

SEYCHELLES BUSINESS NUMBER ACT, 2009

(Act 24 of 2009)

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SEYCHELLES BUSINESS NUMBER ACT, 2009

(Act 24 of 2009)

I assent



A handwritten signature in black ink, appearing to read 'Michel'.

J. A. Michel
President

30 th December, 2009

AN ACT to establish a Register of Seychelles Business; to enable the issuing of Seychelles Business Numbers to eligible entities, and for related purposes.

ENACTED by the President and the National Assembly.

PART I - PRELIMINARY PROVISIONS

1. This Act may be cited as the Seychelles Business Number Act, 2009 and shall be deemed to have come into operation on 1st December 2009.

Short title and
commencement

Interpretation

2. In this Act, –

“associate” includes a relative, a partner, a trustee of a trust estate under which the SBN applicant or holder can benefit and any entity under the control of the SBN holder or applicant or under the control of an associate of the SBN holder or applicant;

“business” includes any profession, trade, employment, vocation or calling, but does not include occupation as an employee;

“carrying on an enterprise” includes doing anything in the course of the commencement or termination of the relevant enterprise;

“Commissioner” means the Revenue Commissioner appointed under the Seychelles Revenue Commission Act, 2009;

“company” means –

- (a) a body registered as a company under the Companies Act, 1972 or under any other company legislation of Seychelles; or
- (b) a company resident in Seychelles, irrespective of whether or not the company is registered in Seychelles; or
- (c) any other unincorporated association or body of persons,

but does not include a partnership or a “not for profit” entity;

“corporation sole” means –

- (a) a corporation consisting of only one director; or
- (b) a reference to a natural person only and that person's successors to a particular position, for example, an archbishop or bishop in a church.

“electronic signature” means a unique identification number in an electronic format that is approved by the Registrar and issued to the person nominated to act on behalf of an entity;

“entity” means any of the following –

- (a) an individual;
- (b) a body corporate;
- (c) a corporation sole;
- (d) a body politic;
- (e) a partnership;
- (f) any unincorporated association or body of persons;
- (g) a pension fund;
- (h) a trust;
- (i) a superannuation fund;

“entrusted person” is a person in possession of protected information obtained as a result of an application for a SBN by an entity irrespective of whether or not that person is in the employment of the Government of Seychelles;

“Government entity” means –

- (a) a Government agency however described and irrespective of whether the agency is subject to statutory mandate from the executive, legislative or judicial sector of the Government; or
- (b) any organisation that can be separately identified by reference to the nature of the activities carried on through the organisation or its location, as an organisation of the Government of Seychelles;

“individual” means a natural person;

“lodged electronically” in relation to a document means that a document is lodged electronically by being transmitted to the Registrar in an electronic format approved by the Registrar;

“joint venture” means an arrangement that the Registrar is satisfied is a contractual arrangement –

- (a) under which 2 or more parties undertake an economic activity that is subject to the joint control of the parties, and
- (b) that is entered into to obtain individual benefits for the parties, in the form of a share of the output of the arrangement rather than joint or collective profits for all the parties;

“National Identification Number” or “NIN” means the unique personal identifier number issued to persons under the National Identity Cards Act;

“not for profits entity” means an entity engaged in activities not intended to produce profits;

“official employment” means –

- (a) appointment or employment by the Government of Seychelles, or the performance of services for the Government of Seychelles;
- (b) the exercise of powers or performance of functions under a delegation by the Registrar;
- (c) appointment or employment by any agency or entity established by the Government of Seychelles, or the performance of services for such agency irrespective of the terms of appointment of the person concerned, or
- (d) appointment or employment by an official of the Government of Seychelles or the performance of services for such official;

“partnership” means an association of persons carrying on a business as partners or in receipt of income jointly, but does not include a company;

“person” includes a company;

“prescribed form” means a form that –

- (a) is approved in writing by the Registrar for a particular procedure, return, notice or document;
- (b) upon completion by a SBN holder or applicant contains the information (including any attached documents required); and
- (c) is signed as required by the form;

“protected document” means any document made or given under, or for the purposes of, this Act;

