

LAWS OF SEYCHELLES

SEYCHELLES PUBLIC TRANSPORT
CORPORATION DECREE

CHAPTER 221

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CHAPTER 221

SEYCHELLES PUBLIC TRANSPORT CORPORATION DECREE
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Short title. 1. This Decree may be cited as the Seychelles Public Transport Corporation Decree.

Interpretation. 2. In this Decree, unless the context otherwise requires -
"Board" means the Board of the Corporation established by section 5;
"Corporation" means the Seychelles Public Transport Corporation established by section 3;

"General Manager" means the person appointed under section 18.

PART II.-ESTABLISHMENT AND CONSTITUTION OF
THE CORPORATION

Establishment of Seychelles Public Transport Corporation. 3.-(1) There is hereby established a Corporation known as the Seychelles Public Transport Corporation.

(2) The Corporation shall be a body corporate with perpetual succession and a common seal bearing its name.

(3) The registered office of the Corporation shall be situate at Unity House, Palm Street, or such other place as the Board may, from time to time, with the approval of the Minister determine.

General Powers. 4. Subject to the provisions of this Decree, the Corporation may-

(a) acquire by purchase, gift by way of donation inter vivos, bequest or otherwise, hold, possess and manage property, both movable and immovable;

(b) sell or exchange any property;

(c) lease, rent or take on lease any property on such terms as it thinks fit;

(d) compound or compromise any action, suit or proceedings or any debt;

(e) receive all sums due to the Corporation and give full and valid discharge and sign any receipt therefor;

(f) open any account at any bank, effect any payment into that account or withdraw any sum therefrom;

- (g) draw, sign and endorse any cheque, draft bill or other negotiable instrument;
- (h) effect or accept any payment;
- (i) borrow money, mortgage any immovable property or give in pledge any movable property;
- (j) invest any monies in such securities, movable or immovable and in such manner as it thinks fit;
- (k) consent to the erasure or removal of any inscription, seizure, attachment or other prohibition, with or without payment;
- (l) make such donations as it thinks fit;
- (m) do all such other acts or things which a corporate body may do or which may be necessary for the proper discharge of its functions under this Decree.

Constitution
of the
Board.

5.-(1) The Corporation shall, subject to the provisions of this Decree, be administered and controlled by a Board of Directors which shall consist of

- (a) a Chairman;
- (b) such number of other Directors not being less than two and not more than four,

all of whom shall be appointed by the Minister from among persons who have had substantial experience in -

- (i) transport;
- (ii) industrial, commercial or financial matters;
- (iii) the administration or organisation of workers.

(2) Before appointing a person to be a Director of the Corporation the Minister shall satisfy himself that that person will have no such financial or other interest as is likely to affect prejudicially the discharge by him of his functions as a Director of the Corporation and the Minister shall also satisfy himself from time to time with respect to every Director of the Corporation that he has no such interest; and any person who is, or whom the Minister proposes to appoint to be, a Director of the Corporation shall, whenever requested by the Minister so to do, furnish to him such information as the Minister considers necessary for the performance

by the Minister of his duties under this subsection.

- (3) No person shall be qualified to be appointed a Director who -
- (a) has, under any law in force in any country -
 - (i) been adjudged or otherwise declared insolvent or bankrupt and has not been rehabilitated or discharged; or
 - (ii) made an assignment to, or an arrangement or composition with, his creditors which has not been rescinded or discharged; or
 - (b) has served a sentence of imprisonment imposed in any country, without the option of a fine, for any offence involving fraud or dishonesty in respect of which he has not received a free pardon; or
 - (c) is not a citizen of Seychelles;
 - (d) is an office bearer of any political party.

Tenure of office.

- 6.(1) Subject to section 7 and 8 -
- (a) the Chairman shall hold office for a period of three years;
 - (b) any Director appointed under paragraph (b) of subsection (1) of section 5 shall be appointed annually.
- (2) The Chairman, or any Director appointed under paragraph (b) of subsection (1) of section 5 shall, at the end of his term of office, be eligible for re-appointment.

Termination of appointment.

