

**CIVIL CODE OF SEYCHELLES (CONSEQUENCE OF ENACTMENT) ACT, 2021**

*(Act 24 of 2021)*

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**CIVIL CODE OF SEYCHELLES (CONSEQUENCE OF ENACTMENT) ACT, 2021**

*(Act 24 of 2021)*



*I assent*

A handwritten signature in black ink, appearing to read "Wavel".

Wavel Ramkalawan  
President

*28th June, 2021*

**AN ACT to make amendments consequential on the enactment of the Civil Code of Seychelles Act, 2020 (*Act 1 of 2021*).**

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

**Short title**

**1.** This may be cited as the Civil Code of Seychelles (Consequence of Enactment) Act, 2021.

## **Commencement**

2. This Act shall come into operation on the same date that the Civil Code of Seychelles Act 2020, (*Act 1 of 2021*) comes into operation.

## **Consequential amendments, repeal and transitional provisions**

3. The amendments, repeals and transitional provisions (*Act 1 of 2021*) are those set out in the Schedule.

## **SCHEDULE**

### **Consequential amendments**

#### **Amendment of the Civil Status Act (Cap 134)**

1. The Civil Status Act (Cap 134) is amended by —
  - (a) the repeal of section 34(b);
  - (b) the repeal of sections 40 to 79.

#### **Amendment of the Commercial Code (Cap 38)**

2. The Commercial Code Act (Cap 38) is amended —
  - (a) by the repeal of articles 2 and 4;
  - (b) in article 12, by the deletion of paragraph (2) and the insertion of the following new paragraph (2) —

**“(2)** Book entries of merchants are not proof of the supply of goods in respect of non-traders, subject to the law relating to oaths”;
  - (c) by the repeal of article 91 and the insertion in its place of the following new article —

**“Article 91**

(1) The privilege and priority that a pledge confers on a creditor applies when the pledge has been given by a trader or by a person who is not a trader in a transaction of a commercial nature.

(2) (a) Such a pledge may be proved by written or oral evidence or by such other evidence as is admissible in law.

(b) Such forms and manner of proof are available both to, for and against the contracting parties and to, for and against third parties.

(3) When negotiable instruments or negotiable securities are given in pledge, the pledge is valid as regards the party to the contract and all third parties and shall be sufficiently proved by an endorsement signed by the pledgor or stating that the instruments or securities delivered have been delivered only in warranty of a debt.

(4) (a) In respect of policies of insurance with an insurance company, the transmission of which is effected by an entry on the register of the company, the pledging of the same is valid as against the parties to the contract and all third parties and shall be sufficiently proved by an entry inscribed on the register of the company stating the fact that the pledgee holds the policy of insurance not as the owner but in warranty of debt.

(b) An insurance company or other legal person may refuse to register such a transaction if that company or person has prior claims of privilege on the policies to be given in warranty.

(5) (a) In cases not covered by paragraphs (1) to (4) a pledge shall require for its validity a document in authentic form or a signed document, duly registered, containing a statement of the sum due as well as the kinds of nature of the things delivered as pawn or an annexed list of their quality, weight and measure.

(b) A written document and registration are not required for a pawn the value of which is less than R50,000.

(c) Things delivered and duly registered in accordance with this paragraph shall be presumed to remain in the possession of their owners, whose claims shall not be defeated by any third party claiming possession in good faith.

(6) (a) The privileges and rights referred to in paragraph (5) apply only to incorporeal things.

(b) Nothing contained in paragraphs (1) to (4) shall affect personal claims or claims to movable property with which the assignee can be vested as regards third parties only after notice of the transfer has been served upon the debtor.

(7) The deposit of sums or the consignment of goods or assets ordered by a Court by way of security shall enjoy the privilege laid down in article 2073 of the Civil Code and the rights and privileges of paragraph (5) of this article.

(8) All negotiable instruments or securities and all other rights of securities given in pledge under this article may be sued on and recovered by the creditor to whom the same have been given in pledge.”;

(d) by the insertion of the following article immediately following article 109-7 —

**“Article 109-8**

Article 1148(2), (3), and (4) of the Civil Code do not apply to a contract for the sale of specific goods which perish, whether or not the risk passed to the buyer before the date on which the goods perished”;

(e) by the insertion of the following article immediately following article 190 —

**“Article 191**

Article 1148(2), (3), and (4) of the Civil Code do not apply —

- (a) to a charter party other than a time charterparty or a charterparty by way of demise; or
- (b) to a contract for the carriage of goods which in commercial practice is normally covered by insurance”.

**Amendment of the Delineation and Classification of the Domaine Public Act (Cap 60)**

3. The Delineation and Classification of the Domaine Public Act (Cap 60) is amended by repealing sections 5, 6, and 7.

**Amendment of the Interpretation and General Provisions Act (Cap. 103)**

4. The Interpretation and General Provisions Act (Cap 103) is amended —

- (a) by the insertion in section 22(1) in alphabetical order, the following definition: “furnishings (*meubles meublants*) means, in relation to a dwelling, items of movable property for the use and decoration for the dwelling”;
- (b) by the deletion in section 57 of subsection (4) and the insertion of the following subsection

“(4) In this section “excluded day” means a Saturday, a public holiday, or a bank holiday declared under section 64 of the Financial Institutions Act 2004”;

- (c) by the insertion in section 57 of the following subsection —

“(7) (a) Time limits expressed in days, weeks, months or years run from midnight on the day on which the time limit

begins to run, until midnight on the day on which the time limit expires.

