

Disclaimer: This copy of the Foreign Exchange Act, has been updated for informational purposes to include amendments made under Act 10 of 2009, S.I 64 of 2009 and Act 22 of 2010. The Central Bank accepts no liability for any loss arising of its use. The updated version of the Act is intended for guidance only and the original Act and amending instruments should be consulted for legal purposes.

FOREIGN EXCHANGE ACT, 2009
(as amended in 2009 and 2010)

ARRANGEMENT OF SECTIONS

1. Short title
2. Interpretation
3. Permitted activities of authorised dealers
4. Authorised dealers to display exchange rates and other information
5. Payments, receipts and transfers for international transactions to be made through authorised dealers
6. Payments for export of goods and services to be received in convertible foreign currency
7. Advertisement of goods and services
8. Payments for goods and services provided in Seychelles to be in domestic currency
9. Duty to keep records
10. Powers of Minister to ensure compliance with the Act
11. Offences
12. Compounding of offences
13. Protection of acts done in good faith
14. Delegation of powers of Minister
15. Regulations
16. Repeal of Cap 76

-
1. This Act may be cited as the Foreign Exchange Act, 2009. Short Title
 2. In this Act, Interpretation

“authorised dealer” means —

(a) a bank; or

(b) a Bureau de Change;

Act 14 of 2004 “bank” means a person licensed under the Financial Institutions Act to conduct banking business;

Act 14 of 2004 “Bureau de Change” means a person licensed under the Financial Institutions Act to carry on foreign exchange business;

Act 12 of 2004 “Central Bank” means the Central Bank of Seychelles established by section 3 of the Central Bank of Seychelles Act;

“convertible foreign currency” means a foreign currency that is widely traded in international foreign exchange markets;

“domestic currency” means currency notes and coins issued by the Central Bank;

“foreign currency” means currency notes and coins not issued by the Central Bank;

“foreign exchange” means —

(a) Foreign currency and

(b) monetary claims including —

(i) deposits, credits and balances; and

(ii) drafts, travellers cheques, letters of credit and bills of exchange,

payable in a foreign currency;

“international transaction” means a transaction between a resident and a non-resident whether it takes place in Seychelles or outside Seychelles;

“Minister” means the Minister responsible for finance;

“non-resident” means a person who is not a resident;

“person” means any natural or legal person and includes a body of persons, whether it has legal personality or not;

“resident” means —

Cap 93

- (a) a natural person who resides permanently in Seychelles or holds a valid residence permit issued under the Immigration Decree or has been physically present in Seychelles for a period of at least one year;
- (b) an office, branch or agency of a legal person that is registered or incorporated in Seychelles or that has its centre of economic interest in Seychelles;
- (c) (i) a member of a diplomatic or consular mission of Seychelles located outside Seychelles; and

(ii) the staff of such diplomatic or consular mission and members of their family who are citizens of Seychelles;
or
- (d) the surviving heir of a person referred to in paragraph (a) or (c) where that heir resides permanently in Seychelles or holds a valid residence permit issued under the Immigration Decree or has been physically present in Seychelles for a period of at least one year;

“transfer” means a unilateral or unrequited transfer, whether current or capital in nature, and includes a remittance by a non-resident of the proceeds of a payment received in Seychelles.

- 3.** (1) A person other than an authorised dealer shall not, as a business —

Permitted
activities of
authorised
dealers

- (a) buy foreign currency from or sell foreign currency to any person other than an authorised dealer;
- (b) set an exchange rate for the buying or selling of foreign currency; or

(c) act as a facilitator for payments, receipts or transfers in respect of international transactions in accordance with section 5.

(2) For the purposes of this section, a person carries on any of the activities specified in subsection (1)(a), (b) or (c) as a business, if that person carries on any of those activities on a sustained basis and for a profit.

(3) Notwithstanding subsections (1) and (2), a licensed hotel shall not be deemed to be carrying on the activities specified in subsection (1) (a) as a business if the activities are carried on only in respect of that hotel's clients and are limited to such amounts as may be prescribed.

Amended by
Act 10 of 2009

4. An authorised dealer shall conspicuously display at its exchange counter —

Authorised
dealers to
display
exchange rates
and other
information

(a) its exchange rates for the buying and selling of foreign currency; and

(b) any commission, fee or other item that affects the net proceeds of a sale or purchase of foreign currency.

5. (1) Payments to and receipts from, and transfers to and from any person outside Seychelles with respect to an international transaction shall be made through an authorised dealer.

Payments,
receipts and
transfers for
international
transactions to be
made through
authorised
dealers

Amended by
Act 10 of 2009

(2) Subsection (1) shall not be construed as prohibiting the use of foreign currency bank accounts for payment to, and receipt from, and transfers to and from, a person outside Seychelles with respect to an international transaction.

Amended by
Act 10 of 2009

6. Payments for the export of goods and services from Seychelles shall be received by the exporter in a convertible foreign currency.

