

# 2011 DRAFT FEDERAL CONSTITUTION OF SOLOMON ISLANDS

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## **PREAMBLE**

**God Creator, Sovereign, Supreme and Almighty**, accepting your grand design for these archipelagic isles and existence in social human habitation of tradition, clans and tribes;

**We the people of Solomon Islands**, Confirming the existing federalism of our original social order;

**Experiencing** the incompatibility of our autonomous federalism within the colonial gift of unitary system of government for political independence;

**Departing** from the 1978 Independence Order;

Recognizing, Acknowledging and Reaffirming our original roots to formulate our home grown order for a federation of nations;

**Reasserting** the noble heritage and worthy customs of our ancestors, the freedom they enjoyed since time immemorial;

Respecting and be Mindful of our diversity but conscious of our common destiny and solidarity;

Pride in the maintenance of our identity, enabling us to renew our freedom, autonomy and worthy customs;

**We the citizens of Solomon Islands**, now with the guidance and blessings of the Creator, commit this Federation for Solomon Islands and by Divine help;

- (a) **To uphold Christian and similar moral** and spiritual principles, our worthy customs and tradition;
- (b) **To provide autonomous** arrangements for the governance of the people;
- (c) **To recognize the sovereignty** of the people;
- (d) **To recognize the autonomy** and interdependence of lineages, clans, tribes, natural family or communities;
- (e) **To govern through democracy**, accountability, equality and social justice
- (f) **To be mindful that Solomon Islands** will evolve to reflect a changing world and local circumstances and committed that those changes will be directed through constitutional and legal channels and not by violent or unlawful means;
- (g) **To protect land, sea and air**, environment and our cultural identity for the present and future generations
- (h) **To strive to eliminate** universal problems of poverty, illiteracy, corruption, pollution, unemployment
- (i) **To control** overpopulation and other social ills



(j) **To meet the obligations** of citizens under this Constitution with dignity and integrity

(k) To strive to bring together a people of diversity

**We the people and citizens of Solomon Islands**, acting under the supremacy of God and authority of our traditional clan and tribal system and leadership,

**Do now therefore declare,**

**Following consultation** with the people through our Constitutional Congress, the Eminent Persons Advisory Council, Provincial Feedback and National Convention,

That we having resolved to enact a Constitution for the Federal Republic of Solomon Islands;

And acting with the guidance of Almighty God, through the decision of elected representatives on this \_\_\_\_\_ day of \_\_\_\_\_ 2013,

**Hereby establish**, adopt and give to ourselves this Constitution—

To come into effect in the following manner:-

- (a) On the day following the day on which this Constitution is endorsed by the Head of State, acting with and in accordance with the advice of Cabinet, shall come into operation, together with such other provisions as are necessary to enable the first general election of the President and members of the Federal Parliament to take place;
- (b) On the date fixed for the return of the writs in the first general election of the President and members of the Federal Parliament, the remainder of this Constitution shall come into operation.

**GOD BLESS SOLOMON ISLANDS**

## **CHAPTER 1**

### **FOUNDATION PROVISIONS**

**1. Foundation of the Republic-** Solomon Islands shall be a **Democratic Federal** Republic based upon the principles of:

- (a) Supremacy and Sovereignty of Our Almighty God the Creator, the Father of our Lord Jesus Christ
- (b) Federation of States and our Communities
- (c) Strength of and respect for our wisdom, worthy customs and traditions.
- (d) *Government operating as locally as circumstances allow.*

- (e) Supremacy of the Constitution and the rule of law;
- (f) Advancement of the Fundamental Rights and Freedoms of the Individuals.
- (g) The promotion of unity, peace and security.
- (h) Adversarial and consensual democracy.
- (i) The advancement of creativity, ideas and ability.

## 2. Promotion, preservation and maintenance of **unity**, peace and security of Solomon Islands

- (a) No military organization shall be created or operated within the Republic including the formation and operation of paramilitary forces and militia except in accordance with laws made by the Federal Parliament for the purpose of promoting, preserving and maintaining the unity, peace and security of Solomon Islands.
- (b) No law made under sub-clause (a) shall be brought into force unless it has the support of the majority of the States Parliaments for the establishment of appropriate security organizations within the Republic.
- (c) The security organizations referred to in sub-clause (b) shall comprise disciplined security forces, police and law enforcement agencies or agents and may include the formation of complementary security establishments in the States which shall come under the direct control, direction and supervision of the Federal Government.
- (d) Such security organization shall have in their rank and file at least an equitable representation of indigenous Solomon Islanders, proportionate to each State Governments' population from time to time.

## 3. Sovereignty of the Republic

The sovereignty of the Republic shall be subject only to those international obligations **and agreements** applying to Solomon Islands as at the commencement of this Constitution, or which are later freely accepted by the Federal Government in accordance with this Constitution and international practice.

## 4. Capital of the Republic

Until determined otherwise, Honiara City **on Guadalcanal** shall subject to clauses 16, 183 and chapter 17 be the Capital of the Republic and seat of the Federal Government **the boundaries of which are specified in Schedule Four.**

**5. Languages** - (1) English shall be the official language of the Republic. Pijin and other languages will be used where appropriate.

(2) All languages of Solomon Islands shall be equally respected and maintained.

**6. National Flag.**

The current National Flag of Solomon Islands shall be maintained and respected and shall become the National Flag of the Republic.

**7. National Anthem**

The current National Anthem of Solomon Islands shall be maintained and respected and shall become the National Anthem of the Republic.

**8. National Symbols**

The current National Symbols of Solomon Islands shall be maintained and respected and shall become the National Symbols of the Republic.

**9. Supremacy of the Constitution** - (1) This Constitution is the supreme law of the Democratic Federal Republic of Solomon Islands.

(2) Any law inconsistent with this Constitution shall be void and of no effect to the extent of the inconsistency.

(3) The validity, legality or procedure of enactment or promulgation of this Constitution is not subject to challenge by any court or official organ of the Democratic Federal Republic of Solomon Islands.

## **10. Interpretation of the Constitution**

(1) This Constitution shall be interpreted so as to –

(a) give effect to the preamble and foundation principles;

(b) promote the Fundamental Rights and Freedoms of the Individuals.

(c) permit the creative development of a body of law relevant to Solomon Islands jurisprudence;

(d) avoid technicalities which defeat the purpose of the Constitution; and

(e) have regard to the spiritual, religious, traditional, ethnic, cultural and linguistic diversity of the Democratic Federal Republic of Solomon Islands.

(2) The court, person or authority interpreting this Constitution may refer to any relevant matter or materials that will assist in the purposive interpretation of the Constitution, and shall take into account the still-developing constitutional framework of the Democratic Federal Republic of Solomon Islands.

**11. Defence of the Constitution** – (1) Any person **or group of persons who** –

- (a) by violence, threats, or other unlawful means :
  - (i) suspends or abrogates this Constitution or who purports or attempts to do any such act; or
  - (ii) attempts to establish a system of government contrary to this Constitution; or
  - (iii) interferes in the conduct of any lawful government or organ of the Republic; or
  - (iv) organises violence against persons or properties which may cause fear to the general public; or
  - (v) promotes feelings of hostility between different ethnic groups or classes of citizens; or
- (b) organises or otherwise partakes in any informal armed group **or unofficial militia force** contrary to law; or
- (c) aids and abets any person in conduct prescribed in this sub-section, commits an offence under the Constitution that may be punishable by **applicable criminal** law.
- (2) No law shall grant persons amnesty or immunity from prosecution in regard to any offence committed under subsection (1).
- (3) A person convicted of an offence under this section shall not be eligible for election or appointment to any public office.

**12. Laws of Solomon Islands** – (1) The laws of Solomon Islands shall comprise of –

- (a) Federal Constitution
- (b) **State Constitutions;**
- (c) Community Government Constitutions or whatever appropriate constitutional arrangements or governing rules.
- (d) Acts and subsidiary legislations of the Federal Parliament;
- (e) **Acts and subsidiary legislations of the State legislatures and any** other legislative body in accordance with the Constitution;
- (f) **Acts of the Parliament of the United Kingdom of general application** as at 7 July 1978;
- (g) Customary **law and practice;**
- (h) the principles and rules of common law **and equity**, as they may be applied by the Courts of Solomon Islands; and
- (i) customary international law, international conventions, treaties and agreements applicable to Solomon Islands so far as they are incorporated into domestic law **after this constitution has come into effect;**

- (2) Customary law shall not apply to the extent that it is inconsistent with this Constitution or any legislative enactment;
- (3) Customary law shall be applied where appropriate to the circumstances, unless a Court determines that it is in the interests of substantive fairness and justice that the common law and equity shall prevail.
- (4) No Act of the Parliament of the United Kingdom of general application passed after 7 July 1978 shall extend to Solomon Islands as part of its law.

## CHAPTER TWO

### THE SOCIAL CHARTER BETWEEN THE REPUBLIC AND THE PEOPLE

- 13. Duties of the Republic** – The Republic should create the conditions conducive for unity, peace, security, order and good governance and in particular shall:
- (a) uphold the Constitution and foster a strong and sustainable federation and sense of nationhood;
  - (b) support governance carried out at Federal, State and Community Government levels, including clan and tribal village communities, church and other local communities;
  - (c) uphold and protect the customs of the clan and tribal communities, including rights of customary ownership of land and natural resources and their customary and intellectual properties;
  - (d) recognise its responsibility to future generations in safeguarding the environment and the biodiversity of Solomon Islands, and encouraging sustainable resource utilisation and management;
  - (e) foster conditions for stability, peace, and the orderly conduct of daily life and relations between Solomon Islands communities;
  - (f) promote the rights of every person to equitable education, health and economic development;
  - (g) uphold the Fundamental Rights and Freedoms of the Individual.
  - (h) promote the culture of democracy and an appreciation of the spirit of citizenship;
  - (i) ensure open and transparent government at all levels and the accountability of all government officials and public authorities and prevent corruption in all its forms;
  - (j) ensure ready access for all people to formal and traditional institutions of justice;
  - (k) promote equal participation of both men and women in public affairs, with particular emphasis on the involvement of women, youth and disabled persons in the life of the Republic; and
  - (l) remove and destroy unauthorised firearms from Solomon Islands.

**14. Duties of Citizens of Solomon Islands** - As part of democratic participation and reciprocity the people and residents of Solomon Islands shall:

- (a) respect the Constitution and its values;
- (b) uphold the laws of Solomon Islands including the Fundamental Rights and Freedoms of the Individual.
- (c) **respect and** uphold the **genuine and worthy** local customs and cultures;
- (d) respect and live in harmony with others;
- (e) promote **and protect natural** family life;
- (f) protect public property from waste and misuse;
- (g) **respect and** protect the environment and conserve natural resources;
- (h) co-operate with public agencies for the maintenance of law and order;
- (i) refrain from conducting, assisting or condoning acts of corruption;
- (j) hold public officials and authorities to appropriately account for the fair and lawful conduct of government.
- (k) **uphold and respect Christian ethics, principles and values**

**15. Non-justiciability** – (1) The provisions of this Chapter are non-justiciable, except to the extent that they are the subject of other provisions in this Constitution or other law.

### CHAPTER THREE

#### CUSTOMARY LAND, RESOURCES AND PROPERTY RIGHTS

##### 16. General protections of Ownership and Guarantee of Fair Due Legal Process

(1) The inalienable ownership of all customary lands and other natural resources on, in and above such lands in Solomon Islands inclusive of adjacent seas and other natural resources therein which have been used or enjoyed for time immemorial shall vest in the tribe, clan, group, family or individuals as the case may be except as provided for in Sub - clause (2).

(2) The inalienable ownership referred to in the preceding sub clause (1) and the rights and interests referred to in the succeeding sub clauses of this chapter shall only be abrogated by free and well informed consent of customary land and resource owners and valid customary practices and procedures or according to laws enacted for this purpose which shall provide for fair and reasonable compensation, fair due legal process or other protections specified in this chapter.

## **17. Rights and interests of Usage, Occupation, Cultivation, Development and Control of Customary Land and Resources.**

(1) The right and interest to use, occupy, cultivate, develop or control customary lands, resources and other properties including their total environment such as, soil, forests, rivers, lakes, creeks, streams, fresh water, wild game, coastal areas, beaches, sands, stones, corals, reefs, fishing grounds, salt water, air, minerals, natural gas, petroleum and other resources which are naturally on, in or under customary lands, resources and other properties and which for a time immemorial have been used, occupied, cultivated, developed or controlled by indigenous Solomon Islanders in accordance with valid customary laws, practices and procedures shall vest in the indigenous tribe, clan, lineage, family or individuals as the case may be in accordance with applicable customary laws, practices and procedures of the people and locality concern.

(2) The rights referred to in the preceding provision shall not be abrogated except with the free and well informed consent of the customary land and resource owners or by other lawful processes specifically authorized by statute and subject to this Constitution.

(3) The Federal, State, and Community Governments shall enact laws and administrative measures to prevent any un authorized intrusion upon or on the rights of ownership, usage, occupation, cultivation, development or control of customary lands or resources or any other interference with, alienation of or encroachment upon such rights.

## **18. Right to control development of customary lands and resources**

(1) Indigenous Solomon Islanders shall have the right to decide their own priorities for the development, use or exploitation of their customary lands and resources as they affect their lives, beliefs, institutions and spiritual well-being.

(2) Every development of customary land or exploitation of resources shall have the customary land and resource owners free and well informed consent prior to the approval or implementation of any project affecting their lands and other resources, particularly in connection with the development, utilisation or exploitation of forests, minerals, water and other natural resources.

(3) Any public authority, body or person seeking to develop customary land or resources shall ensure that studies are carried out, in cooperation with the peoples concerned, to assess the social, spiritual, cultural and environmental impact of the planned development or exploitative activity and the findings of an impact study shall be taken into account in considering a scheme of development or exploitative activity and if approved shall be criteria in the implementation of the development or activity.

(4) The improvement of the conditions of life, work, levels of health and education of the customary owners concerned, with their participation and co-operation, shall be matters of priority in plans and or as a condition precedent on the giving of consent for

the overall economic development of their customary lands and the exploitation of resources.

(5) Customary land and resource owners shall be entitled to receive a just and fair return from the financial and economic benefits of the development, utilisation or exploitation of their resources and fair compensation for measures taken to mitigate adverse environmental, economic, social, cultural and spiritual impacts.

**19. Right to the conservation, Preservation, Restoration and protection of customary lands and resources –**

Indigenous Solomon Islanders shall have the right to the conservation, preservation, restoration and protection of the total environment and the productive capacity of their customary lands and resources by appropriate legislation.

**20. Right to Retention of ownership, control and protection of Culture, Arts and Intellectual Property** - Indigenous Solomon Islanders shall retain the full ownership, possession, control and protection of their culture, arts and intellectual property subject to law.

**21. Right to Preservation of custom laws and traditions** - Legal effect shall be retained as to customary laws, traditions, land tenure systems and institutions for the regulation of clan and tribal village communities, the development and management of customary land and resources and the right for owners to maintain and strengthen their distinctive spiritual and material relationship, and in particular the collective aspect of that relationship with their customary lands and resources, until evolved or changed according to the relevant customary laws and practice, or by other lawful means.

**22. Right against forceful removal from customary land for development**

(1) No customary landowners may be forcefully removed from their customary lands without their free and well informed consent, unless under provisions authorised by statute and subject to fair and reasonable compensation or appropriate relocation and by fair due legal process.

(2) If the grounds for the forceful removal cease to exist, the original customary landowners shall have the first right of refusal in any disposal of their original lands and shall be allowed to reoccupy them.

**23. Right to restitution** – Indigenous Solomon Islanders shall have the right by due legal process to the restitution of lands and resources, which they have customarily owned or otherwise occupied or used, and which have been unjustly confiscated, occupied, used or damaged before and during the British Colonial Administration whose perpetual title are now held by the Commissioner of Lands under the Land and Titles Act (Cap 133). Where this is not possible they have the right to just and fair compensation.



#### **24. Restoration of Ownership of Perpetual Estates**

(1) The Federal Government through the Ministry of Lands and Housing shall make all attempts to transfer all Perpetual Estate Titles to the original land owners.

(2) The Federal Government shall make legislations for the facilitation and any mechanisms for the implementation of Sub – Clause (1) above.

(3) Where restoration of land is not possible, a fair and just compensation and or any appropriate rehabilitative arrangement or measures, shall be considered and appropriately remedied.