(b) Notwithstanding paragraph (a), an act which is to be performed before the expiry of a time limit may, in accordance with the particular business practice, only be performed before the end of normal business hours on the day of expiry of the time limit.

(c) Where a time limit is expressed in weeks, the time expires on the weekday on which the time began to run.

(d) Where a time limit is expressed in months, the time expires on the date in the final month which corresponds to the date on which time began to run, or where there is no such corresponding date, the final day of the final month.

(e) Where a time limit is expressed in years, the time expires on the date in the final year which corresponds to the date on which time began to run, or where there is no such corresponding date, on 1 March of the final year.

(f) Where a time limit is expressed in months and days or fractions of months, whole months shall be counted first, and afterwards the days or fractions of months.

(g) Saturdays and public holidays are included when calculating a time limit.”.

### **Amendment of the Mortgage and Registration Act (Cap 134)**

5. The Mortgage and Registration Act (Cap 134) is amended by the repeal of section 82.

### **Amendment of the Presumption of Deaths Act (Cap. 177)**

6. The Presumption of Deaths Act (Cap 177) is amended —

(a) by the addition of the following sections —



**“19.** A persons who has been granted provisional control shall not convey or mortgage any part of the immovable property of the person declared absent.

**20.** After a judicial declaration of absence or death, claims against a person so declared shall be enforceable only against those who have been granted legal control of the property.

**21.(1)** Any party claiming the benefit of a right that has accrued to a person who has been declared absent must prove that the said person was alive at the time when the right arose.

(2) In default of such proof, that person's claim shall be declared to be inadmissible.

**22.(1)** If a succession devolves upon a person who has been declared absent, it shall devolve exclusively upon such other persons as may be jointly entitled to succeed with that person.

(2) In the absence of such persons, the succession shall devolve upon those entitled in place of the person declared absent.

**23.(1)** Sections 21 and 22 do not affect the right to maintain an action for the recovery of an inheritance, or to claim other rights to which a person declared absent or his representatives or assigns are entitled.

(2) Such actions and rights shall only be extinguished by prescription.

**24.** If the absentee does not re-appear and no rights of action are exercised on the absentee's behalf, those upon whom the succession has devolved are entitled to any profit and income received in good faith.”

### **Amendment of Seychelles Code of Civil Procedure (Cap 213)**

7. The Seychelles Code of Civil Procedure (Cap 213) is amended in section 219 by —

- (a) numbering the existing provision “(1)”;
- (b) inserting the following new subsection —

“(2) When one party to a civil action is a non-resident, the Court may, at the request of the other party, and for good reason, make an order requiring the non-resident party to give security for costs and for any damages that may be awarded against that party.”

### **8. Repeals**

The following Act are hereby repealed —

- (a) Age of Majority Act (Cap 4);
- (b) Domicile Act (Cap 66);
- (c) Insurance Policies Act;
- (d) Matrimonial Causes Act (Cap 124);
- (e) Status of Married Women Act (Cap 230)

### **9. Transitional and savings provisions**

(1) Pending the enactment of legislation for the purposes of article 1390 of the Civil Code of Seychelles, the civil law of defamation will continue to be governed by the law of England as under article 1383(3) of the Civil Code of Seychelles as enacted in 1975.

(2) Subsidiary legislation made under the Matrimonial Causes Act in force at the commencement of this Act will continue in force under the Civil Code of Seychelles Act, 2020 (*Act 1 of 2021*) in relation to matrimonial and *en ménage* causes.

(3) All wills and marital property contracts executed before the commencement of this Act shall be governed by the enactments and the rules of construction and law which would have applied to them if this Act had not been passed.

(4) Unless expressly repealed, rules made under repealed Acts continue in force to the extent that they are not inconsistent with the provisions of the Civil Code of Seychelles Act, 2020 (*Act 1 of 2021*).

(5) A *droit de superficie* in existence at the commencement of the Code must comply with article 554 of the Civil Code of Seychelles Act, 2020 (*Act 1 of 2021*) by 1 July, 2022, failing which the relationship of the parties will be governed by article 555 of the Code.

(6) A counter-letter (*contre-lettre*) in existence at the commencement of the Civil Code of Seychelles Act, 2020 (*Act 1 of 2021*) must comply with article 1321 of the repealed Civil Code of Seychelles Act 1975 by 1 July, 2022, failing which the counter-letter will have no legal effect.

I certify that this is a correct copy of the Bill which was passed by the National Assembly on 23<sup>rd</sup> June, 2021.



Mrs. Tania Isaac  
Clerk to the National Assembly