

**NATIONAL AIDS COUNCIL OF SEYCHELLES ACT, 2013***(Act 13 of 2013)***ARRANGEMENT OF SECTIONS****PART I – PRELIMINARY****SECTIONS**

1. Short title and commencement
2. Interpretation

**PART II – NATIONAL AIDS COUNCIL OF SEYCHELLES  
AND BOARD OF COUNCIL**

3. Establishment of National AIDS Council of Seychelles
4. Functions and powers of Council
5. Board of Council
6. Composition of the Board
7. Disqualifications for appointment to the Board
8. Terms of office and conditions of service of members of the Board
9. Vacation of office by appointed member of the Board
10. President may require appointed member of the Board to vacate office or may suspend member of the Board
11. Filling of vacancies on the Board
12. Chairperson and Vice-Chairperson of the Board
13. Meetings and procedure of the Board
14. Committees of the Board
15. Meetings and procedure of Committees
16. Minutes of proceedings
17. Disclosure of interest
18. Validity of decisions and acts of the Board and of committees
19. Execution of contracts and instruments by the Council

**PART III – PATRON, CHIEF EXECUTIVE OFFICER AND  
STAFF OF COUNCIL**

20. Patron of the Council
21. Chief Executive Officer of the Council
22. Staff of the Council

**PART IV – FINANCIAL PROVISIONS**

- 23. Funds of the Council
- 24. Accounts of the Council
- 25. Financial year and audit

**PART V – MISCELLANEOUS**

- 26. Reports of the Council
  - 27. Minister may give the Board directions on matters of policy
  - 28. Protection from liability
  - 29. Privacy
  - 30. Regulation
  - 31. Repealed of S.I. 6 of 2002 and savings
- Schedule



**NATIONAL AIDS COUNCIL OF SEYCHELLES  
ACT, 2013**

*(Act 13 of 2013)*

*I assent*



J. A. Michel  
President

*2nd December, 2013*

**AN ACT to provide for the establishment of the National AIDS Council of Seychelles and to provide for its composition, functions and powers, measures to combat the spread of the human immunodeficiency virus and the acquired immune deficiency syndrome and the promotion, implementation, co-ordination, monitoring and evaluation of programmes and measures to limit or prevent their spread and for matters connected therewith or incidental thereto.**

**ENACTED** by the President and the National Assembly.

1. This Act may be cited as the National AIDS Council of Seychelles Act, 2013 and shall come into operation on such date as the Minister may, by Notice in the *Gazette*, appoint.

Short title and  
commencement

Interpretation

2. In this Act—

“AIDS” means acquired immune deficiency syndrome and includes AIDS related complex;

“appointed member of the Board” means a member of the Board referred to in section 6 (1) (d), (e), (f) and (g);

“Board” means the Board of the Council referred to in section 5;

“Chief Executive Officer” means the Chief Executive Officer of the Council appointed under section 21(1);

“Committee” means a committee of the Board referred to in section 14(1);

“Council” means the National AIDS Council of Seychelles established by section 3;

“Fund” mean the National AIDS council Fund established under section 23(1);

“HIV” means human immunodeficiency virus;

“Minister” means the Minister responsible for Health.

### PART II – NATIONAL AIDS COUNCIL OF SEYCHELLES AND BOARD OF THE COUNCIL

Establishment  
of National  
AIDS Council  
of Seychelles

3. There is hereby established a council, to be known as the “National AIDS Council of Seychelles”, which shall be a body corporate.

