

SEYCHELLES QUALIFICATIONS AUTHORITY ACT, 2021

(Act 57 of 2021)

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SEYCHELLES QUALIFICATIONS AUTHORITY ACT, 2021

(Act 57 of 2021)



I assent

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

Wavel Ramkalawan
President

25th November, 2021

AN ACT TO PROVIDE FOR THE DEVELOPMENT, IMPLEMENTATION AND MAINTENANCE OF A NATIONAL QUALIFICATIONS FRAMEWORK AND THE QUALITY ASSURANCE OF EDUCATION AND TRAINING.

ENACTED by the President and the National Assembly.

Part I - Preliminary

Short title and commencement

1. This Act may be cited as the Seychelles Qualifications Authority Act, 2021 and shall come into operation on such date as the President may, by notice in the *Gazette*, appoint.

Interpretation**2.** In this Act —

“accreditation” means a process of assessment and review which enables a person, a tertiary education and training provider, or a programme of education and training to be recognised and certified for a specified period of time by the Authority as meeting and conforming to appropriate standards of quality set by the Authority;

“Authority” means the Seychelles Qualifications Authority established under section 3;

“Board” means the Board of the Authority constituted under section 8;

“certification” means the formal recognition of a learner's achievement of the required number and range of credits or other requirements at a specified level of the National Qualifications Framework;

“Chairperson” means the Chairperson of the Board appointed under section 8;

“Chief Executive Officer” means the Chief Executive Officer of the Authority appointed under section 20;

“committee” means a committee established under section 14;

“competence” means the knowledge, skills, attitudes and personal attributes combined with the underlying understanding to perform all or some of the functions of an occupation or a profession;

“course” means a self-contained teaching or learning component of a programme that is integral to that programme, representing a discrete part of the learning to be achieved and is based on an overall clear aim, specific learning outcomes, content and assessment procedures;

“credit accumulation” means the totalling of relevant credits required to complete a qualification or a part-qualification;

“credit transfer” means the vertical, horizontal or diagonal relocation of credits towards a qualification or part-qualification on the same or different level, usually between different programmes, departments or institutions;

“enrolled learner” means a learner who has enrolled in a programme or a course of education and training and registered as such by a provider;

“entity” means a person or a partnership, organisation, or business that has a legal and separately identifiable existence;

“equivalence of qualifications” means a process of formally establishing that two qualifications are of comparable standard or level;

“evaluation of foreign qualifications” means the process followed by the Authority to verify the authenticity of foreign qualifications and to compare foreign qualifications with national and international qualifications registered on the National Qualifications Framework;

“institutional accreditation” means recognition status granted to a provider by the Authority for a stipulated period of time after an evaluation through self-assessment and external review indicates that it meets or exceeds established standards for educational quality set by the Authority;

“international learner” means a learner with a foreign nationality who, on the basis of appropriate permission granted for the purpose by the Department of Immigration, desires to continue, continues or has continued his or her education at a tertiary education institution in Seychelles;

“learner” means a person who is acquiring or has acquired knowledge, skills, attitudes, personal attributes or competencies;

“member” means a member of the Board appointed under section 8;

“Minister” means the Minister responsible for education;

“National Qualifications Framework” means a comprehensive system approved by the Minister for the development, classification, registration, publication, evaluation and articulation of quality-assured qualifications;

“part qualification” means an assessed unit of learning that is registered by the Authority as part of a qualification, including a course and a unit standard;

“post compulsory education and training” means education and training after compulsory education;

“programme” means a planned combination of a coherent set of courses designed to meet the requirements of a qualification;

“programme accreditation” means recognition status granted to a programme by the Authority for a stipulated period of time after an evaluation by the Authority indicates that it meets standards of quality;

“programme of education and training” means a process by which learners acquire knowledge, skills, attitudes, personal attributes and competence;

“provider” means an entity that intends to offer or is offering education and training in Seychelles, whether public or private, and registered as such by the ministry responsible for education or the Seychelles Qualifications Authority;

“qualification” means a registered national qualification;

“quality assurance” means an ongoing process of evaluating and enhancing the quality of the education system, providers or programme, for ensuring that the required standards as determined by the Authority are maintained and enhanced;

“recognition of foreign qualifications” means the formal acceptance of the appropriateness of a foreign qualification for a specific purpose;