### **CHAPTER FOUR**

#### **PROTECTION OF FUNDAMENTAL RIGHTS AND FREEDOMS OF THE INDIVIDUAL**

#### **25. Fundamental rights and freedoms of the individual**

(1) Whereas every person in the Republic is entitled to the fundamental rights and freedoms of the individual, that is to say, the right, whatever his or her race, place of origin, political opinions, colour, creed or sex, but subject to respect for the rights and freedoms of others and for the public interest, to each and all of the following, namely:—

(a) life, liberty, security of the person and the protection of the law;

(b) freedom of conscience of expression and of assembly and association; and

(c) protection for the privacy of his or her home and other property and from deprivation of property without compensation, the provisions of this Chapter shall have effect for the purpose of affording protection to those rights and freedoms subject to such limitations of that protection as are contained in those provisions, being limitations designed to ensure that the enjoyment of the said rights and freedoms by any individual does not prejudice the rights and freedoms of others or the public interest.

#### **26. Protection of right to life**

(1) No person shall be deprived of his or her life intentionally save in execution of the sentence of a court in respect of a criminal offence under the law in force in the Republic of which he or she has been convicted.

(2) A person shall not be regarded as having been deprived of his or her life in contravention of this clause if he or she dies as the result of the use, to such extent and in such circumstances as are permitted by law, of such force as is reasonably justifiable—

(a) for the defence of any person from violence or for the defence of property;

(b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;

(c) for the purpose of suppressing a riot, insurrection or mutiny; or

(d) in order to prevent the commission by that person of a criminal offence, or if he or she dies as the result of a lawful act of war.

## **27. Protection of right to personal liberty**

(1) No person shall be deprived of his or her personal liberty saves as may be authorised by law in any of the following cases, that is to say—

(a) in consequence of his or her unfitness to plead to a criminal charge;

(b) in execution of the sentence or order of a court, whether established for the Republic or some other country, in respect of a criminal offence of which he or she has been convicted;

(c) in execution of the order of a court of record punishing him or her for contempt of that court or of a court inferior to it;

(d) in execution of the order of a court made to secure the fulfilment of any obligation imposed on him or her by law;

(e) for the purpose of bringing him or her before a court in execution of the order of a court;

(f) upon reasonable suspicion of his or her having committed, or being about to commit, a criminal offence under the law in force in the Republic;

(g) in the case of a person who has not attained the age of eighteen years, under the order of a court or with the consent of his or her parent or guardian, for the purpose of his or her education or welfare;

(h) for the purpose of preventing the spread of an infectious or contagious disease;

(i) in the case of a person who is, or is reasonably suspected to be, of unsound mind, addicted to drugs or alcohol, or a vagrant, for the purpose of his or her care or treatment or the protection of the community;

(j) for the purpose of preventing the unlawful entry of that person into the Republic, or for the purpose of effecting the expulsion, extradition or other lawful removal of that person from the Republic or for the purpose of restricting that person while he or she is being conveyed through the Republic in the course of his or her extradition or removal as a convicted prisoner from one country to another; or

(k) to such extent as may be necessary in the execution of a lawful order of a court requiring that person to remain within a specified area within the Republic or prohibiting him or her from being within such an area, or to such extent as may be reasonably justifiable for the taking of proceedings against that person relating to the making of any such order, or to such extent as may be reasonably justifiable for restraining that person during any visit that he or she is permitted to make to any part of the Republic in which, in consequence of any such order, his or her presence would otherwise be unlawful.

(2) Any person who is arrested or detained shall be informed as soon as reasonably practicable, and in a language that he or she understands, of the reasons for his or her arrest or detention.

(3) Any person who is arrested or detained—

(a) for the purpose of bringing him or her before a court in execution of the order of a court; or

(b) upon reasonable suspicion of his or her having committed, or being about to commit, a criminal offence under the law in force in the Republic, and who is not released, shall be brought without undue delay before a court; and if any person arrested or detained upon reasonable suspicion of his or her having committed or being about to commit a criminal offence is not tried within a reasonable time, then, without prejudice to any further proceedings that may be brought against him or her, he or she shall be released either unconditionally or upon reasonable conditions, including in particular such conditions as are reasonably necessary to ensure that he or she appears at a later date for trial or for proceedings preliminary to trial.

## **28. Protection from slavery and forced labour**

(1) No person shall be held in slavery or servitude.

(2) No person shall be required to perform forced labour.

(3) For the purposes of this clause, the expression "forced labour" does not include—

(a) any labour required in consequence of the sentence or order of a court;

(b) any labour required of any person while he or she is lawfully detained that, though not required in consequence of the sentence or order of a court, is reasonably necessary in the interests of hygiene or for the maintenance of the place at which he or she is detained;

(c) any labour required of a member of a disciplined force in pursuance of his or her duties as such or, in the case of a person who has conscientious objections to service as a member of a naval, military or air force, any labour that that person is required by law to perform in place of such service;

(d) any labour required during any period of public emergency or in the event of any other emergency or calamity that threatens the life and well-being of the community, to the extent that the requiring of such labour is reasonably justifiable in the circumstances of any situation arising or existing during that period or as a result of that other emergency or calamity, for the purpose of dealing with that situation; or

(e) any labour reasonably required as part of reasonable and normal communal or other civic obligations.

### **29. Protection from inhuman treatment**

No person shall be subjected to torture or to inhuman or degrading punishment or other treatment.

### **30. Protection from deprivation of property**

(1) No property of any description shall be compulsorily taken possession of, and no interest in or right over property of any description shall be compulsorily acquired, except where the following conditions are satisfied, that is to say—

(a) the taking of possession or acquisition is necessary or expedient in the interests of defence, public safety, public order, public morality, public health, town or country planning or the development or utilisation of any property in such a manner as to promote the public benefit; and

(b) there is reasonable justification for the causing of any hardship that may result to any person having an interest in or right over the property; and

(c) provision is made by a law applicable to that taking of possession or acquisition—

(i) for the payment of reasonable compensation (the valuable consideration of which may take the form of cash or some other form and may be payable by way of lump sum or by instalments) within a reasonable period of time having due regard to all the relevant circumstances; and

(ii) securing to any person having an interest in or right over the property a right of access to the High Court, whether direct or on appeal from any other authority, for the determination of his or her interest or right, the legality of the taking of possession or acquisition of the property, interest or right, and the reasonableness of the compensation and the period of time within which it shall be paid.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this clause—

(a) to the extent that the law in question makes provision for the taking of possession or acquisition of any property—

- (i) in satisfaction of any tax, rate or duty;
- (ii) by way of penalty for breach of the law or forfeiture in consequence of a breach of the law;
- (iii) as an incident of a lease, tenancy, mortgage, charge, bill of sale, pledge or contract;
- (iv) in the execution of judgments or orders of a court in proceedings for the determination of civil rights or obligations;
- (v) in circumstances where it is reasonably necessary so to do because the property is in a dangerous state or injurious to the health of human beings, animals or plants;
- (vi) in consequence of any law with respect to the limitation of actions or acquisitive prescription; or
- (vii) for so long only as may be necessary for the purposes of any examination, investigation, trial or enquiry or, in the case of land, the carrying out thereon—
  - (A) of work of soil conservation or of conservation of other natural resources; or
  - (B) of work relating to agricultural development or improvement which the owner or occupier of the land has been required, and has without reasonable excuse refused or failed, to carry out, except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society; or
- (b) to the extent that the law in question makes provision for the taking of possession or acquisition of—
  - (i) enemy property;
  - (ii) property of a deceased person, a person of unsound mind, a person who has not attained the age of twenty-one years or a person who is absent from the Republic, for the purpose of its administration for the benefit of the persons entitled to the beneficial interest therein;
  - (iii) property of a person declared to be insolvent or a body corporate in liquidation, for the purpose of its administration for the benefit of the creditors of the insolvent or body corporate and, subject thereto, for the benefit of other persons entitled to the beneficial interest in the property; or
  - (iv) property subject to a trust, for the purpose of vesting the property in persons appointed as trustees under the instrument creating the trust or by a court or, by order of a court, for the purpose of giving effect to the trust.

(3) Nothing in this clause shall be construed as affecting the making or operation of any law for the compulsory taking of possession in the public interest of any property, or the compulsory acquisition in the public interest of any interest in or right over property, where that property, interest or right is held by a body corporate established for public purposes by any law and in which no moneys have been invested other than moneys provided by the Federal or State Government.

### **31. Protection for privacy of home and other property**

(1) Except with his or her own consent, no person shall be subjected to the search of his or her person or his or her property or the entry by others on his or her premises.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this clause to the extent that the law in question makes provision—

(a) in the interests of defence, public safety, public order, the prevention and investigation of breaches of the law, public morality, public health, town or country planning, the development and utilization of mineral resources, or the development or utilisation of any other property in such a manner as to promote the public benefit;

(b) for the purpose of protecting the rights or freedoms of other persons;

(c) for the purpose of authorising an officer or agent of the Federal, State or Community Government, an authority of the municipal government of Honiara City or a body corporate established by law for a public purpose to enter on the premises of any person in order to inspect those premises or anything thereon for the purpose of any tax, rate or duty or in order to carry out work connected with any property that is lawfully on those premises and that belongs to the Federal, State or Community Government, that authority of the municipal government of Honiara City or that body corporate, as the case may be;

(d) for the purpose of authorising the entry upon any premises in pursuance of an order of a court for the purpose of enforcing the judgment or order of a court in any proceedings; or

(e) for the purpose of authorising the entry upon any premises for the purpose of preventing or detecting criminal offences, and except so far as that provision or, as the case may be, anything done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

### **32 Provisions to secure protection of law**

(1) If any person is charged with a criminal offence, then, unless the charge is withdrawn, that person shall be afforded a fair hearing within a reasonable time by an independent and impartial court established by law.

(2) Every person who is charged with a criminal offence—

- (a) shall be presumed to be innocent until he or she is proved or has pleaded guilty;
- (b) shall be informed as soon as reasonably practicable, in detail and in a language that he or she understands, of the nature of the offence charged;
- (c) shall be given adequate time and facilities for the preparation of his or her defence;
- (d) shall be permitted to defend himself or herself before the court in person or, at his or her own expense, by a legal representative of his or her own choice;
- (e) shall be afforded facilities to examine in person or by his or her legal representative the witnesses called by the prosecution before the court, and to obtain the attendance and carry out the examination of witnesses to testify on his or her behalf before the court on the same conditions as those applying to witnesses called by the prosecution; and
- (f) shall be permitted to have without payment the assistance of an interpreter if he or she cannot understand the language used at the trial of the charge.

and, except with his or her own consent, the trial shall not take place in his or her absence unless he or she so conducts himself as to render the continuance of the proceedings in his or her presence impracticable and the court has ordered him or her to be removed and the trial to proceed in his or her absence.

(3) When a person is tried for any criminal offence, the accused person or any person authorised by him or her in that behalf shall, if he or she so requires and subject to payment of such reasonable fee as may be prescribed by law, be given within a reasonable time after judgment a copy for the use of the accused person of any record of the proceedings made by or on behalf of the court.

(4) No person shall be held to be guilty of a criminal offence on account of any act or omission that did not, at the time it took place, constitute such an offence, and no penalty shall be imposed for any criminal offence that is severer in degree or description than the maximum penalty that might have been imposed for that offence at the time when it was committed

(5) No person who shows that he or she has been tried by a competent court for a criminal offence and either convicted or acquitted shall again be tried for that offence or for any other criminal offence of which he or she could have been convicted at the trial for that offence, save upon the order of a superior court in the course of appeal or review proceedings relating to the conviction or acquittal.

(6) No person shall be tried for a criminal offence if he or she shows that he or she has been pardoned for that offence.

(7) No person who is tried for a criminal offence shall be compelled to give evidence at the trial.

(8) Any court or other adjudicating authority prescribed by law for the determination of the existence or extent of any civil right or obligation shall be established or recognised by law and shall be independent and impartial; and where proceedings for such a determination are instituted by any person before such a court or other adjudicating authority, that person shall be given a fair hearing within a reasonable time.

(9) Except with the agreement of all the parties thereto, all proceedings of every court and proceedings for the determination of the existence or extent of any civil right or obligation before any other adjudicating authority, including the announcement of the decision of the court or other authority, shall be held in public.

(10) Nothing in the preceding sub-clause shall prevent the court or other adjudicating authority from excluding from the proceedings persons other than the parties thereto and their legal representatives to such extent as the court or other authority—

(a) may by law be empowered so to do and may consider necessary or expedient in circumstances where publicity would prejudice the interests of justice or in interlocutory proceedings or in the interests of decency, public morality, the welfare of persons under the age of eighteen years or the protection of the private lives of persons concerned in the proceedings; or

(b) may by law be empowered or required so to do in the interests of defence, public safety or public order.

(11) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of—

(a) sub-clause (2)(a) of this clause to the extent that the law in question imposes upon any person charged with a criminal offence the burden of proving particular facts;

(b) sub-clause (2)(e) of this clause to the extent that the law in question imposes reasonable conditions that must be satisfied if witnesses called to testify on behalf of an accused person are to be paid their expenses out of public funds; or

(c) sub-clause (5) of this section to the extent that the law in question authorises a court to try a member of a disciplined force for a criminal offence notwithstanding any trial and conviction or acquittal of that member under the disciplinary law of that force, so, however, that any court so trying such a member and convicting him or her shall in sentencing him or her to any punishment take into account any punishment awarded him under that disciplinary law.



### **33. Protection of freedom of conscience**

(1) Except with his or her own consent, no person shall be hindered in the enjoyment of his freedom of conscience, and for the purposes of this clause the said freedom includes freedom of thought and of religion, freedom to change his or her religion or belief, and freedom, either alone or in community with others, and both in public and in private, to manifest and propagate his or her religion or belief in worship, teaching, practice and observance.

(2) Every religious community shall be entitled, at its own expense, to establish and maintain places of education and to manage any place of education which it wholly maintains.

(3) No religious community shall be prevented from providing religious instruction for persons of that community in the course of any education provided at any place of education which it wholly maintains or in the course of any education which it otherwise provides.

(4) Except with his or her own consent (or, if he or she is a person who has not attained the age of eighteen years, the consent of his or her guardian) no person attending any place of education shall be required to receive religious instruction or take part in or attend any religious ceremony or observance if that instruction, ceremony or observance relates to a religion other than his or her own.

(5) No person shall be compelled to take any oath which is contrary to his or her religion or belief or to take any oath in a manner which is contrary to his or her religion or belief.

(6) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this clause to the extent that the law in question makes provision which is reasonably required—

(a) in the interests of defence, public safety, public order, public morality or public health; or

(b) for the purpose of protecting the rights and freedoms of other persons, including the right to practise and observe any religion without the unsolicited intervention of members of any other religion, and except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

(7) Nothing in this clause shall affect the power of the Federal Parliament and States Legislatures to prescribe the curriculum and related matters in all places of education in their territorial jurisdictions within the Republic.

(8) References in this clause to a religion shall be construed as including references to a religious denomination, and cognate expressions shall be construed accordingly.

### **34. Protection of freedom of expression**

(1) Except with his or her own consent, no person shall be hindered in the enjoyment of his or her freedom of expression, and for the purposes of this clause the said freedom includes the freedom to hold opinions without interference, freedom to receive ideas and information without interference, freedom to communicate ideas and information without interference and freedom from interference with his or her correspondence.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this clause to the extent that the law in question makes provision—

- (a) in the interests of defence, public safety, public order, public morality or public health;
- (b) for the purpose of protecting the reputations, rights and freedoms of other persons or the private lives of persons concerned in legal proceedings, preventing the disclosure of information received in confidence, maintaining the authority and independence of the courts, or regulating the administration or the technical operation of telephony, telegraphy, posts, wireless, broadcasting or television; or
- (c) that imposes restrictions upon public officers,

and except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

### **35. Protection of freedom of assembly and association**

(1) Except with his or her own consent, no person shall be hindered in the enjoyment of his or her freedom of assembly and association, that is to say, his or her right to assemble freely and associate with other persons and in particular to form or belong to political parties or to form or belong to trade unions or other associations for the protection of his or her interests.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this clause to the extent that the law in question makes provision—

- (a) in the interests of defence, public safety, public order, public morality or public health;
- (b) for the purpose of protecting the rights or freedoms of other persons; or
- (c) that imposes restrictions upon public officers,

and except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

### **36. Protection of freedom of movement**

(1) No person shall be deprived of his or her freedom of movement, and for the purposes of this clause the said freedom means the right to move freely throughout the Republic, the right to reside in any part of the Republic, the right to enter the Republic and immunity from expulsion from the Republic.

(2) Any restriction on a person's freedom of movement that is involved in his or her lawful detention shall not be held to be inconsistent with or in contravention of this clause.