“protected information” means information that meets all the following conditions –

- (a) it relates to the affairs of a person other than the entrusted person;
- (b) it was obtained by the entrusted person, or by any other person, in the course of official employment;
- (c) it was disclosed or obtained under this Act;

“Registrar” means the Registrar of the Seychelles Business Register;

“revenue” has the meaning given by section 2 of the Seychelles Revenue Commission Act, 2009;

“revenue law” has the meaning given by section 2 of the Seychelles Revenue Commission Act, 2009;

“Revenue Tribunal” means the independent tribunal established by law for the purposes of this and other revenue laws;

“SBN” or “Seychelles Business Number” of an entity means the entity’s SBN as shown in the Seychelles Business Register;

“Seychelles Business Register” means the register established under section 23;

“unincorporated body” includes any formal or informal association of persons based in Seychelles whether registered or not in Seychelles;

“withholding tax” has the meaning given by the law for the time being that imposes such tax.

PART 2 – OBJECTS

3.(1) The main object of this Act is to make it easier for businesses to conduct their dealings with the Government. This is done by establishing a system of registering businesses and issuing them with unique identifying numbers so that they can identify themselves reliably –

Main
objects

- (a) in all their dealings with the Government;
- (b) for the purposes of revenue laws; and
- (c) for all other related purposes.

(2) The objects of this Act also include reducing the number of Government registration and reporting requirements by making the system available to all Government businesses and regulatory bodies.

PART 3 – APPLICATION

4. This Act binds the Government in each of its capacities.

Government
bound by
this Act

5.(1) This Act applies to a Government entity, not for profit entities, all funds, including any pension fund and all entities operating in Seychelles whether or not holders of licences in Seychelles as if each of them were an entity carrying on an enterprise in Seychelles.

Application
of this Act

(2) For the avoidance of doubt, this Act applies to any entity howsoever described registered or resident or providing services in Seychelles as if it were an entity carrying on an enterprise in Seychelles.

6. The Penal Code applies to all offences against this Act.

Application
of the Penal
Code

PART 4 - REGISTERING FOR SBN PURPOSES

7.(1) An entity is eligible to have a SBN if –

Eligibility
to have a
Seychelles
Business
Number

- (a) the entity is carrying on an enterprise in Seychelles;
or

- (b) in the course or furtherance of carrying on an enterprise, the entity makes supplies that are connected with Seychelles.

(2) For the avoidance of doubt, a corporation incorporated in Seychelles or resident in Seychelles is entitled to have a SBN.

Applying
for
registration

8.(1) To get a SBN, an entity shall apply for a SBN to the Registrar of the Seychelles Business Register.

(2) An application for a SBN –

- (a) shall be in a form approved by the Registrar; and
- (b) shall be lodged at, or posted to, an office or facility designated by the Registrar as a receiving centre for applications of that kind; and
- (c) may be lodged electronically.

(3) Without limiting paragraph (2)(a), the form approved under that paragraph –

- (a) may require an applicant for a SBN to set out in the application –
 - (i) the name and address of, and other information about, an associate; or
 - (ii) any identifying number, including a National Identification Number (NIN) that has been issued to the entity or to an associate; and
- (b) may request an applicant to provide information concerning specific business activities of the entity or that of an associate.

Registrar
to register
an entity if
conditions
are met

9.(1) The Registrar shall register an entity in the Seychelles Business Register within 28 days of the date of application if –

- (a) the entity has applied under section 8; and
- (b) the Registrar is satisfied that the entity –
 - (i) is entitled to use a SBN; or
 - (ii) is likely to be entitled to use a SBN by the date specified in the application;
- (c) the Registrar is satisfied that the identity of the entity has been established; and
- (d) that the entity is not already registered in the Register.

(2) The Registrar may request an applicant to give the Registrar specified information or a document the Registrar needs to be satisfied that –

- (a) the applicant is entitled to have a SBN; or
- (b) the identity of the applicant is established.

10.(1) The Registrar registers an entity by –

- (a) accepting the application for a SBN; and
- (b) entering in the Seychelles Business Register –
 - (i) the name of the entity;
 - (ii) the SBN; and
 - (iii) the date of effect of the registration.

