

SEYCHELLES BROADCASTING CORPORATON ACT, 2011

(Act 2 of 2011)

ARRANGEMENT OF SECTION

PART I - PRELIMINARY

Sections

1. Short title and commencement
2. Interpretation

**PART II - ESTABLISHMENT OF THE CORPORATION AND
THE BOARD**

3. Establishment of the Corporation
4. Establishment Composition of the Seychelles Broadcasting Corporation Board
5. Appointment of Chairperson other Members of the Board
6. Term of office, condition of service of Chairperson and other Members of the Board
7. Removal and suspension of Chairperson and other members of the Board
8. Procedure of the Board
9. Functions and powers of the Board
10. Appointment of officers and employees of the Corporation

PART III - ASSESTS, FINANCES AND ACCOUNTS

11. Assets of the Corporation
12. Funds of the Corporation
13. Invest of moneys
14. Annual financial statement of the Corporation
15. Accounts and Audit of the Corporation
16. Annual Report

PART IV - MISCELLANEOUS

17. Application of provision of the Penal Code
18. Protection of action taken in good faith

19. Authentication of orders and other instruments of Corporation
20. Delegation of powers
21. Power to makes rules

PART V - COMPLAINTS

22. Complaints to Seychelles Media Commission

PART VI - OFFENCES

23. Offences

PART VII - REPEAL, SAVINGS AND TRANSITITONAL

24. Repeal
25. Savings and Transitional
26. Power to make regulations
27. Rules and regulations to be laid before National Assembly
28. Power to remove difficulties




**SEYCHELLES BROADCASTING CORPORATION
ACT, 2011**

(Act 2 of 2011)

I assent

J. A. Michel
President

30th March, 2011



An ACT to establish a new Seychelles Broadcasting Corporation and for purposes to form a Seychelles Broadcasting Corporation Board, to operate independently of political parties and other influences of bodies and persons, to preserve the freedom of the media, to ensure a balanced development of broadcasting on radio and television, to improve the standard of journalism and to provide for matters connected therewith or incidental thereto, and to repeal the Seychelles Broadcasting Corporation Act, 1992.

ENACTED by the President and the National Assembly.

PART I - PRELIMINARY

1. This Act may be cited as the Seychelles Broadcasting Corporation Act 2011, and shall commence on such date as the Minister may, by Notice published in the Official Gazette, appoint.

Short title and
commencement

Interpretations

2. In this Act unless the context otherwise requires—
- (a) “appointed day” means the date appointed under section 1;
 - (b) “broadcasting” means the dissemination of any form of communication like signs, signals, writing, pictures, images and sounds of all kinds by transmission of electromagnetic waves through space or through cables intended to be received by the general public either directly or indirectly through the medium of relay stations and all its grammatical variations and cognate expressions shall be construed accordingly;
 - (c) “Board” means the Seychelles Broadcasting Corporation Board established under section 4 (1);
 - (d) “Chairperson” means the Chairperson of the Board appointed under section 4 (3);
 - (e) “Corporation” means Seychelles Broadcasting Corporation established under section 3(1);
 - (f) “Member” means a Member of the Board;
 - (g) “Minister” means the Minister for the time being responsible for Information.
 - (h) “nominated Members” means the Member nominated under section 4 (3) (b) and (c);
 - (i) “notification” means a notification published in the Official Gazette;
 - (j) “prescribed” means prescribed by rules under section 21 of this Act;
 - (k) “regulations” means regulations made under section 26 of this Act;
 - (l) “year” means the financial year.

PART II - BROADCASTING CORPORATION OF SEYCHELLES

3.(1) There shall be established for the purposes of this Act a Corporation, to be known as the Seychelles Broadcasting Corporation.

Establishment of the Corporation

(2) The Corporation shall be a body corporate by the name aforesaid, having perpetual succession and a common seal with power to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall by the said name sue and be sued.

(3) The Corporation shall be independent and shall operate independently of the State and of the political or other influence of other bodies, persons or political parties.

4.(1) The general superintendence, direction and management of the affairs of the Corporation shall vest in a Board, known as the Seychelles Broadcasting Corporation Board which may exercise all such powers and do all such acts and things as may be exercised or done by the Corporation under this Act.

Establishment and Composition of the Seychelles Broadcasting Corporation Board

(2) The headquarters of the Corporation shall be at a place where the Board shall from time to time decide.

