

**INTERNATIONAL CORPORATE SERVICE
PROVIDERS ACT, 2003**

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INTERNATIONAL CORPORATE SERVICE
PROVIDERS ACT, 2003

(Act 10 of 2003)

I assent

A handwritten signature in cursive script, appearing to read 'F. A. René'.

F.A. René
President



24th December, 2003

AN ACT to provide for the regulation of the providers of certain international corporate services and trustee services and for connected matters.

ENACTED by the President and the National Assembly.

PART I - PRELIMINARY

1. This Act may be cited as the International Corporate Service Providers Act, 2003 and shall come into operation on such date as the Minister may be notice in the Gazette appoint.

Short title and commencement

Interpretation

2. (1)

In this Act -

(Cap. 216A)

“the Authority” means the Seychelles International Business Authority established by the Seychelles International Business Authority Act;

“Court” means the Supreme Court of Seychelles;

“document” means -

- (a) any writing on any material;
- (b) a book, graph, drawing or other pictorial representation or image;
- (c) information recorded or stored by any electronic or other technological means and capable, with or without the aid of any equipment, of being reproduced;

“fit and proper”, in relation to any person, means that the person satisfies the criteria set out in paragraph 3 of Schedule 3;

(Cap 100A)

“international business company” means an international business company incorporated under the International Business Companies Act.

(Cap 102A)

“international trust” means a trust established under the International Trusts Act;

“international corporate services” means the following services provided in or from Seychelles for remuneration:

- (a) services connected with the formation management or administration of a specified entity;

- (b) serving as a registered agent, director or other similar officer of a specified entity;
- (c) provision of a registered office, place of business or address for a specified entity;
- (d) serving as a nominee shareholder in a specified entity;
- (e) such other services as may be prescribed;

“international trustee services” means the following services provided in or from Seychelles for remuneration:

- (a) services connected with the formation, registration or administration of an international trust;
- (b) serving as resident trustee of an international trust; and
- (c) such other services as may be prescribed;

“international corporate services licence” means a licence issued under section 3 (5) authorising the licensee to carry on the business of providing international corporate services;

“international trustee services licence” means a licence issued under section 3 (5) authorising the licensee to carry on the business of providing international trustee services;

“licensee” means a person holding a licence under this Act and includes any branch or subsidiary of such person operating outside of Seychelles;

“prescribed” means prescribed by regulations made under this Act;

“specified entity” means -

- (a) an international business company;
- (b) a company incorporated in accordance with the Companies (Special Licences) Act;
- (c) a limited partnership established under the Limited Partnerships Act; or
- (d) such other corporate body as may be prescribed.

PART II – LICENSING

Requirement
of licence

3. (1) Subject to section 20, no person shall -

- (a) provide international corporate services; or
- (b) provide international trustee services

except under and in accordance with a licence issued under subsection (5).

(2) An application for a licence to provide international corporate services or international trustee services may be made to the Authority -

- (a) by a company registered under the Companies Act, 1972;
- (b) in the form provided by the Authority and accompanied by such information and documents as the Authority may specify.

(3) Each application for an international corporate services licence or an international trustee services licence shall be accompanied by the annual licence fee of US\$ 1,000 or such other fee as may be prescribed.

(4) The Authority shall, before granting a licence, ascertain that -

- (a) the applicant is a fit and proper person;
- (b) each director and manager of the applicant is a fit and proper person; and
- (c) the applicant has the necessary financial standing.

(5) If the Authority is of the opinion that it is in the public interest to grant the application and that the applicant satisfies the requirements of this Act, the Authority may grant a licence to provide international corporate services or international trustee services, as the case may be, subject to such conditions as may be specified in the licence, and notify the applicant accordingly.

(6) The Authority may, at any time by written notice to the holder of a licence amend any conditions of the licence or impose additional or other conditions on the licence.

(7) Where the Authority decides not to grant a licence it shall notify the applicant of that fact and the reasons therefor.