Steps taken
by Registrar
to register
an applicant
for a SBN

(2) The date specified as the date of registration of the SBN may be any date including a date before the date on which an application for registration was made.

- (3) The Registrar shall give an applicant written notice of –
- (a) the fact that the application is granted;
 - (b) the SBN;
 - (c) the date of effect of the registration; and
 - (d) the other details entered in relation to the applicant in the Seychelles Business Register.

Notices to
be sent to
the entity's
address
provided
for service

11.(1) If an entity is registered in the Seychelles Business Register, a notice shall be given to the entity by leaving it at, or sending it by post to, the address shown in the Register as address for service of that entity.

- (2) Subsection (1) –
- (a) does not affect the operation of any other law of Seychelles that authorises the service of a document in some other way; and
 - (b) does not affect the power of a court to authorise service of a document in some other way.

Refusal
to
register

12.(1) If the Registrar refuses an application for registration, the Registrar shall give the applicant written notice of –

- (a) the refusal; and
- (b) the reasons for the refusal.

(2) If the Registrar has not decided an application for registration within 28 days after the date on which the application is made, the applicant may, at any time, give the Registrar written notice that the applicant wishes to treat the application as having been refused.

(3) For the purposes of section 20, if an applicant gives notice under subsection (2), the Registrar is taken to have refused the application for registration on the day on which the notice is given.

(4) For the purpose of computing the 28 days mentioned in subsection (3), the following period, if any, shall be disregarded –

- (a) starting on the day when the Registrar requests an applicant under section 9(2) to give the Registrar specified information or a specified document; and
- (b) ending at the end of the day the applicant gives the Registrar the specified information or document.

13.(1) If –

- (a) an entity gives information to the Registrar; and
- (b) the information is recorded in relation to the entity in the Seychelles Business Register under section 24; and
- (c) circumstances change so that the information given to the Registrar is no longer correct;

Entity to
notify
Registrar
of changes
to matters
set out in
Register

the entity shall notify the Registrar of the change within 28 days after the entity becomes aware of the change.

(2) The notice –

- (a) shall be lodged with the Registrar; and
- (b) may be lodged electronically.

14.(1) If an entity is registered in the Seychelles Business Register, the Registrar may at any time request the entity to give information that is relevant to –

Obligation
to give
Registrar
information
if requested

- (a) entitlement to be registered;
- (b) confirmation of identity; or

- (c) confirmation of the details entered in relation to the entity in the Register,

and a registered entity shall comply with the request.

(2) The request –

- (a) is to be made by notice in writing to the entity;
- (b) shall ask the entity to give the information in writing; and
- (c) shall specify –
 - (i) the information the entity is to give; and
 - (ii) the period within which the entity is to give the information.

(3) If the request asks for the information to be given in writing, the information –

- (a) shall be lodged with the Registrar; and
- (b) may be lodged electronically.

Application to partnerships

15.(1) If, but for this subsection, section 13 or 14 would impose an obligation on a partnership, the obligation is imposed on each partner, but may be discharged by any of the partners.

Application to unincorporated association or body

(2) If, but for this subsection, section 13 or 14 would impose an obligation on an unincorporated association or body, the obligation is imposed on each member of the committee of management of the association or body, but may be discharged by any of the members of the committee.

Application to all Funds including Pension Funds

(3) If, but for this subsection, section 13 or 14 would impose an obligation on any entity registered by the Government, the obligation is imposed on each individual, but may be discharged by any of the individuals associated or involved in the management or control of that entity.

Application to Government entities headed by one person

(4) . If, apart from this subsection, section 13 or 14 would impose an obligation on a Government entity –

- (a) that is an unincorporated association or body; and
- (b) for whose management a single person is responsible to persons or bodies outside the Government entity;

the obligation is imposed on that person.

16.(1) The Registrar may, at any time, change the SBN issued to an entity by –

Registrar
may change
SBN issued
to an entity

- (a) making an appropriate change to the Seychelles Business Register (including the date from which the new SBN has effect); and
- (b) giving the entity written notice of the new SBN.