(3) The Board shall consist of a Chairperson and six other members all of whom shall be appointed by the President—

(a) The Chairperson and two members shall be appointed by the President, selected from 3 candidates proposed by the Constitutional Appointments Authority constituted under article 139 of the Constitution, in each of the following category—

(i) the Chairperson, having special knowledge or practical experience in

respect of matters in either administration, management, broadcasting, education, literature or culture;

(ii) one Member, having special knowledge or practical experience in respect of the media;

(iii) one Member, having special knowledge or practical experience in respect of financial matters;

(b) one Member to be nominated by the Minister;

(c) one Member to be nominated by the Attorney-General; and

(d) two Members to be appointed by the President, who shall be of good standing in the community.

(4) The Corporation may appoint such committees as may be necessary for the efficient performance, exercise and discharge of its functions, powers and duties:

Provided that all or a majority of the members of each committee shall be Members and a member of any such committee who is not a Member shall have only the right to attend meetings of the committee and take part in the proceedings thereof, but shall not have the right to vote.

(5) The Corporation may associate with itself, in such manner and for such purposes as may be provided by regulations, with any person whose assistance or advice it may need in complying with any of the provisions of this Act and a person so associated shall have the right to take part in the discussions of the Board relevant to the purposes for which he has been associated, but shall not have the right to vote.

(6) Any act or proceeding of the Board or any committee appointed by it under sub-section (5) shall not be invalidated merely by reason of—

- (a) any vacancy in, or any defect in the constitution of, the Board or such committee; or
- (b) any defect in the appointment of a person acting as a Member or a member of such committee; or
- (c) any irregularity in the procedure of the Board or such committee not affecting the merits of the case.

5.(1) The appointments of the Chairperson and Members of the Board shall be published in the gazette.

Appointment
of Chairperson
and other
Members

(2) The appointment of a Member shall be not be invalidated merely by reason of any vacancy in, or any defect in the constitution of the Constitutional Appointment Authority.

(3) There shall be a Chief Executive Officer of the Corporation appointed by the President.

(4) The Chief Executive Officer of the Corporation shall, subject to the control and supervision of the Board, exercise such power and discharge such functions of the Board, as it may delegate to him.

6.(1) The Members shall subject to subsection, (2) hold office for a term of six years.

Term of office,
condition of
service of
Chairperson
and other
Members of
the Board

(2) Where before the expiry of the term of office of a person holding the office of Chairperson, or any other Member, a vacancy arises, for any reason whatsoever, the person appointed to fill such vacancy shall hold office for the unexpired period of the term for which his predecessor in office would have held office if such vacancy had not arisen.

(3) The Members and Chief Executive Officer shall be entitled to allowances and be subject to such conditions of service as may be prescribed:

Provided the allowances and the conditions of service shall not be varied to their disadvantage after their appointment.

Removal and
Suspension of
Chairperson
and Members

7.(1) Subject to the provision of sub-section (3), the Chairperson or any Member, shall only be removed from his office by order of the Minister on the ground of misbehaviour after the Supreme Court, on a reference being made to it by the Minister has, on inquiry held in accordance with such procedure as the Supreme Court may by rules provide a report that the Chairperson or such other members, as the case may be, ought, on such ground, be removed.

(2) The Minister may suspend from office the Chairperson or any Member in respect of whom a reference has been made to the Supreme Court under sub-section (1) pending the report of the Supreme Court on such reference.

(3) Notwithstanding anything contained in sub-section (1), the Minister shall, by order remove the Chairperson any Member from his office, if the Chairperson or such Member—

- (a) ceases to be a citizen of Seychelles;
- (b) is adjudged an insolvent;
- (c) is convicted of any offence and sentenced to a term of imprisonment of three months or more; or
- (d) is unable to continue in office by reason of infirmity of body or mind:

(4) If any Member, is or becomes in any way concerned or interested in any contract or agreement made by or on behalf

of the Corporation and participates in any way in the profit thereof, or in any benefit or emolument arising therefrom other than as a member, and in common with other members or an incorporated company, he shall disclose such contract or agreement to the Board.

(5) The Chairperson, the Chief Executive Officer or any Member may resign his office by giving notice thereof in writing to the President and on such resignation being accepted, the Chairperson or Member shall be deemed to have vacated his office.

(6) A member, shall, subject to the provisions of this Act be eligible for reappointment at the end of a term of office.

(7) No member who has been removed from office under sub-section (1) or sub-section (3) shall be eligible for reappointment.

