or referendum expenditures by a political party or person taking part in an election or referendum;
- b. contributions to or in favour of a political party or person taking part in an election or referendum or a cause in relation to an election or referendum;
- c. political broadcasts.

#### Article 118

An Act shall provide for the registration of political parties, qualifications for entitlement to be registered as a political party, conferment of corporate status on political parties, the maintenance of a register of political parties by the Electoral Commissioner, the submission of accounts and other prescribed particulars and information to the Commissioner by a registered political party, the provision of financial support from public funds to political parties, the control of financial and other contributions to political parties, the disposal of the assets of political parties on dissolution and the submission to the National Assembly by the Electoral Commissioner of an annual report in respect of the functions of the Commissioner under the Act.

### CHAPTER VIII

#### JUDICIARY

##### PART I

##### GENERAL

#### Article 119

1. The judicial power of Seychelles shall be vested in the Judiciary which shall consist of

–

- a. the Court of Appeal of Seychelles;
  - b. the Supreme Court of Seychelles; and
  - c. such other subordinate courts or tribunals established pursuant to Article 137.
2. The Judiciary shall be independent and be subject only to this Constitution and the other laws of Seychelles.
  3. Subject to this Constitution, Justices of Appeal, Judges and Masters of the Supreme Court shall not be liable to any proceedings or suit for anything done or omitted to be done by them in the performance of their functions.
  4. An Act establishing a subordinate court or tribunal referred to in clause (1) (c) may grant to the person exercising judicial functions in the court or tribunal immunity from proceedings or suit to the extent provided in clause (3).

## PART II

### COURT OF APPEAL

#### Article 120

1. There shall be a Court of Appeal which shall, subject to this Constitution, have jurisdiction to hear and determine appeals from a judgment, direction, decision, declaration, decree, writ or order of the Supreme Court and such other appellate jurisdiction as may be conferred upon the Court of Appeal by this Constitution and by or under an Act.
2. Except as this Constitution or an Act otherwise provides, there shall be a right of appeal to the Court of Appeal from a judgment, direction, decision, declaration, decree, writ or order of the Supreme Court.
3. The Court of Appeal shall, when exercising its appellate jurisdiction, have all the authority, jurisdiction and power of the court from which the appeal is brought and such other authority, jurisdiction and power as may be conferred upon it by or under an Act.
4. Subject to this Constitution and any other law, the authority, jurisdiction and power of the Court of Appeal may be exercised as provided in the Rules of the Court of Appeal.
5. Proceedings in respect of a matter relating to the application, contravention, enforcement or interpretation of this Constitution shall take precedence over other matters before the Court of Appeal.
6. Where in respect of any matter before it, the Court of Appeal finds that any law or

provision of any law contravenes this Constitution, the Justice of Appeal presiding at the sitting of the Court shall send a copy of the finding to the President and the Speaker.

7. The Court of Appeal shall sit, as occasion requires, to deal with matters before it as expeditiously as is practicable.

#### Article 121

The Court of Appeal shall consist of –

- a. a President of the Court of Appeal and two or more other Justices of Appeal; and
- b. the Judges who shall be ex-officio members of the Court.

#### Article 122

A person is qualified for appointment as, or to discharge the functions of, the President of the Court of Appeal or a Justice of Appeal if, in the opinion of the Constitutional Appointments Authority, the person is suitably qualified in law and can effectively, competently and impartially discharge the functions of the office of Justice of Appeal under this Constitution.

#### Article 123

The President shall, by instrument under the Public Seal, appoint the President of the Court of Appeal and other Justices of Appeal from candidates proposed by the Constitutional Appointments Authority.

#### Article 124

1. Where the office of President of the Court of Appeal is vacant or the President of the Court of Appeal is for any reason unable to perform the functions of the office of President of the Court of Appeal –

- a. until a person has been appointed to and has assumed the functions of that office; or
- b. until the person holding the office of President of the Court of Appeal has resumed the functions of that office;
- c. as the case may be, the functions of the office of President of the Court of Appeal shall be performed by a justice of Appeal appointed for the purpose by the President from Justices of Appeal proposed by the Constitutional Appointments Authority.

2. Where –

- a. the office of a Justice of Appeal is vacant;
- b. a Justice of Appeal is for any reason unable to perform the functions of that office;

- c. a Justice of Appeal is performing the functions of the President of the Court of Appeals under clause (1),
- d. the President may appoint a person from candidates proposed by the Constitutional Appointments Authority to act as Justice of Appeal –
- e. until a person has been appointed to and has assumed the functions of the office of Justice of Appeal;
- f. until the person holding the office of Justice of Appeal has resumed the functions of that office; or
- g. until the Justice of Appeal referred to in paragraph (c) ceases to perform the functions of the office of President of the Court of Appeal, as the case may be.

### PART III

### SUPREME COURT

#### Article 125

1. There shall be a Supreme Court which shall, in addition to the jurisdiction and powers conferred by this Constitution, have –
  - a. original jurisdiction in matters relating to the application, contravention, enforcement or interpretation of this Constitution;
  - b. original jurisdiction in civil and criminal matters;
  - c. supervisory jurisdiction over subordinate courts, tribunals and adjudicating authority and, in this connection, shall have power to issue injunctions, directions, orders or writs including writs or orders in the nature of habeas corpus, certiorari, mandamus, prohibition and quo warranto as may be appropriate for the purpose of enforcing or securing the enforcement of its supervisory jurisdiction; and
  - d. such other original, appellate and other jurisdiction as may be conferred on it by or under an Act.
2. Proceedings in respect of matters relating to the application, contravention, enforcement or interpretation of this Constitution shall take precedence over other matters before the Supreme Court.
3. The supreme court shall consist of the Chief Justice, the Puisne Judges and, subject to clause (5), the Masters of the Supreme Court.
4. Subject to Article 129, any other law and the Rules of the Supreme Court, a single

Judge or a number of Judges sitting together may exercise the jurisdiction and powers of the Supreme Court.

5. A Master of the Supreme Court may exercise such limited jurisdiction and powers of the Supreme Court as may be prescribed by or under an Act or by the rules of the Supreme Court in respect of interlocutory proceedings.

6. The number of Puisne Judges and Masters of the Supreme Court who may be appointed shall be prescribed by an Act.

7. For the purposes of clause (1) (c) “adjudicating authority” includes a body or authority established by law which performs a judicial or quasi-judicial function.

#### Article 126

1. A person is qualified for appointment as a Judge if –

a. the person has been entitled to practise before a court of unlimited original jurisdiction for not less than seven years; and

b. in the opinion of the Constitutional Appointments Authority the person has shown outstanding distinction in the practice of law and can effectively, competently and impartially discharge the functions of the office of a Judge under this Constitution.

2. A person is qualified for appointment as a Master of the Supreme Court if –

a. the person has been entitled to practise before a court of unlimited jurisdiction for not less than five years; and

b. in the opinion of the Constitutional Appointments Authority the person has shown outstanding distinction in the practice of law and can effectively, competently and impartially discharge the functions of the office of a Master of the Supreme Court under this Constitution.

3. For the purposes of clauses (1) (b) and (2) (b) , any period during which a person has functioned as a public officer holding an office for which qualification as a barrister or attorney is required may be treated as a period of practice under the clauses.

#### Article 127

The President shall, by instrument under the Public Seal, appoint the Judges and Masters of the Supreme Court from candidates proposed by the Constitutional Appointments Authority.

#### Article 128

1. Where the office of Chief Justice is vacant or the Chief Justice is for any reason unable to perform the functions of the office of Chief Justice –

- a. until a person has been appointed to and has assumed the functions of that office; or
- b. until the person holding that office has resumed the functions of that office, as the case may be, the functions of the office shall be performed by a Judge appointed by the President from Judges proposed by the Constitutional Appointments Authority.

2. Where –

- a. the office of a Judge is vacant;
- b. a Judge is for any reason unable to perform the functions of the office of a Judge; or
- c. the Chief Justice advises the President that the state of business in the Supreme Court so requires,
- d. the President may appoint a person from candidates proposed by the Constitutional Appointments Authority to act as a Judge –
- e. until a person has been appointed and has assumed the functions of that office;
- f. until the person holding that office has assumed the functions of that office; or
- g. until the President, on the advice of the Chief Justice, revokes the appointment as the case may be.

3. An appointment under clause (2)(c) may be made without reference to any numerical limit imposed under Article 125(6).

## PART IV

### CONSTITUTIONAL QUESTIONS

#### Article 129

1. The jurisdiction and powers of the Supreme Court in respect of matters relating to the application, contravention, enforcement or interpretation of the Constitution shall be exercised by not less than two Judges sitting together.
2. Where two or more Judges sit together for the purposes of clause (1), the most senior of the Judges shall preside.
3. Any reference to the Constitutional Court in this Constitution shall be a reference to the Court sitting under clause (1).

#### Article 130

1. A person who alleges that any provisions of this Constitution, other than a provision of

Chapter III, has been contravened and that the person's interest is being or is likely to be affected by the contravention may, subject to this Article , apply to the Constitutional Court for redress.