“Recognition of Prior Learning” means principles and processes through which the prior knowledge and skills of a person are made visible, mediated and assessed for the purposes of alternative access and admission, recognition and certification, or further learning and development;

“school” means a provider of general education established by its owner, whether public or private, and in the case of a private provider, also registered by the ministry responsible for education;

“school inspection” means the formal exercise of critically examining and evaluating a provider of general education as a place for teaching and learning in order to ensure that high standards are maintained through improving the quality of the schools' self-evaluation processes and setting up of standards to enhance the quality of education;

“standard scale” means the standard scale of fines for offences established under the Criminal Offences (Standard Scale of Fines) Act, 2021;

“tertiary education” means learning programmes or courses provided by tertiary education and training providers leading to qualifications or part qualifications from level 3 to level 10 of the National Qualifications Framework;

“tertiary education and training provider” means an entity that provides or organises a programme or course of tertiary education and training including the provision of professional development services;

“unit standard” means a statement of the outcome of any learning assessed, the type and quality of evidence that represents performance worthy of an award of credits and the context in which that evidence should be demonstrated;

“Vice Chairperson” means the person appointed as Vice Chairperson of the Board under section 8.

Part 2 - Seychelles Qualifications Authority

Establishment of the Seychelles Qualifications Authority

3. There is hereby established the Seychelles Qualifications Authority which shall be a body corporate with perpetual succession and a common seal, capable of suing and being sued in its corporate name.

Object and functions of the Authority

4.(1) The object of the Authority shall be to develop, implement and maintain a national qualifications framework and to provide for quality assurance of the education and training system nationally.

(2) In pursuing the object, the Authority shall have the following functions —

- (a) recognise, evaluate and register national qualifications and part qualifications on the National Qualifications Framework;
- (b) generate and register national unit standards and qualifications for occupations and professions and ensure their relevance to social and economic needs;
- (c) maintain a national database of registered and accredited providers, programmes, qualifications and part qualifications, as prescribed;
- (d) design, develop and implement a common quality assurance system, and regulate compliance therewith;
- (e) develop and review quality standards and ensure compliance by providers through a monitoring system;
- (f) accredit tertiary education and training providers and other providers of post compulsory education and training and

- monitor that such providers continue to comply with prescribed standards and criteria;
- (g) accredit programmes and courses of education and training and monitor that such programmes and courses continue to comply with prescribed standards and criteria;
 - (h) conduct inspection of established and registered schools to ensure national education quality and standards are maintained;
 - (i) review the policies and criteria on which the National Qualifications Framework is based;
 - (j) establish policy, criteria and procedures for, and monitor the process of evaluation and recognition of, competencies acquired formally, informally and non-formally through Recognition of Prior Learning;
 - (k) establish policy and criteria for credit accumulation and credit transfer;
 - (l) recognise, evaluate and establish equivalence of foreign qualifications to the levels of the National Qualifications Framework and record the decisions made;
 - (m) develop a policy and criteria for the recognition of foreign programmes leading to the award of qualifications and part qualifications delivered by or through local tertiary education and training providers;
 - (n) develop a policy for recognition by the Authority of any foreign qualification before the qualification bearer may be entitled to enter into an occupation or a profession;
 - (o) promote international recognition of the national qualifications and the international comparability of national qualifications;

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- (p) register tertiary education and training providers and other providers of post compulsory education and training and maintain a register to this effect;
 - (q) establish criteria for classification of providers and for the transitioning from one category of provider to another in accordance with this Act and made hereunder;
 - (r) establish criteria and procedures for the protection of the interests of enrolled learners, which include arrangements for the protection of learners where learners have begun but not completed a programme of education and training where a provider ceases to provide the programme before completion, or ceases to operate;
 - (s) establish standards and criteria for teachers and lecturers of providers to deliver programmes and courses to ensure learners are protected;
 - (t) provide a national advisory service on foreign qualifications and foreign providers of education and training;
 - (u) collaborate with international counterparts on all matters of mutual interest concerning national qualifications frameworks;
 - (v) advise the Minister on matters relating to the functions of the Authority and perform any function consistent with this Act that the Minister may, by regulations, determine;
 - (w) do all such things and perform all such functions as may be necessary or conducive for the achievement of the purposes of this Act.
- (3) The Authority, in the performance of its functions shall —
- (a) inform itself of the needs of commerce, industry, the professions and the public service pertaining to education,