4.(1) Subject to this Act, the functions of the Council shall be to—

Functions and  
powers of the  
council

(a) recommend to the Government policies and strategies and take measures to—

(i) combat HIV and AIDS;

(ii) control and mitigate the effects of the HIV and AIDS epidemic; and

(iii) promote, co-ordinate, monitor and evaluate the application of such strategies and policies;

(b) mobilise and manage resources, whether financial or otherwise, in support of a national response to fight HIV and AIDS;

(c) act as the coordinating mechanism and secretariat for all national and international funding initiatives with respect to HIV and AIDS, Hepatitis-C, sexually transmitted diseases, tuberculosis and malaria and to ensure that all stipulations of these funding initiatives are followed subject to the provisions of this Act;

(d) enhance the capacity of the various sectors of the community to respond to the HIV and AIDS epidemic and to co-ordinate their responses;

(e) encourage the provision of facilities to treat and care for persons infected with HIV and AIDS and their dependants;

(f) monitor and evaluate the effectiveness of the strategies and policies referred to in paragraph (a) and, generally, the national response to fight HIV and AIDS;

- (g) promote and co-ordinate research into HIV and AIDS and to ensure the effective dissemination and application of the results of such research;
- (h) disseminate, and to encourage the dissemination of, information on all aspects of HIV and AIDS;
- (i) submit regular reports to the President, through the Minister, concerning the HIV and AIDS epidemic;
- (j) allocate funds to organisations which in the opinion of the Board is eligible to receive funding subject to the availability of funds;
- (k) generally, to do all things which, in the Board's opinion, are necessary or appropriate to combat HIV and AIDS and to ameliorate the effects of those diseases; and
- (l) exercise such other functions that may be conferred on the Council by or under this Act or any other enactment.

(2) For the efficient discharge of its functions, the Council shall have the power, subject to this Act, to do or cause to be done, by itself or through its agents, all or any of the functions specified in the Schedule, absolutely or conditionally and solely or jointly with others.

Board of the council

5. There shall be a Board of the Council which, subject to this Act, shall be responsible for the management, formulation of the general policies of the Council and controlling its operations.

Composition of the Board

6.(1) The Board shall consist of—

- (a) the Principal Secretary of Health;

- (b) the Public Health Commissioner;
- (c) the Chief Executive Officer;
- (d) a nurse or midwife, nominated by the Seychelles Nurses and Midwives Council, to be appointed by the President;
- (e) a medical practitioner, nominated by the Seychelles Medical and Dental Council, to be appointed by the President;
- (f) an allied health professional, nominated by the Health Professionals Council, to be appointed by the President;
- (g) not less than 8 and not more than 10 persons, to represent women's organisation, youth organisations, religious groups, organisations that protect the interests of persons infected with HIV and AIDS, industry, commerce, information media and trade unions, to be appointed by the President.

(2) The members of the Board nominated under subsection (1) (d), (e) and (f) shall not necessarily be members of the executive committees of the organisations that nominated them but shall be able to contribute significantly towards the functions of the Council.

(3) The Minister shall, before the President makes an appointment under subsection (1) (d), (e) and (f)—

- (a) request the organisation concerned to nominate a person who is suitable and available for appointment as members of the Board; and
- (b) forward to the President the names of persons nominated in response to a request made

under paragraph (a), together with any recommendation the Minister may wish to make on the matter.

(4) Notwithstanding subsection (3) —

- (a) the President may appoint a person to the Board who has not been nominated under subsection (3) (a) or may decline to appoint any person so nominated;
- (b) where the Minister has not received nominations under subsection (3) (a) within such period as he or she may have specified when calling for such nominations, the President may appoint any person as the member of the Board.

7. A person shall not be appointed as a member of the Board, and no person shall be qualified to hold office as appointed member of the Board, if he or she —

- (a) is not a citizen of Seychelles or not ordinarily resident in Seychelles;
- (b) in accordance with any law in force in a country —
  - (i) has been adjudged or otherwise declared insolvent or bankrupt and has not been discharged; or
  - (ii) has made an assignment to, or arrangement or composition with, his or her creditors which has not been rescinded or set aside; or
- (c) has been sentenced, within the period of five years immediately preceding the date of his or her proposed appointment —

Disqualifications  
for appointment  
to the Board

- (i) in Seychelles, for an offence; or
- (ii) outside Seychelles, in respect of conduct which, if committed in Seychelles, would have constituted an offence,

to a term of imprisonment imposed without the option of a fine, whether or not any portion has been suspended, and has not received a free pardon.