(3) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this clause to the extent that the law in question makes provision—

(a)for the imposition of restrictions on the movement or residence within the Republic of any person or on any person's right to leave the Republic that are reasonably required in the interests of defence, public safety or public order;

(b)for the imposition of restrictions on the movement or residence within the Republic or on the right to leave the Republic of persons generally or any class of persons that are reasonably required in the interests of defence, public safety, public order, public morality or public health;

(c)for the imposition of restrictions on the movement or residence within the Republic of any person who is not a citizen of the Republic or the exclusion or expulsion from the Republic of any such person;

(d)for the imposition of restrictions on the acquisition or use by any person of land or other property in the Republic;

(e)for the imposition of restrictions upon the movement or residence within the Republic of public officers;

(f) for the removal of a person from the Republic to be tried or punished in some other country for a criminal offence under the law of that other country or to undergo imprisonment in that other country in execution of the sentence of a court in respect of a criminal offence under the law in force in the Republic of which he or her has been convicted; or

(g) for the imposition of restrictions, by order of a court, on the movement or residence within the Republic of any person or on any person's right to leave the Republic either in consequence of his or her having been found guilty of a criminal offence under the law in force in the Republic or for the purpose of ensuring that he or she appears before a court at a later date for trial or for proceedings relating to his or her extradition or lawful removal from the Republic, and except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

(4) If any person whose freedom of movement has been restricted by virtue only of such a provision as is referred to in sub-clause (3) (a) or (b) of this clause so requests at any time during the period of that restriction not earlier than six months after he last made such a request during that period, his or her case shall be reviewed by an independent and impartial tribunal presided over by a person, qualified to be admitted to practise in the Republic as an advocate or as a barrister and solicitor, appointed by the Chief Justice.

(5) On any review by a tribunal in pursuance of the preceding sub-clause of the case of a person whose freedom of movement has been restricted, the decision of the tribunal concerning the necessity or expediency of continuing the restriction shall be binding on the authority by which it was ordered.

### **37. Protection on discrimination on grounds of race, etc**

(1) Subject to the provisions of sub-clauses (5), (6) and (9) of this clause, no law shall make any provision that is discriminatory either of itself or in its effect.

(2) Subject to the provisions of subsections (7), (8) and (9) of this clause, no person shall be treated in a discriminatory manner by any person acting by virtue of any written law or in the performance of the functions of any public office or any public authority.

(3) Subject to the provisions of sub-clause (9) of this clause, no person shall be treated in a discriminatory manner in respect of access to shops, hotels, lodging-houses, public restaurants, eating-houses or places of public entertainment or in respect of access to places of public resort maintained wholly or partly out of public funds or dedicated to the use of the general public.

(4) In this clause, the expression "discriminatory" means affording different treatment to different persons attributable wholly or mainly to their respective descriptions by race, place of origin, political opinions, colour, creed or sex whereby persons of one such description are subjected to disabilities or restrictions to which persons of another such description are not made subject or are accorded privileges or advantages which are not accorded to persons of another such description.

(5) Sub-clause (1) of this clause shall not apply to any law so far as that law makes provision—

(a) for the imposition of taxation or the appropriation of revenue by the Federal, State or Community Government or the municipal government of Honiara City, or any municipal government of any state capital;

(b) with respect to persons who are not citizens of the Republic;

(c) for the application, in the case of persons of any such description as is mentioned in the preceding sub-clause (or of persons connected with such persons), of the law with respect to adoption, marriage, divorce, burial, devolution of property on death or other like matters that is the personal law applicable to persons of that description;

(d) for the application of customary law;

(e) with respect to land, the tenure of land, the resumption and acquisition of land and other like purposes;

(f) for the advancement of the more disadvantaged members of the community; or

(g) whereby persons of any such description as is mentioned in the preceding sub-clause may be subjected to any disability or restriction or may be accorded any privilege or advantage which, having regard to its nature and to special circumstances pertaining to those persons or to persons of any other such description, is reasonably justifiable in a democratic society.

(6) Nothing contained in any law shall be held to be inconsistent with or in contravention of sub-clause (1) of this clause to the extent that it makes provision with respect to standards or qualifications (not being standards or qualifications specifically relating to race, place of origin, political opinions, colour, creed or sex) to be required of any person who is appointed to any office in the Federal or States public service, any office in a disciplined force, any office in the service of the municipal government of Honiara City or any municipal government of any state capital or any office in a body corporate established directly by any law for public purposes, or who wishes to engage in any trade or business.

(7) Sub-clause (2) of this clause shall not apply to anything which is expressly or by necessary implication authorised to be done by any such provision of law as is referred to in sub-clause (5) or (6) of this clause.

(8) Sub-clause (2) of this clause shall not affect any discretion relating to the institution, conduct or discontinuance of civil or criminal proceedings in any court that is vested in any person by or under this Constitution or any other law.

(9) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this clause to the extent that the law in question makes provision whereby persons of any such description as is mentioned in sub-clause (4) of this clause may be subjected to any restriction on the rights and freedoms guaranteed by clauses 31, 33, 34, 35 and 36 of this Constitution, being such a restriction as is authorised by Clause 31(2), 33(6), 34(2), 35(2) or 36(3), as the case may be.

### **38. Provisions for period of public emergency**

(1) In this Chapter "period of public emergency" means any period during which—

(a) the Republic is at war; or

(b) there is in force a declaration made under the provisions of this clause.

(2) The President may at any time by proclamation declare that a state of public emergency exists and as soon as practicable shall publish such proclamation in the Gazette.

(3) A declaration made under sub-clause (2) of this clause shall cease to have effect on the expiration of a period of seven days commencing with the day on which the declaration is made unless before the expiration of that period it has been approved by a resolution of the Federal Parliament supported by the votes of at least two-thirds of all the members thereof:

Provided that, if a declaration is made during any period when the Federal Parliament is not sitting, the Federal Parliament shall be convened not later than two weeks after the day on which the declaration is made and the period of seven days referred to in this sub-clause shall commence on the day on which the Federal Parliament convened.

(4) A declaration made under sub-clause (2) of this clause may at any time before it has been approved by a resolution of the Federal Parliament be revoked by the President by a proclamation published in the Gazette.

(5) A declaration made under sub-clause (2) of this clause and approved by a resolution of the Federal Parliament under sub-clause (3) shall continue in force until the expiration of a period of four months commencing with the day on which the declaration is made or until such earlier date as may be specified in the resolution.

(6) Notwithstanding the provisions of subsection (5) of this clause, a declaration made under subsection (2) and approved by a resolution of the Federal Parliament under sub-clause (3) may at any time be revoked by a resolution of the Parliament supported by the votes of a majority of all the members thereof.

(7) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of clauses 27, 28(2), 31, 33,34, 35, 36 or 37 of this Constitution to the extent that the law in question makes in relation to any period of public emergency provision, or authorises the doing during any such period of anything, that is reasonably justifiable in the circumstances of any situation arising or existing during the period for the purpose of dealing with that situation.

(8) Where a person is detained by virtue of a law that authorises the taking during a period of public emergency of measures that are reasonably justifiable for the purpose of dealing with the situation that exists in the Republic during that period, the following provisions shall apply, that is to say—

(a) he or she shall, as soon as reasonably practicable, be furnished with a statement in writing, in a language that he or she understands, specifying in detail the grounds upon which he or she is detained;

(b) the announcement of his or her detention shall be made as soon as possible, and not more than fourteen days after the commencement of his or her detention a notification shall be published in the Gazette stating that he or she has been detained and giving particulars of the provision of law under which his or her detention is authorised;

(c) not more than one month after the commencement of his or her detention and thereafter during his or her detention at intervals of not more than six months, his or her case shall be reviewed by an independent and impartial tribunal established by law consisting of a Chairman appointed by the Chief Justice and two other persons appointed by the Judicial and Legal Service Commission;

(d) he or she shall be afforded reasonable facilities to consult a legal representative of his or her own choice who shall be permitted to make representations to the tribunal; and

(e) at the hearing of his or her case by the tribunal he or she shall be permitted to appear in person or by a legal representative of his or her own choice.

(9) On any review by a tribunal in pursuance of sub-clause (8) of this clause of the case of a detained person, the decision of the tribunal concerning the necessity or expediency of continuing his detention shall be binding on the authority by which it was ordered.

(10) Nothing contained in paragraph (d) or (e) of sub-clause (8) of this clause shall be construed as entitling a person to legal representation at public expense.

### **39. Compensation for contravention of rights and freedoms**

Any person any of whose rights or freedoms under this Chapter has been contravened shall be entitled to compensation for the contravention thereof from the person or authority which contravened it.

### **40. Enforcement of protective provisions**

(1) Subject to the provisions of sub-clause (6) of this clause, if any person alleges that any of the provisions of clauses 25 to 37 (inclusive) of this Constitution has been, is being or is likely to be contravened in relation to him or her (or, in the case of a person who is detained, if any other person alleges such a contravention in relation to the detained person) then, without prejudice to any other action with respect to the same matter which is lawfully available, that person (or that other person) may apply to the High Court for redress.

(2) The High Court shall have original jurisdiction—

(a) to hear and determine any application made by any person in pursuance of the preceding sub-clause;

(b) to determine any question arising in the case of any person which is referred to it in pursuance of the next following sub-clause, and may make such orders, issue such writs and give such directions, including the payment of compensation, as it may consider appropriate for the purpose of enforcing or securing the enforcement of any of the provisions of clauses 25 to 37 (inclusive) of this Constitution:

Provided that the High Court may decline to exercise its powers under this sub-clause if it is satisfied that adequate means of redress for the contravention alleged are or have been available to the person concerned under any other law.

(3) If in any proceedings in any subordinate court any question arises as to the contravention of any of the provisions of clauses 25 to 37 (inclusive) of this Constitution, the person presiding in that court may, and shall if any party to the proceedings so requests, refer the question to the High Court unless, in his or her opinion, the raising of the question is merely frivolous or vexatious.

(4) Any person aggrieved by any determination of the High Court under this clause may appeal there from to the Court of Appeal:

Provided that no appeal shall lie from a determination of the High Court under this clause dismissing an application on the ground that it is frivolous or vexatious.

(5) Parliament may confer upon the High Court powers additional to those conferred by this clause for the purpose of enabling that court more effectively to exercise the jurisdiction conferred upon it by this clause.

(6) Rules of court making provision with respect to the practice and procedure of the High Court in relation to the jurisdiction conferred on it by or under this clause (including rules with respect to the time within which any application or reference shall or may be made or brought) may be made by the person or authority for the time being having power to make rules of court with respect to the practice and procedure of that court generally.

#### **41. Interpretation and savings**

(1) In this Chapter, unless the context otherwise requires—"contravention", in relation to any requirement, includes a failure to comply with that requirement, and cognate expressions shall be construed accordingly;

"court" means any court of law having jurisdiction in the Republic, other than a court established by a disciplinary law, and includes in sections 26 and 28 of this Constitution a court established by a disciplinary law;

"disciplinary law" means a law regulating the discipline of any disciplined force;

"disciplined force" means—

(a) any naval, military or air force;

(b) the Solomon Islands Fire Service;

(c) the Correctional Services;

(d) the Marine Division;

(e) the Police Force;



(f) the Special Constabulary; or

(g) any other constabulary or police force established by Parliament;

"member", in relation to a disciplined force, includes any person who, under the law regulating the discipline of that force, is subject to that discipline.

(2) Nothing contained in clauses 34, 35 and 36 of this Constitution shall be construed as precluding the inclusion in the terms and conditions of service of public officers of reasonable requirements as to their communication or association with other persons or as to their movements or residence.

(3) In relation to any person who is a member of a disciplined force of the Republic, nothing contained in or done under the authority of the disciplinary law of that force shall be held to be inconsistent with or in contravention of any of the provisions of this Chapter other than clauses 26, 28, 29, 30 and 37.

(4) In relation to any person who is a member of a disciplined force that is not a disciplined force of the Republic and who is present in the Republic in pursuance of arrangements made between the Government of the Republic and another Government or an international organisation, nothing contained in or done under the authority of the disciplinary law of that force shall be held to be inconsistent with or in contravention of any of the provisions of this Chapter.

(5) No measure taken in relation to a person who is a member of a disciplined force of a country with which the Republic is at war and no law, to the extent that it authorises the taking of any such measures, shall be held to be inconsistent with or in contravention of any of the provisions of this Chapter.

## **CHAPTER FIVE CITIZENSHIP**

### **42. General principles concerning citizenship**

- (1) Subject to this Chapter, all citizens of Solomon Islands are -
  - (a) entitled to the same rights, privileges and benefits of citizenship;
  - (b) subject to the same duties and responsibilities applying to all citizens; and
  - (c) equally entitled to hold and use a Solomon Islands passport, and to any other document of identification issued by the Federal Government or Federal Government agency to citizens.
  
- (2) Citizenship is a concept that applies only to Solomon Islands and not to any State of the Republic.

**43. Retention of existing citizenship** - Every person who immediately before the coming into force of this Constitution was a citizen of Solomon Islands shall continue to be a citizen of Solomon Islands.

**44. Acquisition of citizenship** - Citizenship may be acquired in accordance with this Constitution or under a federal law –

- (a) at birth;
- (b) by naturalization.

**45. Citizenship by birth**

(1) Every person born after the coming into force of this Constitution is a citizen of Solomon Islands if, at the date of the person’s birth at least one parent is an indigenous Solomon Islanders.

(2) Subject to clause 48, a person who is a citizen of Solomon Islands under this section shall not be deprived of that citizenship.

**46. Application for citizenship**

(1) Any person who wishes to acquire citizenship by naturalization shall at the time of application –

- (a) be at least 18 years of age;
- (b) have resided in Solomon Islands for a continuous period of not less than 10 years,
- (c) **provide evidence of intent** to maintain a permanent residence in the Solomon Islands,
- (d) be of good character;
- (e) have knowledge of a Solomon Islands language other than English;
- (f) have knowledge **and respect** of customs of the place of intended residence; and
- (g) have knowledge of the Constitution, and demonstrate a willingness to observe the duties of **citizens** set out in clause 14.

(2) Each application for citizenship shall -

- (a) state the intended place of residence within Solomon Islands and evidence of acceptance by the State and Community government of intended place of residence;
- (b) prove that the applicant has sufficient means of support; and
- (c) be accompanied by any fee prescribed by law.

**47. Dual citizenship**

(1) Citizens of Solomon Islands may acquire or retain citizenship of another country.

(2) Any person, who as a result of acquiring the citizenship of another country where dual citizenship is prohibited, renounces and loses the citizenship of Solomon Islands, may re-acquire his or her Solomon Islands citizenship in accordance with the applicable Federal Law.

#### **48. Termination of citizenship**

- (1) A person may only be deprived of citizenship of Solomon Islands if that person –
- (a) renounces the citizenship of Solomon Islands;
  - (b) acquires citizenship of another country where dual citizenship is not permissible by a law of that country; or
  - (c) has acquired citizenship of Solomon Islands by fraud, false representation, concealment of any material fact, or by any other unlawful means.

#### **49. Regaining of Solomon Islands Citizenship**

(1) A previously indigenous citizen of Solomon Islands who is now a citizen of another country may automatically regain citizenship of Solomon Islands without compliance with the requirements of Clause 46 but upon renunciation of his or her current citizenship.

(2) A previously naturalized citizen of Solomon Islands who is now a citizen of another country may regain citizenship of Solomon Islands after compliance with the requirements of Clause 46 and renunciation of his or her current citizenship.

#### **50. Additional provisions**

- (1) A federal law may –
- (a) prescribe any other conditions for a person to acquire citizenship of Solomon Islands;
  - (b) make additional provisions in relation to the termination, deprivation and renunciation of citizenship;
  - (c) impose requirements or prescribe procedures for the making of applications for citizenship by naturalisation;
  - (d) provide for the review of any purported grant of citizenship;
  - (e) providing for the acquisition of citizenship of Solomon Islands by persons who are not eligible or who are no longer eligible to become citizens under this Chapter; and
  - (f) otherwise generally giving effect to the provisions of this Chapter.

(2) A Federal law may also prescribe the conditions for other persons or groups that may wish to reside in Solomon Islands.

In this Sub-Clause ‘other persons or groups’ means descendents of indigenous Solomon Islanders who were forcefully removed out of Solomon Islands during the black birding era or as a result of natural or manmade disasters.

**CHAPTER SIX**  
**GOVERNMENT OF SOLOMON ISLANDS**

**Part I**  
**Structure of Government**

**51. Composition of Government in the Republic-**

- (1) In the Republic, government shall be comprised of-
  - (a) Federal Government;
  - (b) State Governments; and
  - (c) **Community Governments**
- (2) All spheres of government shall observe and adhere to the principles in this Chapter and shall conduct their activities within the parameters that the Chapter provides.

