

CONSOLIDATED TO 30 JUNE 2012

LAWS OF SEYCHELLES

***SOCIAL WELFARE AGENCY ACT**

[1st November 2008]

Act 22 of
2008
S.I. 18 of 2008

Note: This Act was supposed to be repealed and replaced by the Agency for Social Protection Act No. 25 of 2011. The Act to be repealed was however mistakenly described as the “Social Welfare Act”. The Social Welfare Agency Act is therefore technically still in force. In any event the subsidiary legislation under this Act was expressly preserved in force until repealed.

ARRANGEMENT OF SECTIONS

Part I - Preliminary

1. Short title
2. Interpretation
3. Establishment of the Agency
4. Constitution of the Board and meetings of the Board
5. Functions of the Board
6. Chief Executive Officer and other employees
7. Funds of the Agency
8. Accounts and audit
9. Annual report
10. Entitlement to social welfare assistance
11. Application for social welfare assistance
12. Exclusion of persons
13. Calculation of supplementary income allowance
14. Determination of means of a person
15. Power to make single payment for exceptional need
16. Provisions of goods or services instead of payment
17. Protection of action taken in good faith
18. Application of certain Penal Code provisions
19. Offences and penalties

20. Regulations
21. Repeal

Part I – Preliminary

1. This Act may be cited as the Social Welfare Agency Act.

2. In this Act, unless the context requires otherwise —

“Agency” means the Social Welfare Agency establishment by section 3;

“Board” means the Board established by section 4;

“Chief Executive Officer” means the Chief Executive Officer appointed under section 5;

“member” means a member of the Board and includes the Chairperson;

“Minister” means the Minister responsible for Social Affairs;

“social welfare assistance” means supplementary income, goods or services;

“standard measure” means a set of weights as specified by regulations made under this Act.

3. There is hereby established an Agency to be known as the Social Welfare Agency.

4. (1) The affairs of the Agency shall be administered by a Board of five members appointed by the President and shall consist of —

- (a) a representative of the Ministry responsible for Social Affairs, nominated by the Minister responsible for Social Affairs;
- (b) a representative of the Ministry responsible for Finance nominated by the Minister responsible for Finance;
- (c) a representative of the Ministry responsible for Employment nominated⁴ by the Minister responsible for Employment.

- (d) a representative of the Seychelles Chamber of Commerce and Industry (SCCI) nominated by the SCCI;
- (e) a representative from the Civil Society nominated by the Liason Unit for Non-Governmental Organisations (LUNGOS).

(2) The President shall appoint one of the members mentioned in subsection (1) as the Chairperson of the Board.

(3) The members shall hold office for a period of three years from the date of appointment and shall be eligible for reappointment.

(4) In case of a vacancy in the membership of the Board other than on expiration of the period of office, the Minister, the SCCI or LUNGOS as the case may be who nominated the member who vacated membership shall nominate another person to fill the vacancy and on his appointment by the President, the person shall hold office for the unexpired period of membership of the member who vacated membership.

(5) The President may, at any time, at his discretion, terminate the appointment of a member who has been guilty of —

- (a) any misconduct, default or breach of trust in the discharge of his duties;
- (b) any offence of such nature that calls into question his professional standing or the reputation of the Board and thus renders it desirable that his appointment be terminated.

(6) A member may resign from his appointment at any time by giving notice in writing to the President.

(7) The Board shall meet not less than once every two months and at such other times as the Chairperson may determine.

(8) Three members of the Board shall constitute a quorum for any meeting of the Board.

(9) The Chairperson or, in the absence of the Chairperson, a member elected by the members present to preside at the meeting, shall preside at a meeting of the Board.

(10) Subject to this Act, the Board shall regulate its own proceedings.

(11) The members of the Board shall be paid such allowances as the Minister of Finance may determine.

5. The functions of the Board are —

- (a) to formulate a standard measure for provision of supplementary income, goods and services to persons in need;
- (b) to review bi-annually, the standard measure formulated for the immediately preceding period;
- (c) to establish appropriate internal procedures and formulate policies for the effective operation of the Agency.

6. (1) There shall be a Chief Executive Officer of the Agency appointed by the President who shall hold office for a term of three years and shall be eligible for re-appointment.