8.(1) Subject to this Part, an appointed member of the Board shall hold office for such period, not exceeding 3 years, as the President may fix on his or her appointment, and shall be eligible for re-appointment.

Terms of office  
and conditions  
of service of  
members of the  
Board

(2) On the expiry of the period for which a member has been appointed, he or she shall continue to hold office until he or she has been re-appointed or his or her successor has been appointed or for a period not exceeding 6 months, whichever is earliest.

(3) A member of the Board shall hold office so long as he or she holds the office by virtue of which he or she was nominated or appointed as a member of the Board.

(4) Subject to this Part, an appointed member of the Board shall hold office on the terms and conditions in line with government policy.

(5) Without prejudice to subsection (4), an appointed member of the Board may be paid from the funds of the Council —

- (a) such remuneration as the Minister, with the approval of the Minister responsible for finance, may, in accordance with the government policy, fix; and

- (b) such allowances as the Minister may fix to meet any reasonable expenses incurred by the member in connection with the affairs of the Council.

Vacation of office by appointed member of the Board

9. An appointed member of the Board shall vacate his or her office and his or her office shall become vacant —

- (a) on the expiry of 30 days after he or she gives notice in writing to the President, through the Minister, of his or her intention to resign, or after such other period as he or she and the Minister may agree;
- (b) on the date he or she is convicted of a felony in any country;
- (c) if he or she becomes disqualified under section 7 to hold office as a member of the Board; or
- (d) if he or she is required under section 10 (1) (b) or (c) to vacate his office.

President may require appointed member of the Board to vacate office or may suspend member of the Board

10.(1) The President may require an appointed member of the Board to vacate his or her office if the member —

- (a) has been guilty of improper conduct as a member of the Board or guilty of a conduct that is prejudicial to the interest or reputation of the Council;
- (b) has failed to comply with any condition of his or her office specified by or under section (8); or
- (c) is mentally or physically incapable of efficiently discharging his or her functions as a member of the Board.

(2) The President, on the recommendation of the Board, may require an appointed member of the Board to vacate his or her office if the President is satisfied that the member has been absent without the permission of the Board for three consecutive meetings of the Board, of which the member was given not less than seven days notice, and that there was no just cause for the absence.

(3) The President —

- (a) may suspend from office an appointed member of the Board against whom criminal proceedings have been instituted in respect of an offence for which a sentence of imprisonment without the option of a fine may be imposed;
- (b) shall suspend from office an appointed member of the Board who has been convicted by a court to imprisonment without the option of a fine, whether or not any portion of imprisonment has been suspended, pending the determination of question whether the member is to vacate his or her office,

and while the member is so suspended he or she shall not exercise any functions or be entitled to any remuneration as a member.

11. On the death of, or the vacation of office by, an appointed member of the Board, the President may, subject to this Part, appoint a person to fill the vacancy:

Filling of vacancies on the Board

Provided that, if—

- (a) a vacancy occurs in the office of a member referred to in section 6(1) (g); and

- (b) as a result of the vacancy the number of appointed members is fewer than the minimum specified in section 6(1) (g),

the President shall appoint a person to fill the vacancy within 3 months after being notified of the vacancy by the chairperson of the Board.

Chairperson  
and Vice-  
chairperson  
of the Board

12.(1) The President shall appoint a chairperson and the members of the Board shall elect a vice-chairperson of the Board from among its appointed members.

(2) The chairperson or the vice-chairperson may at any time, by notice in writing given to the President through the Minister, resign his or her office as such.

(3) Within 3 months after being notified of a vacancy in the office of the chairperson or the vice-chairperson of the Board, the President shall appoint the chairperson, or as the case may be, the Board shall elect another appointed member of the Board as the vice chairperson.