**Part II**  
**Principles of co-operative government**

**52. Principles of co-operative government**

- (1) All governments and organs of government shall-
  - (a) be loyal to this Constitution;
  - (b) preserve the union of States and communities in Solomon Islands;
  - (c) secure the well being of the people;
  - (d) provide effective, transparent, accountable and coherent government;
  - (e) respect the constitutional status, institutions, powers and functions of government in all spheres;
  - (f) not assume any powers or functions except those conferred on them in terms of this Constitution;
  - (g) exercise their powers and perform their functions in a manner that does not encroach on the geographical, functional or institutional integrity of government in another sphere; and
  - (h) co-operate with one another in mutual trust and good faith by -
    - (i) fostering unity and peaceful coexistence;
    - (ii) assisting and supporting one another;
    - (iii) informing one another of, and consulting one another on matters of interest;
    - (iv) coordinating their actions and legislation with one another; and
    - (v) adhering to agreed procedures.
- (2) Disputes between governments or organs of government shall, to the extent possible, be addressed through mediation before the commencement of legal Proceedings.

**Part III**  
**Roles and duties of members of government**

- 53. Duties of members generally** – Members of government, whether elected or otherwise, **shall** in the performance of their **duties in** office;

- (a) act in accordance with this Constitution, **State Constitutions**, [Community Government Constitutions and any other](#) law;
- (b) devote their time and talent exclusively to the carrying out of their official duties;
- (c) be [transparent and](#) accountable to the people of their electorates, including-
  - (i) **represent** the interests and views of the constituents and the electorate as a whole free from **nepotism** and other social constraints;
  - (ii) having and maintain the principal place of residence in the electorate;
  - (iii) keep in tune with the needs and aspirations of the electorate by working closely with traditional leaders, village and other communities and people of the electorate and to visit them regularly;
  - (iv) working closely with other politicians and government institutions in enhancing the well being of the people;
  - (v) informing and educating the electorate on political and government issues.

#### **54. Primary duty of federal members**

- (1) The primary duty of members to the Federal Parliament is to represent their constituents only in relation to those matters, which the federal sphere of government has authority to exercise in the interests of the Republic.
- (2) Members of the Federal Parliament shall not interfere in the affairs of State Government and **community Governments** unless the State and **Community governments** invite the member to do so.

(3) Members of Parliament shall visit their Constituencies at least three times a year.

## **CHAPTER SEVEN THE PRESIDENT OF SOLOMON ISLANDS**

#### **55. Office of President**

- (1) The President is the Head of State and the symbol of national unity in Solomon Islands.

#### **56. Powers and functions of the President**

- (1) **The powers and functions of the President shall be limited to those expressly provided for in this Constitution.**
- (2) In carrying out **those** powers and functions the President shall:
  - (a) **Act in accordance with the advice of the Federal Cabinet;**
  - (b) **Act in accordance with his or her own deliberate judgment as provided for under the Constitution;**
  - (c) **Act in accordance with other provisions of the Constitution or other laws;**
  - (d) **Act as the Chairperson of the Congress of States.**

(3) The President is the Commander in Chief of all Solomon Islands **discipline** uniformed forces but operational command lies with duly appointed Officers and is subject to the appropriate constitutional and legal oversight of Ministers of the Government.

(4) The functions of the President include –

- (a) reporting annually to the Federal Parliament on matters provided for in this Constitution;
- (b) referring a bill to the High Court for its opinion on the bills constitutionality;
- (c) referring a bill back to the Federal Parliament for reconsideration of the bill's constitutionality;
- (d) assenting to and signing bills;
- (e) dissolving the Federal Parliament only in the circumstances contemplated in clauses 94(7), 115(3) or 120(4);
- (f) declaring a state of emergency.
- (g) making Presidential appointments required by this Constitution or any law;
- (h) receiving and recognising foreign diplomatic and consular representatives;
- (i) pardoning or relieving offenders;
- (j) conferring honours; and
- (k) such other powers and functions as conferred by law.

#### **57. Qualifications for election as President**

(1) The President shall be an **educated and experienced citizen of Solomon Islands** of certified good physical and mental health, character, **moral, spiritual standing** and sound wisdom and not less than **fifty** years of age.

(2) No person may hold the Office of President if that person –

- (a) is under an oath of allegiance to a foreign state;
- (b) holds or is acting in any office in the public service, or any judicial office;
- (c) is an elected member of any legislature or governmental position;
- (d) is a candidate in an election for any legislative or governmental position, other than the Office of President;
- (e) has been removed from any public office on grounds of any violation of the Constitution, or for cause relating to a matter of integrity or good conduct;
- (f) has been convicted of a criminal offence; or
- (g) **is certified to be insane or otherwise adjudged to be of unsound mind under any law for the time being in Solomon Islands;**

(h) is an undischarged bankrupt, having been adjudged or otherwise declared bankrupt under any law for the time being in force in any part of the Commonwealth;

(i) is otherwise disqualified from holding office of President under this Constitution.

(3) A person who is disqualified in terms of subsection (2) other than for matters relating to character and integrity may be nominated as a candidate for election as President, but if elected may not assume office until that person no longer holds that office or is otherwise not disqualified.

## **58. Election of the President**

(1) The Federal Parliament shall elect the President in accordance with this clause.

(2) The Speaker of the Federal Parliament shall preside over the election of the President.

(3) The President shall be elected in accordance with the procedure set out in Schedule **One**.

(4) As far as practicable, the office of President shall be held on a rotational basis by a person from each of the States. **The agreed rotational basis which is to be repeated when it is completed shall be as follows:**

(a) State of Central Islands

(b) State of Isabel

(c) State of Rennell & Bellona

(e) State of Guadalcanal

(f) State of Western Solomons

(g) State of Choiseul

(h) State of Temotu

(i) State of Makira Ulawa

(j) State of Malaita

(5) **A State whose turn is to hold the Office of the President shall submit to the Federal Parliament two female and two male candidates selected from a pool of candidates by the Electoral College of that State to be established by the State Constitution.**

## **59. Assumption of office of the President**

(1) The person elected as President shall assume office by taking an oath affirming allegiance to Democratic Federal Republic of Solomon Islands and the due execution of the functions of the office.

(2) The oath shall be as set out in Schedule **Two** and shall be taken before the Chief Justice, or a judge of the High Court, immediately upon election to the office.

**60. Term of office of the President - Subject to this Constitution,** the President shall hold office **only** for a term of 5 years.

**61. Impeachment of the President**

- (1) If an absolute majority of the members of the Federal Parliament support a motion for the impeachment of the President for violation of this Constitution or on the grounds of gross misconduct, the Speaker shall convene a special meeting of the Federal Parliament to consider and determine the charges made against the President.
- (2) The Speaker shall –
  - (a) if the Federal Parliament is then sitting or has been summoned to meet, bring the motion to the notice of the Federal Parliament for its consideration within 7 days; or
  - (b) if the Federal Parliament is not then sitting, summon it to meet within 21 days of the date of the notice, to consider the motion.
- (3) Upon the motion of the Federal Parliament passed by an absolute majority of **all the** members, the Speaker shall **appoint and** convene a special **select** committee comprising of-
  - (a) the Chief Justice, who shall be Chairperson;
  - (b) **Three** members appointed **by the Speaker of the Federal Parliament** in accordance with the standing orders of Parliament; and
  - (c) the Head of each State.
- (4) The special **select** committee shall investigate the matter and shall, within 14 days, report to the Federal Parliament on its findings in relation to the matters under inquiry.
- (5) The President shall have the right to appear at meetings of the special **select** committee, and to be legally represented.
- (6) If the special **select** committee reports that the particulars of any allegation against the President have not been substantiated, no further proceedings shall be taken in respect of that allegation.
- (7) If the special **select** committee reports that the particulars of any allegation against the President have been substantiated and the President refuses to resign voluntarily, the Federal Parliament shall vote on impeachment charges, and the President shall be removed if an absolute majority of **all** the members voted d to uphold the impeachment charges.

**62. Vacancy in the office of President –**

- (1) If there is a permanent vacancy in the Office of the President, Parliament shall elect a successor from the same state within 30 days **to complete the term of office** after compliance with clause 58 (5).



(2) If the remaining period in office is less than one year then Clause 63 shall apply,

**63. The Acting President of the Democratic Federal Republic of Solomon Islands**

Whenever the President is temporarily absent from Solomon Islands, or for any other reason unable to perform the functions conferred by this Constitution, or if there is a temporary vacancy in the Office, the full functions of the Office shall be performed by the Speaker of the Federal Parliament and in his absence by the Chief Justice.

**CHAPTER EIGHT  
THE FEDERAL PARLIAMENT**

**Part I  
Parliament**

**64. Establishment of the Federal Parliament of Solomon Islands** –There shall be a Federal legislature for Solomon Islands, which shall consist of a single chamber and shall be known as the Federal Parliament of Solomon Islands.

**65. Powers of the Federal Parliament**

(1) The Federal Parliament shall have the power to make laws for the whole or part of the Republic.

(2) The Federal Parliament shall have exclusive powers to make laws in relation to any matter enumerated in List I (Federal Powers) of Schedule Five,

(3) Legislation in relation to a matter that is reasonably necessary for or incidental to so as to enable the exercise of a power concerning any matter in List I (Federal Powers) is for all purposes, legislation in that List,

(4) The Powers of the Federal Parliament referred to in the preceding sub-clauses are addition to the other powers prescribed elsewhere in this Constitution.

(5)The Federal Government shall hold in trust the legislative matters enumerated in List III of Schedule Five for the State Governments mentioned therein.

(6)The Federal Government shall release to the State Government mentioned in the preceding sub clause all or any legislative matter in List III upon demonstrable level of performance and ability of each State Government to the Federal Government that it has the necessary human, infrastructure and financial capacity to exercise all or any legislative matter in List III.

(7) Where a State Government is not mentioned in sub clause 5 it shall exercise legislative competence on any or all legislative matters in List III of Schedule Five as additional legislative matters to List II of Schedule Five (State Powers).

## **66. Executive authority**

(1) The executive authority of the Federal government shall extend to all subject matters in List I of Schedule 5.

(2) The executive authority of the Federal government shall not extend to any matter in List II (State powers).

(3) A Federal law may provide that the executive authority of a State shall extend to the administration of any specified provisions of federal law and may for that purpose confer powers and impose duties on any authority of the State.

(4) Where, pursuant to [sub clause](#) (3) any functions are conferred by Federal law on any authority of a State, the Federal government shall make financial payments to the state government as may be mutually agreed upon for carrying out such functions on behalf of the other.

**67. Arrangements between Federal and State governments** – Subject to any provisions of federal or state law, arrangements may be made between the Federal government and a State government for the performance of any functions by the authorities of the one on behalf of the authorities of the other and such arrangements may provide for the making of payments in respect of any costs incurred under the arrangements.

## **Part II**

### **Composition of Parliament and qualification of members**

## **68. Composition of Parliament**

(1) [Solomon Islands shall be represented in the Federal Parliament by 30 elected representatives.](#)

(2) [The 30 elected representatives shall be apportioned as follows:](#)

- (a) [Central Islands State – 2](#)
- (b) [Choiseul State – 3](#)
- (c) [Guadalcanal State – 4](#)
- (d) [Honiara City – 2](#)
- (e) [Isabel State – 3](#)
- (f) [Makira/Ulawa State – 3](#)
- (g) [Malaita State – 4](#)
- (h) [Rennell and Bellona State - 2](#)
- (i) [Temotu State - 3](#)
- (j) [Western State – 4](#)

- (3) The Seat in Parliament of each elected representative shall be known as a Regional Seat.
- (4) The entitlements of Members of Federal Parliament shall be fixed by the Members of the Federal Parliament (Entitlements) Commission established in accordance with the provisions of Schedule Three.
- (5) In the exercise of its functions under this Constitution, the Federal Parliament (Entitlements) Commission shall not be subjected to the direction or control of any other person or authority except where otherwise provided by this Constitution.

**69. Participation of women in Parliament –**

- (1) Each of the State Governments and Honiara City referred to in Clause 68 (2) shall return one woman elected representative from among its respective elected representatives' allocation in the Federal Parliament.
- (2) Each woman elected representative referred to in the preceding sub clause shall be rotated among the elected representatives' allocation for each State Government or Honiara City and the rotation shall begin in the alphabetical order of the names of the Regional Seats.
- (3) The rotation shall be repeated after it has been completed.
- (4) Notwithstanding the provisions in sub clauses (1), (2) and (3), a State Government shall have the liberty to provide a different mechanism as to how a woman elected representative from that State Government shall be elected into the Federal Parliament.
- (5) Each State Constitution and the Federal law governing Honiara City shall state whether it adopts the rotation mechanism set out in sub clauses (1), (2) and (3) or a different mechanism authorised by sub clause (4).

**70. Oath of office –** No Member of Parliament may take part in the proceedings of Parliament (other than proceedings for the purposes of this clause) until he or she has–

- (a) taken an oath of allegiance in the form set out in Schedule **Two** of this Constitution; and
- (b) has completed all requirements of the Leadership Code.

**71. Qualification for membership –** A member of Parliament must be–

- (a) a citizen of Solomon Islands; and
- (b) at least 18 years of age.

## **72. Disqualification from candidacy and membership**

(1) A person is disqualified from becoming a candidate or continuing to be a Member of Parliament if that person –

- (a) fails to qualify as a member under clause 71;
- (b) fails to qualify as a candidate through a Federal Law providing for vetting by electoral college at community level;
- (c) holds any office under any law relating to federal or state elections;
- (d) is elected to a State legislature or candidate for such an election, or holds office in a State legislature;
- (e) holds any public office other than as a member of Parliament;
- (f) has, contrary to law, any allegiance, obedience or adherence to a foreign state **or any foreign organizations that may pose a threat to the Republic**;
- (g) is declared certified to be of poor physical health and unsound mind by a federal law;
- (h) is declared bankrupt by a federal law;
- (i) is disqualified from membership of a State legislature or other government body;
- (j) has been removed from a public office on grounds of misconduct, or is not a fit and proper person in terms of clause 271 (3) or
- (k) is serving a sentence of imprisonment of **6** months or more, including a suspended sentence for the commission of a crime.

(2) A person who is disqualified in terms of sub-clause (l) (c) (d) and (e) may become a candidate for election as a member of Parliament, but if elected may not assume office as a member of Parliament until that person has-

- (a) resigned from that office; or
- (b) been granted leave of absence from office.

## **73. Vacation of seat .**

(1) The seat of a member in Parliament shall become vacant if-

- (a) the member becomes subject to any disqualification in the last preceding clause;
- (b) the member resigns his or her seat in writing to the Speaker;
- (c) subject to this Constitution, upon dissolution of Parliament;
- (d) the member fails to attend two consecutive meetings of Parliament without the permission of the Speaker;
- (e) the member is recalled under clause 74;
- (f) the member's seat is vacated under clause 73 or 107 as the case may be.
- (g) **the member dies**

- (2) The High Court has jurisdiction to hear and determine any question relating to -
  - (a) the validity of the election of any person as a member of Parliament; or
  - (b) the qualification or cessation of membership of Parliament.
- (3) No appeal lies from any decision of the High Court made under sub-[clause \(2\)](#).

#### **74. Recall**

- (1) A person elected to Parliament may be recalled by his or her **home State**.
- (2) A member may be recalled on any of the following grounds—
  - (a) **certified** physical or mental incapacity rendering the member incapable of performing the functions of [the](#) office;
  - (b) misconduct [which brings or](#) likely to bring **dishonor**, hatred, ridicule, contempt or disrepute to the **constituents and home State**;
  - (c) violation without reasonable cause of a member's duties in [Clauses 53 and 54](#);
  - (d) [non performance of members duties in Parliament upon certification of such failure by the Speaker after three reminders before notification to Constituents and home State.](#)
  - (e) [conviction for a serious offence under clause 271 \(3\).](#)
  - (f) [infidelity or moral indiscretion by a member and where no amends have been made to such infidelity or moral indiscretion.](#)
  - (g) such further grounds [as may](#) be prescribed by [Federal](#) Law.
- (3) A [Federal](#) law shall provide for the details of recall.

### **Part III Rules and **P**rocedures of Parliament**

#### **75. Standing Orders**

- (1) Parliament [shall](#) prepare and adopt standing orders that appear to Parliament best adapted to conduct its business and proceedings.
- (2) Without limiting subsection (1), the standing orders may provide for the following—
  - (a) the way Parliament must be presided over in the absence of the Speaker or Deputy Speaker;
  - (b) declaration of interests by members in relation to any matter under consideration by Parliament;
  - (c) the appointment of committees and the delegation of functions to them;
  - (d) the appointment of members **to committees**;
  - (e) reconsideration of a bill in terms of [clause 80](#);
  - (f) the orderly conduct of Parliament;
  - (g) the introduction and passing of bills;

- (h) the way its powers, privileges and immunities of members may be exercised and upheld; and
  - (i) compulsory attendance at all sittings unless leave of absence is granted by the Office of the Speaker;
  - (j) reprimand of members for conduct falling short of contempt of parliament;
  - (k) invite non-members of parliament to participate in parliamentary or non-parliamentary proceedings in the public interest when necessary;
  - (l) other matters Parliament deem appropriate.
- (3) A standing order becomes binding and of force on adoption by Parliament.

