

S.I. 100 of 2024

LICENCES ACT

(Cap 113)

Licences (Provisional Licences) Regulations, 2024

Arrangement of Regulations

Regulations

1. Citation and commencement
2. Objectives
3. Interpretation
4. Establishment and functions of Committee
5. Application for provisional licence
6. Processing of application by Committee
7. Responsibilities of applicant
8. Conditions attaching to provisional licences
9. Issuance, duration, surrender of provisional licence
10. Development of substantive framework
11. Suspension or cancellation of licence
12. Amendment and replacement of licence
13. Register of licences
14. Appeals

S.I. 100 of 2024

LICENCES ACT

*(Cap 113)***Licences (Provisional Licences) Regulations, 2024**

In exercise of the powers conferred by section 22A(3) of the Licences Act, the Minister responsible for Investment, Entrepreneurship and Industry makes the following regulations —

Citation and commencement

1. These regulations may be cited as the Licences (Provisional Licences) Regulations 2024, and shall come into operation on the 1st of January, 2025.

Objective

2. The objective of these Regulations is to create a framework that allows for entrepreneurs developing new business ideas that have not already been captured under any existing regulatory framework, to establish and operate their business under a temporary framework. This supports governments' broader economic diversification agenda. This framework will allow for the relevant bodies and the proponent of the activity to work towards acceptable standards that allow the business to operate temporarily whilst continuing further work to establish a substantive licensing framework.

Interpretation

3. In these regulations, unless the context otherwise requires —

“Authority” means the Seychelles Licensing Authority;

“Board” means the Seychelles Investment Board established in terms of the Seychelles Investment Act Cap 317;

“business activity or project” means any new non-financial business activity for which no licensing framework exists and

which is assessed by the Committee to require such a framework in view of the health, security and safety risks that its operations may pose;

“Committee” means the Technical Committee established in terms of regulation 4;

“provisional licence” means a licence issued in terms of regulation 9;

“safeguards” means the regulatory requirements, measures and conditions that may be established for the respective provisional license.

Establishment and functions of the Technical Committee

4.(1) There is established an inter-agency Technical Committee known as the Technical Committee for provisional licences under the Seychelles Investment Board.

(2) The Minister shall appoint members to the Committee as follows —

- (a) one representative from the Ministry responsible for investment;
- (b) one representative from the Seychelles Licensing Authority;
- (c) one representative from the Ministry responsible for trade;
- (d) one representative from the Department of Police; and
- (e) one representative from the Attorney General's Office.

(3) The Committee will be chaired by the representative from the Ministry and co-chaired by the representative from the Authority.

(4) The Board shall assign persons in the employment of the Board to be the Secretariat to the Committee.

(5) Depending on the subject matter before them, members of the Committee may co-opt relevant technical experts to participate in the meetings of the Committee, and in exceptional cases, Government may consider consulting or bringing in external expertise to support the Committee.

(6) The Committee may also request for technical assistance as required representatives from the private sector or regulatory bodies of the different sectors such as tourism, agriculture, information and communication technology or fisheries to assist in development of the recommended safeguards and conditions attaching to a provisional licence.

(7) The functions of the Committee shall be to receive, assess and evaluate applications made in terms of regulation 5 and make recommendations to the Board.

Application for Provisional License

5.(1) Any person (Seychellois or non-Seychellois) intending to engage in or carry on any business activity or project shall apply for a provisional license in terms of these regulations.

(2) In making an application in terms of sub regulation (1) an applicant shall submit a duly completed application form to the Authority.

(3) Upon receipt of the application, the Authority shall assess the application to verify whether there is an existing legal framework already in place or not.

(4) Where the Authority completes its assessment in terms of sub regulation (3) and finds that —

- (a) there is a legal framework in place for the regulation of the concerned business activity or project, the Authority shall direct the applicant to make application in terms of the requirements of that legal framework; or

- (b) there is no existing legal framework, the Authority shall forward the application to the Board.

(5) Upon receipt of the application, the Board shall undertake a preliminary assessment on whether there is a need for a provisional licence or not and prepare a project brief within five working days of receipt of the application.

(6) The project brief prepared by the Board in terms of sub regulation (5) must include —

- (a) a preliminary assessment on whether there is an absence of a legal framework or there is inadequate provision under any enactment for the business activity or project for which the application has been made; and
- (b) a recommendation on potential regulatory bodies to join the Committee.

(7) After the preliminary assessment, the Board shall, if its findings are that there is a legal framework already in existence, inform the applicant to make application in terms of that framework.

(8) Where after the preliminary assessment the Board finds that there is no legal framework, the Board will convene the Committee and submit the project brief and the initial application with instruction to make a more in-depth assessment of the business activity or project application.

(9) Upon receipt of feedback in terms of regulation (6) the Board will inform the applicant of the relevant timeframe to receive the provisional license where necessary.

Processing of application by Committee

6.(1) Upon receipt of instructions from the Board, the Committee shall assess and evaluate the application concerned making use of the project brief prepared by the Board.