(4) The vice-chairperson shall exercise the functions of the chairperson whenever the office of the chairperson is vacant or the chairperson is for any reason unable to discharge his or her functions.

Meetings  
and  
procedure  
of the Board

13.(1) The Board shall hold its first meeting on a date and place fixed by the Minister, and thereafter, subject to this section, shall meet for the dispatch of business and adjourn, close and otherwise regulate its meetings and procedure as it thinks fit, provided that the Board shall meet at least 3 times in each year.

(2) The chairperson of the Board—

- (a) may convene a special meeting of the Board at any time; and

- (b) shall convene a special meeting of the Board, on the written request of the Minister or not less than 2 members of the Board, on a date not sooner than 7 days and not later than 30 days after the chairperson's receipt of the request.

(3) Written notice of a special meeting convened under subsection (2) shall be sent to each member of the Board not later than 48 hours before the meeting and shall specify the business for which the meeting has been convened.

(4) No business shall be discussed at a special meeting convened under subsection (2) other than—

- (a) such business as may be determined by the chairperson of the Board, where he or she convened the meeting under subsection (2)(a); or
- (b) the business specified in the request for the meeting, where the chairperson of the Board convened the meeting under subsection (2)(b).

(5) The chairperson of the Board or, in his or her absence, the vice-chairperson shall preside at the meetings of the Board.

(6) In the case where both the chairperson and vice-chairperson are absent from any meeting of the Board, the members present may elect one of the members to preside at that meeting.

(7) Half the number of members of the Board shall form a quorum at any meeting of the Board.

(8) Subject to subsections (1), (2) and (3), anything authorised or required to be done by the Board may be decided

by a majority of votes at any meeting of the Board and in the event of an equality of votes, the person presiding at the meeting shall have a casting vote.

(9) The chairperson of the Board may, with the approval of the Board, invite any person to attend a meeting of the Board, where the chairperson considers that the person has special knowledge or experience in any matter to be considered by the Board at that meeting.

(10) A person invited to attend a meeting of the Board under subsection (9) may take part in the proceedings, in so far as it relates to the matter for which he or she was invited, but shall not have a vote on any question before the Board.

(11) Any proposal circulated among all members and agreed to in writing by a majority shall have the same effect as a resolution passed in a meeting of the Board and shall be incorporated into the minutes of the next succeeding meeting of the Board.

(12) Subsection (11) shall not apply to the proposal, if any member of the Board requires that such proposal be placed before a meeting of the Board.

Committees  
of the Board

14.(1) The Board may for the efficient discharge of its functions, constitute such other committees as it considers necessary to advise the Board on matters relating to its functions.

(2) On the constitution of a committee under subsection (1), the Board—

- (a) shall appoint to the committee, at least one member of the Board, who shall be the chairperson of the committee; and

- (b) may appoint persons who are not members of the Board as members of the committee on such terms and conditions as the Board may determine.

15.(1) The meetings of any committee of the Board may be convened at any time and at any place by the chairperson of the Board or by the chairperson of the committee concerned.

Meetings and  
procedure of the  
committee

(2) Subject to section 14, the procedure of the committees of the Board shall be determined by the Board.

16.(1) The Board shall cause minutes of all proceedings of, and decisions taken at, all meetings of the Board and its committees to be entered in books kept for the purpose.

Minutes of the  
Proceedings

(2) Any minutes referred to in subsection (1), shall be signed by the chairperson at the next following meeting of the Board or the committee concerned, as the case may be, and shall be *prima facie* evidence of the proceedings of decisions taken at that meeting.

17.(1) A member of the Board who has interest in any contract, application or other transaction for consideration by the Board shall disclose in writing the nature of that interest and shall not participate in any deliberation of the Board on that matter.

Disclosure  
of interest

(2) A member who fails to comply with subsection (1) shall be liable to have his or her appointment terminated.