#### **76. Presiding in Parliament**

- (1) There shall preside at a sitting of Parliament a–
- (a) Speaker;
  - (b) Deputy Speaker; and
  - (c) in the absence of Speaker and Deputy Speaker such other member of Parliament it may elect for that purpose.
- (2) The Speaker, Deputy Speaker or member elected for that purpose shall enforce standing orders and maintain the discipline of members of Parliament.

#### **77. Committees of Parliament**

- (1) Committees of Parliament are to be established with the objective to enhance the accountability and transparency of public administration and to extend democratic governance in the Republic.
- (2) The functions and areas of responsibility of Committees of Parliament include:
- (a) administrative review reform, and constitutional, electoral and legal reform; and
  - (b) the ethical conduct of members and parliamentary powers, rights and immunities; and
  - (c) petitions received by Parliament raising public policy issues within the legislative competency of Parliament; and
  - (d) the integrity, economy, efficiency and effectiveness of governmental financial management; and
  - (e) certain works undertaken by or for the government; and
  - (f) Parliamentary standing orders.
- (3) The main role of a Committee is–
- (a) to deal with issues within its area of responsibility;

- (b) to deal with an issue referred to it by Parliament or under some Act, whether or not the issue is within its area of responsibility; and
- (4) A Committee may deal with an issue by –
  - (i) considering it; and
  - (ii) reporting on it, and making recommendations about it, to Parliament.
- (5) A Committee may resolve to –
  - (a) call any Minister or any other person holding public office, and private individuals to submit a report on any matter, or to appear before the Committee and give evidence; and
  - (b) co-opt any member of Parliament or employ qualified persons to assist the Committee in the discharge of its functions; and
  - (c) has the same powers of the High Court to-
    - (i) enforce the attendance of witnesses and examining them on oath, affirmation or otherwise;
    - (ii) compel the production of documents; and
    - (iii) issue a commission or request to examine witnesses abroad.

#### **78. Procedure of Parliament**

- (1) Parliament, and any of its Committees is permitted to-
  - (a) regulate its own procedure with due regard to participatory democracy, accountability, transparency;
  - (b) establish committees or sub-committees for any purpose;
  - (c) receive petitions, representations or submissions from any interested persons or institution; and
  - (d) seek the advice and recommendation of the National Finance Council, Congress of States or States on any bill, petition or other matter before Parliament.
- (2) The proceedings of Parliament are not invalid by reason only-
  - (a) that there is a vacancy in its membership; or
  - (b) of the presence or participation of any person not entitled to be present at or to participate in the proceedings of Parliament.

#### **79. Exercise of legislative power**

- (1) The power of Parliament to make laws is to be exercised by bills passed by Parliament with the assent of the President.
- (2) Only a Cabinet member or a member or Committee of Parliament may introduce a bill in Parliament; but only the Cabinet member responsible for federal financial matters may introduce an Appropriation Bill.

(3) Laws come into operation in accordance with their terms, and laws may apply retrospectively if the law is stated to have such effect.

#### **80. Assent of bills**

(1) The President may either assent to and sign a bill in terms of this section or if the President has reservations about the constitutionality of a bill, refer it back to Parliament for reconsideration.

(2) If, after reconsideration, a bill accommodates the President's reservation, the President shall assent and sign the bill; if not the President shall either-

(a) assent to and sign the bill **within 30 days of passage by parliament;** or

(b) refer to the **Constitutional** Court for an advisory opinion on the constitutionality of the bill.

(3) If the **Constitutional** Court determines that the bill is constitutional, the President shall assent to and sign it.

(4) All law passed by Parliament shall as soon as practicable on assent be distributed to State Governments.

#### **81. Quorum at meetings of Parliament**

(1) The quorum for Parliament is one-half **plus one** of the total number of members of Parliament.

(2) In the absence of a quorum in the Parliament the person presiding in Parliament shall, in accordance with the standing orders, adjourn the sitting of the Parliament at his or her own motion, or upon the motion of any member.

#### **82. Voting in Parliament**

(1) Unless otherwise provided in this Constitution, any question proposed for decision in Parliament is to be determined by a majority of the votes of the members present and voting in Parliament.

(2) On a question proposed for decision, the **Deputy Speaker or any other member of parliament presiding in Parliament in accordance with section 95 (2) shall have a casting vote in the event of a tie of votes.**

### **Part IV Term, sessions and sittings of Parliament**

#### **83. Term of Parliament**

(1) Every Parliament shall be for a term of four years from the first **day of the first** meeting of Parliament and no longer, but may be sooner dissolved by the President.



(2) After any general election of Parliament, Parliament shall meet within 4 weeks after the last day of polling.

(3) Each session of Parliament shall commence at such place and time as the President may appoint.

(6) Parliament shall meet at least three times a year.

#### **84. Dissolution of Parliament**

(1) The President shall dissolve Parliament if –

- (a) by an absolute majority Parliament so decides; or
- (b) a Government is not formed having the confidence of Parliament in the circumstances contemplated in clause 115(3) or
- (c) an alternative Prime Minister fails to get the confidence of Parliament in the circumstances contemplated in clause 120 (4).

(2) If, after dissolution of Parliament and before holding of the general election, some matter of urgent national importance arises that necessitates to recall Parliament, the President shall summon the Parliament that has been dissolved to meet prior to holding of the general election.

(3) For the purposes of subsection (2), the persons who were members of Parliament immediately before the dissolution shall be deemed still members of Parliament, but, subject to Clause 86, of this Constitution (which relates to the election of the Speaker) Parliament shall not, when summoned transact any business other than debating and if need be to vote upon a resolution in relation to the matter for which Parliament was summoned.

#### **85. General elections**

(1) A general election for Parliament shall be held, on a date determined by the President, acting on the advice of the Prime Minister within four months of the dissolution of Parliament.

(2) Where the seat of a member of Parliament falls vacant otherwise than by reason of dissolution of Parliament, a by-election shall be held to fill the vacancy within ninety days of the occurrence of the vacancy, unless Parliament is sooner dissolved.

### **Part V**

#### **The Speaker and other officers of Parliament**

#### **86. Speaker and Deputy Speaker**

(1) When Parliament first meets after any general election and before it considers any other business, it shall elect;

- (a) a Speaker from members of the public who are eligible under sections 90 and 91;  
and
  - (b) Deputy Speaker from among its members
- (2) At the first meeting of the Parliament after each general election, the **incumbent Speaker** shall preside over the meeting of the Parliament until a **new** Speaker is elected in accordance with this section
- (3) No business shall be transacted in Parliament (other than the election of a Speaker **or Deputy Speaker**) at any time when the office of the Speaker or Deputy Speaker is vacant.
- (4) In terms of standing orders, Parliament may elect from among its members other presiding officers to assist the Speaker and the Deputy Speaker.
- (5) No Minister or leader of a political party may be Speaker or Deputy Speaker.
- (6) The office of the Speaker and Deputy Speaker shall become vacant-
- (a) when Parliament first meets after any dissolution; or
  - (b) if any circumstances arise that would cause him or her to be disqualified from election as a member of Parliament; or
  - (c) upon becoming a Minister; or
  - (d) upon becoming a leader of a political party; or
  - (e) by resigning from office by written notice to that effect addressed to **the Parliament and received by the Clerk ; or**
  - (f) if Parliament resolves by a resolution supported by the votes of not less than two-thirds of all its members to remove the Speaker or Deputy Speaker from office; or
  - (g) in the case of the Deputy Speaker, upon election as Speaker.
- (7) Unless otherwise provided in this Constitution or any other law, the Speaker and the Deputy Speaker shall not hold any other public office.

**87. Leader of the [Alternative Government](#) [NB: There will be no provision as clause 87 where the Formation of a Grand Government is constitutionally preferred]**

- (1) At the first meeting of Parliament after each election, and as otherwise required when a vacancy arises, the President, acting in accordance with the advice of the Speaker, may appoint as Leader of the [Alternative Government](#) -
- (a) a member of Parliament who is best able to command the support of the largest political party or coalition of parties in Parliament who do not support the Government; or

- (b) if there is no such person, the member of Parliament, who commands the support of the largest single group of such members who are prepared to support one leader.
- (2) The office of the Leader of the [Alternative Government](#) shall become vacant if –
  - (a) he or she resigns from office by giving written notice to that effect to the Speaker;
  - (b) removed from office, or becomes disqualified from holding the office of a member of Parliament in accordance with this Constitution;
  - (c) he or she becomes the Speaker or Deputy Speaker.
- (3) The Leader of the [Alternative Government](#) shall have-
  - (a) official status immediately following the President and the Prime Minister; and
  - (b) the right of participation at all official state functions.
- (4) Standing Orders shall make provision for the effective participation in Parliament of the Leader of the [Alternative Government](#).

## **88. Clerk of Parliament**

- (1) There shall be a Clerk of Parliament.
- (2) The Clerk shall be the administrative head of the Parliamentary Service and shall be independent of the Public Service.
- (3) A law shall make provision for the establishment and administration of the Parliamentary Service.

## **Part VI General matters**

**89. Privileges of Parliament and its members** – A law or standing orders may prescribe the privileges, immunities and powers of Parliament and its members.

**90. Freedom of speech and debate** – The freedom of speech and debates or proceedings in Parliament cannot be impeached or questioned in any court or place outside Parliament other than by the person presiding over Parliament in accordance with the standing orders.

## **91. Proceedings to be held in public**

- (1) Parliament shall-
  - (a) promote public involvement in the legislative process and other processes of Parliament and its Committees; and

- (b) conduct its business in an open manner, and hold its sittings and those of its Committees in public, including access of the media to Parliament and its Committees.
- (2) Parliament may not exclude the public, including media, from a sitting of a Committee of Parliament unless it is reasonable and justifiable to do so in an open and democratic society.

## **CHAPTER NINE** **THE EXECUTIVE ARM OF GOVERNMENT**

### **Part I** **Grand Government Formation and Political Cohesion [OPTION ONE]**

#### **92. Formation of Grand Government**

- (1) There shall be established at the Federal Government Sphere a Grand Government made up of the elected representatives of the Federal Parliament.

#### **93. Election of the Prime Minister**

- (1) At the first meeting of the Federal Parliament after a general election, all elected representatives shall convene to elect from amongst its members the Prime Minister.
- (2) The election shall be by secret ballot and by absolute majority vote in accordance with Schedule Ten.

### **Part II**

#### **94. Establishment of the Grand Government Cabinet**

- (1) There shall be established a Cabinet of the Grand Government
- (2) The Cabinet of the Grand Government shall be made up of the Prime Minister, the Deputy Prime Minister and 14 other Federal Ministers.
- (3) The Deputy Prime Minister shall be appointed by the Prime Minister in accordance with the absolute majority consensus decision made at a meeting of all members of the Grand Government Caucus.
- (4) The Federal Ministers shall be appointed by the Prime Minister in accordance with the absolute majority consensus decision made at a meeting of all the members of the Grand Government Caucus.
- (5) The Ministerial portfolios shall be distributed in the following manner:
- (a) A ministerial portfolio each for the nine States and Honiara City.

- (b) An additional ministerial portfolio each for four of the States with the highest population or on the basis of qualification and experience (merit).
- (6) The President acting in accordance with the advice of the Prime Minister, may by directions in writing assign to the Prime Minister, Deputy Prime Minister and Federal Ministers responsibility for the conduct subject to the subject matters falling within the Federal Powers (List 1 of Schedule Five) of any business of the Grand Government, including responsibility for the administration of any department of the Grand Government.
- (7) If a Grand Government having the confidence of the elected representatives of the Federal Parliament is not formed within 14 days of the first meeting of the Federal Parliament, the President acting in his or her own deliberate judgment shall advise the Speaker of the immediate dissolution of the Federal Parliament.

#### **95. Grand Government Cabinet responsibilities**

- (1) The Grand Government Cabinet shall be responsible for making decisions in relation to:
  - (a) significant issues relating to the Federal Government and the Republic as a whole
  - (b) proposals that will affect Federal Government's financial position and other financial matters as provided by law;
  - (c) proposals involving new federal legislation or regulations affecting federal laws;
  - (d) the response of Federal Government to recommendations made by Committees of the Federal Parliament;
  - (e) controversial matters; and
  - (f) all matters concerning –
    - (i) arrangements with international donors and international financial organisations;
    - (ii) arrangements or agreements with another country for international assistance for public purposes;
    - (iii) obligations under international treaties and agreements; and
    - (iv) free trade agreements.
- (2) All decisions made in relation to matters referred to in clause 95 (1) (f) (ii), (iii) and (iv) must be enacted into domestic laws to bring them into effect.
- (3) The Prime Minister or any Minister shall not make any final decision on any matter listed in sub-clause (1) until the matter is referred through the Grand Government Cabinet process.
- (4) The Prime Minister and Ministers in the Grand Government Cabinet shall promptly inform each other on any discussions outside it in relation to any matter in sub-clause (1).

## **96. Exercise of Executive Authority of Grand Government Cabinet**

- (1) Ministers in the Grand Government Cabinet exercise executive authority by –
  - (a) developing and implementing national development plans, budgets and policy;
  - (b) preparing and initiating Federal Government legislation for consideration by Federal Parliament;
  - (c) implementing and administering Acts of Federal Parliament;
  - (d) coordinating the functions of Federal Ministries and Departments; and
  - (e) performing other executive functions provided for by this Constitution and any federal law.
- (2) Except as provided for in [Clause 96 \(1\)](#), the Grand Government Cabinet in the exercise of its executive authority, shall not be subjected to direction or control by any person or authority.

## **97. Proceedings of Grand Government Cabinet**

- (1) The Grand Government Cabinet shall be responsible for regulating its own procedures including discipline.
- (2) Ministers in the Grand Government Cabinet shall attend every meeting of Cabinet, unless the Prime Minister has granted prior written and or verbal approval for the Minister to be absent as the case may be.
- (3) Meetings of the Grand Government Cabinet shall be chaired by the Prime Minister, or –
  - (a) the Deputy Prime Minister, if the Prime Minister is absent; or
  - (b) another Minister nominated by the Prime Minister, if both the Prime Minister and the Deputy Prime Minister are absent.
- (4) The quorum for the Grand Government Cabinet meetings shall be an absolute majority of Grand Government Cabinet members.
- (5) In the event of a pressing matter including a state of emergency and there is no quorum, the meeting can proceed with simple majority of the Grand Government Cabinet members present.

## **98. Decisions and Accountability**

- (1) The Grand Government Cabinet shall ensure that –
  - (a) records are kept of all Grand Government Cabinet proceedings and decisions;

- (b) a written note of each decision is provided to each member of the Grand Government Cabinet as soon as practicable after it is made; and
- (c) appropriate arrangements are made for the relevant Federal Government Ministry or Ministries to implement decisions made by the Grand Government Cabinet, and for monitoring the status of their implementation.

(2) Except as provided for in [Clause 98 \(1\)](#), Grand Government Cabinet papers and decisions are to be regarded as confidential, but it may endorse the notification and publication of any items under consideration, or any decision made by the Grand Government Cabinet with the concurrence of the Grand Government Caucus.

#### **99. Conduct of members of the Grand Government Cabinet**

(1) Ministers in the Grand Government Cabinet shall:

- (a) disclose any situation involving a risk of conflict between the Minister's private interests and official Ministerial responsibilities;
- (b) be collectively responsible for the decisions of the Grand Government Cabinet, and for the general administration of the Grand Government;
- (c) be responsible for protecting the Republic's interest in the departments within their portfolios
- (d) be responsible for deciding both the direction and the priorities for their departments;
- (e) be responsible to Parliament for ensuring that those departments carry out their functions properly and efficiently;
- (f) preserve the political neutrality of the public service;
- (g) be responsible for any Republic's interest in Government owned enterprises or companies within their portfolios;
- (h) be individually responsible to Parliament for their own activities and the activities of public officers in administering their ministerial portfolios; and
- (i) keep each other informed of activities within their portfolios.

#### **100. Secretary to Grand Government Cabinet**

(1) There shall be a Grand Government Cabinet Office, which shall be a public office and headed by the Secretary to Grand Government Cabinet.