2. The Constitutional Court may decline to entertain an application under clause (1) where the Court is satisfied that the applicant has obtained redress for the contravention under any law and where the applicant has obtained redress in the Constitutional Court for any matter for which an application may be made under clause (1), a court shall not entertain any application for redress for such matter except on appeal from a decision of such court.

3. Where the Constitutional Court on an application under clause (1) is satisfied that adequate means of redress for the contravention alleged are or have been available to the person concerned in any other court under any other law, the Court may hear the application or transfer the application to the appropriate court for grant of redress in accordance with law.

4. Upon hearing an application under clause (1), the Constitutional Court may –

a. declare any act or omission which is the subject of the application to be a contravention of this Constitution;

b. declare any law or the provision of any law which contravenes this Constitution to be void;

c. grant any remedy available to the Supreme Court against any person or authority which is the subject of the application or which is a party to any proceedings before the Constitutional Court, as the Court considers appropriate.

5. Where the Constitutional Court makes a declaration under clause 4(b), the Court shall, subject to any decision in appeal therefrom, send a copy of the declaration to the President and the Speaker,

6. Where in the course of any proceedings in any court, other than the Court of Appeal or the Supreme Court sitting as the Constitutional Court, or tribunal, a question arises with regard to whether there has been or is likely to be a contravention of this Constitution, other than Chapter III, the court or tribunal shall, if it is satisfied that the question is not frivolous or vexatious or has not already been the subject of a decision of the Constitutional Court or the Court of Appeal, immediately adjourn the proceedings and

refer the question for determination by the Constitutional Court.

7. Where in an application under clause (1) or where a matter is referred to the Constitutional Court under clause (9), the person alleging the contravention or risk of contravention establishes a prima facie case, the burden of proving that there has not been a contravention or risk of contravention shall, where the allegation is against the State, be on the State.

8. The Court in which the question referred to in clause (6) arose shall dispose of the case in accordance with the decision of the Constitutional Court, or if that decision is the subject of an appeal, in accordance with the decision of the Court of Appeal.

9. Nothing in this Article confers jurisdiction on the Constitutional Court to hear or determine a matter referred to it under Article 51(4) or Article 82(l) otherwise than upon an application made in accordance with Article 51 or Article 82.

## PART V

### TERMS OF APPOINTMENT OF JUSTICES OF APPEAL AND JUDGES

#### Article 131

1. Subject to Article 134, a person holding office of Justice of Appeal or Judge shall vacate that office –

- a. on death;
- b. if the person is removed from office under Article 134;
- c. subject to clause (2), if the person resigns in writing addressed to the President and to the Constitutional Appointments Authority;
- d. in the case of a person who is a citizen of Seychelles, on attaining the age of seventy years;
- e. in the case of a person who is not a citizen of Seychelles, at the end of the term for which the person was appointed;
- f. if the office is abolished with the consent of the person.

2. A resignation under clause (1) (c) shall have effect on the date on which it is received by the President.

3. Subject to clause (4), a person who is not a citizen of Seychelles may be appointed to the office of Justice of Appeal or Judge for only one term of office of not more than seven years.

4. The President may, on the recommendation of the Constitutional Appointments Authority in exceptional circumstances, appoint a person who is not a citizen of Seychelles and who has already completed one term of office as a Justice of Appeal or Judge for a second term of office, whether consecutive or not, of not more than seven years.

#### Article 132

1. The office of justice of Appeal or Judge shall not, without the consent of the Justice of Appeal or Judge, be abolished during the Justice's of Appeal or Judge's continuance in office.

2. A person who has been appointed to the office of Justice of Appeal or Judge may continue in of f ice notwithstanding any change, during the Justice's of Appeal or Judge's term of office, of the qualification for appointment to the office.

3. A Justice of Appeal or Judge or a person acting as such pursuant to Article 124 or Article 128, whose appointment has terminated otherwise than by reason of being removed from office under Article 134, may continue to sit as a Justice of Appeal or Judge, or to act as such, for the purpose of giving judgment or otherwise in relation to any proceedings commenced before the Justice of Appeal or Judge before the termination of the appointment.

#### Article 133

1. The salary, allowances and gratuity payable to a Justice of Appeal or Judge shall be prescribed by or under an Act and shall be a charge on the Consolidated Fund.

2. Subject to Article 134, the salary, allowances or gratuity payable to and the term and other conditions of service of a Justice of Appeal or Judge shall not be altered to the disadvantage of the Justice of Appeal or Judge after appointment.

#### Article 134

1. A Justice of Appeal or Judge may be removed from office only –

a. for inability to perform the functions of the office, whether arising from infirmity of body or mind or from any other cause, or for misbehaviour; and

b. in accordance with clauses (2) and (3).

2. Where the Constitutional Appointments Authority considers that the question of removing a Justice of Appeal or Judge from office under clause (1) ought to be

investigateda.

the Authority shall appoint a tribunal consisting of a President and at least two other members, all selected from among persons who hold or have held office as a Judge of a court having unlimited original jurisdiction, or a court having jurisdiction in appeals from such a court or from among persons who are eminent jurists of proven integrity; and

b. the tribunal shall inquire into the matter, report on the facts thereof to the Authority and recommend to the President whether or not the Justice of Appeal or Judge ought to be removed from office.

3. Where, under clause (2), the tribunal recommends that a Justice of Appeal or Judge ought to be removed from office, the President shall remove the Justice of Appeal or Judge from office.

4. Where under this Article the question of removing a Justice of Appeal or Judge has been referred to a tribunal, the President may suspend the Justice of Appeal or Judge from performing the functions of a Justice of Appeal or Judge, but the suspension –

a. may, on the advice of the Constitutional Appointments Authority, be revoked at any time by the President;

b. shall cease to have effect if the tribunal recommends to the President that the Justice of Appeal or Judge ought not to be removed from office.

## PART VI

### MISCELLANEOUS

#### Article 135

A Justice of Appeal, Judge or Master of the Supreme Court shall, before entering office, take and subscribe the oath of allegiance and such oath for the due performance of the functions of the office as may be prescribed by or under an Act.

#### Article 136

1. The President of the Court of Appeal may make Rules of the Court of Appeal.

2. The Chief Justice may make Rules of Court of the Supreme Court.

#### Article 137

Acts may –

a. provide for the establishment of courts or tribunals which are subordinate to the Court of Appeal and Supreme Court, in this Article referred to as “subordinate courts and

tribunals”;

b. provide for the appointment to and removal from office of members of the subordinate courts and tribunals;

c. define or provide for the definition of the jurisdiction and powers of the subordinate courts and tribunals;

d. define or provide for the definition of the relationship among the subordinate courts or tribunals and the relationship between the subordinate courts or tribunals and the Supreme Court and the Court of Appeal;

e. provide for the making of rules in respect of the subordinate courts and tribunals.

#### Article 138

The Supreme Court shall have, and use as occasion requires, a seal bearing on it the device of the Public Seal of Seychelles surrounded by the words “Seal of the Supreme Court Seychelles”.

### CHAPTER IX

#### CONSTITUTIONAL APPOINTMENTS AUTHORITY

#### Article 139

1. There shall be a Constitutional Appointments Authority which shall perform the functions conferred upon it by this Constitution and any other law.

2. Subject to this Constitution, the Constitutional Appointments Authority shall not, in the performance of its functions, be subject to the direction or control of any person or authority.

#### Article 140

1. The Constitutional Appointments Authority shall consist of three members appointed as follows –

a. the President and the Leader of the Opposition shall each appoint one member;

b. subject to clause (2), the two members appointed under paragraph (a) shall, within twenty-one days of their appointment, by agreement, appoint the third member who shall also be the Chairman of the Authority.

2. Where the two members of the Constitutional Appointments Authority appointed under clause (1)(a) are unable to agree on the appointment of the third member and Chairman of the Authority, the two members shall, within fourteen days after the end of

the period specified in clause (1) (b) , propose a list of not less than two and not more than three candidates for the office of member and Chairman of the Authority to the President and the President shall appoint one of the candidates proposed as member and Chairman of the Authority.

#### Article 141

1. A person is qualified to be a member of the Constitutional Appointments Authority if the person is a citizen of Seychelles who –

- a. has held judicial office in a court of unlimited original jurisdiction; or
- b. is of proven integrity and impartiality who has served with distinction in a high office in the Government of Seychelles or under this Constitution or in a profession or vocation.

#### Article 142

1. A person shall be appointed a member of the Constitutional Appointments Authority for a term of seven years and subject to any law, may, at the end of a term, be reappointed for further terms of office.
2. A person holding office as member of the Constitutional Appointments Authority may, by writing addressed to the President and Leader of Opposition, and, in the case of a member who is not the Chairman, to the Chairman, resign.
3. A resignation under clause (2) shall have effect on the date it is last received by any person specified in that clause.
4. The salary, allowances and gratuity payable to a member of the Constitutional Appointments Authority shall be prescribed by or under an Act and the salary, allowances or gratuity shall be a charge on the Consolidated Fund.
5. Subject to Article 166, the salary, allowances and gratuity payable to and the term and other conditions of appointment of a member of the constitutional Appointments Authority shall not be altered to the disadvantage of the member after the appointment.
6. The Constitutional Appointments Authority may regulate its own proceedings and may act notwithstanding one vacancy in its membership.