8.(1) The Board shall meet at such times and places and shall observe such rules of procedure in regard to the transaction of business at its meetings including the quorum at meetings as may be provided by regulations:

Procedure
of Board

Provided that there shall not be less than six meetings every year and three months shall not intervene between one meeting and the next meeting.

(2) A member shall be deemed to have vacated his office if he absents himself for three consecutive meetings of the Board without the leave of the Chairperson.

(3) The Chairperson shall preside at the meetings of the Board and if for any reason he is unable to attend any meeting, any other Member elected by the Members present at such meeting, shall preside at the meeting.

(4) All questions which come up before any meeting of the Board shall be decided by a majority of the votes of the

Members present and voting and, in the event of an equality of votes, the Chairperson, or in his absence, the person presiding, shall have and exercise a second or casting vote

Functions and Powers of the Board

9.(1) Subject to the provisions of this Act, it shall be the primary duty of the Board to organise and conduct public broadcasting services to inform, educate and entertain the public and to ensure a balanced development of broadcasting on radio and television.

(2) The Board shall, in the discharge of its functions, be guided by the following objectives, namely —

- (a) upholding the unity and integrity of the country and the values enshrined in the Constitution;
- (b) safeguarding the citizen's right to be informed freely, truthfully and objectively on all matters of public interest, national or international, and presenting a fair and balanced flow of information including contrasting views without advocating any opinion or ideology of its own;
- (c) paying special attention to and providing adequate coverage in the fields of literacy, agriculture, community development, environment, health and family values, science and technology;
- (d) providing adequate coverage to culture and national languages of Seychelles;
- (e) providing adequate coverage to educational programmes whether conducted in an educational institution or otherwise that is designed to meet the learning needs of an individual or a group of persons;

- (f) providing adequate coverage to sports and games so as to encourage healthy competition and the spirit of sportsmanship;
- (g) providing appropriate programmes keeping in view the special needs of the youth;
- (h) safeguarding the rights of the citizens and advancing their welfare;
- (i) taking special steps to protect the interest of children, the elderly, persons with disabilities and other vulnerable sections of the community;
- (j) providing comprehensive broadcast coverage through the choice of appropriate technology and the best utilisation of the broadcast frequencies available, and ensuring high quality reception;
- (k) promoting research and development activities in order to ensure that radio and television broadcast technology are constantly updated;
- (l) expanding broadcasting facilities by establishing additional channels of transmission at various levels;
- (m) ensure that its programmes are of a general high standard; cover a wide range of subjects and appeal to the needs and tastes and serve the best interest of the general public;
- (n) ensure that its programmes—
 - (i) do not offend against decency and public morality; and
 - (ii) generally do not outrage public feeling

or create ill-will between different public groups;

(3) In particular and without prejudice to the generality of the foregoing provisions, the Board may take such steps as it thinks fit—

- (a) to ensure that broadcasting is conducted as a public service to provide and produce programmes;
- (b) to establish a system for the gathering of news for radio and television;
- (c) to negotiate for purchase of, or otherwise acquire, programmes and rights or privileges in respect of sports and other events, films, serials, occasions, meetings, functions or incidents of public interest, for broadcasting and to establish procedure for the allocation of such programmes, rights or privileges to the services;
- (d) to establish and maintain libraries of radio, television and other materials;
- (e) to conduct or commission, from time to time, programmes, audience research, market or technical service, which may be released to such persons and in such manner and subject to such terms and conditions as the Corporation may think fit;
- (f) to provide such other services as may be specified by regulations.

(4) Nothing in sub-sections (2) and (3) shall prevent the Board from managing on behalf of the Government and in accordance with such terms and conditions as may be specified

by the Government the broadcasting of external services and monitoring of broadcasts made by organisations outside Seychelles on the basis of arrangements made between those organisations and the Corporation.

(5) The Board shall not be subject to civil liability on the ground merely that it failed to comply with any of the provisions of this section.

(6) The Board shall have power to determine and levy fees and other service charges for or in respect of the advertisements and such programmes as may be specified by regulations.

10. The Corporation may employ such persons as are necessary for the Corporation to perform its functions on such terms and conditions as it deem fit taking into account the procedures applicable to employees of public bodies.

Appointment
of officers
and employees
of the
corporation

PART III - ASSETS, FINANCES AND ACCOUNTS

11.(1) For the purposes of enabling the Corporation to discharge its functions efficiently under this Act, the Government may, after due appropriation made by National Assembly by law, pay to the Corporation in each financial year sum of money as the Government considers necessary, by way of equity, grant-in-aid or loan.