(2) The Secretary to the Grand Government\_Cabinet shall be responsible for the Cabinet Office and for providing continuity and impartial support for operations of the executive arm of the Grand Government, including -

- (a) conducting and maintaining the central decision making process of executive arm of the Grand Government;
- (b) providing secretariat services to Grand Government Cabinet;
- (c) attending to all Grand Government Cabinet meetings to record the decisions taken;

- (d) maintaining and preserving the records of successive Grand Government Cabinets;
- (e) managing transitions between administrations, and supporting continuity of Government;
- (f) providing impartial advice to Government on policy and administrative issues;
- (g) coordinating the policy and administrative aspects of the legislative programs for Government; and
- (h) ensuring that all Grand Government Cabinet decisions are duly implemented through the relevant Ministries.

(3) Where a Minister has been charged with responsibility for the administration of any department of the Grand Government, he or she shall exercise general directions and control over that department and subject to such directions and control, any department in the charge of a Minister (including the office of the Prime Minister or any other Ministers) shall be under the supervision of a Permanent Secretary or some other supervising officer whose office shall be a public office; provided that –

- (a) any such department may be under the joint supervision of two or more supervising officers; and
- (b) different parts of any such department may respectively be under the supervision of different supervising officers.

#### **101. The Office of the Federal Attorney General**

(1) There shall be a Federal Law Officer, whose office shall be a public office and headed by the Federal Attorney General who shall be the principal legal adviser to the Grand Government.

(2) The candidates for the Office of the Federal Attorney General shall be from serving lawyers in the Grand Government employment recommended by the Prime Minister in consultation with the Grand Government Cabinet but the final choice of the incumbent shall be in the absolute discretion of the Judicial and Legal Services Commission according to merit.

(3) The Federal Attorney General shall not be entitled to a vote in the Federal Parliament or in the Grand Government Cabinet.

(4) No person shall be qualified to hold or act in the Office of the Federal Attorney General unless he or she is qualified to hold the office of judge in accordance with this Constitution.

#### **102. Grand Government Cabinet Technical Committees**

- (1) There shall be Grand Government Cabinet Technical Committees, appointed by its Cabinet, as a forum for detailed consideration and discussion of issues



pertaining to subject matters within the Grand Government legislative competency before reference to Cabinet.

- (2) The Grand Government Cabinet shall determine the structure, terms of reference and membership of such Cabinet Technical Committees, taking into account their practical and technical experiences.
- (3) Cabinet Technical Committees derive their power from the Grand Government Cabinet. All decisions shall be reported to Cabinet for confirmation before implementation after consultation with the Grand Government Caucus for final decisions.

### **Part III**

#### **103. Establishment of the Grand Government Caucus**

- (1) There shall be established a Grand Government Caucus
- (2) The Grand Government Caucus shall be made up only of the elected representatives.
- (3) The Grand Government Caucus may invite Federal civil servants to attend its meetings in advisory capacity only but shall not take part in decision making of the Grand Government Caucus.
- (4) Political party officials, political appointees (quangos) or intermeddlers and busy bodies shall not be invited to meetings of the Grand Government Caucus.

#### **104. Responsibilities of the Grand Government Caucus**

- (1) The responsibilities of the Grand Government Caucus shall include:
  - (a) Consideration and deliberation on Grand Government Cabinet papers before presentation to Grand Government Cabinet
  - (b) access to Cabinet conclusions on Grand Government Cabinet papers that have received the approval of the Grand Government Cabinet by way of feedback to the Grand Government Caucus;
  - (c) Monitoring and scrutinizing of all ongoing matters of governance;
  - (d) Appraisal to determine performance or non-performance of approved Grand Government policies or programs; and
  - (e) Raising matters of international or national importance which require urgent Grand Government Cabinet attention and action.

#### **105. Internal Rules of deliberations in Grand Government Caucus**

- (1) The internal rules of deliberations shall include:
  - (a) Internal debate and deliberations may be adversarial but the final outcome shall be a compromise or an absolute majority decision by consensus.

- (b) Failing a compromise or an absolute majority decision by consensus, the matters may either be deferred for further deliberations or be tabled in Parliament for debate and decision subject to Grand Governments Cabinet's prerogative.
- (c) Where the subject matter involves the annual budget, security and emergency issues, constitutional amendments, economic crisis or the like of serious consequences affecting the national interest of the Republic, shall be presented to the Federal Parliament whether or not there was a compromise or an absolute majority decision by consensus.

#### **106. Change of incumbents in the Grand Government Cabinet**

- (1) The incumbent Prime Minister in the Grand Government Cabinet may be replaced by an absolute majority decision reached by consensus made by all the elected representatives at a in house meeting of the Grand Government Caucus.
- (2) If a replacement is made pursuant to sub-clause (1), the Speaker shall on the floor of the Federal Parliament formally inform the public and the elected representatives accordingly. Thereafter an election meeting shall be convened to elect a new Prime Minister in accordance with Schedule Ten.
- (3) If no replacement is made pursuant to sub-clause (1) then any elected representative may move a motion of no confidence in the incumbent Prime Minister.
- (4) Any such motion of no confidence shall not be considered by the Federal Parliament unless:
  - (a) A period 12 months had expired since the last motion was introduced in the Federal Parliament; and
  - (b) Notice of the motion had been given to the Speaker at least 7 clear week days before introduction in the Federal Parliament.
  - (c) If the motion of no confidence is successful changes to the post of the Prime Minister shall be by election on the floor of the Federal Parliament by all elected representatives in accordance with Schedule Ten.
  - (d) The vote shall be by secret ballot and by an absolute majority vote of all elected representative.
- (5) The incumbent Deputy Prime Minister or Federal Minister may be removed by the Prime Minister in accordance with an absolute majority decision reached by consensus of all the members of the Grand Government Caucus.
- (6) A new incumbent Deputy Prime Minister or Federal Minister shall be appointed by the Prime Minister in accordance with [Clause 94 \(3\) and \(4\) respectively](#).
- (7) The allocation of the ministerial portfolios to the new Deputy Prime Minister and Federal Ministers shall be done in accordance with [Clause 94 \(5\)](#).

## **107. Vacation by incumbent members of the Grand Government Cabinet**

- (1) The incumbent members of the Grand Government Cabinet shall vacate in addition to in-house replacement by the Grand Government Caucus of the Prime Minister under sub clause 106 (1) or the Deputy Prime Minister or a Federal Minister under clause 106(5) or; a successful motion of no confidence against the Prime Minister under sub-clause 106(3) and (4) by:
  - (a) Resignation;
  - (b) Death;
  - (c) Recall as an elected representative under clause 74; or
  - (d) Disqualification under clause 72.
  - (e) Poor or non-performance of ministerial portfolio duties and functions (neglect or dereliction of official ministerial duties).
  - (f) Disloyalty to the Grand Government.
  - (g) Conviction for serious offence under Clause 271.
- (2) The replacement to the incumbent Prime Minister of the Grand Government Cabinet following vacation under sub-clause (1) shall be by election in the Federal Parliament by all elected representatives in accordance with Schedule Ten and in the case of the incumbent Deputy Prime Minister or a Federal Minister under sub clause 94(3), (4) and (5).

### **Part IV**

## **108. The Prime Minister**

- (1) There shall be a Prime Minister of Solomon Islands who shall be the head of the Executive Arm of the Grand Government.
- (2) The Prime Minister in exercising the functions and duties of the executive arm of the Grand Government shall:-
  - (a) maintain and coordinate the Grand Government, by overseeing the Grand Government's general policy directions;
  - (b) keep the President fully informed as to the affairs of the Grand Government and matters affecting the interests of the Republic.
  - (c) keep State Governments fully informed of proposed legislation and matters affecting the interests of States;
  - (d) keep the Congress of States fully informed as to the affairs of the Grand Government and matters of government affecting the interests of the Federation and States.
- (3) In exercising the duties of executive arm of the Grand Government, the Prime Minister shall –
  - (a) furnish the President with such information he or she may request with respect to any particular matter relating to the Grand Government or the Republic;
  - (b) take significant decisions and determine Grand Government policy collectively through the Grand Government Cabinet decision process; and
  - (c) actively manage the performance and discipline of Grand Government Ministers.

### **109. Term of Office**

(1) The Prime Minister shall take an oath in accordance with Schedule Two before the President and in the presence of the elected representatives of the Federal Parliament and subject to sub-clause (2) continues in office until the next person assumes the office of Prime Minister.

- (2) The incumbent to the office of the Prime Minister terminates if he or she –
- (a) ceases to be a member of the Federal Parliament for any reason other than the dissolution of the Federal Parliament;
  - (b) dies; or
  - (c) resigns;

### **110. Resignation**

(1) The Prime Minister may resign from office by delivering a written statement of resignation to the President.

- (2) The resignation of the Prime Minister shall take effect–
- (a) on the date and at the time specified in the resignation, if any; or
  - (b) at noon on the day after it is delivered, in any other case.

### **111. Absence or illness**

(1) Whenever by reason of illness or absence from Solomon Islands the Prime Minister is temporarily prevented from performing, in Solomon Islands, the functions of his or her office, those functions shall be performed by the Deputy Prime Minister.

(2) If the Deputy Prime Minister is unable to act as provided for by sub-clause (1) the Grand Government Cabinet, acting in accordance with the advice of the Prime Minister, shall appoint another Minister to act as Prime Minister until such time as the Prime Minister is capable again of performing them or vacated office.

(3) If the President considers, in his or her own deliberate judgment, that it is impracticable to obtain the advice of the Prime Minister owing to the Prime Minister's illness or absence, the President may on the advice of the Grand Government Cabinet appoint a Minister to perform the functions of Prime Minister until such time as the Prime Minister is capable of again performing them or has vacated office.

## **Part V**

### **112. Term of Office of the Deputy Prime Minister and Federal Ministers**

- (1) The office of a Minister (other than the Prime Minister) becomes vacant –
- (a) Pursuant to Clause 106 (5);
  - (b) upon ceasing to be a member of Parliament for any reason other than the dissolution of Parliament;
  - (c) upon resignation given in writing to the Prime Minister;
  - (d) upon being elected as President of Solomon Islands; or
  - (e) upon being elected as Speaker.

(2) If a Minister ceases to be a member because of the expiry or dissolution of Parliament, he or she continues in office as a Minister until the next appointment of a Prime Minister.

**113. Accountability to Federal Parliament**

(1) A Minister shall attend before Parliament, or a Committee of Parliament, when required to do so, and answer any question concerning a responsibility of that Minister, or the management of the portfolio for which he or she is responsible.

**114. Approval to leave the Solomon Islands**

(1) The Deputy Prime Minister and a Minister shall not leave Solomon Islands except with prior written permission by the Prime Minister.

**CHAPTER NINE**  
**THE EXECUTIVE ARM OF GOVERNMENT**

**Part I**

**Political Party or Parties Government Formation and Political Allegiance [OPTION TWO]**

**115. Political Power**

(1) A political party or a coalition of political parties obtaining the highest number of seats in Parliament shall have the power to form and lead the executive branch of the Government.

(2) If following a general election no party has an absolute majority of seats in Parliament, the leader of the political party with a relative majority of seats shall ascertain the possibility of forming a coalition government having the confidence of Parliament.

(3) If a Government is not formed having the confidence of Parliament within 14 days from the first meeting of Parliament, the President, acting on his or her own **deliberate** judgment, **shall advise** the Speaker **of** the dissolution of the Parliament.

**116. Political allegiance**

(1) A member of Parliament shall vacate his or her seat if –

(a) having been a candidate of a political party and elected to Parliament, he or she resigns from that party or

(b) elected as an independent member joins a political party;

## Part II The Prime Minister

### **117. Prime Minister**

- (1) There shall be a Prime Minister of Solomon Islands who shall be the head of the Executive Arm of the Government.
- (2) The Prime Minister in exercising the functions and duties of the executive arm of the Government shall:-
  - (a) maintain and coordinate the Government, by overseeing the Government's general policy directions;
  - (b) keep the President fully informed as to the affairs of the Government and matters affecting the interests of the Republic.
  - (c) keep State Governments fully informed of proposed legislation and matters affecting the interests of States;
  - (d) keep the Congress of States fully informed as to the affairs of the Government and matters of government affecting the interests of the Federation and States.
- (3) In exercising the duties of executive arm of the Government, the Prime Minister shall –
  - (a) furnish the President with such information he or she may request with respect to any particular matter relating to the Government or the Republic;
  - (b) take significant decisions and determine Government policy collectively through the Government Cabinet decision process; and
  - (c) actively manage the performance and discipline of Government Ministers.

### **118. Election of Prime Minister**

- (1) At the first meeting of the Federal Parliament after each election, or as otherwise required when a vacancy arises, the elected representatives shall elect from amongst its members a Prime Minister, in accordance with Schedule Ten.
- (2) Where Parliament has been dissolved pursuant to Clause 115 (3) or Clause 120(4), the incumbent Prime Minister shall continue as caretaker Prime Minister until a new Prime Minister is elected.
- (3) Where there is no caretaker Prime Minister under the preceding provision, the Deputy Prime Minister shall become the caretaker Prime Minister until a new Prime Minister is elected.

### **119. Term of office**

- (1) The Prime Minister shall take an oath in accordance with Schedule **Two** before the President and in the presence of the elected representatives of the Federal Parliament and subject to subsection (2) continues in office until the next person assumes the office of Prime Minister.

- (2) The [incumbent to the office](#) of the Prime Minister terminates if he or she –
  - (a) ceases to be a member of [the Federal](#) Parliament for any reason other than the dissolution of [the Federal](#) Parliament;
  - (b) dies; [or](#)
  - (c) resigns;

### **120. Dismissal**

- (1) If [the Federal](#) Parliament, by vote supported by an absolute majority of its [elected representatives](#), passes a motion of no confidence in the Prime Minister, the Prime Minister shall vacate office.
- (2) A motion for a resolution of no confidence in the Prime Minister shall not be considered by [the Federal](#) Parliament unless -
  - (a) a period of twelve months has expired since the last motion of no confidence was introduced before [the Federal](#) Parliament; and
  - (b) notice of the motion has been given to the Speaker at least seven week days before it is introduced;
- (3) Upon the Prime Minister vacating office the [Speaker](#) shall invite the [elected representatives](#) of [the Federal](#) Parliament to form a new [Grand](#) Government.
- (4) If a [new Grand](#) Government is not formed having the confidence of Parliament after 30 days from the vote of no confidence in the defeated Prime Minister, the President, acting on his or her own judgment, may [advise](#) the Speaker on the [immediate](#) dissolution of the [Federal](#) Parliament.

### **121. Resignation**

- (1) The Prime Minister may resign from office by delivering a written statement of resignation to the President.
- (2) The resignation of the Prime Minister shall take effect–
  - (a) on the date and at the time specified in the resignation, if any; or
  - (b) at noon on the day after it is delivered, in any other case.

### **122. Absence or illness**

- (1) Whenever by reason of illness or absence from Solomon Islands the Prime Minister is temporarily prevented from performing, in Solomon Islands, the functions of his or her office, those functions shall be performed by the Deputy Prime Minister.
- (2) If the Deputy Prime Minister is unable to act as provided for by sub-[clause](#) (1) the [Federal Cabinet](#), acting in accordance with the advice of the Prime Minister, shall appoint another Minister to act as Prime Minister until such time as the Prime Minister is capable again of performing them or vacated office.
- (3) If the President considers, in his or her own deliberate judgment, that it is impracticable to obtain the advice of the Prime Minister owing to the Prime Minister's illness or absence, the President may on the advice of [Federal](#) Cabinet appoint a Minister

to perform the functions of Prime Minister until such time as the Prime Minister is capable of again performing them or has vacated office.

### **Part III Ministers**

#### **123. Appointment**

- (1) There shall be such number of Ministers as the Prime Minister may from time to time determine and may designate one of them as Deputy Prime Minister.
- (2) The President on the advice of the Prime Minister appoints the Ministers.
- (3) The Ministers (including the Prime Minister) have such portfolios and responsibilities for the conduct of government as are determined by the Prime Minister.
- (4) Each person appointed as a Minister -
  - (a) shall take an oath before the President and in the presence of members of Parliament, affirming faithfulness to the people of Solomon Islands and obedience to this Constitution, in accordance with Schedule **Two**;
  - (b) may resign by delivering a written statement of resignation to the Prime Minister.

#### **124. Term of office**

- (1) The office of a Minister (other than the Prime Minister) becomes vacant –
  - (a) if the President, acting in accordance with the advice of the Prime Minister, so determines;
  - (b) upon the dismissal **by the Prime Minister with the concurrence of the party or coalition partners.**
  - (c) upon ceasing to be a member of Parliament for any reason other than the dissolution of Parliament;
  - (d) upon resignation given in writing to the Prime Minister;
  - (e) upon being elected as President of Solomon Islands; or
  - (f) upon being elected as Speaker.
- (2) If a Minister ceases to be a member because of the expiry or dissolution of Parliament, he or she continues in office as a Minister until the next appointment of a Prime Minister.