7. If the Minister is satisfied that any Director -
- (a) is guilty of improper conduct; or
 - (b) is incapacitated by prolonged physical or mental illness; or
 - (c) for any other person reason is unable or unfit to discharge his duties as a Director; or
 - (d) without reasonable excuse has failed to comply with his obligations under subsection (5) of section 9.

he shall terminate the appointment of the Director and notify the termination in such manner as he thinks fit and the termination shall

take effect from the date of the notification.

Vacation of office.

8.(1) Any Director shall vacate his office -

- (a) one month after the date on which he gives notice in writing to the Minister of his intention to resign his office or after expiration of such shorter period as may be agreed; or
- (b) is he is so disqualified from holding office in pursuance of subsection (3) of section 5; or
- (c) if his appointment is terminated under section 7; or
- (d) if his office is declared vacant under section 9 : or
- (e) on the expiry of his term of office; or
- (f) if, in the case of a Director other than the Chairman, he is, without the permission of the Chairman, absent from three consecutive meetings of the Board of which he has had notice.

Declaration of interest.

9.(1) Within seven days after his appointment and thereafter once every year, every Director shall submit to the Minister a statement in writing as to whether or not he holds or has acquired any directorship, office, post, shareholding or financial interest, direct or indirect, in any company, firm or undertaking which carried on the business of Public Transport.

(2) Where any directorship, officer, post, shareholding or financial interest specified in subsection (1) is held or has been acquired by any Director after his appointment, he shall within seven days of the holding or acquisition of the directorship, office, post, shareholding or financial interest, as the case may be, give notice thereof in writing to the Minister.

(3) Where any statement is submitted under subsection (1) or any notice is given under subsection (2) by a Director and it appears to the Minister that it is in the public interest so to do, he may remove the Director and declare his office vacant.

(4) For the purposes of this section, a directorship, office, post, shareholding or financial interest of one spouse shall be deemed to be a directorship, officer, post, shareholding or financial interest of the other spouse.

(5) A Director who is in any way directly or indirectly interested in a contract made or proposed to be made by the Corporation shall disclose the nature of his interest at a meeting of the Board and

the disclosure shall be recorded in the minutes of the Board, and the Director shall not take any part in any deliberation or decision of the Board with respect to that contract.

Remuneration. 10. the Corporation may pay to the Directors thereof such salaries or fees and such allowances as the Minister may, after consultation with the Minister responsible for Finance, determine.

Meetings of the Board. 11.-(1) Subject to subsections (2) and (3), the Chairman shall preside at all meetings of the Board.

(2) If the Chairman is, for any reason, unable to exercise the functions of his office, the Minister may appoint a person to exercise those functions and such person shall have all the powers of the Chairman.

(3) In the absence of the Chairman from any meeting of the Board, the Directors present shall elect from amongst themselves a Director to preside at that meeting and the Director so chosen shall, in relation to that meeting, exercise the functions and have the powers of the Chairman.

(4) The Board shall meet at such time and place as the Chairman may, from time to time, appoint :

Provided that the Board shall meet not less than once in every three months.

(5) The Chairman may at any time and shall at the request in writing of the Minister or two Directors convene a special meeting of the board.

(6) Any notice convening a special meeting of the Board shall state the purposes for which the special meeting is convened.

(7) Three Directors of the Board shall constitute a quorum.

(8) All acts, matters or things authorised or required to be done by the Board shall be decided by a simple majority of the votes of the Directors present and voting at the meeting.

(9) At any meeting of the Board, each Director shall have one vote on the matter in question and, in the event of an equality of

votes, the person presiding at that meeting shall have a casting vote.

(10) All orders, directions or decisions of the Board shall be made, given and notified under the hand of the Chairman or such other Director as the Board may approve for the purpose.

(11) Subject to the provisions of this Decree or any regulations made thereunder, the Board shall regulate its meetings and proceedings in such manner as it thinks fit.

Attendance
of General
Manager.

12. The General Manager shall attend every meeting of the Board and may take part in its deliberations but he shall not be entitled to vote on any question before the Board.

Cheques.

13. Any cheque upon any banking account kept by the Corporation shall be signed by the General Manager and such other officer of the Corporation as shall be appointed by the Board for the purpose.

Proof of
document.

14.(1) Any document purporting to be a document duly executed by or on behalf of the Corporation or issued under the seal of the Corporation shall in any proceedings before a Court of law, be received in evidence and be deemed to be a document so executed or issued, as the case may be, without further proof unless the contrary is shown.