4. (1) Subject to sections 17 and 18, a licence issued under this Act -

- (a) shall be valid for a period of one year from the date of issue;
- (b) shall be renewed annually upon -
 - (i) the payment of the prescribed fee; and

Duration
and display
of licence

- (ii) the lodgment with the Authority of the compliance certificate by the licensee in the form specified in Schedule 1.

(2) A licence issued under this Act shall be displayed in the premises where the licensee carries on business under the licence.

Registers of
Licensed
Service
Providers

5. (1) The Authority shall maintain separate registers of persons licensed as –

- (a) international corporate services providers; and
- (b) international trustee services providers

with the following particulars -

- (i) the name of the licensee;
- (ii) the address of the licensee;
- (iii) the location of the registered office of the licensee;
- (iv) the date on which the licence was issued;
- (v) the expiry date of the licence specified in the licence.

(2) The registers maintained under subsection (1) shall be open to inspection by the public.

Notification
of changes

6. (1) A licensee shall give the Authority prior notice in writing of any change referred to in subsection (4): Provided that notice relating to a departure of a director or manager may be given after the event.

(2) The Authority may require the licensee to furnish further information or documents in respect of such change.

(3) The Authority may, within one calendar month of receiving any notification, object in writing to the change. Where the Authority raises such an objection, the licensee shall take such action as may be recommended by the Authority. If the licensee fails or neglects to take such action the Authority may suspend or revoke the licence.

(4) For the purpose of this section, "change" means -

- (a) a change in the ownership of a majority of the issued shares in the company holding the licence; or
- (b) a change in the beneficial ownership of such shares in the company holding the licence;
- (c) the appointment or departure of a director or manager of the company holding the licence.

7. (1) No person, other than a licensed international corporate services provider, shall -

Restrictions as to names and description

- (a) use any word or words, whether in English or any other language, in the name or description under which such person carries on business which suggest or imply that such person carries on the business of providing international corporate services;
- (b) make any representation in any document or other communication that the person is licensed to provide international corporate services.

(2) No person, other than a licensed international trustee services provider, shall -

- (a) use any word or words, whether in English or any other language, in the name or description under

which such person carries on business which suggest or imply that such person carries on the business of providing international trustee services;

(b) make any representation in any document or other communication that the person is licensed to provide international trustee services .

(3) A person who contravenes subsection (1) or (2) commits an offence.

PART III – DUTIES OF LICENSEES AND ADMINISTRATION

Duties of
licensees

8. (1) A licensee shall -

- (a) maintain a place of business in Seychelles;
- (b) maintain accounting books and records which accurately reflect the licensed business carried on by the licensee;
- (c) maintain such records and documents relating to its business or clients as may be required by or under this Act or any other law of Seychelles;
- (d) ensure that any monies or other assets that it holds for or on behalf of any entity to which it provides international corporate services or international trustee services as the case may be, (excluding any monies paid to the licensee for services rendered, products sold or expenses incurred by the licensee), are designated and clearly identified as client funds;
- (e) ensure that, where any client funds are held for a period exceeding 30 days, they are kept separate

from the licensee's own funds (including any office bank account maintained by it) in an account designated as a client account unless the relevant entity instructs otherwise in writing;

- (f) maintain separate accounts in the books and records to be maintained under subsection (1) (b) in respect of any client funds distinguishing the same from the licensee's own funds.

(2) A licensee -

- (a) being a company providing international corporate services shall have and maintain a fully paid up share capital of not less than R60,000 or such other amount as may be prescribed from time to time;
- (b) being a company providing international trustee services shall have and maintain a fully paid up share capital of not less than R150,000 or such other amount as may be prescribed from time to time.

(3) The Code of Practice of Licensees set out in Schedule 3 shall, subject to such exemptions as may be notified in writing by the Authority, bind all licensees under this Act.