**125. Accountability to Parliament** - A Minister shall attend before Parliament, or a Committee of Parliament, when required to do so, and answer any question concerning a responsibility of that Minister, or the management of the portfolio for which he or she is responsible.



**126. Approval to leave Solomon Islands** – The Deputy Prime Minister and a Minister shall not leave Solomon Islands except with leave of the Prime Minister.

## **Part IV Cabinet**

### **127. Cabinet**

(1) There shall be a Cabinet, which consists of the Prime Minister and Ministers. **The total membership in the Federal Cabinet shall not exceed half of the total membership of the Federal Parliament.**

(2) The Attorney-General **who is public officer** shall be *ex officio* member of Cabinet.

### **128. Cabinet committees**

(1) There shall be Cabinet Committees, appointed by Cabinet, as a forum for detailed consideration and discussion of issues **pertaining to federal subject matters** before reference to Cabinet.

(2) The Cabinet shall determine the structure of Cabinet Committees and membership, terms of reference of each Cabinet Committee, taking into account practical and political considerations.

(3) Cabinet Committees derive their power from Cabinet. All Committee decisions are reported to Cabinet for confirmation before acted upon and Cabinet retains the ultimate power of decision.

### **129. Cabinet responsibilities**

(1) Cabinet is responsible for making decisions in relation to:

(a) significant issues relating to **the Federal** Government and the Republic **as a whole**;

(b) proposals that will affect **Federal** Government's financial position and other financial matters as provided by law;

(c) proposals involving new **federal** legislation or regulations affecting federal laws;

(d) the response of **Federal** Government to recommendations made by Committees of **the Federal** Parliament;

(e) controversial matters; and

(f) all matters concerning –

(i) arrangements with international donors and international financial organisations;

- (ii) arrangements or agreements with another country for international assistance for public purposes;
- (iii) obligations under international treaties and agreements; and
- (iv) free trade agreements.

(2) All decisions made in relation to matters referred to in [Clause 129](#) (1) (f) (ii), (iii) and (iv) must be enacted into domestic laws to bring them into effect.

(3) The Prime Minister or any Minister shall not make any final decision on any matter listed in subsection (1) until the matter is referred through the Cabinet process.

(4) The Prime Minister and Ministers in Cabinet shall promptly inform each other on any discussions outside Cabinet in relation to any matter in subsection (1).

### **130. Exercise of executive authority of Federal Cabinet**

(1) Ministers in Cabinet exercise executive authority by –

- (a) developing and implementing national **development plans**, budgets and policy;
- (b) preparing and initiating **federal** government legislation for consideration by **Federal** Parliament;
- (c) implementing and administering Acts of **Federal** Parliament;
- (d) coordinating the functions of **federal** ministries and departments; and
- (e) performing other executive functions provided for by this Constitution and any federal law.

(2) The Federal Cabinet in the exercise of its executive authority shall not be subjected to direction or control by any party or government caucus.

(3) The terms and conditions of a party or government caucus personnel shall not be paid out of public funds.

### **131. Proceedings of Cabinet**

(1) Cabinet is responsible for regulating its own procedures including discipline.

(2) Ministers in Cabinet shall attend every meeting of Cabinet, unless the Prime Minister has granted prior written **and or verbal** approval for the Minister to be absent **as the case may be**.

(3) Meetings of the Cabinet are to be chaired by the Prime Minister, or –

- (a) the Deputy Prime Minister, if the Prime Minister is absent; or
- (b) another Minister nominated by the Prime Minister, if both the Prime Minister and the Deputy Prime Minister are absent.

(4) A quorum for Cabinet meetings is an absolute majority of Cabinet members.

(5) In the event of a pressing matter including a state of emergency and there is no quorum, the meeting can proceed with simple majority of the Cabinet Ministers present.

### **132. Decisions and accountability**

(1) The Cabinet must ensure that –

- (a) a record is kept of **Cabinet proceedings and decisions**;
- (b) a written note of each decision is provided to each member of Cabinet as soon as practicable after it is made; and
- (c) appropriate arrangements are made for **the relevant Ministry to implement decisions** made by the Cabinet, and for monitoring the status of their implementation.

(2) Cabinet papers and decisions are to be regarded as confidential, but Cabinet may endorse the notification and publication of any items under consideration, or any decision made by Cabinet, as it sees fit.

### **133. Conduct of members of Cabinet – Ministers in Cabinet shall –**

- (a) disclose any situation involving a risk of conflict between the Minister’s private interests and official Ministerial responsibilities;
- (b) be collectively responsible for the decisions of the Cabinet, and for the general administration of Government; and
- (c) be responsible for protecting the Republic’s interest in the departments within their portfolios;
- (d) be responsible for deciding both the direction and the priorities for their departments;
- (e) be responsible to Parliament for ensuring that those departments carry out their functions properly and efficiently;
- (f) preserve the political neutrality of the public service;
- (g) be responsible for any Republic’s interest in Government owned enterprises or companies within their portfolios;
- (h) be individually responsible to Parliament for their own activities and the activities of public officers in administering their ministerial portfolios; and
- (i) keep each other informed of activities within their portfolios.

### **134. Secretary to Cabinet**

(1) There shall be a Cabinet Office, which shall be a public office and headed by the Secretary *to* Cabinet.

(2) The Secretary *to* Cabinet is responsible for the Cabinet Office and providing continuity and impartial support for operations of the executive government, including -

- (a) conducting and maintaining the central decision making process of executive government;
- (b) providing secretariat services to Cabinet;
- (c) attending all Cabinet meetings to record the decisions taken;
- (d) maintaining and preserving the records of successive Cabinets;
- (e) managing transitions between administrations, and supporting continuity of Government;
- (f) providing impartial advice *to* government *on* policy and administrative issues;
- (g) coordinating the policy and administrative aspects of the legislation programme for Government; **and**
- (h) **ensuring that all Cabinet decisions are duly implemented through the relevant Ministries.**

(3) **Where the Minister has been charged with responsibility for the administration of any department of the Government, he shall exercise general directions and control over that department and subject to directions and control, any department in the charge of a Minister (including the office of the Prime Minister or any other Ministers) shall be under the supervision of a Permanent Secretary or some other supervising officer whose office shall be a public office; provided that –**

- (a) **any such department that may be under the joint supervision of two or more supervising officers; and**
- (b) **different parts of any such department may respectively be under the supervision of different supervising officers.**

## **Part V Attorney-General**

### **135. The office of Attorney-General**

(1) There shall be a Federal Law Officer, whose office shall be a public office and headed by an Attorney-General who shall be the principal legal adviser to the Federal Government.

(2) **The candidates for the Office of the Attorney-General shall be recommended by the Prime Minister in consultation with Cabinet from serving lawyers in government employment but the final choice of the incumbent shall be in the absolute discretion of the Judicial and Legal Services Commission according to merit.**

(3) **The Attorney-General shall not be entitled to a vote in Parliament or Cabinet.**

(4) No person shall be qualified to hold or act in the office of Attorney-General unless he or she is **qualified** to hold the office of judge in accordance with this Constitution.

## CHAPTER TEN FEDERAL REVENUE ARRANGEMENTS

### Part I Federal Revenues

#### **136. Federal taxing powers**

(1) The Federal Government may impose any form of taxation other than state taxes.

(2) It shall not be lawful for **Federal** Government **except by law** to;

(a) levy a tax;

(b) raise a loan or to receive any money as a loan from any **judicial** person;

(c) spend any public money.

(3) **The Federal** Parliament may assign to the States the whole or any portion of the proceeds of any tax or fee levied or imposed by **Federal** Government.

(4) **The Federal** Government may by an agreement with State Government, collect specific State taxes and account for them. **A** State Government may by agreement with the **Federal** Government collect specific federal taxes, excise, duties or fees and account for them on behalf of the **Federal** Government.

(5) **The Federal Government may enter into any taxation arrangement with State Governments** for further sharing of Federal Tax Revenues.

#### **137. Federal Government Tax Revenue Sources**

**The Federal Tax Revenue sources shall be** as set out in Part I of Schedule Nine.

### Part II The Federal Consolidated Fund

#### **138. Federal Consolidated Fund**

(1) There shall be a Federal Consolidated Fund, and such other funds or accounts as law may provide.

(2) All federal revenues, (not being revenues or other moneys that are payable, by or under any law, into some other fund of Government established for a specific purpose) shall be paid in to the Consolidated Fund.

**139. Withdrawals from the Consolidated Fund and other public funds**

(1) No money shall be withdrawn from the **Federal** Consolidated Fund, or any other federal fund, except upon the authority of a warrant under the hand of the Minister of Finance.

(2) No warrant shall be issued under subsection (1) except –

(a) where the issue of those moneys has been authorised by an appropriation law of Parliament;

(b) to meet expenditure that is charged upon the Consolidated Fund by this Constitution or by a law of Parliament; or

(c) where it is statutory expenditure.

(3) Statutory expenditure shall not be voted on by Parliament. Such monies are to be paid out of the Consolidated Fund by warrant under the hand of the Minister for Finance.

**140. Debts and other expenses charged upon the Consolidated Fund**

(1) All debt charges for which Government is liable will constitute a charge on the Consolidated Fund.

(2) The costs and expenses incurred in collecting and managing the Consolidated Fund form the first charge on the fund.

(3) Government shall not borrow money or enter into any guarantee involving financial liability except in accordance with such provisions as may be prescribed by law.

(4) For the purposes of this section, “debt charges” include interest, sinking fund charges, the repayment or amortisation of debt, and all expenditure in connection with the raising of loans on the security of the Government or the Consolidated Fund, and the service and redemption of debt thereby created.

**141. Remuneration of persons holding public office**

(1) There shall be paid to the holders of the offices to which this section applies such salaries or other remuneration, and such allowances as may be prescribed by Parliament.

(2) The salaries and allowances prescribed under subsection (1) shall be charged and paid out of the Consolidated Fund

(3) This section applies to the offices of President, any judge of the Constitutional Court, the Court of Appeal or High Court, the Speaker of the Federal Parliament, the Ombudsman, the Director of Public Prosecutions, the Public Solicitor, the Auditor-General, the Commissioner of the [Solomon Islands Federal](#) Police Force, the

[Commissioner of Correctional Services of Solomon Islands](#) and a member of any Commission established by this Constitution.

### **Part III**

#### **Authorisation of expenditure from the Federal Consolidated Fund**

#### **142. Estimates of revenues and expenditure**

- (1) At least two months before the end of each financial year, the Minister for Finance shall lay before Parliament estimates of the revenues and of capital and recurrent expenditure of Parliament for that year.
- (2) If Parliament is dissolved and it is impossible to lay estimates before Parliament before the end of the financial year, the estimates shall be laid before Parliament within thirty days after the Parliament first meets following the dissolution.
- (3) The Public Accounts Committee shall be given reasonable time to study estimates of revenue before such estimates is presented to Parliament.

#### **143. Appropriation Bills**

- (1) When Parliament has approved expenditure for any financial year, other than expenditure that is specifically charged on the Consolidated Fund by this Constitution or law, a bill to be known as an Appropriation Bill shall be introduced into Parliament, and that bill shall –
  - (a) provide for money to be issued from the Consolidated Fund to meet the approved expenditure; and
  - (b) appropriate the money to the purposes specified in the estimates under special votes for the different heads of expenditure that have been approved.
- (2) The Public Accounts Committee shall be given reasonable time to study any proposed Appropriation Bill before such a bill is presented to Parliament.

#### **144. Additional or supplementary appropriation**

- (1) In any financial year, Supplementary Appropriation Bills may make provision for additional expenditure where the original estimates were insufficient, or if authorisation is needed for any expenditure not previously included in the estimates.
- (2) If Parliament approves additional or supplementary estimates, an additional or supplementary Appropriation Bill shall be introduced into Parliament, providing for the necessary money to be issued from the Consolidated Fund to meet the expenditure concerned and appropriating the money to the purposes specified in the estimates, under separate votes for the different heads of expenditure that have been approved.

(3) The Public Accounts Committee shall be given reasonable time to study any proposed Supplementary Appropriation Bill before such a bill is presented to Parliament.

**145. Authorisation in advance of appropriation**

(1) If the Appropriation Act has not come into operation by the beginning of the financial year to which it relates, Parliament may resolve to authorise the issue of moneys from the Consolidated Fund to meet expenditure for the provision of the services of Government at a level not exceeding the level of those services in the previous financial year.

(2) Any such authorisation under the preceding sub-clause may only apply for a period of 3 months from the commencement of the financial year.

**146. Warrants for unforeseen expenditure** – If it appears to a Minister responsible for finance that–

- (a) there is an urgent and unforeseen need to incur expenditure; and
- (b) no provision exists for that expenditure in any appropriation law or other law; and
- (c) the expenditure is consistent with an applicable law; and
- (d) Parliament has made a prior determination of the maximum amount of expenditure that may be approved in this manner, and the amount to be authorised is consistent with that determination; and
- (e) the expenditure is approved by Cabinet - the Minister may, by special warrant, authorise the issue from the Consolidated Fund money to meet that expenditure and shall include such amount in a Supplementary Appropriation Bill for appropriation at the first sitting of Parliament following the date on which the warrant was issued.

**147. Delay in appropriation due to dissolution of Parliament** – Where at any time Parliament has been dissolved before any provision, or sufficient provision, is made for funding the services of Government, the Minister responsible for finance may issue for the payment out of the Consolidated Fund of moneys necessary for the continuance of those services if–

- (a) the authorisation is stated to cease to have effect no later than 3 months commencing on the date on which Parliament first meets after the dissolution;
- (b) statements of the sums so authorised are laid before Parliament as soon as is practicable; and
- (c) shall be included in an Appropriation Act under separate votes for the different heads of expenditure.

**148. Excess or unauthorised expenditure** –

(1) If it is found that more money has been expended on a purpose than was appropriated to it under this Part, or that money has been expended on a purpose for



which no money was appropriated under this Part, the Minister responsible for finance shall without delay introduce a bill into Parliament condoning the unauthorised expenditure.

(2) The Public Accounts Committee shall be given reasonable time to study any proposed appropriation bill authorising expenditure before such a bill is presented to Parliament.

## **Part IV Central Bank of Solomon Islands**

### **149. Central Bank of Solomon Islands**

(1) There shall be a Central Bank of Solomon Islands.

(2) The primary object of the Central Bank of Solomon Islands is to protect the value of the currency in the interest of balanced and sustainable economic growth in the Republic.

(3) The powers and functions of the Central Bank of Solomon Islands are those prescribed in this Constitution and those customarily exercised and performed by central banks, which powers and functions shall be determined by an Act of the Federal Parliament and shall be exercised or performed subject to the conditions prescribed in terms of that Act.

(4) The Central Bank of Solomon Islands, in pursuit of its primary objective, shall perform its functions independently and without fear, favour or prejudice, but there shall be regular consultation between the Bank and the Minister responsible for Finance.

(5) The Minister responsible for finance shall be responsible for tabling all reports of the Central Bank [of Solomon Islands](#) in Parliament.

**150. Currency of Solomon Islands** – There shall be one national currency for Solomon Islands, which shall, in all respects, be approved, issued, regulated and managed by the Central Bank [of Solomon Islands](#).

## **CHAPTER ELEVEN CONGRESS OF STATES**

### **151. Congress of States**

(1) There shall be a Congress of States comprising-

(a) the President, who shall be the chairperson;

(b) the [State Governor](#) of each State;

(c) [two representatives consisting of one man and one woman from each state, to be appointed by the President on the advice of each State Governor.](#)

- (2) Appointed members who shall be persons of high moral integrity and of high character and shall hold office for a period of four years.
- (3) In making appointments under clause (c) of sub-clause (1) the President shall ensure that an absolute majority of appointees are citizens of Solomon Islanders.
- (4) No member of the Congress of States shall be paid a salary but shall be entitled to allowances and reimbursement of reasonable expenses for attending meetings.
- (5) The allowances referred to in sub-clause (4) shall be determined and approved by the Parliamentary Entitlements Commission and shall be paid out of the Federal Consolidated Fund.

### **152. Powers and Functions of the Congress of States –**

- (1) The powers and functions of the Congress of States shall be to-
- (a) advise on matters affecting the national interests;
  - (b) review and advise on any proposed legislation affecting the affairs of the federation, taking into particular account the views of the State Governments.
  - (c) advise on the fair selection of suitable persons to hold office under this Constitution unless a contrary intention appears elsewhere in this constitution.
  - (d) advise and report on constitutional, electoral or constituency review or reform taking into particular account the views of State Governments.
  - (e) examine and report on any matter which the Congress of States sets for investigation or review on its agenda.
  - (f) monitor to ensure constitutional democracy works in the Republic.
- (2) The Congress of States shall report to the Federal Parliament and State Parliaments.

