

SEYCHELLES

COMPANIES (SPECIAL LICENCES) ACT, 2003

ARRANGEMENT OF SECTIONS

1. Short title and commencement
2. Interpretation
3. This Act to prevail over certain laws
4. Objects of a relevant company ,
5. Application for approval of Authority and incorporation
6. Documents forwarded to Registrar
7. Incorporation
8. Effect of incorporation
9. Special Licence
10. Revocation of Licence etc.
11. Shares
12. Management
13. Secretary
14. Meetings and resolutions
15. Annual return and accounts
16. Continuation of an IBC or a foreign company
17. Effect of continuation
18. Continuation outside Seychelles
19. Reservation of name
20. Exemptions
21. Taxation
22. Preservation of secrecy etc.
23. Fees
24. Regulations

Short title and commencement

1. This Act may be cited as the Companies (Special Licences) Act, 2003 and shall come into operation on such date as the Minister may, by notice in the Gazette, appoint.

Interpretation

2. In this Act,

“Authority” means the Seychelles International Business Authority established by the Seychelles International Business Authority Act (Cap 216A):

“relevant company” is a company that is incorporated or continued in accordance with section 7 or section 17 of this Act;

“Registrar of Companies” means the Registrar of Companies appointed under section 329 of the Companies Act, 1972;

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

This Act to prevail over certain laws

3. Notwithstanding anything to the contrary in the Companies Act, 1972 or the International Business Companies Act, the provisions of this Act shall apply to, and in respect of, a relevant company.

Objects of a relevant company

4. The objects of a relevant company as stated in its memorandum shall be limited to the carrying on of any one or more of the businesses specified in Schedule 1.

Application for approval of Authority and incorporation

5.(1) Before a relevant company is incorporated in accordance with this Act, an application shall be made in the prescribed form to the Registrar of Companies through the Authority requesting that the company be incorporated subject to the approval of the Authority.

(2) An application referred to in subsection (1) shall be accompanied by -

- (a) a certificate signed by a legal practitioner practising in Seychelles to the effect that the memorandum and articles of the company comply with the Companies Act, 1972 read with this Act;
- (b) names and addresses of shareholders and, where any such shareholder is a nominee, the name and address of the person on whose behalf the shares are held by the nominee;
- (c) the memorandum and articles of association duly signed and dated;
- (d) a written declaration containing -
 - (i) the names and addresses of the directors;

- (c) any act has been done by or on behalf of a relevant company in Seychelles or elsewhere which has harmed or is likely to harm the reputation of Seychelles: or
- (d) a relevant company has failed to comply with a condition of the Special Licence in disregard of a reminder in writing,

the Authority may serve a written notice on the relevant company of the Authority's intention to revoke the Special Licence, stating the grounds on which such revocation will be made and requiring the company within one month from the service of the notice to make written representations which the Authority will take into consideration.

(2) If within one month from the service of a notice under subsection (1), the relevant company does not make written representations, or if the Authority after considering any representations which the relevant company makes within that time is satisfied that the ground specified in the notice for the proposed revocation is made out, the Authority may by notice served on the relevant company revoke the Special Licence granted to it and the notice shall only have effect subject to the provisions of subsection (4).

(3) Within 90 days after the service of the notice of revocation under subsection (2), the relevant company may make an application to the Supreme Court for relief against the notice of revocation and the Court may annul the notice of revocation if the Court is satisfied that the grounds on which the notice of revocation was made do not exist or that the notice of revocation should be annulled for any other reason.

(4) If a notice has been served under subsection (2) and ninety days have elapsed without the relevant company making an application to the Supreme Court: or where an application has been made and it has been refused and the period of time in which an appeal may be preferred to the Court of Appeal has elapsed; or where an appeal to the Court of Appeal has been preferred and it has been decided against the relevant company, then the notice of revocation shall take effect immediately.

Shares

11. A relevant company -

- (a) shall not issue bearer shares;
- (b) may issue shares to persons who are the nominees of other persons provided that the names and addresses of those other persons are recorded in the register of shares.

Management

12. The business and affairs of a relevant company shall be managed by a board of directors consisting of at least two individuals.

Secretary

13.(1) A relevant company shall at all times have a secretary of the company and such secretary shall be a resident of Seychelles or a body corporate incorporated in Seychelles.

(2) All applications made and all documents required to be submitted to the Registrar or the Authority under any Act by a relevant company shall be made or submitted through the secretary who or which shall verify in writing the signature of any person appearing on the application or document.

(3) The secretary may accept service on behalf of the relevant company and any service accepted by the secretary shall be deemed to have been accepted by the company.

Meetings and resolutions

14.(1) Subject to any limitation in the memorandum or articles, a person shall be deemed to be present at a meeting of shareholders or directors if -

- (a) he participates by telephone or other electronic means, and
- (b) all the persons participating in the meeting are able to hear each other and recognise each other's voice and, for this purpose, participation constitutes *prima facie* proof of recognition.

(2) Subject to any limitation in the memorandum or articles, an action that may be taken at a meeting of shareholders or directors may also be taken at a meeting of shareholders or directors as the case may be, consented to by all such shareholders or directors in writing, or by telex, cable or other written electronic communication without need for any notice.

