

SEYCHELLES LAND TRANSPORT AGENCY BILL, 2008

(Bill No. 20 of 2008)

OBJECTS AND REASONS

This Bill seeks to establish an Agency called the Seychelles Land Transport Agency which has as its object, to promote and provide an adequate and efficient land transport system which shall include land transport services and infrastructure (clause 4). The establishment of the Agency will assist in ensuring that the transportation system effectively and safely supports the requirements of sustainable national development. It will also ensure that transport infrastructure meets the demands of socio-economic development and that a satisfactory level of public transport facilities is provided whilst ensuring environmental sustainability in the implementation of land transport activities.

Part II of the Bill provides for the Establishment of the Agency, its objects, functions and powers. It also contains provisions relating to the financial administration of the Agency.

Part III of the Bill provides for the establishment and constitution of the Board of the Agency and contains provisions relating to the members of the Board.

Part IV of the Bill deals with the transfer of assets and liabilities to the Agency.

Part V contains provisions relating to miscellaneous matters.

Dated this 07th day of November, 2008.

A.F.T. FERNANDO
ATTORNEY-GENERAL

SEYCHELLES LAND TRANSPORT AGENCY BILL, 2008*(Bill No.20 of 2008)***ARRANGEMENT OF SECTIONS****Sections****PART I - PRELIMINARY**

1. Short title
2. Interpretation

PART II - AGENCY

3. Establishment
4. Object of Agency
5. Functions of Agency
6. Powers of Agency
7. Powers of Minister over Agency
8. Appointment of Chief Executive Officer
9. Termination of employment of staff
10. Employment of staff
11. Funds of Agency
12. Power to borrow money and charge property
13. Accounts and Audit
14. Business Plan
15. Annual Report

PART III - BOARD OF AGENCY

16. Establishment and Constitution of Board
17. Appointment of Chairperson and Deputy Chairperson
18. Tenure of office, resignation and removal of members
19. Temporary Member
20. Meetings of Board
21. Remuneration of Members
22. Co-opted persons to advise Board
23. Disclosure of interest
24. Leave of absence

PART IV - TRANSFER OF ASSETS AND LIABILITIES

25. Transfer of property, rights and obligations to Agency

26. Acquisition and disposal of land

PART V - MISCELLANEOUS

27. Application of certain Penal Code provisions
28. Protection of acts done in good faith
29. Regulations

**SEYCHELLES LAND TRANSPORT AGENCY
BILL, 2008**

(Bill No.20 of 2008)



**A BILL
OF**

**AN ACT to establish the Seychelles Land Transport
Agency; and to provide for related matters.**

ENACTED by the President and the National Assembly.

PART I – PRELIMINARY

1. This Act may be cited as the Seychelles Land Transport Agency Act, 2008. Short title

2. In this Act — Interpretation

“Agency” means the Seychelles Land Transport Agency established by section 3;

“Board” means the Board established by section 16;

"Chief Executive Officer" means the Chief Executive Officer appointed under section 8;

"member" means a member of the Board;

"Minister" means the Minister responsible for Transport and "Ministry" is construed accordingly;

Cap 205

"Public Road" has the same meaning given to it by section 2 of the Road Act.

PART II – AGENCY

Establishment

3. (1) There is established the Seychelles Land Transport Agency.

(2) The Agency shall be a body corporate.

Object

4. The object of the Agency is to promote and provide an efficient and adequate land transport system which shall include land transport services and infrastructure.

Functions of Agency

5. The functions of the Agency are to -

- (a) assist in the formulation of national land transport policies;
- (b) implement land transport policies and projects and ensure compliance to regulatory frameworks;
- (c) manage and implement land traffic management measures and services;
- (d) promote and implement measures to ensure safety and security on public roads;

- (e) facilitate mobility by improving access to land transport;
- (f) implement programmes and projects relating to land transport infrastructure and collaborate with relevant agencies in the implementation of those programmes and projects;
- (g) oversee the performance of contracts relating to land transport infrastructure developments;
- (h) ensure environmental sustainability in the implementation of land transport activities;
- (i) participate in meetings, seminars and discussions relating to land transport at national, regional and international level;
- (j) perform such other functions that the Minister may by Order published in the Gazette, prescribe.

6. The Agency shall have the powers necessary for the performance of the Agency's functions or for facilitating the performance of those functions.