- training, skills and qualifications and promote practices in education and training to meet those needs;
- (b) inform itself of practices outside the Republic in respect of matters relevant to its object and functions;
 - (c) consult, as it considers appropriate, with providers, professional bodies, and any other entities the Authority considers appropriate in making decisions;
 - (d) give effect to such policies of the Government relating to education and training as are notified in writing to the Authority by the Minister; and
 - (e) collect any information it considers appropriate relating to the performance of its functions.

Powers of the Authority

5.(1) The Authority shall have all powers necessary or expedient for the performance of its functions including the power to —

- (a) liaise or enter into agreements with any entity within or outside Seychelles;
- (b) enforce compliance with the provisions of this Act and the elements of the National Qualifications Framework; and
- (c) charge such fees as may be prescribed in respect of any service provided by the Authority.

Power to require information

6.(1) The Authority may, by notice in writing require, from any person, provider, or any other entity such information as the Authority deems necessary, for the purposes of the performance of its functions under this Act.

(2) Where any person or other entity is required to furnish any information to the Authority under subsection (1), it shall be the duty of such person or entity to comply with the request.

(3) A person or other entity who or which contravenes subsection (2) commits an offence and shall on conviction to a fine of level 2 of the standard scale.

(4) A person who obtains any information for the Authority under this provision shall take every reasonable step to ensure that such information is kept in such manner as to ensure that the contents of the information are kept confidential and used only for the purposes of performing the functions of the Authority.

Protection of terms

7.(1) The term “National” when used in conjunction with a qualification type on the National Qualifications Framework shall apply to a local qualification recognised by the Authority.

(2) The generic terms “Certificate”, “Diploma” and “Degree” shall refer to qualifications accredited or recognised by the Authority.

Part 3 - The Board of the Authority

Constitution of the Board

8.(1) There shall be a Board of the Authority, which shall be the governing body of the Authority.

(2) The Board shall consist of 7 members appointed by the President by notice in the *Gazette* on such terms and conditions as the President may determine.

(3) There shall be paid to the members of the Board such remuneration or allowances as the Government may from time to time determine.

(4) Appointments shall be made on the recommendation of the Minister.

(5) In recommending members to the Board for appointment, the Minister shall give due consideration for representation from ministries, agencies, civil society and the private sector whose operations have implications for, or may be affected by, the National Qualifications Framework.

(6) The Minister shall have regard to the need for its members to collectively have a breadth of experience and expertise, and depth of knowledge, to be able to effectively contribute to the development of the National Qualifications Framework and quality assurance in education and training in Seychelles.

(7) Staff of providers shall not be eligible to be appointed as members of the Board.

(8) The President shall appoint a Chairperson and a Vice-Chairperson from among the members of the Board.

(9) The Chief Executive Officer of the Authority shall be an *ex officio* member of the Board and shall not have right to vote.

Tenure of office

9. A member of the Board shall hold office for a period of 3 years and shall be eligible for reappointment on completion of the term of appointment.

Resignation

10. A member may resign from his or her office by giving one month's notice in writing, to the President and to the Board.

Vacation of office

11. The office of a member shall become vacant —

- (a) if the member has been absent without leave of the Board from three consecutive meetings of the Board;
- (b) on the member ceasing to hold the office by virtue of which the member was appointed;
- (c) if the member is convicted of an offence under any written law and sentenced to imprisonment for a term of 3 months or more without the option of fine;

- (d) upon expiry of one month's notice under section 10;
- (e) if the member is mentally or physically incapable of carrying out his or her functions under this act.

Filling of vacancies

12.(1) Where the office of a member becomes vacant before the expiry of the member's term of office, the President shall appoint a person to fill the vacancy for the remaining period of the term for which that member was appointed.

(2) Subsection (1) shall not apply where the remaining period of the term of office of the member whose office has become vacant is less than six months.

(3) Where the Chairperson or the Vice-Chairperson vacates office, a new Chairperson or Vice-Chairperson, as the case may be, shall be appointed by the President.

(4) The Chairperson or Vice-Chairperson may vacate his or her office whilst remaining a member of the Board.

