

FOREWORD

The Constitution of Seychelles stipulates that a number of constitutional appointments can only be made by the President following a selection process and recommendations made by the Constitutional Appointments Authority. The powers of the Authority have, over the last few years, been increased to include recommendations for appointment under various Statutes in Seychelles.

It is important that in any selection process, either in respect of a recommendation for appointment under the Constitution or under an Act, the Authority goes through a step-by-step process to find the most qualified candidate to recommend to the position. Although the process can take time, a rushed decision can, not only, lead to additional staff turnover but also missed opportunities for willing and capable citizens who wish to contribute to the betterment of Seychelles in various fields of knowledge and competence. A thorough and transparent selection process can but assist the Authority in reaching the right decisions and bring talented professionals who will help to ensure the efficient management of the respective organizations that are in need of such individuals.

At its meeting of 16th August 2019, the Constitutional Appointments Authority decided to formalize a set of rules and guidelines that ought to be followed in respect of the selection of positions which are prescribed under the Constitution and Acts and to ensure that selection is made in a transparent manner according to merit and that the most suitable persons are recommended for appointment to the President.

The Authority does realise that not all the proposed criteria will apply equally to all the recommendations made under these Rules. The Authority will need to take into account many factors such as the nature and volume of work of a particular office to which a candidate is to be appointed. For instance, leadership qualities may be more important when considering the appointment of a head of jurisdiction.

Michel Felix
Chairman

Article 142(6) of the Constitution

CONSTITUTIONAL APPOINTMENTS AUTHORITY RULES AND GUIDELINES ON THE SELECTION AND APPOINTMENT OF CONSTITUTIONAL APPOINTEES (OTHER THAN JUDICIAL OFFICERS) AND APPOINTEES UNDER THE LAWS OF SEYCHELLES 2019

ARRANGEMENT OF RULES

CITATION

These Rules may be cited as the Constitutional Appointments Authority Rules and Guidelines on the Selection and Appointment of Constitutional Appointees (other than Judicial Officers) and Appointees under the Laws of Seychelles, adopted by the Authority on the 16 August 2019.

INTERPRETATION

“Authority” means the Constitutional Appointments Authority

“Appointee” means a person recommended by the Authority for appointment by the President to offices under the Constitution or Laws of Seychelles:

RULE 1

Applicability of Rules and Guidelines

The following appointees fall within the scope of these rules and guidelines:

- Establishment of a Tribunal during a period of public emergency – Article 43 (4) (c) of the Constitution
- Advisory Committee on the Presidential power of pardon – Article 61 of the Constitution
- Attorney General – Article 76 of the Constitution
- Auditor General – Article 158 of the Constitution
- Ombudsman – Article 143 of the Constitution
- Chairperson and Members of the Electoral Commission – Article 115A and B of the Constitution
- Chairperson, Deputy Chairperson and five Commissioners of the Anti-Corruption Commission – Section 6 of the Anti-Corruption Act (No. 2) of 2016 as amended by the Anti-Corruption (Amendment) Act (No. 4) of 2017
- Chairperson, Vice Chairperson and one member of the Seychelles Broadcasting Corporation – Section 4 of the Seychelles Broadcasting Corporation Act (No. 2) of 2011 as amended by Seychelles Broadcasting (Amendment) Act (No. 6) of 2017
- Chairperson of the Seychelles Media Commission – Section 4 of the Seychelles Media Commission Act (Cap 318) as amended by the Seychelles Media Commission (Amendment) No.2 of 2017

- Chairperson and Vice Chairperson of the National Information Services Agency – Section 6 of the National Information Services Agency Act (Cap 295) as amended by the National Information Services Agency (Amendment) Act (No. 20) of 2017
- Chairperson and Commissioners of the Truth, Reconciliation and National Unity Commission – Section 4 of the Truth, Reconciliation and National Unity Commission Act (No. 9) of 2018
- Chairperson, Deputy Chairperson and Commissioners of the Seychelles Human Rights Commission – Section of the of the Seychelles Human Rights Commission Act (No. 7) of 2018
- Chairperson and Commissioners of the Information Commission – Section 37 of the Access to Information Act (No. 4) of 2018

RULE 2

Underlying Principles for the Selection of Appointees:

- The principle of transparency must permeate every stage of the selection and appointment process.
- The selection and appointment authority must be independent and impartial.
- The process for the selection and appointment must be fair.
- Appointees should exceed minimum standards of competency diligence and ethics.
- Appointments of candidates must be made according to merit.
- Objective criteria for the selection must be pre-set by Authority publicly advertised and must not be altered during that process.
- Candidates must be sourced according to a consistent and transparent process.
- Where there is a need, the shortlisting of candidates must be credible, fair and transparent.
- Candidates shortlisted for interview must be vetted and stakeholders, where applicable, invited to comment on the candidate's suitability for appointment.
- Interviews must be held in respect of candidates who are shortlisted for appointment.
- The final selection (decision) to recommend for appointment must be fair, objective and based on weighing the suitability of the candidate for appointment against the criteria set for that appointment.