(2) The application of the seal of the Corporation shall be authenticated by the signature of the Chairman or some other Director of the Corporation authorised by the Corporation to authenticate the application of the seal, and the General Manager or some person authorised by the Corporation to act in that behalf.

PART III. - FUNCTIONS OF THE CORPORATION

Duties.

15.-(1) The Corporation shall exercise its powers so as to provide, or secure or promote the provision of an efficient, adequate and economical system of public transport within Seychelles for the general public, consistent with a reasonable and adequate level of fares being charged :

Provided that the business shall be run on full commercial lines so that taking one year with another the Corporation shall balance its accounts.

(2) Nothing in this section shall be construed as imposing on the Corporation whether directly or indirectly any form of duty or liability enforceable by proceedings before any court which they would not otherwise be subject.

Special powers of the Corporation.

16. For the purposes of section 15 the Corporation shall, subject to the approval of the Minister, have power to carry on all such activities as may appear to the Corporation to be requisite, advantageous and convenient and in particular but without prejudice to the generality of the foregoing shall have power to -

- (a) carry passengers at separate and distinct fares within Seychelles on a recognised or predetermined route or for a recognised and predetermined purpose;
- (b) charter and hire omnibus where payment is made otherwise than for the seat occupied by the passenger;
- (c) run sight-seeing tours where the journey commences and ends at the same place, even though there may be breaks or stops in the journey, no person being permitted to join the vehicle for the first time other than at the departure point or, by prior arrangement only, at an intermediate point, and payment being made by or on behalf of each person travelling on the vehicle at a fare for the whole journey, irrespective of the distance actually travelled;
- (d) provide services for the conveyance of employees to and from their place of work;
- (e) provide services between an airport and hotels, airline offices or ferry terminals and ports where persons are conveyed from the airport to a hotel or from a hotel to the airport, no passengers being permitted to embark on or disembark from the vehicle in the course of the journey and passengers being limited to persons who have arrived in Seychelles or intend to leave Seychelles by an aeroplane, persons meeting or accompanying them and airlines and airport employees; and
- (f) provide services for the conveyance only of school children and their teachers and persons accompanying or in charge of

school children to and from schools; and

(g) construct, manufacture purchase, maintain and repair anything required for the purpose of any of the activities of the Corporation specified in this setion;

(h) run services for the carriage of goods for reward.

Committees, 17. The Minister may appoint such committees as may seem desirable or expedient for the better execution of the Corporation's duties under this Decree.

PART IV.-STAFF

General Manager. 18.(1) The Chief Executive of the Corporation shall be a General Manager appointed by the Minister after consultation with the Board from among persons who appear to the Minister to have had wide experience and shown capacity in transport, industrial, commercial or financial matters, and in the administration or in the organisation of workers.

(2) The General Manager shall hold office on such terms and conditions (including terms and conditions relating to remuneration and pensions) as may be determined from time to time by the Corporation with the approval of the Minister responsible for Finance.

(3) Any remuneration or pension payable under this section shall be paid by the Corporation.

(4) In the exercise of his functions under this Decree, the General Manager shall act in accordance with such directions as he may, from time to time, receive from the Board.

(5) If the General Manager is for any reason unable to exercise the functions of his office the Minister may appoint a person to exercise those functions.

Appointment of officers and servants 19.(1) The Corporation may appoint or employ such officers and servants as may be reasonably necessary for the purposes of or in connection with, the discharge of its duties under this Decree, on such terms and conditions as the Corporation may, with the approval of

of the Corporation.

the Minister in consultation with the Minister responsible for Administration and Manpower, determine.

(2) The officers and servants of the Corporation shall be under the administrative control of the General Manager.

Delegation to General Manager.

20. The Corporation shall delegate, subject to such instructions or rules of a general nature as may be given or made by the Corporation, to the General Manager such of its functions under this Decree as are necessary to enable him to transact effectively the day-to-day business of the Corporation of every kind whatsoever, and in particular but without prejudice to the generality of the foregoing, the Corporation shall delegate to the General Manager the power -

- (a) to exercise supervision and control over the acts of all officers and servants of the Corporation in matters relating to the exercise and administration of the whole field of transport and in all matters concerning the accounts and records of the Corporation;
- (b) to determine all questions relating to the service of the servants of the Corporation and their pay, privileges and allowances;
- (c) to plan, control and regulate public transport.