9. (1) A licensee shall have its accounts audited annually and at such other times as the Authority may require by a qualified auditor in accordance with internationally accepted accounting standards. For the purpose of this section, "qualified auditor" has the same meaning as in the Companies Act, 1972.

Auditing of
accounts

(2) A true copy of the licensee's audited accounts shall be furnished by the licensee to the Authority within six months of the

end of the financial year of the licensee, or within such longer period as may be allowed by the Authority.

Functions of
the Authority

10. (1) The Authority shall -

- (a) monitor the provision of international corporate services and international trustee services by licensees;
- (b) wherever necessary make enquiries or examine the documents or records of any licensee for the purpose of ensuring that the provisions of this Act are complied with by the licensee.

(2) The Authority may for the purpose of subsection (1)—

- (a) require a licensee to produce for examination any books, records or other documents required to be held by the licensee pursuant to this Act;
- (b) require a licensee or any director or manager of a licensee to provide information, documents or explanations in relation to the licensee and its business.

Delegation by
Authority, etc

11. (1) The Authority may delegate, in writing, any of its functions under this Act, except the power conferred by this section, to any member, officer or employee of the Authority.

(2) A delegation under subsection (1) may be revoked at any time by the Authority and shall not prevent the performance of such functions by the Authority at any time.

(3) The Authority may engage the services of any person for conducting an investigation, inquiry or examination for the purposes of this Act.

Confidentiality

12. (1) Subject to subsection (2), the Authority or any employee or agent of the Authority shall not disclose any

information or document acquired in the performance of its, his or her duties under this Act in respect of any licensee or the affairs of any licensee or any client of a licensee.

(2) Subsection (1) shall not apply to any disclosure -

- (a) required by any Court in Seychelles or under any law of Seychelles;
- (b) in respect of the affairs of a licensee or of a client of a licensee, with the consent of the licensee or client as the case may be;
- (c) where the information disclosed is already in the public domain; or
- (d) where the information disclosed is in statistical form or is conveyed in such a manner that the identity of any licensee or any client of a licensee to which the information relates cannot be ascertained.

13. (1) The Authority may -

Directions
and guidelines

- (a) give any person such directions as are necessary for the processing of applications, for the keeping of registers and for other administrative matters relating to the conduct of the business of providing international corporate services or international trustee services;
- (b) issue guidelines for the proper conduct of business by licensees under this Act.

(2) Any person to whom a direction has been given or guidelines have been issued shall comply with the direction or guidelines as the case may be.

(3) A person who acts in contravention of subsection (2) commits an offence.

PART IV – ENFORCEMENT

Suspension

14. (1) Where the Authority has reason to believe that a licensee is:

- (a) carrying on its business under the licence in a manner detrimental to the public interest, or to the interests of its clients;
- (b) in contravention of the provisions of sections 6 to 13;
- (c) in breach of any regulations made under this Act or any other law.

the Authority may:

- (i) require the licensee to take such steps as the Authority deems necessary to comply with the law; and
- (ii) specify the period of time for such steps to be taken; or
- (iii) suspend the licence.

(2) A suspension shall not exceed a period of thirty days unless ordered by the Court upon the application of the Authority. Any application to the Court shall specify:

- (a) the grounds on which the Authority contends that the suspension should continue;
- (b) known particulars of any objections made by the licensee.

(3) Any period of suspension ordered by Court shall not exceed three months.

(4) The Authority may revoke a suspension under subsection (1)(iii) at any time, and the Court may on an application made in that behalf revoke an order made under subsection (2).