18. No decision or act of the Board or a committee of the Board shall be invalid solely on the ground that there was a vacancy in the membership of the Board or the committee, as the case may be, or that a disqualified person purported to act as a member of the Board or the committee concerned at the time the decision was taken or the act was done or authorised.

Validity of  
decisions and  
acts of the Board  
and committees



Execution of contracts and instruments by the council

19. An agreement, contract or instrument approved by the Board may be entered into or executed on behalf of the Council by any person generally or specifically authorised by the Board for that purpose.

### PART III – PATRON, CHIEF EXECUTIVE OFFICER AND STAFF OF THE COUNCIL

Patron of the council

20.(1) The President shall be the Patron of the Council.

(2) The Patron may at any time attend and address any meeting of the Board or any committee and may take part in the proceedings of any such meeting.

Chief Executive Officer of the Council

21.(1) The President, shall appoint a Chief Executive Officer of the Council from among persons having qualifications and experience relevant to the functions of the Council.

(2) No person shall be appointed as the Chief Executive Officer or be qualified to hold office as such, if he or she would be disqualified to be appointed as a member of the Board under section 7 or required to vacate office as a member of the Board under section 10(1), had those sections applied to him or her.

(3) The Chief Executive Officer shall hold office for such period, and upon such terms and conditions, as may be determined by the President and be the *ex officio* member of the Board.

(4) Subject to the control of the Board, the Chief Executive Officer shall —

- (a) be responsible for the efficient management of the activities, funds and property of the Council;

- (b) exercise general authority over the conduct and discipline of the staff of the Council; and
- (c) exercise such functions of the Council as the Board, with the approval of the Minister, may assign.

22.(1) The Board may employ such persons as it considers necessary to carry out the functions of the Council.

Staff of Council

(2) A person shall be employed under subsection (1) on such terms and conditions as may be determined by the Board and approved by the Minister after consultation with the President.

(3) The persons employed under subsection (1) shall be public servants and shall follow the laws, rules and regulations, and enjoy the benefits, of the public service.

### PART IV – FINANCIAL PROVISIONS

23.(1) There shall be established the National Aids Council Fund for the purposes of this Act.

Funds of the Council

(2) The Fund shall consist of—

- (a) any moneys appropriated by the National Assembly for the purpose of this Act;
- (b) fees and charges raised for services and facilities provided and other things done by the Council;
- (c) donations and grants from any source which may be accepted with the approval of the Minister; and
- (d) such money as may be raised with the approval of the Minister and the Minister responsible for finance.

(3) The Fund shall be applied for the discharge of the expenses in carrying out the functions of the Council, the payment of emoluments to the members of the Board, committees, officers and staff of the Council and other expenses for the purpose of this Act as may be authorised by the Board.

Accounts  
of the  
Council

24.(1) The Board shall ensure that proper accounts and other records are kept in respect of all the Council's activities, fund and property, including such particular accounts and records as the Minister may direct.

(2) The Board shall, within four months from the end of each financial year, prepare and submit to the Minister a statement of accounts and its activities in respect of that financial year or in respect of such other period as the Minister may direct.

Financial  
year and  
audit

25.(1) The financial year of the Council shall be the calendar year.

(2) The Council shall keep proper accounts and other relevant records in line with modern accounting methods, and in such form as may be approved by the Auditor General.

(3) The accounts of the Council shall be audited by the Auditor-General in accordance with article 158 of the Constitution.

(4) The Board shall cause a copy of the audited accounts of the Council in respect of any financial year and the report of the Auditor-General thereon to be forwarded to the Minister, who in turn shall cause the audited accounts to be tabled in the National Assembly.

#### PART V – MISCELLANEOUS

Report of the  
Council

26.(1) The Council shall submit to the Minister reports in regards to the operations, undertakings and activities of the Council.