### CHAPTER X

#### OMBUDSMAN

#### Article 143

1. There shall be an Ombudsman who shall be appointed by the President from

candidates proposed by the Constitutional Appointments Authority.

2. A person is qualified for appointment as Ombudsman if –

- a. the person is a citizen of Seychelles;
- b. the person is of proven integrity and impartiality;
- c. the Constitutional Appointments Authority is of the opinion that the person possesses demonstrated competence and experience and can effectively discharge the functions of the office of Ombudsman; and
- d. the person is not a member of the National Assembly or Judiciary or a Minister or the President or a candidate in an election under this Constitution.

3. Subject to this Constitution, the Ombudsman shall not, in the performance of the office of Ombudsman, be subject to the direction or control of any person or authority.

4. The person holding office as Ombudsman shall not hold any other public office of emolument or engage in any occupation for reward outside the functions of the office of ombudsman which might compromise the integrity, impartiality and independence of that office.

5. Schedule 5 shall have effect with regard to the Ombudsman.

6. An Act may provide for any matter, not otherwise provided for under this Article , necessary or expedient for the purpose of ensuring the independence, impartiality and effectiveness of the office of Ombudsman.

#### Article 144

1. A person shall be appointed to the office of Ombudsman for a term of seven years, and is eligible for reappointment at the end of the term.

2. A person holding the office of Ombudsman shall vacate the office on death, if the person, by writing addressed to the President, resigns if the person is removed from office or at the end of a term of office.

3. Where a person holding office as Ombudsman resigns, the resignation has effect on the date it is received by the President.

4. The salary, allowances and gratuity payable to the ombudsman shall be prescribed by or under an Act and the salary, allowances or gratuity so payable shall be a charge on the consolidated Fund.

5. Subject to Article 166, the salary, allowances or gratuity payable to and the term of

office and other conditions of service of the Ombudsman shall not be altered to the disadvantage of the ombudsman after appointment.

## CHAPTER XI

### PUBLIC SERVICE APPEAL BOARD

#### Article 145

1. There shall be a Public Service Appeal Board which shall perform the functions conferred upon it by this Constitution and any other law.
2. Subject to this Constitution, the Public Service Appeal Board shall not, in the performance of its functions, be subject to the direction or control of any person or authority.

#### Article 146

1. The Public Service Appeal Board shall hear complaints by persons aggrieved by –
  - a. an appointment made to an office;
  - b. a promotion to an office;
  - c. disciplinary proceedings taken in respect of an officer;
  - d. the termination of appointment of a person who was holding an office;
  - e. any decision relating to the qualification of a person who has applied for an office or is serving in an office,
  - f. in the public service.
2. Clause (1) shall not apply to an office the appointment to which falls within the competence of the Constitutional Appointments Authority or an office referred to in Article 62 (3) or any other law.
3. The Public service Appeal Board may refuse to consider an appeal or complaint where it is of the opinion that –
  - a. it is frivolous, vexatious or trivial or made in bad faith; or
  - b. the making of the complaint has, without reasonable cause, been delayed for more than six months, or the complaint is the subject of proceedings before the court.
4. where after considering a complaint the Public Service Appeal Board is of the opinion that the complainant has been aggrieved as alleged in the complaint, the Board shall order the public authority concerned to take such appropriate action as is specified in the order within the time specified in the order and where the public authority fails to comply with

the order the Board shall make a report to the National Assembly.

5. The Public Service Appeal Board shall, in addition to any report it may make under clause (4), make, before the 31st January of each year, a report to the National Assembly in respect of the performance of its functions during the immediately preceding year.

6. A complaint made under this Article shall not affect the right of the complainant or other person to take legal or any other proceedings under any other law.

7. For the purposes of this Article –

“body” means a body of persons whether corporate or incorporate;

“public service” means service under a public authority;

“public authority” means a Ministry, department, division or agency of the Government or a statutory corporation or a limited liability company which is directly or ultimately under the control of Government or any other body which is carrying out a governmental function or service or a body or person specified by an Act.

#### Article 147

1. The Public Service Appeal Board shall, for the purposes of performing its functions under this Chapter, have the power to compel the attendance of witnesses, examine witnesses on oath or otherwise, call for and examine any relevant record and inspect any premises.

2. Paragraph 4 of Schedule 5 shall apply to an investigation by the Public Service Appeal Board as it applies to an investigation by the Ombudsman.

3. The Public Service Appeal Board may regulate its own proceedings and may act notwithstanding one vacancy in its membership.

4. An Act may provide for any matter, not otherwise provided for in this Chapter, in relation to the Public Service Appeal Board.

#### Article 148

1. The Public Service Appeal Board shall consist of three members appointed as follows –

a. the President and the Leader of the Opposition shall each appoint one member;

b. subject to clause (2), the two members appointed under paragraph (a) shall, within twenty-one days of their appointment, by agreement, appoint the third member who shall also be the Chairman of the Board.

2. Where the two members of the Public Service Appeal Board appointed under clause

(1) (a) are unable to agree on the appointment of the third member and Chairman of the Board, the two members shall, within fourteen days after the end of the period specified in clause (1)(b), propose a list of not less than two and not more than three candidates for the office of member and Chairman of the Board to the President and the President shall appoint one of the candidates proposed as member and Chairman of the Board.

#### Article 149

A person is qualified to be a member of the Public Service Appeal Board if the person is a citizen of Seychelles who –

- a. is of proven integrity and impartiality who has served with distinction in a high office in the Government of Seychelles or under this Constitution or in a profession or vocation; and
- b. is not a member of the National Assembly or a Minister or the President or a candidate to an election under this Constitution.

#### Article 150

1. A person shall be appointed a member of the Public Service Appeal Board for a term of seven years and subject to any law, may, at the end of a term, be reappointed for further terms of office.
2. A person holding office as a member of the Public Service Appeal Board may, by writing addressed to the President and Leader of Opposition, and, in the case of a member who is not the Chairman, to the Chairman, resign.
3. A resignation under clause (2) shall have effect on the date it is last received by any person specified in that clause.
4. The salary, allowances and gratuity payable to a member of the Public Service Appeal Board shall be prescribed by or under an Act and the salary, allowances or gratuity so payable shall be a charge on the Consolidated Fund.
5. Subject to Article 166, the salary, allowances and gratuity payable to and the term and other conditions of appointment of a member of the Public Service Appeal Board shall not be altered to the disadvantage of the member after the appointment.
6. The Public Service Appeal Board may regulate its own proceedings and may act notwithstanding one vacancy in its membership.

#### CHAPTER XII

## FINANCE

### Article 151

There shall be a Consolidated Fund into which shall be paid all revenues or other moneys raised or received for the purposes or on behalf of the Republic, not being revenues or other moneys that are payable by or under an Act for some specific purpose or into some other fund established under an Act for a specific purpose.

### Article 152

1. No moneys shall be withdrawn from the Consolidated Fund except –
  - a. to meet expenditure that is charged on the Fund by this Constitution or by an Act; or
  - b. where the issue of those moneys has been authorised –
    - i. by an Appropriation Act;
    - ii. by a supplementary estimate approved pursuant to Article 154(7) by resolution of the National Assembly passed in that behalf of; or
    - iii. under Article 155.
2. Fund, unless the issue of those moneys has been authorised by or under an Act.

### Article 153

The public debt of Seychelles shall be a charge on the consolidated Fund and other public funds established by or under this Constitution.

### Article 154

1. The Minister shall, not later than the thirtieth day after the beginning of each financial year, lay before the National Assembly the estimates of revenue and expenditure of the Government for the financial year.
2. The Minister shall, before presenting the estimates under clause (1), obtain the approval of the Cabinet in respect of the estimates.
3. The estimates referred to in clause (1) shall include –
  - a. a statement of the public debt at the beginning of the financial year showing –
    - i. bilateral, multilateral, institutional and commercial debts;
    - ii. whether the debt in each case referred to in subparagraph (i) is foreign or domestic;
    - iii. in the case of a domestic debt, the type and aggregate amount of the debt instrument issued;
  - b. a statement of the expected debt at the end of the financial year;
  - c. a profile of the debt repayment and servicing requirement for the next ten subsequent

financial years;

d. a statement of the outstanding guarantees given by the Government and the Central Bank of Seychelles;

e. a statement of official reserves, clearly identifying the reserves held at the beginning of the financial year by the Central Bank, the Government and the banking sector in aggregate, the expected holdings by the Central Bank, Government and banking sector at the end of the financial year and the extent to which the official reserves are expected to be drawn down or increased during the financial year;

f. a statement of the fiscal outcome and effect showing a full abstract of the Consolidated Fund for the immediately preceding financial year.

4. The estimates of expenditure referred to in clause (1) shall show separately

a. the estimates of expenditure required to meet expenditures charged on the Consolidated Fund; and

b. the sums required to meet other expenditures, during the financial year.

5. The heads of expenditures referred to in clause (4)(b) shall be included in a Bill, to be known as the Appropriation Bill, which shall be introduced in the National Assembly to provide for appropriation from the Consolidated Fund of the sums of money necessary to meet the expenditures.