(2) The notice shall state the date from which the new SBN has effect.

(3) The change to the SBN takes effect on the date stated in the Seychelles Business Register.

17.(1) The Registrar may cancel the registration of an entity in the Seychelles Business Register if the Registrar is satisfied that –

When SBN
registration
can be
cancelled

- (a) the entity is registered under an identity that is not the true identity;
- (b) at the time that the entity applied for a SBN, the entity was not entitled to have a SBN;
- (c) the entity is no longer entitled to have a SBN; or
- (d) the entity has been convicted of an offence involving fraudulent use of a SBN; and
- (e) the entity is likely to engage in similar conduct in the foreseeable future.

(2) The Registrar shall give written notice of the cancellation and of –

- (a) the reasons for the cancellation; and
- (b) the date of effect of the cancellation.

(3) The date of effect of the cancellation may be any of the following –

- (a) the date on which the entity is given notice under subsection (2);
- (b) a specified date in the future;
- (c) a date before the date on which the notice is given.

(4) The Registrar may cancel a SBN if a registered entity applies to the Registrar for cancellation of the registration in a form approved by the Registrar.

(5) The Registrar shall give an entity written notice of the cancellation. The notice shall also state the date of effect of the cancellation.

(6) The date of effect of the cancellation may be any of the following –

- (a) the date on which the entity is given notice under subsection (5);
- (b) a specified date in the future;
- (c) a date before the date on which the notice is given.

(7) The Registrar may refuse to cancel an entity's SBN registration in which case the Registrar shall give a written notice of refusal and reasons for the decision.

18.(1) The Registrar shall reinstate a registration in the Seychelles Business Register if the Registrar is satisfied that the registration should not have been cancelled.

Reinstating
SBN
registration

(2) The Registrar shall give a registered entity written notice of the reinstatement.

(3) The reinstatement has effect on and from the day on which the registration was cancelled.

19. All applications under this Act and all information provided pursuant to this Act shall either –

Applications
and notices
to be signed

- (a) be signed by the entity; or
- (b) by a person lodging it on behalf of the entity.

PART 5 – REVIEW

20.(1) Applications may be made to the Revenue Tribunal for review of the following decisions of the Registrar within 60 days of the date of notification of the decision –

Review of
decisions

- (a) a decision setting the date of effect of a registration under section 10(1);

- (b) a decision refusing an application for registration under section 12(1);
- (c) a decision to cancel a SBN registration under section 17(1);
- (d) a decision setting the date of effect of a cancellation of a SBN registration under section 17(3);
- (e) a decision to refuse to cancel a SBN registration under section 17(7).

(2) If an application is made to the Revenue Tribunal for review of a decision referred to in subsection (1)(b), the orders that may be made include an order that the Registrar register the entity pending the determination of the application for review.

(3) A registration under subsection (2) ceases to have effect when the application is finally disposed of in favour of the Registrar.

Statement
of right to
seek review

21.(1). If—

- (a) a decision of a kind referred to in section 20 is made; and
- (b) notice in writing of the decision is given to a person whose interests are affected by the decision,

that notice shall —

- (c) include a statement to the effect that, if the person is dissatisfied with the decision, application may be made to the Revenue Tribunal for review of the decision; and
- (d) also a concise statement setting down the reason for the adverse decision.

(2) A failure to comply with subsection (1)(a) and (b) does not affect the validity of the decision.

PART 6 - OFFENCES

22.(1) An entity that knowingly uses a false SBN on a return, invoice or any other document prescribed or used for the purposes of a revenue law is guilty of an offence and on conviction is liable to a fine of not less than SR 10,000 and to imprisonment for not more than 12 months.

Misuse of
SBN

(2) An entity that uses the SBN of another person is treated as having used a false SBN, unless the SBN has been used with the permission of that other person on a document relating to the revenue affairs of that other person.

(3) An entity that fraudulently obtains a SBN using false or forged documents is guilty of an offence and on conviction is liable to a fine of not less than SR 50,000 but not more than SR 5,000,000 and to imprisonment for not less than one month but not more than 12 months.