Annual return and accounts

15.(1) A relevant company shall every year transmit only to the Authority its annual returns and the documents relating to the accounts to be annexed to the annual return not more than 90 days after the end of each financial year of the company.

(2) Section 117 of the Companies Act (relating to offences in connection with annual return) shall apply to a relevant company as if the words "the Registrar" in that section were repealed and the words "the Authority" were substituted therefor.

Continuation of an IBC or a foreign company

16.(1) An international business company incorporated under the International Business Companies Act or a company incorporated under the laws of a jurisdiction outside Seychelles may continue as a company incorporated in accordance with this Act as follows -

- (a) articles of continuation, written in the English or French language or, if written in a language other than the English or French language, accompanied by a translation in the English or French language certified by the secretary of the company of the articles of continuation, shall be approved -
 - (i) by a majority of the directors or the other person who is charged with exercising the powers of the company, or
 - (ii) in such other manner as may be established by the company for exercising the powers of the company;
- (b) the articles of continuation shall contain -
 - (i) the name of the company and the name under which it is being continued,
 - (ii) the jurisdiction under which it is incorporated,
 - (iii) the date on which it was incorporated,
 - (iv) the information required to be included in a memorandum, and

(v) the amendments to its memorandum and articles, or their equivalent, that are to be effective upon the registration of the articles of continuation:

(c) an application for the approval of the Authority for the continuation of the company, together with the articles of continuation, accompanied by a copy of the memorandum and articles of the company, or their equivalent, written in the English or French language or, if written in a language other than the English or French language, accompanied by a translation in the English or French language certified by the secretary of the company of the memorandum and articles or their equivalent and the documents referred to in section 5(2) (a), (b), (d) and (e) shall be submitted to the Authority;

(d) where the Authority grants its approval, the certificate of such approval and the documents referred to in paragraph (c) other than the document containing the names and addresses of shareholders shall be forwarded to the Registrar of Companies who may retain and register the memorandum and articles in the register if he is satisfied that they comply with the provisions of this Act; and

(e) upon the registration of the articles of continuation, the Registrar of Companies shall issue a certificate of continuation under his hand certifying that the company is incorporated under the Companies Act and stating the date of the incorporation.

(2) A certificate of continuation issued by the Registrar under subsection (1) (e) shall be *prima facie* evidence of compliance with all the requirements of this Act in respect of continuation.

(3) A company incorporated under the laws of a jurisdiction outside Seychelles shall be entitled to continue as a company incorporated in accordance with this Act notwithstanding any provision to the contrary in the laws of the jurisdiction under which it is incorporated.

Effect of continuation

17.(1)

- (a) no conviction, judgement, ruling, order, claim, debt, liability or obligation due or to become due and no cause existing against the company or against any member, director, officer or agent thereof, is released or impaired by its continuation as a company under this Act; and
- (b) no proceedings whether civil or criminal, pending at the time of the issue by the Registrar of Companies of a certificate of continuation under section 16(1) (e) by or against the company, or against any member, director, officer or agent thereof are abated or discontinued by its continuation as a company under this Act, but the proceedings may be enforced, prosecuted, settled or compromised by or against the company or against the member, director, officer or agent thereof as the case may be.

(3) All issued shares in the company that were outstanding prior to the issue by the Registrar of Companies of a certificate of continuation under section 16(1) (e) in respect of the company shall be deemed to have been issued in conformity with this Act, but a share that at the time of the issue of the certificate of continuation was not fully paid remains such, and until the share is fully paid up, the member holding the share remains liable for the amount unpaid on the share.

(4) If at the time of the issue by the Registrar of Companies of a certificate of continuation under section 16(1) (e) in respect of the company any provisions of the memorandum and articles of the company do not in any respect accord with this Act -

- (a) the provisions of the memorandum and articles continue to govern the company until the provisions are amended to accord with this Act or for a period of 2 years immediately following the date of the issue of the certificate of continuation, whichever is the sooner;
- (b) any provisions of the memorandum and articles of the company that are in any respect in conflict with this Act cease to govern the company when the provisions are amended to accord with this Act or after the expiration of a period of 2 years after the date of issue of the certificate of continuation whichever is the sooner; and
- (c) the company shall make such amendments to its memorandum and articles as may be necessary to accord with this Act within a period that is not later than 2 years immediately following the date of the issue of the certificate of continuation.

Continuation outside Seychelles

18.(1) Subject to any limitations in its memorandum or articles a relevant company may, by a resolution of directors or by a resolution of members, continue as a company incorporated under the laws of a jurisdiction outside Seychelles in the manner provided under those laws.

(2) Where a relevant company continues under the laws of a jurisdiction outside Seychelles - amended

against any member, director, officer or agent thereof, are abated or discontinued by

SCHEDULE 1

Section 4

Investment management and advice

Offshore banking

Offshore insurance

Reinsurance

- Business of
- (a) an investment company
 - (b) a holding company
 - (c) a marketing company
 - (d) a company holding intellectual property
 - (e) a headquarters company
 - (f) a human resources company
 - (g) a franchise company

Business under an ITZ licence

SCHEDULE 2

SCHEDULE 3

FEES

Section 23

(a)	An application for incorporation	US\$200
(b)	Annual licence fee	US\$1000
(c)	Annual return filing fee	US\$200