6. Where, in respect of any financial year, it is found –

a. that the amount appropriated by the Appropriation Act for any purpose is insufficient or that a need has arisen for expenditure for a purpose for which no amount has been appropriated by that Act; or

b. that any moneys have been expended for any purpose in excess of the amount appropriated for that purpose by that Act or for a purpose for which no amount has been appropriated by that Act, a supplementary estimate, showing the sum of money required or spent, shall be laid before the National Assembly.

7. where, in respect of any financial year, a supplementary estimate laid before the National Assembly in accordance with clause (6) has been approved by resolution by the National Assembly, a supplementary Appropriation Bill shall be introduced in the Assembly in the financial year next following the year to which the estimate relates, providing for the appropriation of the sums so approved for the purposes specified in that

estimate.

8. The Minister shall, after approval by the Cabinet and within ninety-one days after the end of each financial year, provide to the National Assembly in respect of that year –
- a. full details of all accounts maintained in respect of the Consolidated Fund showing amounts actually received and spent in that year;
  - b. statements of fiscal outcome and effect showing separately actual components of fiscal outcome, position and effect, and, in the case of fiscal effect, separate disclosure shall be made of actual additional borrowings, movements in cash balances, of the Central Bank of Seychelles, and other bank and non-bank borrowings;
  - c. a statement of actual outstanding debt at the end of the financial year showing separately bilateral, multilateral, institutional, foreign and domestic debt, type and aggregate amounts of debt instruments outstanding and in the case of new or restructured debt or debt in default, a separate disclosure giving full details thereof;
  - d. statements of outstanding guarantees given by Government and the Central Bank of Seychelles showing separately guarantees that have been renewed, new guarantees given and guarantees that have been called up and, in the case of new guarantees given or that have been called up, details of such guarantees together with a statement of guarantees that have expired during the financial year;
  - e. a statement of actual official reserves identifying those held by the Central Bank of Seychelles, and there shall be shown separately the extent to which those reserves are borrowed or encumbered in any way;
  - f. as far as is practicable, a statement of assets and liabilities of the Government at the end of the financial year; and
  - g. such other statements as the Minister may think fit.

9. For the purposes of this Chapter,

“financial year” means any period of twelve months beginning on 1st January in any year or any other date as may be prescribed by or under an Act;

“Minister” means the Minister responsible for finance.

#### Article 155

Where the Appropriation Act in respect of any financial year has not come into operation by the beginning of the financial year, the National Assembly by resolution may

authorise the withdrawal of moneys from the Consolidated Fund for the purpose of meeting expenditure necessary to carry on the service of the Government until the expiration of four months from the beginning of the financial year or the coming into operation of that Appropriation Act, whichever is the earlier.

#### Article 156

1. Provision may be made in an Act for the establishment of a Contingencies Fund and for authorising the Minister, if the Minister is satisfied that there is an urgent and unforeseen need for expenditure for which no other provision exists, to make advances from that Fund to meet that need.

2. Where any advance is made from the Contingencies Fund, a supplementary estimate shall, as soon as is practicable, be laid before the National Assembly for the purpose of authorising the replacement of the amount so advanced.

3. An Act may provide for the establishment of other funds for any purpose specified in the Act.

#### Article 157

1. Subject to this Article, no taxation shall be imposed or altered except by or under an Act.

2. An Act may make provision under which the President or a Minister may by order provide that on or after the publication of a Bill, being a Bill approved by the President, that it is proposed to introduce in the National Assembly providing for the imposition or alteration of taxation, such provisions of the Bill as may be specified in the order shall, until the Bill becomes law, have the force of law for such period and subject to such conditions as may be prescribed by an Act.

3. An order made under clause (2) shall, unless sooner revoked, cease to have effect –

a. if the Bill to which it relates is not passed within such period from the date of its first reading in the National Assembly as may be prescribed by an Act;

b. if, after the introduction of the Bill to which it relates, the National Assembly is dissolved; or

c. at the expiration of a period of four months from the date the order came into operation, or such longer period from that date as may be specified in any resolution passed by the National Assembly, after the Bill to which it relates has been introduced.

## Article 158

1. There shall be an Auditor-General who shall be appointed by the President from candidates proposed by the Constitutional Appointments Authority.
2. A person shall not be appointed Auditor-General unless the person has not less than seven years experience as a qualified accountant.
3. The accounts of the cabinet office, the National Assembly, all government departments and offices, all courts and those related to moneys withdrawn from the Consolidated Fund, all the accounts of any statutory corporation or such other body as may be specified by or under an Act shall be audited and reported on by the Auditor-General to the National Assembly and for that purpose the Auditor-General or any person authorised or appointed in that behalf by the Auditor-General shall have access to all books, records, returns, information and other documents relating or relevant to those accounts.
4. The public accounts of Seychelles and of all other persons or bodies referred to in clause (3) shall be kept in such form as the Auditor-General shall approve.
5. The Auditor-General shall, within twelve months of the end of the immediately preceding financial year, submit the report referred to in clause (3) to the National Assembly and shall in that report draw attention to irregularities in the accounts audited and to any other matter which in the opinion of the Auditor-General ought to be brought to the notice of the Assembly.
6. The Finance and Public Accounts Committee of the National Assembly shall consider the report of the Auditor General and, for that purpose, may summon before the Committee any person who, in the opinion of the Committee, may assist the Committee in its consideration of the report.
7. The Auditor-General shall, in the performance of the functions of the office of Auditor-General, not be subject to the direction or control of any other person or authority, but the President or the National Assembly may request the Auditor General in the public interest, to audit at any particular time, the accounts of any persons or bodies referred to in clause (3).
8. The Auditor-General shall be appointed for a term of seven years but is eligible for reappointment at the end of a term of office.
9. The salary, allowances, gratuity or pension payable to the Auditor-General shall be

provided for by or under an Act and shall be a charge on the Consolidated Fund.

10. The Act referred to in clause (9) may provide for other conditions of service of the Auditor-General.

11. Subject to Article. 165, the term and other conditions of service of the Auditor-General shall not be altered to the disadvantage of the Auditor-General after appointment.

## CHAPTER XIII

### THE POLICE FORCE

#### Article 159

1. There shall be a Police Force of Seychelles.
2. Subject to this Constitution and any other law, the Police Force shall be organised and administered in such manner as may be provided for by or under an Act.

#### Article 160

1. The Police Force shall be commanded by the Commissioner of Police who shall be appointed by the President subject to approval by the National Assembly.
2. Nothing in this Article shall be construed as precluding the assignment to a Ministry or Department of Government of responsibility for the organisation, maintenance and administration of the Police Force, but the Commissioner of Police shall be responsible for determining the use, and controlling the operations, of the Force in accordance with law.

#### Article 161

The functions of the Police are –

- a. to maintain law and order in and preserve the internal security of Seychelles and any other area over which the Republic has proclaimed its jurisdiction;
- b. to prevent and detect crime in Seychelles and over any other area over which the Republic has proclaimed its jurisdiction; and
- c. to perform such other functions as may be prescribed by an Act.

## CHAPTER XIV

### DEFENCE FORCES

#### Article 162

1. There shall be the Defence Forces of Seychelles.
2. The President shall be the Commander-in-Chief of the Defence Forces.

3. Subject to this Constitution, the Defence Forces shall be organised and administered in such manner as may be provided for by or under an Act and the Act may, in particular, provide for charges of indiscipline and other offences among members of the Defence Forces to be investigated, prosecuted and punished.

#### Article 163

1. The functions of the Defence Forces are –

a. to defend Seychelles and any other area over which the Republic has proclaimed its jurisdiction;

b. to assist in the fulfilment by the Republic of its international obligations;

c. during a period of emergency, to provide assistance to civil authorities –

i. in a civil disaster; or

ii. in the restoration and maintenance of public order and security on being called out by the President,

in Seychelles or in any other area over which the Republic has proclaimed its jurisdiction;

and

d. to perform as directed by the President functions and services of a civil nature so as to participate to the maximum extent in the task of national development and improvement, in accordance with or under an Act.

2. In this Article “period of emergency” means a period of public emergency in terms of Article 49.

#### CHAPTER XV

#### MISCELLANEOUS

#### Article 164

1. An Act shall provide for the holding of a referendum for the purposes of this Constitution or any other purpose or any circumstance prescribed by the Act.

2. An Act referred to in clause (1) may provide for all matters necessary for the purpose of ensuring an effective and fair referendum.

#### Article 165

1. This Article applies to the Attorney-General, the Auditor-General, the Electoral Commissioner and the Ombudsman.

2. Any officer to whom this Article applies may be removed from office only –

- a. for inability to perform the functions of the office, whether arising from infirmity of body or mind or from any other cause, or for misbehaviour; and
  - b. in accordance with clauses (3) and (4).
3. Where the Constitutional Appointments Authority considers that the question of removing any officer to whom this Article applies ought to be investigated –
- a. the Authority shall appoint a tribunal consisting of a President and not less than two other members all selected from among persons who hold or have held office as a Judge of a court having unlimited original jurisdiction or a court having jurisdiction in appeals from such a court or are eminent jurists of proven integrity; and
  - b. the tribunal shall inquire into the matter, report on the facts thereof and recommend to the President whether or not the officer ought to be removed from office.
4. Where under clause (3), a tribunal recommends that an officer to whom this Article applies ought to be removed from office, the President shall remove the officer from office.
5. Where under this Article the question of removing an officer to whom the Article applies has been referred to a tribunal, the President may suspend the officer from performing the functions of the office but the suspension shall cease to have effect if the tribunal recommends to the President that the officer ought not to be removed from office.