RULE 3

Guidelines for selection

3.1 Transparency

Transparency as a principle must permeate all levels of the selection and recommendation for appointment process in order to enhance the integrity and credibility of the process. Vacancies must be widely advertised with reasonable time provided for candidates to apply. The procedure must pay due regard to achieving the substantive objects and purposes of the selection and appointment process, rather than heed to administrative and procedural technicalities.

The criteria for the selection, shortlisting, and decision-making process must not be amended during the selection process.

Appropriate records of each stage of the process must be kept.

3.2 Independence of the Constitutional Appointments Authority

In the performance of its function in the selection process of recommending a person for appointment under the Constitution or an Act, the Authority must, at all times be independent and impartial and not be subject to the direction or control of any person, ministry, authority, body or organization.

3.3 Fairness

Fairness must permeate every level of the selection process. Members of the Authority must be aware and guard themselves against abuse of discretion, arbitrary interference, and unconscious bias.

3.4 Appointments on merit

Selection for recommendation must primarily be made according to merit. Meritorious appointments increase public confidence. The merit principle is no mere optional extra. It is fundamental to public service integrity

A candidate's professional performance may be a key component of assessment for recommendation.

3.5 Criteria

The criteria for the selection must be pre-set and should not be altered during the selection process.

Requirements for appointment are stipulated under the respective Articles of the Constitution or sections of Acts which are referred to under Rule 1.

Furthermore, suitable candidates should meet the following criteria:

- hold an appropriate level of post-qualification experience (as required by the Constitution or Act);
- be a fit and proper person of integrity and impartiality;
- be competent to perform the functions of the office;
- possess good written and communication skills as might be required of the office;
- be able to diligently render a reasoned decision as might be required of the office;
- not have any criminal convictions, other than for minor offences;

The advertisement for the office must specify all the essential qualifications required under the Constitution or the Act in respect of the office.

3.6 Fit and Proper standards

Candidates must be fit and proper persons to hold office. The fit and proper requirement shall take into account the ability to uphold the provisions of the applicable Constitutional articles or sections of an Act.

Immediately following appointment, candidates shall divest themselves of all interests which may affect their ability to carry out their duties.

3.7 Sourcing of candidates

Candidates for appointment may be sourced through adverts for applications, nominations, proposals, direct searches or invitation to express interest. This must be through a standardised and transparent process.

However the candidates are sourced, they must be subjected to the same process, complete the same documentation and no distinction may be drawn between candidates in the selection and recommendation process.

The required documentation expected from a candidate should include a curriculum vitae containing sufficient detail on the following:

- a) health status (where relevant);
- b) publications (where relevant);
- c) employment history;
- d) business interests;
- e) potential conflicts of interest;
- f) disclosure of anything which if discovered after appointment may warrant the lodging of a complaint leading to a removal from the office and bring the organisation into disrepute; and
- g) the names of at least two referees.

Records of all candidates must be kept.

3.8 Shortlisting

The shortlisting of candidates must be credible, fair, and transparent.

Candidates who are shortlisted must meet the minimum criteria for the available positions

The Authority must make every effort to have a sufficient number of applicants, so as to ensure a meaningful appointment process.

3.9 Due Diligence of Candidates

Candidates shortlisted for interview must be vetted in order to determine his or her suitability for appointment. The vetting procedures shall be objective, factual and fair.

3.10 Interviews and selection

Best practice is that interviews must be held for all shortlisted candidates and that the interview processes be equal, fair, rigorous but respectful.

The interview process must ensure substantive equality in the treatment of candidates. Questions which are to be put to candidates should be agreed in advance by the members of the Authority, taking into account the need for flexibility in assessing persons from different backgrounds. Substantively similar questions shall be put to each candidate. Questions should be relevant to measuring the competencies and attributes of the candidate against the criteria for the appointment.

The tone of the interview must be non-confrontational and ensure that candidates are treated with dignity and respect. However, the selection and appointment authority may engage in robust but respectful questioning in appropriate cases. Interview questions must not seek to serve alternative agendas or take candidates by surprise.

Records of the interview process shall be maintained by the Authority.

3.11 Decision making

The final selection (decision) to recommend for appointment shall be fair, objective, and based on the suitability of the candidate for appointment against the criteria set for that appointment.

The Authority must attempt to reach consensus, and may resolve deadlock by vote as a final resort.

3.12 Appointment

The appointment to such offices must be made according to constitutional and national legislative provisions. Best practice is that they are made timeously and be made public. Unsuccessful candidates should be informed prior to the official announcement of the successful candidate.