(5) The Vice-Chairperson shall exercise the functions of the Chairperson during any period the Chairperson is absent or unable to act as Chairperson.

Meetings and proceedings of the Board

13.(1) Subject to the provisions of this Act, the Board shall regulate its own proceedings.

(2) The Board shall meet at such times and places as the Chairperson may determine provided that at least four meetings shall be held in a year.

(3) The Chairperson may convene a meeting of the Board after giving notice, in writing, of not less than 14 working days, but if the urgency of the matter does not permit the giving of such notice, a special meeting may be convened after giving of a shorter notice.

(4) Where 4 members request the Chairperson, by notice in writing to convene a meeting of the Board for any purpose specified in the notice, the Chairperson shall, within 10 working days from the receipt of the notice, convene a meeting for that purpose.

(5) The Board may invite any person whose presence it deems necessary to attend and participate in the deliberations of a meeting of the Board, but such person shall have no right to vote.

(6) The Chairperson shall preside at the meetings of the Board and if, for any reason, he or she is unable to attend any meeting, the Vice-Chairperson shall preside and in the absence of the Chairperson and Vice-Chairperson any other member elected by the members present at such meeting shall preside over the meeting of the Board.

(7) The Board shall cause to be kept minutes of the proceedings of every meeting of the Board and every meeting of any committee established by the Board.

(8) Five members shall constitute a quorum for a meeting.

Establishment of Committees

14.(1) The Board may, for the purpose of discharging any of its functions under this Act, constitute committees as it considers appropriate.

(2) A committee constituted under subsection (1) may consist of one or more members of the Board and one or more other persons with specialised skills as the Board may consider necessary.

(3) The persons with specialised skills shall be appointed as members of the committee for a term as the Board may determine.

(4) The Board shall appoint one of the members of the committee who is a member of the Board as Chairperson of the committee.

(5) An officer of the Authority appointed in writing by the Chief Executive Officer shall be the secretary to the committee and shall, on the instruction of the Chairperson of the committee, convene meetings of the committee.

(6) The meetings of a committee shall be held at such times and place as the committee may determine, or as the Board may direct.

(7) Subject to any specific or general directions of the Board, a committee established under subsection (1) may regulate its own procedure.

Allowances of committee members

15. A member of a committee of the Board shall be paid such allowances as the Authority may, with the approval of the Board, determine.

Secretary of the Board

16.(1) An officer of the Authority appointed in writing by the Chief Executive Officer shall be secretary to the Board, or the Board shall appoint a secretary from among the Board members.

(2) The secretary of the Board, if not a member of the Board, shall attend meetings of the Board but shall have no right to vote.

(3) The secretary shall be responsible for recording the Board's proceedings and decisions.

(4) There shall be paid to the secretary of the Board, if not a member of the Board, such remuneration or allowances as the Government may from time to time determine.

Disclosure of interest

17.(1) A member of the Board who has a direct or indirect interest in any of the matters to be decided by the Board shall disclose the nature of his or her interest at the meeting of the Board and shall not vote on the matter nor take part in any discussion in respect of that matter.

(2) A disclosure of interest made under subsection (1) shall be recorded in the minutes of the meeting at which it is made.

Confidentiality

18.(1) A member or any other person assisting the Board shall observe and preserve the confidentiality of all matters coming before the Board, and

such confidentiality shall subsist even after the termination of their terms of office or their mandates.

(2) Any member or any person to whom confidential information is revealed through working with the Board or committee of the Board shall not disclose that information to any other person unless he or she is required to do so in terms of any written law or for purposes of any judicial proceedings.

(3) A person who contravenes subsection (2) commits an offence and shall be liable upon conviction to a fine of level 2 on the standard scale.

Part 4 - Administration of the Authority

Appointment of the Chief Executive Officer

19.(1) The President may, on the recommendation of the Minister, appoint a Chief Executive Officer of the Authority.

(2) The Minister shall invite applications for the post of Chief Executive Officer and constitute an interview panel to consider the applications.

(3) The interview panel shall prepare and submit a list of qualified candidates to the Minister and as far as practicable the Minister shall make a recommendation of not less than 3 candidates to the President for consideration and appointment.