#### Article 166

1. A member of the Constitutional Appointments Authority or a member of the Public Service Appeal Board, in this Article referred to as a “Commissioner”, may be removed from office only –
  - a. for inability to perform the functions of the office, whether arising from infirmity of body or mind or from any other cause or for misbehaviour; and
  - b. in accordance with clauses (2) and (3).
2. A Commissioner shall be removed from office by the President where the question of the removal of the Commissioner from office has been referred to a tribunal appointed under clause (3) and the tribunal has recommended to the President that the Commissioner ought to be removed from office.
3. Where a resolution passed by the votes of the majority of the members of the National

Assembly that the question of removing a Commissioner ought to be investigated –

- a. the Speaker shall appoint a tribunal consisting of a President and not less than two other members all selected from persons who have held office as a Judge of a court having unlimited original jurisdiction or a court having jurisdiction in appeals from such a court or are eminent jurists of proven integrity; and
- b. the tribunal shall inquire into the matter and report on the facts thereof and recommend to the President whether the Commissioner ought to be removed from office.

4. Where under this Article the question of removing a Commissioner has been referred to a tribunal, the President may suspend the commissioner from performing the functions of the office but the suspension shall cease to have effect if the tribunal recommends to the President that the Commissioner ought not to be removed from office.

#### Article 167

1. A law may, for the purpose of facilitating the administrative functions of the State in respect of its social and economic undertakings contained in Chapter III, provide for the division of Seychelles into such number of units which shall bear such name as the law may specify.

2. A law referred to in clause (1) may provide for the composition and the functions of the units and for all other matters necessary to give effect to the provisions of that clause.

#### Article 168

1. The State shall ensure that all broadcasting media which it owns or controls or which receive a contribution from the public fund are so constituted and managed that they may operate independently of the State and of the political or other influence of other bodies, persons or political parties.

2. For the purposes of clause (1), the broadcasting media referred to in that clause shall, subject to this Constitution and any other law, afford opportunities and facilities for the presentation of divergent views.

#### Article 169

Schedule 6 shall have effect with regard to the oath of allegiance and the Presidential oath under this Constitution and a law may provide for any other oath required under this Constitution.

### CHAPTER XVI

## TRANSITIONAL PROVISIONS

### Article 170

1. The transitional provisions specified in Schedule 7 shall have effect notwithstanding anything to the contrary in this Constitution or in the Constitution of Seychelles (Preparation and Promulgation) Act, 1992.
2. The Constitutional Court shall have jurisdiction to hear and determine whether a person has been validly elected to the office of President.
3. An application under clause (2) may be made by a person entitled to vote at an election of the President, a person who was a candidate at the election or the Attorney General.
4. A law may provide for –
  - a. the circumstances and manner in which and the imposition of conditions upon which an application may be made to the Constitutional Court for the determination of a question under clause (2);
  - b. the powers, practice and procedure of the Constitutional Court in relation to the application; and
  - c. any matter, not otherwise provided for in Schedule 3, which is necessary or required to ensure a true, fair and effective election of the President.

(Article 51)

## SCHEDULE 1

(Article 2(1)(a) and Schedule 2)

### PART I ISLANDS OF THE SEYCHELLES ARCHIPELAGO

#### Granitic Islands

Mahé

raslin

La Digue

Ste. Anne

Ile au Cerf

Ile Longue

Ile Moyenne

Ile Ronde

Grand Rocher

Ile Cachée  
Ile Sèche  
Ile Anonyme  
Ile Hodoul  
Ile aux Rats  
Ile aux Souris  
Ile Thérèse  
Conception  
L'Islette  
Chauve Souris (Mahé)  
Ile aux Vaches Marines  
l'Ilot  
Cousin  
Cousine  
Curieuse  
Ile Ronde (Praslin)  
Chauve-Souris (Praslin)  
Ile aux Fous  
St. Pierre (Praslin)  
Ile Aride  
Zave  
Félicité  
Marianne  
Grande Soeur  
Petite Soeur  
Ile aux Cocos  
Ile La Fouche  
Silhouette  
Ile du Nord  
Mamelles  
Ile aux Récifs

Frégate

L'Ilot (Frégate)

Coralline Islands

Ile aux Vaches (Bird Island)

Ile Denis

Ile Plate

Coétivy

Amirantes Group :

Rémire

D'Arros

Desroches

Etoile

Boudeuse

Marie-Louise

Desnoeufs

African Banks

Banco Africains

Ile du Sud

St. Joseph's Atoll :

St. Joseph

Ile aux Fouquets

Ressource

Petit Carcassaye

Grand Carcassaye

Benjamin

Bancs Ferrari

Chiens

Pélicans

Vars

Ile Paul

Banc de Sable

Bancs aux Cocos

Ile aux Poules

Poivre Atoll :

Poivre

Florentin

Ile du Sud

Alphonse and St. François Atolls :

Alphonse

Bijoutier

St François

Farquhar Group :

Farquhar Atoll :

Ile du Nord

Ile du Sud

Manahas Nord

Manahas Milieu

Manahas Sud

Ile aux Goëlettes

Lapins

Ile du Milieu

Déposés

Bancs de Sable

Providence Atoll :

Providence

Bancs Providence

St. Pierre

Aldabra Group :

Aldabra Atoll :

Grande Terre

Picard

Polymnie

Malabar  
Ile Michel  
Ile Esprit  
Ile aux Moustiques  
Ilot Parc  
Ilot Emile  
Ilot Yangue  
Ilot Magnan  
Ile Lanier  
Champignon des Os  
Euphrate  
Grand Mentor  
Grand Ilot  
Gros Ilot Gionnet  
Gros Ilot Sésame  
Heron Rock  
Hide Island  
Ile aux Aigrettes  
Ile aux Cèdres  
Iles Chalands  
Ile Fangame  
Ile Héron  
Ile Michel  
Ile Suacco  
Ile Sylvestre  
Ile Verte  
Ilot Déder  
Ilot du Sud  
Ilot du Milieu  
Ilot du Nord  
Ilot Dubois

Ilot Macoa  
Ilot Marquoix  
Ilots Niçois  
Ilot Salade  
Middle Row Island  
Noddy Rock  
North Row Island  
Petit Mentor  
Petit Mentor Endans  
Petits Ilots  
Pink Rock  
Table Ronde  
Cosmoledo Atoll :  
Menai  
Ile du Nord  
Ile Nord-Est  
Ile du Trou  
Goëlettes  
Grand Polyte  
Petit Polyte  
Grand Ile (Wizard)  
Pagode  
Ile du Sud-Ouest  
Ile aux Moustiques  
Ile Baleine  
Ile aux Chauve-Souris  
Ile aux Macaques  
Ile aux Rats  
Ile du Nord-Ouest  
Ile observation  
Ile Sud-Est

Ilot la Croix

Astove

Assumption

PART II

INNER AND OUTER ISLANDS

INNER ISLANDS

La Digue

Félicité

Marianne

Grande Soeur

Petite Soeur

Ile aux Cocos

Ile la Fouche

Silhouette

Ile du Nord

Mamelles

Ile aux Récifs

Frégate

L'Ilot (Frégate)

Ile aux Vaches (Bird Island)

Ile Denis

OUTER ISLANDS

Ile Plate

Coëtivy

Amirantes Group :

Rémire

D'Arros

Desroches

Etoile

Boudeuse

Marie-Louise

Desnoeufs

African Banks :

Bancs Africains

Ile du Sud

St. Joseph's Atoll :

St. Joseph

Ile aux Fouquets

Ressource

Petit Carcassaye

Grand Carcassaye

Benjamin

Bancs Ferrari

Chiens

Pélicans

Vars

Ile Paul

Banc de Sable

Bancs aux Cocos

Ile aux Poules

Poivre Atoll :

Poivre

Florentin

Ile du Sud

Alphonse and St. François Atolls :

Alphonse

Bijoutier

St François

Farquhar Group

Farquhar Atoll :

Ile du Nord

Ile du Sud

Manahas Nord  
Manahas Milieu  
Manahas Sud  
Ile aux Goëlettes  
Lapins  
Ile du Milieu  
Déposés  
Bancs de Sable  
Providence Atoll :  
Providence  
Bancs Providence  
St. Pierre  
Aldabra Group :  
Aldabra Atoll:  
Grande Terre  
Picard  
Polymnie  
Malabar  
Ile Michel  
Ile Esprit  
Ile aux Moustiques  
Ilot Parc  
Ilot Emile  
Ilot Yangue  
Ilot Magnan  
Ile Lanier  
Champignon des Os  
Euphrate  
Grand Mentor  
Grand Ilot  
Gros Ilot Gionnet

Gros Ilot Sésame  
Heron Rock  
Hide Island  
Ile aux Aigrettes  
Ile aux Cèdres  
Iles Chalands  
Ile Fangame  
Ile Héron  
Ile Michel  
Ile Suacco  
Ile Sylvestre  
Ile Verte  
Ilot Déder  
Ilot du Sud  
Ilot du Milieu  
Ilot du Nord  
Ilot Dubois  
Ilot Macoa  
Ilot Marquoix  
Ilots Niçois  
Ilot Salade  
Middle Row Island  
Noddy Rock  
North Row Island  
Petit Mentor  
Petit Mentor Endans  
Petits Ilots  
Pink Rock  
Table Ronde  
Cosmaledo Atoll :  
Menai

Ile du Nord

Ile Nord-Est

Ile du Trou

Goëlettes

Grand Polyte

Petit Polyte

Grand Ile (Wizard)

Pagode

Ile du Sud-Ouest

Ile aux Moustiques

Ile Baleine

Ile aux Chauve-Souris

Ile aux Macaques

Ile aux Rats

Ile du Nord-Ouest

Ile Observation

Ile Sud-Est

Ilot la Croix

Astove

Assomption

SCHEDULE 2

(Article 6)

PRINCIPLES OF INTERPRETATION

1.

