

# SEYCHELLES CIVIL AVIATION AUTHORITY ACT, 2005

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# SEYCHELLES CIVIL AVIATION AUTHORITY ACT, 2005

*(Act 5 of 2005)*

**AN ACT to establish the Seychelles Civil Aviation Authority and to provide for connected matters.**

**ENACTED** by the President and the National Assembly.

## **Part I – Preliminary**

Short Title

1. This Act may be cited as the Seychelles Civil aviation Authority Act, 2005.

Interpretation

2. In this Act –

“aerodrome” means any area of land or water designed, equipped, set apart or commonly used for affording facilities for the landing and departure of aircraft and includes any area or space whether on the ground, on the roof of a building or elsewhere, which is designed, equipped or set apart for affording facilities for the landing and departure of aircraft capable of descending or climbing vertically;

“Authority” means the Seychelles Civil Aviation Authority established by section 3;

“Authority’s aerodromes” means aerodromes at the Seychelles International Airport at Pointe Larue and the Praslin Airport and includes any aerodrome the maintenance or management of which is assumed by the Authority under this Act;

“member” means a member of the Board of Directors of the Authority;

“Minister” means the Minister responsible for Civil Aviation;

“Seychelles Flight Information Region” means the area within which air navigation services are provided by the Government in accordance with the International Civil Aviation Organisation Regional Air Navigation Plan;

“Seychelles Search and Rescue Region” means the Seychelles Flight Information Region and any area within which search and rescue services are provided by the Government.

## **Part II – Establishment of the Authority**

Establishment of the  
Seychelles Civil Aviation  
Authority

**3.** There is hereby established a body corporate to be known as the Seychelles Civil Aviation Authority.

Board of Directors

**4. (1)** The affairs of the Authority shall be administered by a Board of Directors consisting of not less than 7 nor more than 11 members as the Minister may from time to time

determine.

(2) The Schedule shall have effect with respect to the constitution of the Board of Directors and its proceedings.

Functions of the Authority

**5. (1)** The functions of the authority shall be –

(a) to maintain and manage the Authority's aerodromes and to provide such services and facilities as are necessary or expedient for their operation;

(b) to provide air traffic control service, flight information service, alerting service and aeronautical information service within the Seychelles Flight Information Region;

(c) to provide and coordinate search and rescue services to aircraft in distress within the Seychelles Search and Rescue Region;

(d) to provide adequate fire fighting and rescue services and facilities at the Authority's aerodromes;

(e) to regulate, and to promote the development of, air transport;

(f) to advise the Government on all matters relating to civil aviation;

(g) to act internationally as the national body representing Seychelles in respect of matters relating to civil aviation;  
and

(h) to perform such other functions as may be delegated to the Authority by the Minister under the Civil Aviation Act.

**6. (1)** The Authority shall have the power to do anything for the purpose of discharging its functions or facilitating the discharge of those functions and, in particular, it may –

(a) provide or assume the maintenance or management of any aerodrome in Seychelles in addition to the Authority's aerodromes for the time being;

(b) with the approval of the minister, take up and subscribe for or otherwise acquire shares in any company or participate in the formation of a company;

(c) with the approval of the Minister, enter into a partnership or an arrangement for the sharing of profits;

(d) engage in any activity, either alone or in conjunction with other civil aviation authorities or international agencies or organizations for the purpose of promoting the developing civil aviation;

(e) provide any person with technical advice or assistance including facilities as respects matters in which the Authority has skill or experience.

(f) charge such fees as may be prescribed by regulations for the use of any facility or service provided by the Authority;

Delegation of powers of  
the Authority

(g) grant loans to employees of the Authority for purposes approved by the Authority;

(h) provide training for employees of the Authority or other civil aviation organization.

(2) The Minister may by Order published in the Gazette delegate to the Authority any of his powers under the Civil Aviation Act or subsidiary legislation made thereunder except the power of making subsidiary legislation and the Authority shall exercise those powers.

**7. (1)** The Authority may, subject to such conditions as it thinks fit, delegate to any member or employee of the Authority all or any of its powers, functions and duties under this Act and any power, function or duty so delegated may be exercised or performed by such member or employee in the name and on behalf of the Authority:

Provided that where a power, function or duty of a technical nature is delegated the Authority shall have due regard to the technical qualifications, experience and independence of the member or employee to whom such power, function or duty is delegated.