Responsibilities of the Chief Executive Officer

20. The Chief Executive Officer shall —

- (a) be responsible for the day-to-day management of the affairs of the Authority subject to such directions on matters of policy as may be given by the Board;
- (b) be accountable to the Board for the discharge of the functions delegated by the Board;
- (c) be the chief accounting officer of the Authority;
- (d) be responsible for the development, implementation and maintenance of the National Qualifications Framework;

- (e) be responsible for the organisation, control and management of all staff of the Authority.

Staff of the Authority

21.(1) The Chief Executive Officer shall appoint staff of the Authority as the Chief Executive Officer deems necessary for the efficient discharge of the functions of the Authority.

(2) Where a person is transferred to the Authority from the public service, the terms and conditions applicable to that person shall not be less favourable than those enjoyed by that person immediately before the transfer.

Reports by the Authority

22. The Authority shall furnish the Minister with such information on its activities as the Minister may from time to time require.

Directions issued by the Minister

23. The Minister may issue directions, not inconsistent with the provisions of this Act, to the Authority as to the exercise of its powers or performance of its duties and the Authority shall give effect to such directions.

Part 5 - Financial Provision

Funds of the Authority

24.(1) The funds of the Authority shall consist of —

- (a) such monies appropriated by the National Assembly under the Appropriation Act for purposes of the Authority;
- (b) such grants and donations as the Authority may receive.

(2) The Authority shall use the funds acquired under subsection (1) to meet the costs incurred for its operations and the discharge of its functions.

Accounts and audit

25.(1) The financial year of the Authority shall be the period of 12 months ending on 31st December of each year.

(2) The Authority shall keep proper books of account of its income, receipts and expenditure.

(3) The accounts of the Authority shall be audited by the Auditor General in accordance with Article 158 of the Constitution.

(4) Where the accounts and the statement of accounts of the Authority in respect of a financial year have been audited by the Auditor General, the Authority shall, not later than 3 months after the end of the financial year, submit to the Minister responsible for finance, a copy of the audited statement of the Authority.

Annual Report

26.(1) The Authority shall within three months of completion of the audit of its accounts in respect of any financial year, submit to the Minister —

- (a) a copy of its audited accounts; and
- (b) a written report of its operations and activities for that financial year.

(2) The Minister shall, within 30 days of receiving the Authority's audited accounts, and report, cause them to be laid before the National Assembly.

Application of certain Penal Code provisions

27. All employees of the Authority shall be deemed to be employed in the public service for the purpose of sections 91 to 96 of the Penal Code.

Protection of acts done in good faith

28. No liability, civil or criminal, shall lie against the Authority, the Chairperson, Vice-Chairperson or a member of the Board or committee of

the Board, employee of the Authority or any person acting under any authority conferred by the Authority, in respect of an act done or omitted to be done in good faith in the exercise or performance or purported exercise or performance of any of the powers, functions or duties conferred by or under this Act or any regulations made thereunder.

Part 6 - Miscellaneous Provisions

Regulations

29.(1) The Minister may, in consultation with the Authority, make regulations for the purpose of carrying into effect the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the regulations may provide for —

- (a) the establishment of the National Qualifications Framework;
- (b) the structure of the National Qualifications Framework;
- (c) the qualification types;
- (d) unit standard types;
- (e) the structure of qualifications;
- (f) standards setting;
- (g) quality assurance, including —
 - (i) institutional accreditation and monitoring of tertiary education and training providers and other providers of post compulsory education and training;
 - (ii) school inspection;
 - (iii) accrediting and monitoring of programmes and courses;
- (h) the form and manner of the Statement of Attainment, Academic Transcript and Award;
- (i) fees and charges payable under this Act;

- (j) information management system;
- (k) recognition and evaluation, and determination of equivalences of qualifications and part qualifications within the National Qualifications Framework;
- (l) protection of learners, including international learners;
- (m) appeals;
- (n) withdrawal of recognition or accreditation of a provider or a programme accredited or recognised under this Act; and
- (o) registration and revocation of registration of providers.

Appeals

30.(1) There shall be established an Appeals Committee appointed by the Minister to hear appeals from providers, persons including learners, and any other entity in relation to the decisions of the Authority.

(2) Decisions of the Authority shall comprise any decision of the Authority in relation to the functions of the Authority as set in section 4 (2) that may affect providers, persons and any other entity.