1. this Constitution, unless the context otherwise requires –

“Consolidated Fund” means the fund by that name established by Article 151;

“court” means a court of competent jurisdiction established by or under the authority of this Constitution;

“directly elected member” means a member of the National Assembly such as is referred to in Article 78 (a);

“Electoral Commissioner” means the Electoral Commissioner appointed under Article

115;

“financial year” means the period of twelve months beginning on the first day of January in any year, or on such other day as may be prescribed by an Act;

“functions” includes powers and duties;

“the Gazette” means such publication as may for the time being be appointed by the President to be the publication in which Government notices are published by authority, and includes any statements thereto in which Government notices are published;

“Independence Day” means the 29th day of June, 1976;

“the Inner and Outer Islands” means the islands described as such in Part II of Schedule 1;

“Judge” means the Chief Justice or a Puisne Judge;

“Justice of Appeal” means a Justice of the Court of Appeal established by Article 120;

“law” includes any instrument that has the force of law and any unwritten rule of law;

“member” means a member of the National Assembly;

“National Assembly”, “Assembly” means the National Assembly established by this Constitution;

“oath” includes an affirmation;

“oath of allegiance” means the oath of allegiance prescribed in this Constitution;

“person” includes any company or association or body of persons whether corporate or unincorporate;

“political party” means a party registered as such in the manner prescribed by or under an Act;

“prescribed” means prescribed by law;

“proportionately elected member” means a member such as is referred to in Article 78 (b);

“public authority” means a Ministry, department, division or agency of the Government or a statutory corporation or a limited liability company which is directly or ultimately under the control of the Government or any other body which is carrying out a governmental function or service or a body or person specified by an Act;

“public office” means an office of emolument in the public service;

“public officer” means, subject to paragraph 4, a person holding or acting in a public

office;

“the public service” means, subject to paragraph 4, the service of the Government of Seychelles in a civil capacity;

“Speaker” means the Speaker of the National Assembly;

“Standing Orders” means the rules of practice and procedure of the National Assembly made under Article 101;

“subordinate court” means any court other than –

a. the Court of Appeal; or

b. the Supreme Court.

2. Unless the context otherwise requires, where an expression is defined in this Schedule or otherwise in this Constitution then, for that purpose, all grammatical variations and cognate and related expressions shall be understood in the same sense.

2. In this Constitution, unless the context otherwise requires, words in the singular shall include the plural and words in the plural shall include the singular.

3. In this Constitution, unless the context otherwise requires –

a. references to the functions of the office of the President shall be construed as references to the powers and duties of the President in the exercise of the executive power of the Republic and to any other powers or duties conferred or imposed on the President by or under this Constitution or any other law; and

b. a reference to the holder of an office by the term designating the office shall be construed as including a reference to any person acting in that office or, to the extent of the authority of the holder of the office, otherwise performing the functions of that office.

4.

1. For the purposes of this Constitution, a person shall not be considered as holding office in the public service by reason only of the fact that the person is in receipt of a pension or other like allowance in respect of service under the Republic or any former Government of Seychelles.

2. If it is provided in any law that an office is not to be regarded as a public office for the purposes of this constitution, a person shall not be regarded as holding, or acting in, a public office for those purposes by reason only that the person holds, or is acting in, that office.

5. Where no time is prescribed or allowed within which an act is required or permitted by this Constitution to be done, the act shall or may be done, as the case may be, with all convenient speed and as often as the occasion requires.

6. For the purpose of this Constitution, a person attains a certain age at the first moment of the relevant anniversary of the birth of that person.

7.

1. Where this Constitution confers a power or imposes a duty, the power may be exercised, or the duty shall be performed, as the case may be, from time to time as occasion requires.

2. Where this Constitution confers a power or imposes a duty on the holder of an office as such, the power may be exercised, or the duty shall be performed, as the case may be, by the holder (whether substantive or other) for the time being of the office.

3. Subject to subparagraph (5), where this Constitution confers a power to make an appointment, the power includes power to remove or suspend a person so appointed and to appoint another person temporarily in the place of a person so removed or suspended or, where the appointee is for any reason unable or unavailable to perform the duties for which the person was appointed, to appoint another person temporarily in the place of the appointee.

4. Where this Constitution confers a power to make any statutory instrument, pass any resolution or give any direction, the power includes powers exercisable in the same manner and subject to the same conditions (if any) to amend or revoke the instrument, resolution or direction.

5. The power provided for in subparagraph (3) –

a. shall be subject to this Constitution; and

b. shall be exercisable subject to any conditions to which the exercise of the original power or appointment was subject.

8. For the purposes of interpretation –

a. the provisions of this Constitution shall be given their fair and liberal meaning;

b. this Constitution shall be read as a whole; and

c. this Constitution shall be treated as speaking from time to time.

9.

1. The alteration of any provision of this Constitution shall not –
  - a. revive anything that was not in force or existing immediately before the alteration took effect;
  - b. affect the previous operation of the altered provision or anything duly done or suffered under it;
  - c. affect any right, privilege, obligation or liability acquired, accrued or incurred under the altered provision;
  - d. affect any penalty, forfeiture or punishment incurred in respect of any offence committed against the altered provision; or.
  - e. affect any investigation, legal proceedings or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment, and any such investigation, legal proceedings or remedy may be instituted, continued or enforced, and the penalty, forfeiture or punishment may be imposed, as if the altered provision had continued in force.
2. In subparagraph (1), the reference to the “alteration of any provision of this Constitution” shall be deemed to include a reference to any alteration of the Constitution such as is referred to in Article 91 (b).

### SCHEDULE 3

(Article 51)

#### ELECTION OF PRESIDENT

1. Subject to paragraph 6, the President shall be directly elected by secret ballot by persons entitled to vote under and in accordance with this Constitution.
2.
  1. A person shall not be a candidate in an election for President unless –
    - a. the person submits to the Electoral Commissioner on or before the day appointed as nomination day in relation to the election the form provided for this purpose by the Electoral Commissioner completed and signed by that person and endorsed to the satisfaction of the Electoral Commissioner by such number, as may be prescribed under an Act, of other persons who are entitled to vote at the election under and in accordance with this Constitution,; and
    - b. the person deposits with the Electoral Commissioner, or gives security to the

satisfaction of the Electoral Commissioner for the payment of such sum as may be prescribed under an Act as the amount to be deposited by a person who is a candidate to the election for the office of President.

2. Where a person receives less than 5% of the votes cast at the election for the office of President in respect of which the person is standing as a candidate, the person shall forfeit to the Republic the sum deposited or in respect of which security was given under subparagraph (1)(b).

3.

1. A person nominated as candidate for election to the office of President may withdraw the nomination at any time before the day appointed for the election by notice in writing to the Electoral Commissioner.

4. An instrument which –

a. is executed under the hand of the Electoral Commissioner; and

b. states that the person named in the instrument was duly elected to the office of President, shall be evidence that the person was so elected.

#### SCHEDULE 4

(Article 78(b))

#### LEGISLATURE

#### PROPORTIONATELY ELECTED MEMBERS

1. In this Schedule –

“general election” means a general election under Article 79(1);

“political party” means a political party which has nominated a candidate in a general election;

“relevant number” means the number of proportionately elected members referred to in Article 78;

“remainder”, in relation to a political party, means any remainder which results when determining under paragraph 3(l) the number of proportionately elected members a political party may nominate, and includes a result such as is referred in paragraph 3(2).

2. A political party which has nominated a candidate in a general election may, in accordance with this Schedule, nominate the proportionately elected members.

3.

1 The following formula shall apply for the purpose of determining the number of proportionately elected members a political party may nominate –

$$A = B \times C \div D$$

where:

A = number of proportionately elected members a political party may nominate; B = relevant number; C = total number of votes cast or deemed to be cast in favour of the candidates nominated by a political party; and D = total number of valid votes cast or deemed to be cast at the election.