(2) The Chief Executive Officer has, in addition to such other functions which the Board may from time to time assign to him and subject to the directions of the Board, responsibility for the administration of the functions relating to social welfare assistance.

(3) The determination of the entitlement of any applicant to supplementary income and the amount of any such income shall, subject to the standard measure, be a function of the Chief Executive Officer.

(4) Where the Chief Executive Officer has a direct or indirect interest in a matter which falls within his functions, he shall disclose the nature of his interest to the Board and, unless specifically authorised to do so by the Board, shall not perform such functions.

(5) Subject to any direction of the Board and, unless prevented by reasons which appear to be reasonable to the Board, the Chief Executive Officer shall attend and participate in the meetings of the Board but shall have no right to vote at the meetings.

(6) The salary or allowances payable to and other terms and conditions of service of the Chief Executive Officer shall be such as may be prescribed by the President

(7) The President may, at any time, at his discretion, terminate the appointment of the Chief Executive Officer for any of the reasons specified in section 4(5) of this Act.

(8) The Chief Executive Officer may, from time to time, appoint such other employees and agents as he thinks fit for the effective performance of the functions of the Agency on terms and conditions applicable to the public service.

(9) The Chief Executive Officer may require any employer or employee in the public or private sector, a self-employed person or any other person to furnish the Agency such information as may be required for the performance of its functions under this section.

(10) Any person require to furnish information under subsection (9) shall notwithstanding anything to the contrary contained in any law which prohibits or precludes that person —

- (a) from disclosing any information relating to the activities, affairs or business of the applicant; or
- (b) permitting any person to have access to any registers, records or other documents, or electronic data which have a bearing on the said activities, affairs or business, furnish the information sought.

(11) The Chief Executive Officer may nominate, appoint or authorise any person or Government Ministry or agency to inquire or report on any matter relating to an application for social welfare assistance.

6A. (1) The President may appoint a Deputy Chief Executive Officer of the Agency.

(2) The provisions of section 6(1), (4), (5), (6) and (7) shall *mutatis Mutandis* apply to the Deputy Chief Executive Officer.

(3) The Deputy Chief Executive Officer shall —

- (a) discharge the functions of the Chief Executive Officer when the Chief Executive Officer is absent on leave or delegates them to the Deputy Chief Executive Officer; and
- (b) perform such functions as may be assigned to the Deputy Chief Executive Officer by the Board.

7. (1) The funds of the Agency shall consist of —

- (a) moneys voted by the National Assembly for the use of the Agency;
- (b) money's received by the Agency by way of donations, gifts or grants from Government, international organisations, local organisations or private individuals.

(2) The funds of the Agency shall be applied in the discharge of expenses properly incurred in the carrying out of the functions of the Agency, the payment of allowances or remuneration to the members, Chief Executive Officer and employees and agents of the Agency.

8. (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) The accounts of the Agency shall be audited by the Auditor General.

9. (1) The Agency shall prepare in respect of each year a report of its activities for the period ending on 31st December of that year and submit the report to the Minister on or before 30th March of the immediately following year.

(2) The Minister shall submit the report to the National Assembly within one month of the receipt of the report from the Agency.

10. (1) Subject to the provisions of this Act, any Seychellois citizen above the age of 18 years and resident in Seychelles whose means are insufficient to meet his basic household needs may apply for social welfare allowance under section 11.

(2) In this section “resident” means resident in Seychelles for an aggregate period of 11 months in a given year.

11. (1) Any person wishing to apply for social welfare assistance shall apply to the Agency to determine the level of assistance required by the person.

(2) On an application under subsection (1) the Chief Executive Officer shall, after considering all the circumstances of the applicant and having regard to the standard measure formulated or reviews under section 5, make a determination of the level of assistance required by the applicant.

12. Any person who has been granted social welfare assistance for a period of twelve months and has failed deliberately to be gainfully employed after the twelve month period has elapsed is excluded from receiving social welfare assistance, for so long as his deliberate failure persists.

13. The amount of supplementary income to which a person is entitled shall be the amount by which his means fall short of his basic household needs, and for the purpose of ascertaining that amount, the Agency shall use the weights specified by regulations made under this Act.