(3) The Appeals Committee shall consist of a maximum of 5 members, one of whom shall be appointed as Chairperson by the Minister, with expertise in, or knowledge of, education and training or the functions of the Authority, other than members of the Board or staff of the Authority.

(4) The Chairperson and two other members of the Appeals Committee shall form a quorum for a meeting of the Appeals Committee.

(5) A member of the Appeals Committee shall hold office for a period of 3 years and shall be eligible for reappointment on completion of the term of appointment.

(6) A member of the Appeals Committee may at any time resign from his or her office by giving a notice in writing to the Chairperson of the Board.

(7) A member of the Appeals Committee shall be paid such allowances as the Authority may, with the approval of the Board, determine.

(8) Subject to this Act, the Appeals Committee shall regulate its proceedings.

Compliance

31.(1) Providers, employers, and other entities shall comply with the provisions of this Act.

(2) The Authority shall hold providers to account for breach of their responsibilities under this law.

(3) It shall be incumbent upon any tertiary education and training provider once registered to apply to the Authority for institutional accreditation and accreditation or recognition of programmes and courses that it intends to offer.

(4) It shall be incumbent upon any school once established or registered to submit an annual self-evaluation report to the Authority as evidence of adherence to prescribed quality standards and in preparation for inspection by the Authority.

(5) The Authority shall issue a compliance notice to a provider where the Authority is satisfied that the provider is not complying with any prescribed requirements for maintaining its accreditation or recognition status, and accreditation or recognition of its programmes and courses.

(6) Subject to subsection (5), the Authority shall cancel or suspend the accreditation or recognition of a programme or course, or the accreditation or recognition of a provider where that provider does not comply with a compliance notice.

(7) Nothing in subsection (6) prohibits the right of a provider to re-apply for institutional accreditation or recognition, or re-accreditation or recognition of its programmes and courses, once accreditation or recognition requirements have been complied with.

(8) The Authority shall issue a compliance notice to a provider of education and training where the Authority is satisfied that the provider is offering a programme or course that is not accredited or recognised, or its accreditation or recognition status is not recognised by the Authority.

(9) Subject to subsection (8), the Authority shall cause to discontinue or suspend the offering of a non-accredited or non-recognised programme or course where that provider does not comply with a compliance notice.

(10) Nothing in subsection (9) prohibits the right of a provider to offer the programme or course once accreditation or recognition requirements have been complied with.

(11) A provider that fails to comply with the provisions of this Act for which a specific penalty has not been provided commits an offence and shall be liable upon conviction to a fine of level 3 on the standard scale.

Repeal and savings

32.(1) The Seychelles Qualifications Authority Act (Cap 323) is hereby repealed.

(2) Notwithstanding the repeal of the Seychelles Qualifications Authority Act —

- (a) any act done or commenced under the repealed Act, where such act is within the powers of the Authority, shall be carried on and completed by or under the authority of the Authority under this Act;
- (b) any statutory instrument or regulations made under the repealed Act shall to the extent that they are not inconsistent with this Act, continue in force as statutory instruments or regulations made under this Act until amended or repealed by a statutory instrument or regulations made under this Act;
- (c) all officers or employees of the Seychelles Qualifications Authority appointed under the repealed Act shall be deemed to be officers and employees of the Authority under this Act on the terms and conditions no less favourable than those subsisting immediately prior to the coming into operation of this Act.

Transfer of assets

33.(1) As from the commencement of this Act, all immovable and moveable property vested in the Seychelles Qualifications Authority established under section 3 of the Seychelles Qualifications Authority, Act (Cap 323) immediately before that date and used and managed by the aforesaid and all assets, rights, interests, privileges, liabilities and obligations, shall, subject to subsection (2), be transferred to and vested in the Authority.

(2) If any question arises as to whether any particular immovable and moveable property or any particular asset, right, interest, liability or obligation has been transferred to or vested in the Authority under subsection (1), a certificate signed by the Minister shall be conclusive evidence that the property, asset, right, interest, liability or obligation was or was not so transferred or vested as the case may be.

I certify that this is a correct copy of the Bill which was passed by the National Assembly on 10th November, 2021.



Mrs. Tania Isaac
Clerk to the National Assembly