(2) The Board shall give the Minister all information relating to the operations, undertakings and activities of the Council that the Minister may at any time require.

27. The Minister may give the Board such directions of a general character relating to the policy which the Council is to observe in exercise of its functions.

Direction  
on Policy  
Matters

28.(1) No liability shall be attached to the Council, the Board, the Chief Executive Officer or any member of the Board or a committee of the Board for any loss or damage sustained by any person as a result of the exercise of any function done in good faith by the Council, Board, the Chief Executive Officer or the member, as the case may be, under this Act or any other written law.

Protection  
from  
liability

(2) This section shall not be construed so as to prevent any person from recovering, by proceedings in a court of competent jurisdiction, compensation for any loss or damage which was caused by negligence or breach of contract.

29. Any person who discloses any information acquired by him or her in the performance of any functions under this Act, in relation to the state of health or personal information of any other person shall commit an offence and upon conviction be liable to a fine not exceeding SCR10,000.

Privacy

30. The Minister may by regulation provide for all matters which by or under this Act are required or permitted to be prescribed or which, in his or her opinion, are necessary to be provided for to carry out or give effect to the provisions of this Act.

Regulation

31.(1) The National Aids Trust Fund Notice 2002, made under section 2 of the Public Finances Act, is hereby repealed.

Repealed of  
S.I. 6 of 2002  
and savings

(2) All monies standing to the conduct of the National AIDS Trust Fund under the repealed Notice on the date of

commencement of this Act shall be transferred and credited to the Fund under this Act.

(3) Any account opened and unascertained with a financial institution in Seychelles by the National AIDS Trust Fund under the repealed Notice shall continue to operate and to be maintained by the Fund.

## SCHEDULE

### POWERS OF THE COUNCIL

[Section 4(2)]

The council shall have the power to —

(1) acquire premises necessary or convenient for the exercise of its functions and for that purpose to buy, take on lease or in exchange, hire or otherwise acquire immovable property and interests, rights, concessions, grants, powers and privileges in respect of such property;

(2) maintain, alter or improve property acquired by it;

(3) mortgage any assets or part of any assets and to sell, exchange, lease, dispose of, turn to account or otherwise deal with any assets or part of any assets which are not required for the exercise of its functions for such consideration as the Board may determine;

(4) insure against losses, damages, risks and liabilities which it may incur;

(5) make contracts and enter into suretyships or give guarantees in connection with the exercise of its functions and to modify or rescind such suretyships or guarantees;

(6) enter into, renew, cancel or abandon arrangements with any government or authority, local or otherwise, that

may seem conducive to the exercise of any of its functions and to obtain from such government or authority rights, privileges and concessions;

(7) subject to the approval of the Ministry of Finance establish and administer such funds and reserves not specifically provided for in this Act as the Board may consider appropriate or necessary for the proper exercise of the functions of the Council;

(8) do anything for the purpose of improving the skill, knowledge or usefulness of its members of staff, and in that connection to provide or assist other persons in providing facilities for training, education and research;

(9) provide for such services and facilities as the Board may consider to be provided by the Council and to charge for such services and facilities such fee as the Board may from time to time determine;

(10) engage in, establish, operate or manage schemes for—

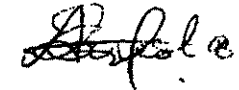
(a) the training of persons engaged or to be engaged in any activity related to HIV or AIDS or any other sexually transmitted disease; and

(b) research into systems and procedures which relate to HIV or AIDS or any other sexually transmitted disease;

(11) with the approval of the Minister and the Minister responsible for finance provide financial assistance to any person or organisation whose activities are, in the opinion of the Board, of benefit to the Council and its functions; and

(12) generally do anything that is necessary to or incidental to the exercise of the functions of the Council under this Act or any other enactment.

I certify that this is a correct copy of the Bill which was passed by the National Assembly on 19th November, 2013.



Azarel Ernesta  
Clerk to the National Assembly