(2) The Authority may continue to exercise any power conferred upon it or perform any function or duty under this Act notwithstanding the delegation of such power, function or duty under this section.

(3) It shall be lawful for the Authority to delegate to a competent civil aviation authority outside Seychelles any power, function or duty of the Authority by mutual agreement and in accordance with any applicable international convention.

Directions issued by the  
Minister

**8.** The Minister may, after consulting the Authority, issue directions, not inconsistent with the provisions of this Act, to the Authority as to the exercise of its powers or performance of its functions and the Authority shall give effect to any such direction.

Report by the Authority

**9. (1)** The Authority shall furnish the Minister with such information on its activities and property as the Minister may from time to time require.

(2) The Authority shall, as soon as practicable after the end of each financial year, submit to the Minister an annual report on its activities during the financial year.

Chief Executive Officer  
and other employees

**10. (1)** This Minister shall appoint a person with sufficient management experience or technical experience in a field directly related to civil aviation to be its chief executive officer on such terms and conditions as the Minister may determine.

(2) The chief executive officer shall –

(a) be known by such designation as the Minister may determine;



(b) be responsible for the management of the functions and affairs of the Authority in accordance with the policy laid down by the Authority.

(3) The Authority may, from time to time, appoint such other employees and agents as it thinks fit for the effective performance of its functions on such terms and conditions as it may determine.

### **Part III – Financial provisions**

Funds of the Authority

**11. (1)** The funds of the Authority shall consist of –

(a) moneys voted by the National Assembly for the use of the Authority;

(b) moneys accruing to the Authority from its operations;  
and

(c) moneys received by the Authority by way of loans, donations, gifts or grants.

(2) The funds of the Authority shall be applied in the discharge of expenses properly incurred in the carrying out of the functions of the Authority, the payment of remuneration to the members and employees of the Authority and in the repayment of any sums borrowed by the Authority.

(3) The net profits of the Authority determined after

meeting the expenses of each financial year and making provision for bad and doubtful debts, depreciation of assets and any other purpose deemed necessary by the Authority shall be dealt with in accordance with directions given by the Minister.

Accounts and audit

**12.** (1) The financial year of the Authority shall be the calendar year.

(2) The Authority 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 Authority.

Business Plan

**13.** (1) The Authority shall prepare a business plan at least 90 days before the beginning of each financial year and submit it to the Minister for his approval:

Provided that the first business plan shall be submitted to the Minister within such period as may be 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 Authority intends to

employ in order to achieve its objectives; and

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

(3) The financial plan must include estimates of expenditure and revenue for the following financial year.

(4) The Authority may amend the business plan with the Minister's approval.

#### **Part IV – Transfer of property and staff**

Transfer of property,  
rights and obligations

**14. (1)** As from the date of commencement of this Act, all movable property vested in the Government immediately before that date and used and managed by the Director-General of Civil Aviation and all assets, rights, interests, privileges, liabilities and obligations of the Government relating to the Directorate of Civil Aviation shall, subject to subsection (2), be transferred to and vest in the Authority.

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

Transfer of Staff

**15. (1)** As from the date of commencement of this Act, persons employed immediately before the date in the

Directorate of Civil Aviation shall be transferred to the service of the Authority on terms and conditions not less favourable than those enjoyed by them immediately before the transfer.

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

Other transitional matters

**16. (1)** From and after the date of commencement of this Act any reference in any written law to the Director General of Civil Aviation, the Directorate of Civil Aviation or any of its officers shall be deemed to be a reference to the chief executive officer of the Authority appointed under section 10, the Authority or the corresponding officer as the case may be.

(2) All deeds, bonds, agreements and arrangements subsisting immediately before the date of commencement of this Act relating to the Directorate of Civil Aviation or of any person transferred to the service of the Authority shall continue to force on and after that date and shall be enforceable by or against the Authority as if the Authority had been named therein and had been a party thereto.

(3) Any proceeding or cause of action pending or existing immediately before the date of commencement of this Act by or against the Government in respect of the Directorate

of Civil Aviation or any person acting on its behalf may be continued and enforced by or against the Authority.