Powers of Agency

7. The Minister -

(1) shall exercise supervision over the Agency in the performance of its functions and the exercise of its powers; and

Supervisory Powers of Minister over Agency

(2) may issue policy directives to the Agency.

Appointment
and functions of
Chief Executive
Officer

8. (1) The President shall appoint a person who the President considers is suitably qualified and experienced to be Chief Executive Officer of the Agency on terms and conditions that the President may determine.

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

Termination of
employment of
staff

9. The employment of persons working in the Land Transport Division of the Ministry, immediately before the coming into operation of this Act, may be terminated.

Employment of
staff

10. (1) The Agency may employ officers and other members of staff reasonably necessary for the effective performance of the Agency's functions, on the terms and conditions determined by the Agency.

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

Funds of
Agency

11. (1) The Agency shall open a bank account with a commercial bank licensed under the Financial Institutions Act—

- (a) into which shall be paid funds received by or on behalf of the Agency; and
- (b) out of which payments required to be made by the Agency shall be effected.

(2) The funds of the Agency referred to in subsection (1)(a) shall consist of—

- (a) moneys voted by the National Assembly for the use of the Agency;
- (b) moneys accruing to the Agency from its operations; and

- (c) moneys received by the Agency from any other source including loans, donations or grants.

(3) The funds of the Agency shall be applied in—

- (a) the discharge of expenses properly incurred in the performance of the functions of the Agency;
- (b) the payment of remuneration to the members and employees of the Agency; and
- (c) the repayment of sums borrowed by the Agency.

(4) No money shall be withdrawn from the bank account except on the signature of the Chairperson appointed under section 17 (1) and—

- (i) the Chief Executive Officer; or
- (ii) the member responsible for financial matters designated by the Board.

(5) The net profits of the Agency determined after the expenses of each financial year and making provision for bad and doubtful debts, depreciation of assets and any other purpose which the Agency thinks necessary shall be dealt with in accordance with directions given by the Minister in consultation with the Minister responsible for Finance.

12. The Agency may with the consent of the Minister given after consultation with the Minister responsible for Finance—

Power to borrow
money and
charge property

- (a) borrow money in the manner and subject to the conditions that the Minister responsible for Finance may determine;
- (b) mortgage or charge the Agency's undertaking or property or any part of the undertaking or property as security for any debt, liability or obligation of the Agency.

Accounts and
Audit

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

(2) The Agency shall keep proper accounts and other relevant records in the form and manner approved by the Auditor General.

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

Business Plan

14. (1) (a) Subject to paragraph (b), the Agency shall prepare a business plan and submit it to the Minister for the Minister's approval at least ninety days before the beginning of each financial year.

(b) The first business plan shall be submitted to the Minister within the period specified by the Minister.

(2) The business plan shall –

(a) include a statement of the short and medium term operational objectives;

(b) outline the strategies that the Agency intends to employ in order to achieve its objectives; and

(c) include an operational plan, a financial plan, a human resources plan and performance indicators.

(3) The financial plan referred to in sub-section 2(c) shall include estimates of expenditure and revenue for the following financial year.

(4) The Agency may amend the business plan with the approval of the Minister.

15. The Agency shall, as soon as possible but not later than three months after the end of each financial year, submit to the Minister, an annual report dealing generally with the activities of the Agency during that year.

Annual Report

PART III – BOARD OF AGENCY

16. (1) The Agency shall be administered by a Board of not less than six or more than nine members.

Establishment
and constitution
of Board.

(2) The Board consists of the following members –

(a) the Chief Executive Officer;

(b) the Chief Executive Officer of the Planning Authority established under the Town and Country Planning Act;

(c) a senior officer from the Ministry;

(d) a police officer not below the rank of Assistant Commissioner;

- (e) a senior officer from the Ministry of Finance;
- (f) a senior officer from the Ministry of Community Development; and
- (g) three other persons who have knowledge and experience of matters relating to transport, traffic and roads.

(3) The President shall appoint the members and shall cause a notice of the names of the members to be published in the Official Gazette.

Appointment of
Chairperson and
Deputy
Chairperson

17. (1) The President shall appoint a Chairperson and a Deputy Chairperson from among the members of the Board.

(2) Where the Chairperson is absent or unable to perform his functions, the Deputy Chairperson shall perform the functions of the Chairperson.