14. (1) The means of a person for the purpose of ascertaining his entitlement to social welfare assistance shall be calculated in accordance with the provisions of subsection (2) of this section.

(2) In calculating the means of a person, account shall be taken of the following —

- (a) all income in cash, including the net cash value of any non-cash earnings and the actual or estimated amount of any income contributions to the expenses of the household or otherwise;

- (b) any sum arising from the investment or profitable use of property (not being property' personally used or enjoyed by such person);
- (c) the value of any property belonging to such person (not being property personally used or enjoyed by him) which is invested or which, though capable of investment or profitable use, is not so invested or profitably used;
- (d) all income and the value of all property of which such person has directly or indirectly deprived himself in order to qualify. himself for the receipt of social welfare assistance;
- (e) the value of any benefit or privilege enjoyed by such person.

15. (1) The Chief Executive Officer may, in any case where it is reasonable, having regard to all the circumstances of the case, determine that supplementary income allowance shall be paid to a person by way of a single payment to meet an exceptional need.

(2) The maximum sum to be paid under subsection (1) shall be as specified by regulations made under this Act.

(3) In making a determination under subsection (1), the Agency may dispense with inquiry into means or other circumstances and with compliance with any regulations made under this Act.

16. Whenever it appears to the Agency that by reason of exceptional circumstances the needs of a person can best be met by the provision of goods or services instead of the whole or part of any payment to which a person would otherwise be entitled under this Act, the Agency may determine that such goods or services be provided for such person under arrangements made by the Agency.

17. No suit or other legal proceedings shall lie against the Agency, any member, the Chief Executive Officer or any other person acting under the direction of the Agency or the Board in respect of anything which is done or purported to be done in good faith in pursuance of this Act.

18. The members of the Board, the Chief Executive Officer, employees and agents 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.

19. (1) Any person who willfully fails to furnish to the Agency any information when required under section 6(9) is guilty of an offence and is liable on conviction to a fine of R5000.

(2) Any person who in an application under section 11(1) makes a statement which to the knowledge of the person is false is guilty of an offence and is liable on conviction to a fine of R5000 or to imprisonment for a period not exceeding 1 year.

(3) Where any person is convicted of an offence under subsection (2), the court convicting the person may in addition to any penalty imposable under that subsection order the person to refund to the Republic any sum paid to the person as supplementary income allowance, or the monetary value of any goods or services provided, pursuant to the application in respect of which the false statement is made.

(4) A person convicted of an offence under subsection (2) shall cease to receive any supplementary income allowance, goods or services with effect from the date of conviction.

20. (1) The Minister may make regulations for the better carrying into effect the purposes and provisions of this Act.

(2) Notwithstanding the generality of subsection (1), the Minister may make regulations prescribing the standard measure for provision of social welfare assistance.

21. The Means-Testing Board Act 1995 is hereby repealed.

— — — — —

LAWS OF SEYCHELLES

SOCIAL WELFARE AGENCY ACT

SUBSIDIARY LEGISLATION

S.I. 91 of 2008
SI. 25 of 2011
SI. 48 of 2011

SECTION 13 AND 15(2)

SOCIAL WELFARE AGENCY (STANDARD MEASURE) REGULATIONS

1. These Regulations may be cited as the Social Welfare Agency (Standard Measure) Regulations.

2. (1) The Agency shall grant to a person entitled to social welfare assistance, the following maximum supplementary income allowance—

- (a) Adult Supplementation not exceeding SCR1730;
- (b) Utilities not exceeding SCR370;
- (c) Transport not exceeding SCR250;
- (d) Housing Loan or Rent not exceeding R500.

(2) The maximum supplementation income allowance shall be used by each adult equivalent in a household, for nutrition, education or child minding.

(3) The maximum supplementary income allowance shall be payable monthly for the period that the person is entitled to social welfare assistance.

3. The maximum supplementary income allowance payable to a person by way of single payment to meet an exceptional need, shall not exceed R7,500.

4. The following formula shall apply for the purpose of calculating the total number of adult equivalent in a household —

$$AE = 1 + 0.7 (A-1) + 0.5K$$

AE stands for number of adult equivalents

A stands for number of adults

K stands for number of children who are below the age of 18

— — — — —