(2) In making an assessment in terms of sub regulation (1) the Committee —

- (a) may invite an applicant to make a presentation of the business activity or project in order to provide any further clarification as may be required by members;
- (b) may make a request to the applicant for any further particulars;
- (c) may consult with any relevant regulators during the assessment to determine whether a licence is required for a specific business activity or project or the business activity or project can operate without a framework; and
- (d) shall inform the Board of the time frame required for the establishment of initial safeguards and conditions which will be used during the operation of the provisional license.

(3) After completing an assessment in terms of sub regulation (1), the Committee shall submit a report of its findings and recommendations to the Board.

(4) Recommendations made by the Committee shall include, that —

- (a) a provisional licence is necessary to be issued; or
- (b) a provisional licence is not necessary as there is either a framework already in place or there is no need for a provisional licence due to the nature of the undertaking.

(5) The report submitted to the Board shall highlight —

- (a) the possible dangers and threats related to health, safety and security, if any, that the business activity or project may cause;

- (b) the safeguards and conditions that should be attached to the provisional licensing of the business activity or project which can either be specific or generic;
- (c) whether the Authority should —
 - (i) grant a provisional licence, under such terms and conditions as are provided by the Committee; or
 - (ii) reject such application, for specific reasons with supporting documents from the objecting regulatory body;
- (d) where a provisional licence is to be granted during the interim period of the issuance of the first provisional licence in any type of business activity or project any new application of a similar nature received and approved during the respective provisional license period, will be subjected to the same conditions established by the first approved provisional licence.
- (e) the relevant regulatory body which would be responsible to develop the necessary legal framework and regulate the activity, if not the Authority;
- (f) a mechanism of handing over of the relevant licence from the Authority to a specified regulatory body in the making of any regulatory framework;
- (g) the regulatory body to be responsible for licensing of the regulated business activity or project, once the provisional license period is over;
- (h) the need to ensure that any relevant applicants are consulted on the development of a regulatory framework for the substantive license related to their operations or intended operations; and

- (i) the conditions that preclude the issue of the provisional license and applicants failing to meet such conditions will have their applications rejected by the Authority.

Responsibilities of the applicant

7.(1) An applicant shall provide all information that is deemed necessary pertaining to the business activity or project towards the development of the provisional licence conditions.

(2) An applicant has the responsibility to be an active participant towards the development of the relevant regulatory framework for the provisional licence.

(3) Any person who provides any information in or together with an application for any licence or permit under these regulations knowing that such information is false or not having reasonable grounds for believing that such information is true shall be guilty of an offence and liable to a fine not exceeding level five on the Standard Scale of fines.

Conditions attaching to every provisional licence

8.(1) It is a condition of every provisional licence that no licensee, whether individual or corporate, shall transfer his, her or its provisional licence to another person.

(2) Every licensee shall —

- (a) notify the Authority or respective regulator of any issues which may be relevant to the development of the regulatory framework for the business activity or project; and
- (b) actively participate towards the development of the permanent relevant regulatory framework.

(3) A licensee shall comply with all policies and laws of Seychelles.

(4) A licensee must ensure that they have registered their business for tax purposes.

(5) A licensee is liable for any damages caused by his or her project piloting.

(6) A licensee shall sign a declaration that he or she is in agreement to the terms and conditions of the provisional licence issued by the Authority.

(7) Any person who contravenes sub regulations (1) to (6) shall be guilty of an offence and liable to a fine not exceeding level three on the standard scale of fines.

(8) Provisional licenses may have additional conditions.

(9) The Authority shall have the power to impose, vary or withdraw any terms or conditions or restrictions on any licensee business activity, any time during the provisional licence period, with relevant justifications.

Issuance, duration and surrender of provisional licences

9.(1) Every provisional licence shall be valid for a period of two years, unless it is earlier surrendered to or cancelled by the Authority or relevant regulatory body.

(2) If an application for a licence is successful (whether approved with or without conditions by the Authority) the Authority shall —

- (a) inform the applicant accordingly;
- (b) on payment by the applicant of a licence fee of SCR1,000 issue to the applicant a licence; and
- (c) make an appropriate entry in the Provisional Licence Register.

(3) If a licensee ceases to operate as such, he or she shall, within seven days of ceasing to operate surrender his or her licence to the Authority by a written notice.

(4) Any person who contravenes sub regulation (3) shall be guilty of an offence and liable to a fine not exceeding level one on the standard scale of fines or imprisonment for a period not exceeding one month, or both such fine and such imprisonment.

Development of substantive framework

10.(1) The Authority or relevant regulatory authority identified in the report of the Committee under regulation 6 shall within the period of validity of a provisional licence develop a regulatory framework for the business activity or project which has been issued a provisional licence.

(2) In coming up with substantive legal framework, the Authority must include the terms and conditions attaching to the issuance of the provisional licence concerned as well as any further statutory requirements for a business activity or project to be issued a substantive licence by the relevant Authority.