(3) Where the Chairperson and Deputy Chairperson are absent or unable to perform their functions, the members shall elect another member to perform the functions of the Chairperson.

Tenure of
office,
resignation and
removal

18. (1) A member shall hold office for a period of three years and is eligible for re-appointment.

(2) The Chairperson may resign from office by a letter addressed to the President and the resignation shall take effect from the date on which the President receives the letter.

(3) A member other than the Chairperson may resign from office by a letter addressed to the President and transmitted through the Chairperson and the resignation shall

take effect from the date on which the President receives the letter.

(4) The President may remove a member from office if the President is satisfied that the member –

- (a) is unable or unfit to perform the functions of the member's office;
- (b) is guilty of misconduct; or
- (c) is absent for three consecutive meetings of the Board without leave of the Minister.

(5) Where a member resigns or is removed from office, the President shall appoint a person to hold office for the remaining period of office of that member and shall cause the name of that person to be published in the Gazette.

19. (1) Where a member is temporarily absent from Seychelles or temporarily incapable of performing his or her functions, the President may nominate a person to act in the place of that member during the period of absence or incapacity.

Temporary
member

(2) A person nominated under sub-section (1) to act in the place of a member has, and may exercise, at any meeting of the board all the rights of that member.

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

Meetings of
Board

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

(3) The Chairperson may at any time call a special meeting of the Board within seven days of a written request addressed to the Chairperson by at least three members.

(4) The Chairperson shall preside at meetings of the Board at which he or she is present and in the absence of the Chairperson from a meeting, the Deputy Chairperson shall preside.

(5) Where the Chairperson and the Deputy Chairperson are absent from a meeting of the Board, the members shall elect from among themselves a chairperson to preside at that meeting.

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

(7) (a) A decision of the Board shall be taken by a simple majority of votes of the members present and voting, and each member shall have one vote but in the event of an equality of votes, the Chairperson or other person presiding at the meeting shall have in addition to an original vote, a casting vote.

(8) Subject to the provisions of this Act, the Board may regulate its own proceedings.

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

Remuneration

21. The members shall be paid the remuneration determined by the President out of the funds of the Authority.

Co-opted persons to advise Board

22. (1) The Board may co-opt a person to advise the Board on matters of a technical nature where the Board is satisfied that the experience or qualifications of that person are

likely to assist the Board.

(2) A person referred to under sub-section has no right to vote on any matter before the Board.

23. A member who is directly or indirectly interested in a matter being dealt with by the Board shall –

Disclosure of interest

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

24. (1) A member other than the Chairperson, who intends to be absent from meetings of the Board for more than three consecutive months, shall apply to the Chairperson for leave of absence.

Leave of absence

(2) If the Chairperson intends to be absent from meetings of the Board for more than three consecutive months, the Chairperson shall apply to the Minister for leave of absence.

PART IV – TRANSFER OF ASSETS AND LIABILITIES

25. (1) The Government may vest in or transfer to the Agency such –

Transfer of property, rights and obligations to Agency

- (a) movable and immovable properties vested in the Government immediately before the coming into operation of this Act and used or managed by the Land Transport Division of the Ministry; and

- (b) assets, rights, interests, privileges, liabilities and obligations of the Government, relating to the Land Transport Division of the Ministry,

as the Minister considers appropriate.

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

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

Acquisition and disposal of land

26. (1) Where land needed by the Agency in connection with the performance of its functions, is owned by a person other than the Republic, and that person is not in favour of selling such land to the Agency, the Minister may propose to the Minister of National Development that such land be acquired in accordance with the Acquisition of Land in the Public Interest Act.

(2) Any land acquired under sub-section (1) shall be transferred to the Agency.

(3) Subject to section 12(b) the Agency shall not sell, exchange or otherwise dispose of land or interest in land

vested in the Agency without the consent of the Minister responsible for Land Use.

PART V – MISCELLANEOUS

27. All members of the Board and, officers and employees of the Agency shall be deemed to be employed in the public service for the purpose of sections 91 to 96 of the Penal Code.

Application of certain Penal Code provisions

28. No civil or criminal liability shall attach to the Agency, an officer or employee of the Agency or a member of the Board in respect of an Act done or omission made in good faith in the performance of the functions of the Agency or the officer, employee or member as the case may be.

Protection of acts done in good faith

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

Regulations