Assets of
the
Corporation

12.(1) The Corporation shall have its own Fund and all the funds transferred from the Seychelles Broadcasting Corporation constituted under Act 1992 credited to the Fund, and all payments by the Corporation shall be made therefrom.

Funds of the
Corporation

- (2) The funds of the Corporation shall consist of—
- (a) moneys approved by an Appropriation Act and paid to the Corporation;
 - (b) moneys lawfully borrowed by the Corporation;

- (c) moneys lawfully charged by the Corporation;
- (d) moneys due on any investment made by the Corporation;
- (e) moneys lawfully received by the Corporation for the purposes of the Corporation;

(3) Funds of the Corporation may be applied by the Corporation—

- (a) in the payment or discharge of debts, expense and other obligations of the Corporations; and
- (b) in the payment of emoluments, fees and allowances payable to the Members and staff of the Corporation.

(4) The Corporation may spend such sums as it thinks fit for performing its functions under this Act and such sums shall be treated as expenditure payable out of the funds of the Corporation.

(5) All moneys belonging to the Fund shall be deposited in one or more banks in such manner as the Corporation may decide.

Invest of
moneys

13.(1) Moneys of the Corporation not immediately required for the purposes of the Corporation may be invested by the Corporation.

(2) The Corporation may invest its moneys in the securities of the Government or such other manner as may be prescribed.

Annual
Financial
Statement of
the
Corporation

14.(1) The Board shall prepare, in each financial year, an Annual Financial Statement for the next financial year showing separately—

- (a) the expenditure which is proposed be met

from the internal resources of the Corporation;
and

- (b) the sums required from the Government to meet other expenses, and distinguishing —
- (i) revenue expenditure from other expenditure; and
 - (ii) non-Plan expenditure from Plan expenditure.

15.(1) The Board shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form and in such manner as may be prescribed.

Accounts and
Audit of the
Corporation

(2) The accounts of the Corporation shall be audited by the Auditor-General accordance with Article 158 of the Constitution.

16. The Board shall prepare once every calendar year, in such form and within such time as may be prescribed, an annual report giving a full account of its activities during the previous year and copies together with the statement of account audited under section 15 thereof, shall be forwarded to the Minister and the Minister shall cause the same to be tabled before the National Assembly.

Annual
Report

PART IV - MISCELLANEOUS

17. The Chairperson and every Member, every officer or other employee of the Corporation and every member of a Committee shall be deemed to be a public servant within the meaning of section 91 to 96 of the Seychelles Penal Code.

Application of
provision of the
Penal Code

18. No suit or other legal proceeding shall lie against the Corporation, the Chairperson or any Member or officer or other employee for anything which is done in good faith or intended to be done in pursuance of this act or of any rules or regulations made thereunder.

Protection of
action taken in
good faith

Authentication of orders and other Instruments of Corporation

19.(1) All orders and decisions of the Board shall be authenticated by the signature of the Chairperson or any other Member authorised by the Board on its behalf.

(2) All instruments executed by the Corporation shall be authenticated by the signature of the Chief Executive Officer authorised by the Board on its behalf.

Delegation of Powers

20. The Board may, by general or special order, delegate to the Chairperson or any other Member or to any officer of the Corporation, subject to such conditions and limitations, if any, as may be specified therein, such of its powers and duties under this Act as it may deem fit.

Power to make rules

21.(1) The Minister may, by notification, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to generality of the foregoing power, such rules may provide for all or any of the following matters, namely—

- (a) the control, restrictions and conditions subject to which the Corporation may appoint officers and other employees under section 10;
- (b) the manner in which the Corporation may invest its moneys under section 13(2);
- (c) the form and the manner in which the annual statement of accounts shall be prepared under subsection 15(1);
- (d) the form and manner in which the annual report shall be prepared by the Board under section 16;
- (e) any other matter which is required to be, or may be, prescribed.

PART V - COMPLAINTS

22.(1) The Seychelles Media Commission shall receive and consider complaints from—

Complaints
to Seychelles
Media
Commission

- (a) any person or group of persons alleging that a certain programme or broadcast or the functioning of the Corporation in specific cases or in general is not in accordance with the objectives for which the Corporation is established;
- (b) any person (other than officers or employee of the Corporation) claiming himself to have been treated unjustly or unfairly in any manner (including unwarranted invasion of privacy, misrepresentation, distortion or lack of objectivity) in connection with any programme broadcast by the Corporation.