### **Part V – Miscellaneous**

Land  
disposal

acquisition,

**17. (1)** Where any land is needed for the purpose of the Authority, the Minister responsible for Land Use may, if he thinks fit, proceed to acquire that land in accordance with the Acquisition of Land in the Public Interest Act and it shall be deemed that the land is sought to be so acquired in the public interest.

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

Application of certain  
Penal Code provisions

**18. (1)** All members, officers and employees of the Authority shall be deemed to be employed in the public service for the purpose of sections 91 of the Penal Code.

Protection of acts done in  
good faith

**19.** No liability, civil or criminal, shall attach to the Authority or a member, officer or employee of the Authority in respect of an act done or omission made in good faith in the performance of the functions of the Authority or such member, officer or employee as the case may be.

Regulations

**20.** The Minister may, in consultation with the Board, make regulations for the purpose of carrying into effect the principles and provisions of this Act and may by regulations

amend the Schedule.

## SCHEDULE

Section 4

### THE BOARD OF DIRECTORS

Appointment of Chairman  
and other members

**1.** (1) The Chairman and other members shall be appointed by the Minister.

(2) The chief executive officer appointed under section 10 shall *ex officio* be a member of the Board of Directors.

Tenure of office of  
members

**2.** A member appointed under paragraph 1 (1) shall hold office on such conditions and for such term as the Minister may determine and shall be eligible for reappointment.

Temporary members

**3.** The Minister may appoint any person to be a temporary member during the temporary incapacity from illness or otherwise, or during the temporary absence from Seychelles, of any member.

Resignation

**4.** Any member may resign from his appointment at any time by giving notice in writing to the Minister.

Vacation of office

**5.** The office of a member shall be vacated if he or she –

(a) as been absent, without leave of the Minister, from 3 consecutive meetings of the Board; or

Filling of vacancies

(b) becomes in any manner disqualified for membership of the Board.

**6.** If a member resigns, dies or has the appointment revoked or otherwise vacates office before the expiry of the term for which the member has been appointed, the Minister may appoint a person to fill the vacancy for the residue of the term for which the vacating member was appointed.

Disqualification from membership

**7.** No person shall be appointed or shall continue to hold office as a member if the person –

(a) is employed by or has a substantial interest in an organization the activities of which are subject to the supervision of the Authority;

(b) is an undischarged bankrupt or has made an arrangement with that person's creditors; or

(c) has been sentenced to imprisonment for a term of not less than 6 months and has not received a free pardon.

Disclosure of interest by member

**8. (1)** A member who is in any way directly or indirectly interested in a transaction or project of the Authority shall disclose the nature of that member's interest at a meeting of the Board. The disclosure shall be recorded in the minutes of the meeting and the member shall not take part in any deliberation of the Board with respect to that transaction or project.

(2) For the purpose of determining whether there is a quorum, a member shall be treated as being present at a meeting notwithstanding that under subparagraph (1) that member cannot vote or has withdrawn from the meeting.

Salaries, etc. payable to members

**9.** There shall be paid to the Chairman and other members out of the funds of the Authority such salaries and allowances as the Minister may determine.

Meetings of the Board

**10. (1)** The Board shall meet for the dispatch of business at such times and places as the Chairman may from time to time appoint.

(2) At every meeting of the Board 4 members shall form a quorum

(3) A decision of the Board shall be adopted by a simple majority of the members present and voting except that in the case of an equality of votes the Chairman or the member presiding shall have a casting vote in addition to his or her original vote.

(4) The Chairman shall preside at the meetings of the Board, and in his or her absence, the members present may elect member from among them to preside at the meeting.

(5) Where not less than 4 members of the Board request the Chairman by notice in writing signed by them to



convene a meeting of the Board for any purpose specified in the notice, the Chairman shall, within 7 days from the receipt of the notice, convene a meeting for that purpose.

Vacancies

**11.** The Board may act notwithstanding any vacancy in its membership.

Procedure at the meetings

**12.** Subject to the provisions of this Act, the Board may make rules to regulate its own procedure generally, and in particular, regarding the holding and proceedings of meetings, the notice to be given of such meetings, the keeping of minutes and the custody, production and inspection of such minutes.

Validity of proceedings

**13.** The validity of any proceedings of the Board shall not be affected by any defect in the appointment of any member or by any contravention of paragraph 8(1) by any member.