Payments for
export of goods
and services to
be received in
convertible

7.
Advertisement of
goods and
services

- (1) Goods sold and services provided in Seychelles which are advertised for or invoiced in Seychelles shall be advertised for or invoiced in the domestic currency.
- (2) Goods sold and services provided in Seychelles may be advertised for outside Seychelles in a foreign currency.
- (3) Goods sold and services provided in Seychelles which are advertised for in media which makes the advertisement accessible both in and outside Seychelles —
- (a) shall, where the goods and services are intended for persons in Seychelles, be advertised in the domestic currency;
 - (b) may, where the goods and services are intended for persons outside Seychelles, be advertised in a foreign currency; and
 - (c) shall, where the goods and services are intended for persons both in and outside Seychelles, be advertised in both the domestic and a foreign currency.

Amended by
Act 10 of 2009

8.
Payments for
goods and
services provided
in Seychelles to
be in domestic
currency

- (1) Subject to subsection (2), payments to any person in Seychelles for goods and services provided in Seychelles shall be made in the domestic currency.
- (2) Notwithstanding subsection (1), any person may —
- (a) accept payment for goods or services provided in Seychelles in a foreign currency where payment in a foreign currency is made under a

written law, is agreed to or is contractually stipulated by the parties;

(b) offer to the person making a payment under paragraph (a), any money remaining after the transaction, in a foreign currency.

(3) Any conversion of currency under subsection (2)(a) or (b) shall be calculated at the current exchange rate published by a bank and subject to such reasonable commission as the person accepting payment may charge.

Amended by
Act 10 of 2009

(4) A person who acquires any foreign currency under subsection (2) shall not sell such foreign currency to any person other than an authorised dealer.

Duty to keep
records

9. A person who engages in or facilitates a foreign exchange transaction shall keep records of the transaction for a period of at least 7 years.

***10.** The Minister or such other person authorised by the Minister may

Powers of
Minister to
ensure
compliance
with this Act

(a) require any document or information from any person in Seychelles; or

(b) conduct on site inspection of any person in Seychelles;

to ensure compliance with this Act and for such other purpose as it considers necessary including the collection of statistics.

Note: The powers and duties of the Minister under the Act except those under sections 14 and 15 are delegated to the Governor of the Central Bank of Seychelles (S.I. 64 of 2009)

- 11.** (1) A person —
- (a) other than an authorised dealer, who performs the functions of an authorised dealer as a business in contravention of section 3;
 - (b) who, being an authorised dealer, fails to conspicuously display at its exchange counter its exchange rates for the buying and selling of foreign currency and other information as required by section 4;
 - (c) who makes or receives any payment or transfer other than through an authorised dealer in contravention of section 5;
 - (d) who, being an exporter, accepts payment for goods and services exported from Seychelles other than in a convertible foreign currency in contravention of section 6;
 - (e) who makes an advertisement in contravention of section 7;
 - (f) who makes or accepts payment for goods and services provided in Seychelles in a foreign currency in contravention of section 8;
 - (g) who accepts payments in a foreign currency under section 8(2) but fails to comply with section 8(3);
 - (h) who sells any foreign currency acquired under section 8(2) to any person other than an authorised dealer in contravention of section 8(4);
 - (i) who fails to keep records or to keep such records for the requisite period in contravention of section 9;
 - (j) who fails or refuses to produce any document or information when required to do so by the Minister or a person authorised by the Minister in contravention of section 10(a);

- (k) who knowingly provides any document or information pursuant to section 10(a) that is materially false or misleading; or
- (l) who fails or refuses to comply with an order or directive of the Minister or a person authorised by the Minister pursuant to section 10(b),

commits an offence and is liable on conviction to a fine not exceeding R400,000 or to imprisonment for a term not exceeding one year.

- (2) Where an offence under this Act is committed by a legal person, and any of its directors or other officers knowingly authorises, permits or acquiesces in the commission of the offence, the director or other officer also commits the offence.

12.
Compounding of
offences

- (1) The Minister may compound an offence under section 11 —
 - (a) if the person charged with the offence admits to committing the offence; and
 - (b) by accepting a sum of money not exceeding seventy-five percent of the maximum fine specified for the offence.
- (2) A sum of money received under subsection (1) (b) shall be dealt with as if it were a fine imposed by a court.
- (3) Where an offence is compounded under subsection (1), no proceedings shall be initiated or continued against the person charged with the offence with regard to that offence.

- 13.** An action, suit or other legal proceeding shall not lie against a person for anything done or omitted or purported to be done in good faith in the discharge, exercise or performance of the duties, powers or functions of the person under this Act.

Protection of
acts done in
good faith

- | | |
|---|----------------------------------|
| 14. The Minister may delegate to the Governor of the Central Bank any power or duty imposed on the Minister by this Act other than the power to make regulations and this power of delegation. | Delegation of powers of Minister |
| 15. The Minister may make regulations for carrying into effect the purposes and provisions of this Act. | Regulations |
| 16. The Exchange Control Act 1954 is repealed. | Repeal of Cap 76 |

SUBSIDIARY LEGISLATION

S.I. 77 of 2010

Section 15

Foreign Exchange (Authorised Limit for Hotels) Regulations

1. These Regulations may be cited as the Foreign Exchange (Authorised Limit for Hotels) Regulations.
 2. The amount prescribed under section 3(3) of the Foreign Exchange Act 2009 shall be equivalent to Euro 300 per client per day.
-