(2) The Seychelles Media Commission shall follow the procedure set out under the Seychelles Media Commission Act for the disposal of complaints received.

PART VI - OFFENCES

23. Any person who—

Offences

- (a) enters any part of the Corporation established including studio and transmitting installations without permission of the Corporation;
- (b) enters a fenced enclosure, building room or vehicle belonging to the Corporation in contravention of any notice prohibiting such entry;
- (c) refuses to leave the Corporation establishment, fenced enclosure, building, room or vehicle on being requested to do so by any employee of the Corporation or by any

other person authorised by such employee in charge of such establishment, enclosure, building, room or vehicle;

- (d) hinders or obstructs any member or employee of the Corporation in the discharge of his functions under this Act,

commits an offence and liable on conviction to a fine of SCR50,000.

CHAPTER VII - REPEAL, SAVINGS AND TRANSITIONAL

Repeal

24.(1) The Seychelles Broadcasting Act 1992 is hereby repealed.

(2) Notwithstanding sub section (1), any statutory instruments made under the Seychelles Broadcasting Act 1992 and in force immediately before the commencement of this Act shall to the extent that they are not inconsistent with this Act, continue in force as statutory instruments made under this Act until amended or repealed by a statutory instrument made under this Act.

(3) The regulations made, licence granted, direction issued and notification made under the repealed Act shall continue in effect until they are repealed or amended under the provisions of this Act.

Savings and Transitional

25. Upon the commencement of this Act —

- (a) all movable and immovable property owned and used and administered by the Seychelles Broadcasting Corporations as constituted under Act 1992 immediately before the commencement of this Act shall be transferred to and invest in the Corporation on such terms and condition as may be

determined by the Government and the book value of all such moveable and immovable property shall be treated as the capital provided by the Government to the Corporation;

- (b) all debts, obligations and liabilities incurred, all contracts entered into and all matters and things engaged to be done by, with or for the Government immediately before such day for or in connection with the purposes the Seychelles Broadcasting Corporation as constituted under Act 1992 shall be incurred by the Corporation, and the Corporation shall have all powers necessary to take possession of, recover and deal with such assets, and discharge such liabilities;
- (c) all suits and other legal proceedings pending or which could have been instituted by or against Government immediately before such day for any matter in relation to the Seychelles Broadcasting Corporation as constituted under Act 1992, shall be continued or instituted by as if the Corporation was a party thereto.
- (d) all officers and other employees of the Seychelles Broadcasting Corporation constituted under Act 1992, shall be deemed to be officers and employees of the Corporation on condition not less favourable than those subsisting immediately prior to the said date of repeal.
- (e) all acts done, decisions taken, authorisation or permission granted by the Managing Director, officers or employees of the Seychelles Broadcasting Corporation constituted under

Act 1992 which were validly done, taken, or granted under any written law or under and in accordance with the repealed Act shall continue to have effect in accordance with their terms or until amended, annulled or withdrawn in accordance with the written law.

Power to
make
regulations

26.(1) The Minister may in consultation with the Corporation, make regulations to give effect to the provisions of this Act.

(2) Without prejudice to the generality of the foregoing powers, such regulations may provide for all or any of the following matters, namely —

- (a) the manner in which and the purposes for which the Corporation may associate with itself with any person;
- (b) the allowances and conditions of service of the Chairperson and members of the Board;
- (c) the times and places at which meetings of Board shall be held and, the procedure to be followed thereat, and the quorum necessary for the transaction of the business at a meeting of the Board;
- (d) the services which may be provided by the Corporation;
- (e) the determination and levy of fees and other services charges in respect of advertisements and other programmes of the Corporation;
- (f) any other matter in respect of which a provisions is, in the opinion of the Corporation, necessary for the performance of its functions under this Act.

27. Every rule and every regulation made under this Act shall be laid as soon as may be after it is made, before the National Assembly, while it is in session. In the event that the National Assembly agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be, any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

Rules and regulations to be laid before National Assembly

28. If any difficulty arises in giving effect to provisions of this Act, the Minister may, by order, published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as it may deem necessary, for the removal of the difficulty:

Power to remove difficulties

Provided that no such order shall be made after the expiry of a period of three years from the date of publication.

I certify that this is a correct copy of the Bill which was passed by the National Assembly on 22nd March, 2011.



Veronique Bresson
Clerk to the National Assembly