2. Where under subparagraph (1), A is a fraction of one or consists of a whole number and a fraction of one, the fraction shall initially be disregarded but shall be treated as a remainder for the purposes of the application of subparagraph (3).

3. Where on the application of the formula under subparagraph (1) the total number of proportionately elected members falls short of the relevant member, the number of proportionately elected members represented by the shortfall shall be nominated as follows

i. where there are any political parties that have not qualified to nominate a proportionately elected member on the application of the formula under subparagraph (1) but have received not less than 8% of the total valid votes cast at the general election, the political party with the highest remainder among those political parties shall be entitled to nominate a proportionately elected member and, if necessary, the political party with the second highest remainder among those political parties shall next be entitled to nominate a member and so on until the shortfall is eliminated;

ii. where there are no or insufficient political parties to nominate a proportionately elected member under subparagraph (i) so as to eliminate the shortfall, the balance number of members necessary to eliminate the shortfall shall be nominated by the political parties qualified to nominate a member under subparagraph (1) on the basis that the political party with the highest remainder out of those political parties shall first be entitled to nominate a member and, if necessary, the political party with the second highest remainder among those political parties shall next be entitled to nominate a member and so on until the shortfall is eliminated.

4. For the purposes of this Schedule, the Electoral commissioner shall determine –

- a. whether a political party may nominate any proportionately elected member of the National Assembly; and
- b. if so, the number of proportionately elected members.
- c. A political party which may nominate a proportionately elected member of the National Assembly shall, within seven days after the general election, signify in writing to the Electoral Commissioner the name of the member and the Electoral Commissioner shall as soon as is practicable after receiving all the names of the proportionately elected members under this Schedule publish the names in the Gazette.

## SCHEDULE 5

(Article 143)

### OMBUDSMAN

1.
  1. Subject to this Schedule, the Ombudsman may
    - a. investigate an action taken by a public authority or the President, Minister, officer or member of the public authority, being action taken in the exercise of the administrative functions of the public authority in the circumstances specified in subparagraph (2);
    - b. investigate an allegation of fraud or corruption in connection with the exercise by a person of a function of a public authority;
    - c. assist an individual complainant in respect of legal proceedings in relation to a contravention of the provisions of the Charter;
    - d. with leave of the Court hearing proceedings relating to a contravention of the provisions of the Charter, become a party to the proceedings;
    - e. initiate proceedings relating to the constitutionality of a law or of the provisions of a law.
  2. The Ombudsman shall investigate an action under subparagraph (1) (a) –
    - a. where the Ombudsman receives a complaint from a person or body alleging that the complainant has suffered a violation of the complainant's fundamental rights or freedoms under the Charter, or an injustice, in consequence of a fault in the administration of a public authority or has been treated harshly or oppressively by the authority or the President or a Minister, officer or member of the authority in the exercise of the administrative functions of the authority;

b. where the President or a Minister or member of the National Assembly requests the Ombudsman to investigate the action on the ground that the person or body specified in the request –

- i. has or may have suffered a violation of the person's or body's fundamental rights or freedoms under the Charter, or an injustice, in consequence of a fault in the administration of a public authority or of a fault of the President or a Minister, officer or member of the authority in the exercise of the administrative functions of the authority.:
- ii. has been treated harshly or oppressively by the authority or the President or a Minister, officer or member of the authority in the exercise of the administrative functions of the authority,
- iii. or on the ground that the practices or patterns of conduct of a public authority or the President or a Minister, officer or member of the authority in the exercise of the administrative functions of the authority appear to result in injustices or harsh, oppressive or unfair administration; or

c. where the Ombudsman considers that it is necessary to investigate the action on the grounds specified in subparagraph (b), and an allegation under subparagraph (1)(b).

3. The Ombudsman shall not investigate or may discontinue an investigation of a complaint relating to an action referred to in subparagraph (1)(a) or an allegation under subparagraph (1) (b) where it appears to the Ombudsman that –

- a. the complaint or allegation is frivolous, vexatious or trivial or not made in good faith;
- b. the making of the complaint or allegation has, without reasonable cause, been delayed for more than twelve months;
- c. in the case of a complaint relating to paragraph 1 (a), the complainant does not have sufficient interest in the subject matter of the complaint;
- d. in the case of a complaint relating to paragraph (1) (a), the complainant has or had, by way of remedy under this Constitution or any other law, a right of appeal, objection or review on merits and the complainant has not exhausted the remedy, unless the Ombudsman believes that in the particular circumstances it is or was not reasonable to expect the complainant to exhaust or to have exhausted the remedy.

4. In this Schedule –

“action” includes a failure to act, an advice or a recommendation;

“body” means a body of persons whether corporate or incorporate;

“investigation” means an investigation in terms of this Schedule;

“public authority” means a Ministry, a department division or agency of the Government or a statutory corporation or a limited liability company which is directly or ultimately under the control of Government or any other body which is carrying out a governmental function or service or a person or body specified by an Act.

2. The Ombudsman shall not investigate an action referred to in paragraph 1(l) (a) –

a. in respect of a subject matter which the President or the relevant Minister certifies may affect the relation or dealing between the Government of Seychelles and any other Government or international organisation, the security of the Republic or the investigation of crime;

b. concerning the performance of a judicial function or a Justice of Appeal, Judge or person performing a judicial function;

c. taken with respect to orders or directions to a disciplinary force or a member of the force; or

d. unless the person aggrieved is resident in Seychelles or the action was taken in respect of the person aggrieved while the person was present in Seychelles or in respect of rights or obligations that arose or accrued in Seychelles.

3. Subject to this Schedule, the Ombudsman has the same power as a Judge of the Supreme Court in respect of the attendance of a person before the Ombudsman, the examination of any person in relation to an investigation, the production of a document or record relevant to an investigation and the inspection of premises relevant to an investigation.

4.

1. Subject to this paragraph, a person shall not refuse to answer any question or withhold any document, information, record or thing or refuse to make available to the Ombudsman any document, information, record or thing or refuse access to the Ombudsman to any premises relating to an investigation on the ground that the answering of the question or disclosure of the document, information, record or thing or making available of any document, information, record or thing or the granting of access to any premises would be injurious to the public interest, contrary to a law or in breach of a

privilege or an obligation, whether contractual or otherwise.

2. Where a certificate certifying that the answering of a question, the disclosure of document, information, record or thing, the making available of a document, record or information or thing or the granting of access to any premises would be contrary to public interest is issued by –

a. the President –

i. because it might prejudice the security of the Republic or international relations between the Government of Seychelles and any other Government or international organisation; or

ii. because it involves the disclosure of the proceedings of the Cabinet;

b. the Attorney-General because it might prejudice the investigation or detection of crime, the Ombudsman shall not require a person to answer the question, disclose the document, information, record or thing, make available the document, information, record or thing or grant access to premises, as the case may be.

5.

1. The Ombudsman shall, when carrying out an investigation, act fairly and judicially and shall in particular, afford any public authority or person alleged to have taken or authorised an action or responsible for the administration of the public authority which is the subject of an investigation an opportunity to be heard.

2. Subject to subparagraph (1), the ombudsman shall determine the procedures to be followed when conducting an investigation.

6.

1. Subject to subparagraph (7), where after an investigation the Ombudsman is of the opinion that –

a. the action which was the subject of the investigation –

i. was contrary to law;

ii. was unreasonable, unjust, oppressive or discriminatory;

iii. was based on a mistake of facts or a wrongful assessment of facts;

iv. was based partly on a mistake of law and facts;

v. was based on an improper exercise of a discretionary power or an exercise of a discretionary power based on irrelevant considerations;

- vi. was an improper refusal to exercise a discretionary power;
  - vii. was based on an exercise or improper use of authority or power;
  - viii. was in accordance with law but the law is unreasonable, unjust, oppressive or discriminatory;
  - ix. was otherwise, in all circumstances, wrong;
  - x. should be cancelled, varied or given further consideration; or
- b. reasons for the action which was the subject of the investigation should have been given;
  - c. there was unreasonable delay before the decision or action which was the subject of the investigation was taken;
  - d. there was an omission which needs to be rectified;
  - e. the law or practice on which the action which is the subject of the investigation is based should be reconsidered;
  - f. the practice or pattern of conduct of a public authority or the President, a Minister, officer or member of the public authority which is the subject of the investigation is contrary to law or unreasonable, unjust, harsh, oppressive or discriminatory; or
  - g. (g) the allegation of fraud or corruption is well founded;
  - h. the Ombudsman shall report the opinion and reasons together with any recommendation or remedy the Ombudsman considers fit to make to the President, Minister, officer, member or chief executive officer of the public authority, as the case may be.
2. The Ombudsman shall, where the report is not required to be sent to the President or Minister, send a copy of the report to the President and any relevant Minister.
3. The Ombudsman may specify in the report referred to in subparagraph (1) a time limit within which it is reasonable for the report to be acted upon.
4. Where a report submitted under subparagraph (1) is not, in the opinion of the Ombudsman, adequately acted upon –
- a. within the time specified in the report; or
  - b. if no time has been specified, within such reasonable time as the Ombudsman is of the opinion is reasonable,
  - c. the Ombudsman may submit the report and recommendation together with such further

observations the Ombudsman thinks fit to make to the President and the National Assembly.