15. (1) The Authority may revoke a licence if -

Revocation

- (a) the Authority has reason to believe that the licensee is carrying on business under the licence in a manner detrimental to the public interest or to the interests of its clients;
- (b) the Authority is satisfied that the licensee has contravened any provision of this Act or any regulation made thereunder or any directions or guidelines issued by the Authority or the provisions of any other law;
- (c) the Authority is satisfied that the licensee is in breach of any condition of the licence;
- (d) the licensee has ceased to carry on business under the licence;
- (e) the licensee is insolvent or enters into liquidation or administration or is wound up or otherwise dissolved or it is very likely that any of the aforementioned events may soon occur;
- (f) the Authority is satisfied that the licensee or any director or manager of the licensee has ceased to be a fit and proper person;
- (g) the Authority is satisfied that the licensee has furnished false or misleading information to the Authority;

- (h) the licensee or a director or a manager of the licensee has been convicted under a law relating to money-laundering or financing of terrorism;
- (i) the Authority is of the opinion that such action is necessary to protect the good repute of Seychelles as an international financial services centre.

(2) The Authority shall give written notice of the revocation to the licensee .

(3) An application to Court against a revocation under this section shall not operate as a suspension of the revocation, unless the Court deems fit to make an order to the contrary.

Offences

16. (1) Any person who carries on the business of providing international corporate services or international trustee services without a licence under this Act commits an offence and is liable on conviction to a fine of R300,000 and where the offence continues subsequent to the conviction that person is liable to a fine of R6000 for each day that the offence is continued.

(2) Any person who with intent to deceive contravenes section 7 of this Act commits an offence and is liable on conviction to a fine of R300,000.

(3) Where an offence under this Act is committed by a body corporate and a director or other officer has knowingly authorized, permitted or acquiesced in the commission of the offence, the director or other officer also commits the offence and is liable on conviction to a fine of the same amount as applicable to the body corporate.

Review and appeal

17. (1) An application may be made to the Court for the review of any decision of the Authority-

- (a) to refuse to grant or renew a licence under this Act;
- (b) to suspend a licence under section 17;
- (c) to revoke a licence under section 18.

(2) An application shall be made within three months after the services by the Authority of the notice of the decision of the Authority.

(3) An appeal may be preferred to the Court of Appeal against the decision of the Court on any application.

PART V – MISCELLANEOUS

18. (1) From and after the commencement of this Act any licensee under this Act shall be entitled to the exemptions and concessions set out in Schedule 2.

Exemptions
and
concessions

(2) The exemptions and concessions granted under this section shall remain in force for a period of fifteen years from the date of commencement of this Act, and shall continue in force thereafter unless a law provides otherwise.

19. Upon the commencement of this Act any licensee to whom any certificate under section 3 (1) of the Investment Promotion Act had been issued shall surrender such certificate before claiming any entitlement under section 18.

Surrender of
certificate
under IPA Act
Cap 103A

20. Notwithstanding section 3, a licensee who at the date of commencement of this Act holds a licence under the Licences Act to provide any of the international corporate services or international trustee services, as the case may be, shall within ninety days from that date comply with the provisions of this Act

Existing
business

and during that period shall be deemed not to contravene that section by reason of the provision of such services and shall be entitled to the same exemptions and concessions under section 18 as if it were licensed under this Act.

Immunity

21. No action, prosecution or other proceeding shall be brought against the Minister, the Authority, or an employee or agent of the Authority in respect of any act done or omitted to be done in good faith in the proper discharge of functions under this Act.

Regulations

22. The Minister may, after consulting the Authority, make regulations for the purpose of carrying out and giving effect to the provisions of this Act or amending any Schedule to this Act.

SCHEDULE 1

Section 4(1)

Form of Compliance Certificate

To: Seychelles International Business Authority

We, (full name and address of licensee), certify that we are not in breach of any duties or other obligations imposed on us under the International Corporate Service Providers Act, 2003.

We undertake to continue to comply with our duties and other obligations under the Act.

Dated:

.....
Signature

(name)

Director

For and on behalf of

(name of licensee company)

SCHEDULE 2

Section 18(1)

1. Notwithstanding anything to the contrary in any of the Acts and the Decree specified in column 1 the taxes, contributions or fees as the case may be referred to in the corresponding entry in column 2 calculated in the manner therein specified, shall be paid by each licensee.