PART 7 - ADMINISTRATION

23.(1) The Registrar shall establish and maintain a Seychelles Business Register.

Seychelles
Business
Register

(2) The Seychelles Business Register may be kept in any form that the Registrar considers appropriate.

(3) Regulations may prescribe forms (prescribed forms) or procedures to be used by entities to make applications or notifications to the Seychelles Business Register.

24.(1) Under section 10(1)(b), the Registrar may enter in the Seychelles Business Register in relation to each entity registered in the Register –

Entries in
the
Seychelles
Business
Register

(a) the entity's name;

(b) the entity's SBN;

- (c) the date of entity's registration;
- (d) the entity's business activity; and
- (e) any other registration held by the entity under a revenue law.

(2) Without limiting the information that the Registrar shall collect in order to process an application for registration, the Registrar shall enter the following details in the Seychelles Business Register in relation to each entity –

- (a) an address for service of notices under this Act;
- (b) any details prescribed in the regulations.

Access to
certain
information
in the
Seychelles
Business
Register

25.(1) The Registrar may, on receiving payment of a prescribed fee, if any, give a person a copy of the entry in the Seychelles Business Register relating to an entity.

(2) Before the copy is given to the person, the Registrar shall excise from it any detail that the Registrar is prohibited from disclosing under this Act or any other revenue law.

(3) However, the Registrar is authorised to release the following details about a registered entity –

- (a) the entity's name;
- (b) the entity's SBN;
- (c) the date of effect of the registration;
- (d) either –
 - (i) the business name registered for the entity under the law of Seychelles; or

- (ii) if a business name is not registered for the entity, any name used for business purposes by the entity;
 - (e) the date of effect of any other registration under a revenue law;
 - (f) the date of effect of any cancellation of registration under a revenue law;
 - (g) any statement required to be entered in the Seychelles Business Register in relation to the entity under any revenue law;
 - (h) any statement required to be entered in the Seychelles Business Register in relation to the entity by any regulation;
 - (i) the entity's company registration number or association registration number, if any;
 - (j) the kind of entity;
 - (k) the entity's full details of its principal place of business; and
 - (i) the entity's authorised representative's postal address; and
 - (ii) the entity's authorised representative's telephone number and email address;
- (4) If—
- (a) a registered entity requests the Registrar not to disclose a detail listed in subsection (3) or required to be listed by regulations made under subsection (3) in relation to that entity; and

- (b) the Registrar is satisfied that it is not appropriate to disclose the detail,

the Registrar shall not disclose the detail under this section.

(5) Subject to subsection (4), the Registrar may make publicly available any details listed in subsection (3) or required to be listed by regulations made under subsection (3) in relation to an entity, other than any detail that the Registrar is prohibited from disclosing.

Review of
decisions
and
statement of
rights

26.(1) Applications may be made to the Revenue Tribunal, within 60 days of the date of notification of a reviewable decision, for reviewing the decision of the Registrar to disclose information contrary to the request of a specific SBN holder.

(2) If an application for review is made under subsection (1), the orders that may be made include an order that the Registrar not disclose the details that are the subject of the application pending the determination of the application for review.

(3) If –

- (a) a decision of a kind referred to in section 25 is made; and
- (b) notice in writing of the decision is given to a person whose interests are affected by the decision;

that notice shall include –

- (c) a statement to the effect that, if the person is dissatisfied with the decision, application may be made to the Revenue Tribunal for review of the decision; and
- (d) a concise statement setting down the reason for the adverse decision.

(4) A failure to comply with subsection (3)(a) and (b) does not affect the validity of the decision.

27.(1) The Seychelles Business Register is admissible in legal proceedings as evidence of the matters registered in it.

Evidentiary
value of the
Seychelles
Business
Register

(2) If the Seychelles Business Register is kept by the use of a computer, the Registrar may issue a document containing the details of a matter taken from the Register.

(3) The document issued under subsection (2) is admissible in legal proceedings as evidence of the matter.

(4) The Registrar may give a person a certified copy of, or extract from, the Seychelles Business Register on payment of the prescribed fee, if any.