Suspension or cancellation of provisional licences

11.(1) The Authority may with, or without notice at any time suspend (for a period not exceeding sixty days), or cancel any licence if the Authority or relevant regulatory body has reasonable grounds for believing that —

- (a) the licence was issued in error, through fraud, misrepresentation or non-disclosure of a material fact by the licensee;
- (b) the licensee has contravened any provision of the Act or these regulations or any condition of his or her licence;
- (c) the licensee has ceased the licensed operations; or
- (d) the licensee is withholding or not sharing relevant information with the regulatory body after having been granted a provisional licence.

(2) The Authority shall notify the licensee in writing of its intention to suspend or cancel his or her licence and the reasons for doing so, and shall call upon the licensee to show cause, within 14 days from the date of the notice, why the licence should not be suspended or cancelled, as the case may be:

Provided that if in the opinion of the Authority the licence needs to be immediately suspended or cancelled in the public interest or to avert an

environmental emergency, the Authority can issue the notice requiring the licensee to show cause after suspending or cancelling the licence.

(3) If, at the expiry of the period specified in the notice given in terms of sub regulation (2), and after considering of any representations made by the licensee, the Authority or relevant regulatory body is satisfied for any reason specified in sub regulation (1) that the licence concerned should be suspended or cancelled, the Authority shall, by notice in writing to the licensee, suspend or cancel the licence or take such other action as it considers appropriate.

(4) The penalty of suspension is only available where there has been a contravention of any provision of the Act or these regulations or any condition of a licence which, in the opinion of the Authority or relevant regulatory body, is a contravention that can be easily or speedily remediated by the licensee:

Provided that —

- (a) if after the expiry of the period of suspension the licensee has not taken the remedial action, the Authority or relevant regulatory body shall forthwith cancel the licence; or
- (b) on good cause shown by the licensee, the regulatory body may extend the suspension for a period not exceeding thirty days to allow the licensee to take the required remedial action.

(5) The Authority mandated with issuing a provisional licence may cancel a provisional licence if —

- (a) there is a regulatory framework in place prior to the completion of the period of a provisional licence (in such instances, upon the termination of the provisional licence, the project will be licensed under the newly developed regulatory framework);
- (b) the licensee does not meet the conditions attached to the provisional licence by the Committee or fails to comply with any legal requirement while operating under the provisional licence or;

(c) the licensee requests for such termination.

(6) A regulatory body, may make request to the Authority for the cancellation of a provisional licence on the grounds set out in sub regulation (1) and the Authority may cancel such licence.

(7) The Authority shall immediately make an appropriate entry in the Register of licences where it suspends or lifts a suspension of any licence or cancels it in accordance with this regulation.

Amendment and replacement of licences

12.(1) The Authority may at any time amend a licence or any terms or conditions of a licence —

- (a) to correct any error in the licence;
- (b) if the Authority or regulatory body considers the amendment necessary to reflect the true nature of the licensed activities; or
- (c) if for any other reason the Authority or regulatory body considers the amendment necessary or desirable in the interests of the environment or in the public interest.

(2) The Authority shall notify the licensee in writing of its intention to amend a licence on the grounds referred to in sub regulation (1)(a), (b) or (c) and shall call upon the licensee to show cause, within 14 days from the date of the notice, why the licence should not be amended.

(3) Where a licensee requests an amendment to his or her licence, he or she shall make a written application to the regulatory body.

(4) If in the opinion of the Authority or regulatory body the amendment sought by the licensee is a material amendment, regulation 5 shall apply as if the application for the amendment is an application for a licence.

(5) Where a licence is lost or destroyed, the licensee may apply to the Authority, together with the prescribed fee, for a replacement licence:

Provided that if the licensee finds the lost licence he or she shall forthwith surrender it to the Authority.

(6) Any person who contravenes the provision of sub regulation (5) shall be guilty of an offence and liable to a fine not exceeding level one on the standard scale of fines or imprisonment for a period not exceeding one month or both such fine and such imprisonment.

Register of licences

13.(1) The Authority shall establish and maintain a register of licences to be known as a Provisional Licensing Register, accessible to the public, in which the following shall be recorded —

- (a) the name and address of every licensee and the addresses at which he or she carries out the business activity;
- (b) the date of issue of every licence and of any extension thereof;
- (c) any special terms or conditions subject to which any licence is issued or renewed; and
- (d) the particulars of any suspension or cancellation or amendment of a licence.

(2) Every licensing body shall keep and maintain the register in electronic form.

Appeals

14.(1) Any person who is aggrieved by a decision of the Authority or relevant regulatory body to —

- (a) reject an application for a licence;

- (b) grant an application for a licence subject to conditions;
- (c) reject extension of a provisional licence;
- (d) revoke a licence;
- (e) suspend a licence; or
- (f) amend a licence,

may follow the appeal process set out in the Act.

MADE this 28th day of November, 2024.

**DEVIKA VIDOT
MINISTER OF INVESTMENT,
ENTREPRENEURSHIP AND INDUSTRY**