Column 1

Column 2

(a) Trades Tax Act	<p>(i) All furniture, stationery and equipment imported for the use of an office of a licensee and used only for the licensed activity shall be liable to trades tax under the Trades Tax Act at the rate of 5%.</p> <p>(ii) One motor vehicle of an engine capacity not exceeding 1800cc imported for use in connection with the licensed activity shall be liable to trades tax at the rate of 75%.</p> <p>A licensee shall pay employer's contribution as follows –</p>
(b) Social Security Act	<p>(a) during the first five years of its operations at the rate of 5 per centum of each employee's emoluments;</p> <p>(b) during the period from the sixth to the fifteenth year at the rate of 10 per centum of each employee's emoluments;</p>
(c) Immigration Decree	<p>A licensee shall be entitled to employ expatriate employees upto 50 per</p>

(e) Business Tax Act	<p>centum of the total number of its employees and the gainful occupation permit fee shall be R375 per employee per month.</p> <p>The tax payable by a licensee in respect of its income shall be the aggregate of the following amounts paid by the licensee in respect of specified entities -</p> <p>(i) 15% of fees in respect of incorporation or registration;</p> <p>(ii) 7.5% of fees in respect of annual renewal of licence;</p> <p>(iii) 5% of all other fees.</p>
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2. (a) The provisions of Part IV of the Business Tax Act shall not apply in respect of payments made by a licensee.
- (b) Section 88 shall not apply to a licensee.
3. The Goods and Services Tax Act shall not apply to a licensee.

SCHEDULE 3

Section 8(3)

CODE OF PRACTICE OF LICENSEES

1. Every licensee shall at all times—
 - (a) know and be able to identify its client; and
 - (b) be able to identify the beneficial owners of its client companies.

2. Every licensee shall have a duly executed written agreement with its clients relating to the provision of services under the licence. The agreement shall include among other matters, provisions relating to charging, calculation, recovery and revision of fees, conditions of termination of services, and any consequential refund of fees; and arrangements for payment to the client of interest received on the client's money.
3. All directors and members of the managerial staff of a licensee shall be and remain fit and proper persons as determined by the Authority.

In determining whether a person is a fit and proper person for the purpose of this Act, regard shall be had to –

- (a) the person's probity, competence, experience and soundness of judgment for fulfilling the responsibilities of the relevant position;
- (b) the diligence with which the person is fulfilling or likely to fulfil those responsibilities;
- (c) whether the interests of clients of the licensee are likely to be threatened by the person's holding of that position;
- (d) the person's educational and professional qualifications, and membership of professional or other relevant bodies;
- (e) the person's knowledge and understanding of the legal and professional obligations to be assumed or undertaken;
- (f) the person's procedures for vetting of clients; and
- (g) any evidence that the person has -
 - (i) committed any offence involving dishonesty or violence;

- (ii) contravened any law designed to protect members of the public arising from dishonesty, incompetence, malpractice, or conduct of discharged or undischarged bankrupts or otherwise insolvent persons.
4. The provision of services under a licence shall be conducted by at least two individuals who are directors or other members of the managerial staff residing in Seychelles.
 5. A licensee shall have in place well-documented control systems and procedures suitable to the level and scope of its business and ensure that its managerial staff and other employees perform their duties in accordance with those systems and procedures.
 6. A licensee shall be able and prepared to meet all its liabilities (taking into account contingent and prospective liabilities) as they fall due and be able to continue in operation for the foreseeable future.
 7. A licensee shall give the Authority 28 days notice in advance of the proposed appointment of a director or member of the managerial staff so that the Authority may determine whether or not the appointment may proceed. The prospective appointee may be required to complete a questionnaire requiring such information as the Authority may need to make its determination.
 8. A licensee shall notify the Authority -
 - (a) of any legal proceedings brought against the conduct of its licensed activities in any jurisdiction where the amount claimed or disputed is likely to exceed R60,000, and provide a brief summary of the case: Provided that it

shall not be required to disclose any information subject to legal privilege;

- (b) of any criminal proceedings against the licensee or any related company of the licensee as soon as it becomes aware of the bringing of such proceedings.