5. The Ombudsman shall attach to every report submitted to the President and the National Assembly under subparagraph (4) a copy of any comments made thereon by or on behalf of the chief executive officer of the public authority concerned or the President, Minister, officer or member of the public authority, as the case may be.

6. The Ombudsman shall not later than the thirty-first January in each year make a general report to the National Assembly with a copy to the President on the exercise of the functions of the Ombudsman under this Constitution during the previous year.

7. The Ombudsman shall, in every case where a complaint is received by the Ombudsman, inform the complainant of the result of the complaint.

1. For the purposes of the law of defamation, absolute privilege is attached to the publication of any matter by the Ombudsman or any other person acting under the authority of the Ombudsman.

2. The Ombudsman or any other person acting under the authority of the Ombudsman shall not be liable for anything done or omitted to be done in good faith in the performance or purported performance of the functions of the Ombudsman.

## SCHEDULE 6

(Article 169)

### OATHS OATH OF ALLEGIANCE

I do swear/solemnly and sincerely declare and affirm/that I will be faithful and bear true allegiance to the Constitution of Seychelles and that I will preserve, protect and defend the Constitution of Seychelles.

### SO HELP ME GOD PRESIDENTIAL OATH

I do swear/solemnly and sincerely declare and affirm/that I will faithfully and diligently perform my duties and discharge my functions in the office of President of Seychelles, 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 SCHEDULE 7 (Article 170)

### TRANSITIONAL

## PART 1

### EXISTING OFFICERS AND OFFICES

1. In this Schedule, unless the context otherwise requires –

“Constitution Act” means the Constitution of the Republic of Seychelles (Preparation and Promulgation) Act, 1992;

“Director of Elections” means the person holding office as Chairman of the Constitutional Commission immediately before the date of coming into force of this Constitution;

“existing Constitution” means the Constitution contained in the Schedule to the Constitution of the Republic of Seychelles Decree, 1979;

“existing law” means a law having effect as part of the laws of Seychelles immediately before the date of coming into force of this Constitution;

“first Assembly election” means the first general election to elect members of the National Assembly under this Constitution;

“first Presidential election” means the election of the first President of Seychelles under this Constitution;

“the Regulations” means regulations made under paragraph 9 (2)

2.

1. Except where it is otherwise inconsistent with this Constitution and subject to subparagraph (2), an existing law shall continue in force on and after the date of coming into force of this Constitution.

2. The Termination of Pregnancy Act, 1981 shall, unless sooner repealed, cease to have effect twelve months after the date of coming into force of this Constitution.

shall continue to perform the functions of the office, after the date of coming into force of this Constitution, under this Constitution, existing law continued under paragraph 2 or the Government, as the case may be, and shall be deemed to have taken the oath of allegiance or any other necessary oath under this Constitution or existing law continued under paragraph 2.

3. A person who, under the existing Constitution or an existing law, would have been required to vacate the person’s office at the expiration of a specified period or on the attainment of a special age shall vacate the office at the expiration of the specified period

or upon attainment of the specified age.

7. Where the Appropriation Act in respect of the financial year commencing on the first day of January immediately following the date of coming into force of this Constitution has not come into operation, the President may authorise the withdrawal of moneys from the Consolidated Fund for the purposes of meeting expenditure necessary to carry on the services of the Government until the expiration of four months from the beginning of the financial year or the coming into operation of the Appropriation Act for that financial year, whichever is the earlier.

## PART II

### FIRST ELECTIONS AND FIRST SITTINGS OF THE NATIONAL ASSEMBLY

8.

1. The Director of Elections shall, by notice in the Gazette, appoint the date or dates which shall be or, as the case may be, the first of which shall be, not later than five weeks after the date of coming into force of this Constitution, on which the first Presidential election and the first Assembly election shall be held.

2. Subject to subparagraph (3), the Director of Elections may appoint different dates for the holding of the first Presidential election and the first Assembly election, and for the holding of the first Presidential election and the first Assembly election in different electoral areas.

3. The first Presidential election and the first Assembly election shall be held simultaneously and, to this end, the two elections shall begin on the same day.

9.

1. For the purposes of the first Presidential election and the first Assembly election, any matter, other than a matter provided for in this Schedule, which may be prescribed or provided for by or under an Act may be prescribed or provided for by the Regulations.

2. Subject to this Schedule, the Director of Elections may make regulations with respect to the holding and conduct of the first Presidential election and the first Assembly election.

10.

1. For the purposes of the first Presidential election and the first Assembly election, paragraphs 6 and 7 of Schedule 1 of the Constitution Act shall apply with respect to the

qualification for registration as a voter, and the qualification to vote, at the elections;

b. Seychelles shall consist of twenty-two electoral areas made up of nineteen electoral areas on Mahé, two electoral areas on Praslin and the islands of La Digue, Félicité, Marianne, Grande Soeur, Petite Soeur, Ile aux Cocoa, Ile la Fouche, Silhouette, Mamelles, Ile du Nord, Frégate, Denis, Ile aux Vaches (Bird Island) and L'Ilot (Frégate) shall constitute one electoral area;

c. the boundaries of the electoral areas on Mahé and Praslin shall be those of the electoral areas which existed on Mahé and Praslin immediately prior to the coming into force of this Constitution;

d. a person who at the time of the amendment of the registers of voters under subparagraph (f) is residing on an outer Island, as listed in Part II of Schedule 1 of this Constitution, shall be treated as residing in the electoral area in which the person resided prior to residing on the Outer Island;

e. a person who at the time of the election is residing on an Outer island, as listed in Part II of Schedule 1 of this Constitution, shall vote in the electoral area in which the person is registered;

f. each register of voters prepared under Schedule 4 of the Constitution Act shall, subject to any amendment for the purposes of subparagraph (a) or subparagraph (b) or for any other purpose made thereto pursuant to this Part and the Regulations, be the register of voters.

2. Schedule 3 of this Constitution shall, subject to such modifications, adaptations, qualifications and exceptions as may be necessary, apply for the purposes of the first Presidential election.

3. There shall be twenty-two directly elected members, being one elected member for each electoral area, and eleven proportionately elected members of the first National Assembly.

4. Schedule 4 of this Constitution shall, subject to such modifications, adaptations, qualifications and exceptions as may be necessary apply for the purpose of nominating the eleven proportionately elected members of the first National Assembly.

11.  
1. The Director of Elections shall supervise and shall have general responsibility for the

conduct of the first Presidential election and the first Assembly election.

2. The Director of Elections shall; for the purpose of conducting the first Presidential election and the first Assembly election, appoint a Chief Registration officer and Chief Electoral Officer and such number of Registration Officers, Electoral Officers, Assistant Registration Officers and Assistant Electoral Officers as the Director thinks fit.

3. A person appointed pursuant to subparagraph (2) shall have such powers, and shall comply with such requirements, as may be prescribed in the Regulations.

4. In the exercise of the functions of the Director of Elections under this paragraph or the Regulations, the Director of Elections shall not be subject to the direction or control of any person or authority.

5. The Director of Elections shall discharge the functions of the Electoral Commissioner in respect of the matters which may be prescribed by an Act made under Article 118 and may, for this purpose make regulations in respect thereof for the purposes of the first Presidential election and first Assembly election.

12. The first meeting of the first session of the National Assembly after the first National Assembly election shall, until the Speaker is elected, be presided over by the eldest member of the Assembly present at the meeting.

13. The Standing Orders of the People's Assembly established by the existing Constitution shall, until it is otherwise provided pursuant to Article 101 of this Constitution, be the Standing Orders of the National Assembly, but shall be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring those Standing orders into conformity with this Constitution.

### PART III COMPENSATION FOR PAST LAND ACQUISITIONS

14.

1. The State undertakes to continue to consider all applications made during the period of twelve months from the date of coming into force of this Constitution by a person whose land was compulsorily acquired under the Lands Acquisition Act, 1977 during the period starting June, 1977 and ending on the date of coming into force of this Constitution and to negotiate in good faith with the person with a view to –

a. where on the date of the receipt of the application the land has not been developed or there is no Government plan to develop it, transferring back the land to the person;

b. where there is a Government plan to develop the land and the person from whom the land was acquired satisfies the Government that the person will implement the plan or a similar plan, transferring the land back to the person;

c. where the land cannot be transferred back under subparagraphs (a) or subparagraph (b) –

i. as full compensation for the land acquired, transferring to the person another parcel of land of corresponding value to the land acquired;

ii. paying the person full monetary compensation for the land acquired; or

iii. as full compensation for the land acquired, devising a scheme of compensation combining items (i) and (ii) up to the value of the land acquired.

2. For the purposes of subparagraph (1), the value of the land acquired shall be the market value of the land at the time of coming into force of this Constitution or such other value as may be agreed to between the Government and the person whose land has been acquired.

3. No interest on compensation paid under this paragraph shall be due in respect of the land acquired but Government may, in special circumstances, pay such interest as it thinks just in the circumstances.

4. Where the person eligible to make an application or to receive compensation under this paragraph is dead, the application may be made or the compensation may be paid to the legal representative of that person.