Other provisions in relation to staff.

21. The Board may make provisions in such a form as it may decide to govern the conditions of service of its officers and servants and in particular, but without prejudice to the generality of the foregoing, to deal with -

- (a) the appointment, dismissal, discipline, pay and leave of and the security to be given by officers and servants;
- (b) appeals by officers and servants against dismissal or other disciplinary measures;
- (c) the establishment and maintenance of medical benefits and loan funds and the contributions payable thereto and the benefit recoverable therefrom.

PART V. - FINANCIAL PROVISION AND ACCOUNTS

- Establishment and operation of General Fund.
22. The Corporation shall establish a General Fund -
- (a) into which all monies received by the Corporation shall be paid; and
 - (b) out of which all payments required to be made by the Corporation shall be paid.
- Corporation's powers with regard to receipt of money.
23. The Corporation is hereby empowered to receive -
- (a) revenue accruing from the operation of a system of public transport;
 - (b) loans raised under this Decree;
 - (c) any money properly accruing to the Corporation from any other source.
- Charges to General Fund.
24. The Corporation may, in furtherance of the purposes and provisions of this Decree, and in accordance with the terms and conditions upon which its funds may have been obtained, given or derived, charge to the General Fund all remunerations, allowances, salaries, fees, pension and superannuation fund contributions, gratuities, working expenses and all other charges properly arising, including any necessary capital expenditure.
- Provision for loan redemption, etc.
25. The Corporation shall make adequate provision for -
- (a) the redemption of loans at due times;
 - (b) interests on all other charges and expenses incurred in connection with loans; and
 - (c) the depreciation or diminution in value of its assets.
- Financial year.
- 26.(1) The financial year of the Corporation shall coincide with that of the Government.
- (2) The Corporation shall, at least four months before the end of every financial year, draw up an estimate of the recurrent capital, income and expenditure of the Corporation for the next ensuing financial year.

(3) An attested copy of the estimate for the next ensuing financial year shall after approval by the Board and, at least three months before the end of each financial year, be submitted to the Minister responsible for Finance for his approval.

(4) The Minister responsible for Finance in signifying his approval under subsection (3) may -

(a) approve part only of the expenditure under any item;

(b) amend the expenditure in respect of any item in such manner as he may deem necessary.

(5) No new or additional expenditure shall be necessary before the Minister responsible for Finance signifies his approval thereto.

Annual
report
and
periodical
returns.

27.(1) The Corporation shall, as soon as possible and in any event not later than seven months after the end of each financial years, furnish to the Minister and the Minister responsible for Finance -

(a) a report dealing with the activities, policy and financial position of the Corporation during that year;

(b) a copy of the Corporation's accounts for that year duly audited in accordance with section 29 together with the auditor's report thereon.

(2) The Minister responsible for Finance shall, at the earliest available opportunity, lay a copy of the annual report and audited accounts of the Corporation before the President.

(3) The Corporation shall furnish to the Minister such information and returns relating to its activities as the Minister may, from time to time, require and shall afford him such facilities in such manner and at such times as he may require for the verification of the information so furnished.

Power to
borrow
money.

28.(1) The Corporation may with the consent of, or in accordance with any general authority given by, the Minister responsible for Finance -

(a) borrow money in such manner as the Minister responsible for Finance may determine and subject to such conditions as the Minister responsible for Finance may think fit to impose;

(b) mortgage or charge its undertaking or property or any part thereof and issue debentures, stock or other securities as security for any debt, liability or obligation of the Corporation.

(2) The Minister responsible for Finance may out of public moneys, make advances to the Corporation of such amounts and on such terms as he shall deem fit.

1 (3) The Minister responsible for Finance may on behalf of Government guarantee the payment of amounts borrowed in accordance with subsection (1) and the payment of interest on amounts so borrowed. Any sum required for fulfilling a guarantee shall be a charge on and be issued out of the General Fund.

(4) The Corporation shall make to the Government, at such times and in such manner as the Minister responsible for Finance may direct, payments of such amounts as may be so directed in or towards the repayment of advances made pursuant to subsection (2) or of any sums issued in fulfilment of a guarantee given under subsection (3) or of interest on any such advances or sums at a rate directed by the Minister responsible for Finance who is hereby authorised to direct the payment of the same or different rates of interest on different advances or sums or in respect of interest for different periods.