9. A licensee shall notify the Authority as soon as it becomes aware of the conviction of the licensee, an associate company of the licensee company, or any of its employees for any offence relating to -

- (a) any business activity;
- (b) the formation, management or administration of companies in any jurisdiction;
- (c) insolvency, or
- (d) fraud or dishonesty.

10. A licensee shall notify the Authority whenever the licensee or any of its directors or any member of its managerial staff is formally sought to be disqualified or is disqualified from functioning as a company director or a secretary under any law.

11. A licensee shall notify the Authority as soon as it becomes aware of any summons, warrant or order of Court under the Criminal Procedure Code, Misuse of Drugs Act, Anti-Money Laundering Act or any other prescribed Act concerning the affairs of either the licensee or any of its client companies.

12. A licensee shall notify the Authority and provide a brief summary where possible of the case, as soon as it becomes aware of the institution of criminal proceedings against, or the conviction of a client company, any officer of a client

company, or the beneficial owner of a client company in relation to any proceedings relating to that client company in any jurisdiction.

13. A licensee shall notify the Authority immediately of serious disciplinary action it takes against any member of its managerial staff. Full details of such action shall be furnished to the Authority. In this paragraph "serious disciplinary action" includes any action taken in cases of fraud, theft, dishonesty or malpractice.
14. Whenever as a result of any serious or prolonged breakdown in a licensee's administrative system the licensee is unable to maintain proper records it shall inform the Authority thereof immediately.
15. Where a licensee decides involuntarily to cease to carry on business under the licence, it shall notify the Authority not less than 28 days before giving effect to the decision and details of arrangements it has made to ensure an orderly winding up or transfer of its client's business.
16. A licensee shall notify the Authority not less than 28 days in advance of a proposed merger or take-over affecting its business.
17. A licensee shall notify the Authority of any of the following events -
 - (a) it is no longer able to continue in operation as a going concern;
 - (b) action is initiated to wind up the licensee company;
 - (c) a receiver, liquidator or administrator is appointed in respect of the licensee company;

- (d) composition or arrangement is made with its creditors;
 - (e) the refusal or revocation of any legal authorization applied for or held by the licensee in respect of any other business;
 - (f) institution of an official inquiry into the affairs of the licensee.
18. Every licensee shall ensure that any complaint received by it relating to the conduct of its business is -
- (a) acknowledged;
 - (b) registered;
 - (c) investigated promptly and thoroughly; and
 - (d) appropriate action is taken and recorded.
- 19.(1) A licensee shall use its best endeavours to avoid any conflict of interest between itself and its clients and between one client and another.
- (2) Where such a conflict does arise the licensee shall notify the client or each of the clients concerned of this fact.
 - (3) Unless all clients with conflicting interests in any matter agree to the licensee continuing its services to the other clients concerned the licensee shall discontinue its services to all the clients concerned.
20. A licensee shall ensure that any advertisement that it publishes or causes to be published -
- (a) does not damage the good image of the Republic;
 - (b) contains a fair and accurate indication of the services it provides.

21. Where a licensee discontinues its services to a client company for any reason -
- (a) it shall inform such company in writing ; and
 - (b) preserve the client's company records until such time as they are handed over to a successor; and
 - (c) cooperate with the client and such successor to ensure a smooth transition.
22. A licensee shall have in place adequate business resumption or contingency provisions designed to safeguard the interests of its clients.

I certify that this is a correct copy of the Bill which was passed by the National Assembly on 10th December, 2003.



Mrs. Sheila Banks
Clerk to the National Assembly