(5) The certified copy is admissible in legal proceedings without any further proof of, or the production of, the original.

(6) This section does not limit the manner in which evidence may be adduced, or the admissibility of evidence, under any other law.

(7) If –

(a) a person applies for a detail included in the Seychelles Business Register in relation to an entity not to be disclosed; and

(b) the Registrar is satisfied that it is not appropriate to disclose the detail,

the detail shall not be included in any document the Registrar issues or gives under subsection (2) or (4).

28.(1) There shall be a Registrar of the Seychelles Business Register.

Registrar

(2) The Revenue Commissioner is the Registrar of the Seychelles Business Register.

(3) As well as the specific powers and functions conferred on the Registrar by this Act, the Registrar has the general administration of this Act.

Annual
report on
operation
of Act

29.(1) The Registrar shall, as soon as practicable after January 1st in each year, submit to the Minister of Finance a report on the working of this Act during the year ending on the December 31st of the preceding year.

(2) The Minister shall cause a copy of the report to be tabled in the National Assembly within 30 sitting days of the Assembly after the day on which the Minister receives the report.

Protection
of
confidential
ity of
information

30.(1) This section restricts what a person being an entrusted person may do with protected information or protected documents that the person has obtained in the course of official employment.

(2) The entrusted person –

(a) shall not make a record of protected information;
and

(b) shall not disclose it to anyone else,

if the recording or disclosure is not done in accordance with subsection (3).

(3) An entrusted person who in contravention of subsection (2), and without lawful excuse, reveals to any person any document or information which has come into the possession or knowledge of the entrusted person in the course of performing official duties, or permits any other person to have access to any document in the possession or custody of the Registrar in that official capacity is guilty of an offence and on conviction is liable to a fine of not less than SR 1,000 and to imprisonment for not less than one day but not more than 1 month.

(4) It is not an offence against subsection (2) if any of the following conditions apply to the recording or disclosure –

- (a) the recording or disclosure is for the purposes of this Act;
- (b) the recording or disclosure happens in the course of the performance of the duties of the entrusted person's official employment;
- (c) the entrusted person is the Registrar and the disclosure is to –
 - (i) the Chief Executive of a Government agency for the purposes of carrying out functions conferred on the agency by law;
 - (ii) another person for the purpose of that other person carrying out functions under a revenue law;
 - (iii) a Court of law;
 - (iv) the head (however described) of a Department of the Government for the purposes of carrying out functions of the Department; or
 - (v) the head (however described) of a body established for a public purpose by or under a law for the purpose of carrying out functions conferred on the body; or
 - (vi) a prescribed body;
- (d) the disclosure is by a person authorised by the Registrar to disclose the information and the

disclosure is made to any person, court or body referred to in paragraph (c).

(5) Except where it is necessary to do so for the purpose of giving effect to a revenue law, the entrusted person shall not to be required -

(a) to produce any protected document to a court; or

(b) to disclose protected information to a court.

(6) In this section disclose means divulge, disseminate or communicate.

Defences

31. In a prosecution of a person for an offence against a provision of this Act, it is a defence if the person proves that the person -

(a) did not aid, abet, counsel or procure the act or omission because of which the offence is taken to have been committed; and

(b) was not in any way, by act or omission, directly or indirectly, knowingly concerned in, or party to, the act or omission because of which the offence is taken to have been committed.

Regulations

32.(1) The Minister of Finance may make regulations prescribing matters -

(a) required or permitted by this Act to be prescribed; or

(b) necessary or convenient to be prescribed for carrying out or giving effect to this Act,


including -

(c) procedures required for the efficient operation of the Act;

(d) fees, if any, chargeable by the SBN Registrar, and

- (e) penalties for offences against the regulations.
- (2) Any fee prescribed for whatever purpose associated with this Act –
 - (a) shall be reasonably related to the expenses incurred or to be incurred by the Registrar in connection with the activity that attracts the fee, and
 - (b) shall not be such as to amount to taxation.

I certify that this is a correct copy of the Bill which was passed by the National Assembly on 16th December, 2009.



Veronique Bresson
Clerk to the National Assembly