Appointment
of Auditor.

29. The Board shall, with the approval of the Minister responsible for Finance, appoint an auditor who shall not less than once in each financial year, examine, audit and report on the accounts of the Corporation.

Books of
accounts.

30.(1) The Corporation shall cause to be kept proper books of accounts and other books for the purposes of recording all transactions relating to its undertaking, funds, activities and property.

(2) The Corporation shall prepare a yearly statement of income and expenditure and a balance sheet made up to the end of each financial year showing the assets and liabilities of the Corporation

and shall prepare such other accounts as the Minister responsible for Finance may require.

(3) The Board shall produce and lay before the auditor all books and accounts of the Corporation, with all vouchers in support thereof, and all books, papers and writings in their possession or control relating thereto, and the auditor shall be entitled to require from all members of the Board and all officers, agents and servants of the Corporation such information and explanations as he may require.

(4) All expenses in connection with or incidental to an audit shall be borne and paid by the Corporation.

Auditor's
report.

31. The auditor shall, with reference to the accounts of the Corporation, report whether he has obtained -

- (a) all the information and explanations which to the best of his knowledge and belief were necessary for the purposes of the audit;
- (b) whether in his opinion proper books of accounts have been kept by the Corporation so far as appears from his examination of those books;
- (c) whether the Corporation's statement of income and expenditure and balance sheet are in agreement with the books of accounts;
- (d) whether in his opinion and to the best of his information and according to the explanations given to him the accounts give a true and fair view of the income and expenditure of the Corporation for the financial year and of the state of the Corporation's affairs at the end of the financial year;
- (e) whether the provisions of this Decree and any directions of the Minister responsible for Finance, in so far as they relate to the accounts, have been complied with.

President
may order
investigation.
2/2/1990

32.(1) The President may, where he considers the public interest required his intervention, order an investigation into the financial affairs of the Corporation.

(2) The Auditor-General, or such other person as the President may nominate, may in pursuance of an order made under subsection (1) examine the accounts and records of the Corporation.

PART VI. - CONTROL BY MINISTER

Control by
Minister

33.(1) The Minister may from time to time, when he considers it necessary, give to the Corporation general or specific directions not inconsistent with the provisions of this Decree where he considers that the public interest so requires his intervention and may call upon the Corporation or its General Manager at any time for explanations, written reports of its operations and affairs and the Corporation and/or its General Manager shall comply with any such general or specific directions.

(2) Where the Minister directs the Corporation to operate any new route or any new services or directs specifically how the frequency or level of service or any existing serviced routes or services shall be

improved, the Corporation shall consider immediately the effect of the direction given them by the Minister as to whether, in their opinion, its implementation is likely to be consistent with the provisions of this Decree. If the Corporation within 28 days from the date of the direction can show to the satisfaction of the Minister and the Minister responsible for Finance that the implementation of the direction would be likely to require a grant subvention from Government to the Corporation, the amount required in that financial year shall be calculated and agreed. In subsequent financial years the amount of any grant subvention shall have been agreed by 31st October in the previous financial year.

(3) Any grant subvention that may become payable to the Corporation by the Government under subsection (2) of this section shall be payable in arrears and only after submission of the audited accounts and report of the Corporation and other particulars that may have been required by the Minister in agreeing the grant subvention. The amount of the grant subvention payable to the Corporation shall be the actual amount of the opening loss incurred by the Corporation on account of the Minister's direction or the amount previously agreed whichever is the less.

PART VII. - MISCELLANEOUS

Service of documents.

34. Any summons, notice or other document required or authorized to be served upon the Corporation under this Decree or of any other law in force may, unless there is specific provision to the contrary, be served by delivery to the General Manager at the registered office of the Corporation.

Power to make rules and regulations

35.(1) The Corporation may make rules, specify conditions and promulgate procedures relating to any matter connected with the better management and for improving the efficiency of their business.

(2) The Minister may make regulations prescribing all matters that are required or are necessary or convenient to be prescribed for carrying out or giving effect to this Decree.

NO SUBSIDIARY LEGISLATION