### **153. Meetings of the Congress of States**

- (1) The Congress of States shall meet at least three times each calendar year at times and places appointed by the President.
- (2) The Congress of States may -
- (a) determine and control its own internal arrangements, proceedings and procedures; and
  - (b) make rules and orders concerning its business.

**CHAPTER TWELVE**  
**STATE GOVERNMENTS**

**Part I**  
**State Governments**

**154. Right to Self autonomy of State**

(1) A State, communities and people **shall have**, subject to this Constitution, the right to self **autonomy** in matters relating to their internal affairs within the limits given by this Constitution in the form of a State Government.

(2) The government and administration of each State shall be in accordance with a written constitution, which shall, subject to this Constitution, be the paramount law of the State.

(3) **There shall be in each State a state legislature and a state cabinet.**

(4) Each State shall have a State Parliament (Entitlements) Commission constituted in the similar manner as the Federal Parliament (Entitlements) Commission in each State Constitution.

(5) Schedule **Seven** applies **inter alia** to the adoption of a State Constitution.

**Part II**  
**States and Federal and State Boundaries**

**155. States and State Boundaries**

(1) Subject to the provisions of this clause and Schedule **Seven**, the nine provinces in Solomon Islands existing prior to the creation of the Republic shall on the coming into effect of this Constitution become States, and their boundaries are as described in Schedule **Four**.

(2) The total number of States shall not exceed twelve in number and on any admission or establishment of a new State, the Federal Parliament may impose such terms and conditions it thinks fit regarding the representation of the new State in the Federal Parliament.

(3) Two or more States may amalgamate to create a new State or a State may partition to create a new State but only in accordance to an arrangement agreed between the States concerned and the Federal Government.

(4) An arrangement under sub clause (3) shall not be inconsistent with this Constitution.

(5) A State may surrender, increase, or alter the boundary of the State, upon such terms and conditions as may be agreed on between the States and the Federal Governments.

**Part III**  
**Adoption and Certification of State Constitutions**

**156. Certification of State Constitutions**

- (1) No State Constitution or amendment to a State Constitution shall become law until the Constitutional Court has certified that-
  - (a) if an originating constitution, it is adopted in accordance with **Schedule Seven**; or
  - (b) if the text is made pursuant to an arrangement under Clause 155(3), it is passed in accordance with the terms of that arrangement; or
  - (c) if the text is an amendment to a State Constitution, it is passed in accordance with the State Constitution; and
  - (d) in every respect the State Constitution or Constitutional amendment is not inconsistent with this Constitution.
  
- (2) A State Constitution shall come into operation in accordance with its provisions

**Part IV**  
**State Justice System**

**157. State Courts**

- (1) Subject to sub-clause (2), States may establish **State** courts in accordance with the provisions of a State Constitution, and shall have such Jurisdiction and powers as determined by this Constitution and law.
  
- (2) State Governments **shall** make arrangements satisfactory to the Chief Justice, for the establishment of a registry of the High Court in a State, and for the administration of that registry to be merged with the registry of a State Court. Unless decided in this manner, the High Court shall continue to operate within States as it did before this Constitution came into effect

**Part V**  
**Traditional justice**

**158. Traditional law practice**

- (1) To the extent compatible with this Constitution, clan or tribal communities or any section of such communities **shall** exercise authority to administer their own system of justice according to their distinctive juridical customs, traditions and procedures.
  
- (2) Traditional justice of the locality of where the incident occurs shall apply to resolve a matter or punish in accordance with methods customarily practiced by the peoples concerned for dealing with offences taking into account the customs and norms of the parties to the conflict but in the final analysis, the fairness and justice of the case shall prevail.

(3) Where compensation is to be the appropriate penalty to be imposed it shall be just, fair and reasonable and not excessive.

(4) State legislature and Community government may enact laws to give effect to this Clause.

(5) Within the Federal Territory of Honiara City, the Federal law to provide for full measure of self administration of Honiara City shall provide inter alia for conflict resolutions within the Honiara City boundaries in relation to the application of Sub clauses (1), (2) and (3) and the adjudication of such conflicts by persons knowledgeable in customary laws and practices.

(6) State Legislature shall enact similar State laws as in the preceding sub clause (5) to provide for conflict resolutions within the respective State Capital Territories. This State law may also extend to cover other urban centres outside the State Capital Territories.

#### Part VI

#### Prime Minister and State Premiers Conference

#### **159. Prime Minister and State Premiers Conference**

(1) The Federal Parliament shall make laws to provide for the Prime Minister and State Premiers Conference and may provide inter alia the following:

- (a) Actions taken to implement decisions reached by consensus at the previous meetings.
- (b) Harmonizing and monitoring of development strategies and development implementations of the spheres of government
- (c) Sharing of experiences over progress, regress, strengths and weaknesses over matters pertaining to developments.
- (d) Dialogue on matters pertaining to relinquishment of powers held in trust by the Federal Government.
- (e) Sharing of costs for holding of Prime Minister and State Premiers Conference.
- (f) Comparing notes over matters pertaining to social, economic, political and financial standing of each spheres of government.
- (g) Reviewing of the National development plans.
- (h) Dialogue on possible review of revenue sharing ratios.

- (i) Close door dialogue on intelligence and security matters pertaining to the whole Republic.
  - (j) Dialogue on matters pertaining to international agreements and relations.
  - (k) Dialogue on matters relating to foreign investment and trade.
  - (l) All other matters deemed appropriate
- (2) Where consensus is reached on the above matters, implementation may be carried out either:
- (a) Jointly by all spheres of governments; or
  - (b) Separately by particular sphere of government.

## CHAPTER THIRTEEN

### COMMUNITY GOVERNMENTS

#### 160. Community Governments.

- (1) A State, its communities and people shall have, subject to this Constitution, the right to participate fully through procedures determined by them, in devising governmental, administrative and other measures of democratic governance through Community Governments.
- (2) Community Governments shall be the collective expression of the power and governance base of people in our Federalism vested in the tribes, clans, lineages, families or any customary groups as the case may be that exist and function in their respective autonomous existing systems and territories since time immemorial but evolving and or modified appropriately to suit the changing circumstances of our time.
- (3) The number of Community Governments within each State shall be determined by each State Constitution and the criteria for qualification as a Community Government shall be provided for in each State Constitution.

161. The legislature powers of the Community Governments shall be as specified in List IV of Schedule Five

162. The Community Governments Tax Revenue Sources shall be as set out in Part III of Schedule Nine.

## CHAPTER FOURTEEN

### STATE REVENUE ARRANGEMENTS

#### **163. State Government taxes**

- (1) A State Government may impose any form of taxation other than federal taxes.
- (2) It shall not be lawful for State Governments, except by law to—
  - (a) levy a tax;
  - (b) raise a loan or to receive money as a loan from any **juridical** person;
  - (c) spend any public money.
- (3) The power of a State Government to impose taxes, shall not be exercised in a way that it prejudices the economic policies outlined in the National Development Plan, economic activities across State boundaries, or the mobility of goods, services, capital or labour

#### **164. State Governments Tax Revenue Sources.**

The State Governments Tax Revenue sources shall be [as set out in Part II of Schedule Nine](#).

**165. Concurrent Power of Taxation** -The Federal Government and State Government shall jointly levy and collect profit sales, excise, and personal income taxes on enterprises they jointly establish.

**166. Undesignated Powers of Taxation** - The Federal Parliament and the Congress of States shall, in a joint session determine by two thirds majority vote on the exercise of powers of taxation which have not been specifically provided in the Constitution.

#### **167. State loans –**

- (1) Subject to [Clause 163](#) (2) (b), a State Government **may** raise a loan, receive any money as a loan or give a guarantee **without** the prior approval of the Federal Government.
- (2) A State Government must not raise a loan to finance current expenditures or raise a loan from banks or related financial institutions or enterprises that it either owns or has a controlling interest.

#### **168. State Banks –**

- (1) State Governments may establish or participate in the establishment of banks and related financial institutions, which may extend their operations beyond the boundaries of **the** State.

(2) Any state bank or financial institution established by a State Government must comply with the requirements applying to such institutions and the Federal Law.

**169. Sinking Funds** - In accordance with a State Law, a State Government may establish a Sinking Fund or any other similar funds.

## CHAPTER FIFTEEN STATE POWERS

### **170. State powers**

(1) A State legislature shall have the power to make laws for the whole or part of the State.

(2) A State legislature shall have exclusive power to make laws in relation to any matter listed in List II (State powers) of Schedule **Five**.

### **171. Executive Authority**

(1) The executive authority of the State Government shall extend to all subject matters in List II of Schedule 5.

**(2)** The executive authority of the State Government shall not extend to any matter in List I (federal powers).

(3) A State law may provide that the executive authority of the Federal Government shall extend to the administration of any specified provisions of State law and may for that purpose confer powers and impose duties on any authority of the Federal Government.

(4) Where, pursuant to sub-clause (3) any functions are conferred by State law on any authority of the Federal Government, the State government shall make financial payments to the Federal government as may be mutually agreed upon for carrying out such functions on behalf of the other.

**172. Arrangements between State governments** – Subject to any provisions of Federal or State law, arrangements may be made between State governments for the performance of any functions by the authorities of the one on behalf of the authorities of the other and such arrangements may provide for the making of payments in respect of any costs incurred under the arrangements.

**173. Exercise of powers generally** – State Governments and their administrations shall operate as locally and autonomously as circumstances allow and in particular shall -

(a) recognize the right for **community governments** to exercise government over their **domestic** affairs, **resources** and way of life;



- (b) enable the coordination of services and resources with **community governments** and for those services and resources to be delivered in a reliable, fair and equitable manner;
- (c) ensure the timely and fair distribution of resources and revenues to those beneficially entitled; and
- (d) **ensure** the **participation** of women **and youths** in the structure and administration of the State government.

**174. Limitations of power**

- (1) State power shall be so exercised
  - (a) as not to confer legislative powers beyond the State;
  - (b) as to ensure compliance with any Federal law applying to that State;
  - (c) as not to impede or prejudice the legislative competency or the executive authority of the Federal, State and Community Governments.
  - (d) as not to prejudice the economic, health or security interests of another State or the Republic as a whole.
- (2) The executive authority of a State extends to all matters with respect to which the legislature of that State may make laws.

**CHAPTER SIXTEEN  
FINANCIAL SHARING PROVISIONS**

**Part I  
Sharing of Federal Revenues**

**175. Federal revenues to be shared**

(1) The Federal revenues derived from National Resources shall be shared amongst the Federal, States and Community Governments' and Revenue Resource Owners in accordance with clause 176, but the Federal Revenues derived from Federal Taxes shall be shared between the Federal and the States Government in accordance with clause 177:

(2)The Federal revenues sharing arrangement in sub-clause (1) shall exclude the internal revenues generated by the States and Community Governments and the direct financial benefits payable to resource owners.

(3) For purpose of sharing of the Federal Revenues derived from natural resources referred to in sub-clause (1) the States and Community Governments mean the Governments in whose territories the natural resources are located and resource owners mean the tribe, clan, group, family or individual as the case may be who own the land or other natural resources in accordance with Clause 17 and who have allowed their natural resources for development, use, utilization, exploitation or extraction which produce the Federal Revenues from the natural resources.

**176. Sharing of all natural resource revenues** – The sharing of Federal revenues derived from **all** natural resources shall be apportioned from the commencement of this Constitution in accordance with Part I of Schedule Six.

**177. Sharing of Federal tax revenues**

The sharing of Federal revenues derived from Federal taxes shall be apportioned from the commencement of this Constitution in accordance with Part II of Schedule Six.

**178. Review and Amendments of the Sharing Ratios**

The Review and amendments of the sharing ratios of the Federal revenues from natural resources and from Federal taxes shall be made in accordance with Part III of Schedule Six.

**179. Revenue Sharing Account**

(1) The Central Bank shall be responsible for making of payments to States and Community Governments and Resource Owners of their share of Federal Revenues derived from natural resources under Clause 176 and to the States Governments of their share of Federal Revenues derived from Federal Taxes under Clause 177.

(2) On receipt of all Federal Government revenues to which this Part applies, the total share of the States and Community Governments in respect of money received, under whatever sharing formula applied at the time of receipt, shall be paid into an account maintained by the Central Bank as the “Revenue Sharing Account”.

(3) Payments to the Revenue Sharing Account shall be made before the federal revenues are committed to any other purpose, and are authorised by this section without the need for any further appropriation.

(4) No revenue shall be withdrawn from the Revenue Sharing Account other than to make payments to States and Community Governments and Resource Owners according to the agreed share of the Federal revenues.

(5) Each State or Community Government and Resource Owners shall maintain a separate account to be called a “State Government Account”, “Community Government Account” and “Resource Owners Account” respectively into which shall be paid all revenue allocated to the State, Community and Resource Owners from the “Revenue Sharing Account”.

(6) As far as is practicable, the Central Bank shall make payments of the share of federal revenues under this Part, to the Consolidated Fund Accounts of the State Governments on a weekly basis.

(7) Each State Government shall pay to the Community governments of the State such proportion of its total revenue on such terms and in such manner as may be prescribed that meets the criteria of expenditure responsibilities assigned to those Community governments.

(8) All revenue derived from royalties, land lease and those customary in nature will be paid directly to the resource owners.

### **180. Role of the Central Bank of Solomon Islands**

(1) The Revenue Sharing Account shall be maintained by the Central Bank.

(2) The Governor of the Central Bank shall regularly report to the National Finance Commission in regard to the management of the Revenue Sharing Account and may make recommendations to the National Finance Commission regarding the operation of the account and to timely inform the National Finance Commission of macroeconomic and financial issues that may affect the account.

(3) Any recommendation made under this clause shall be done so as to enable State and Community Governments to operate effectively, manage their finances in a responsible manner, and assist the State and Community Governments to provide an optimum level and standard of social and economic services to their populations.

### **181. Equalisation Transfers and State disparities**

(1) The Federal Government shall with the endorsement of the National Finance Commission make equalization transfers from its own consolidated fund to ensure that:—

- (a) States, regardless of ability to raise revenue, provide comparable levels of services at comparable levels of taxation; and
- (b) State disparities in development and living standards are minimised.
- (c) Minimum standards of State services are maintained.

(2) Equalization transfers to qualifying States shall be unconditional.

(3) Federal legislation shall give effect to this Clause.

### **182. Foreign Aid Funds.**

(1) Foreign Aid Funds from bilateral or multilateral agreements or other sources which are provided to the Federal Government generally for budgetary support to its Recurrent or Development Budget shall be shared with the States and Community Government after appropriation by the Federal Parliaments in the ratio of 30% to the Federal Government and 70% to the States Governments.

(2) The 70% share of the State Governments referred to in sub clause (1) shall be divided among the States Governments with the least developed State getting the highest share, the more developed State getting the lower share and the most developed State getting the lowest share and the share of each State Government after appropriation by the States Legislatures shall be divided with its the Community Governments in the ratio of 30% to State Governments and 70% to its Community Government.

- (3) The 70% share of the Community Governments within each State referred to in sub clause (2) shall after appropriation by the State Legislature be shared among the number of Community Governments by the State Government using the same sharing criteria referred to in sub clause (2)
- (4) Foreign Aid Funds falling outside sub clause (1) and which are provided specifically to the Federal, States and Community Governments or to Non-State Actors for specific projects or purposes shall be utilized as intended.
- (5) No Foreign Aid Funds referred to in sub clause (1) and (4) and no local funds generated within Solomon Islands by the Federal, States and Community Governments shall be paid directly to any elected member of the Federal and States Legislatures or to any elected or appointed member as the case may be, of the Community Governments. Such members shall at all times serve their voters as elected representatives and not as elected accountants or financiers.

### **183. Special revenue arrangement applying to the State of Guadalcanal**

- (1) The State of Guadalcanal shall be entitled to a share of revenues from Honiara City according to an arrangement between the Federal Government, Honiara City and the State Government of Guadalcanal.
- (2) The parties shall in good faith negotiate an arrangement, which shall be enacted by the Federal Parliament as a full and final settlement of all claims and grievances by Guadalcanal affected peoples arising out of the taking of land comprising Honiara City and the adjacent sea, reefs and seabed.

## **Part II**

### **National Finance Commission**

#### **184. Establishment of National Finance Commission**

- (1) There shall be established a National Finance Commission.
- (2) The National Finance Commission shall comprise the following members:
  - (a) The Federal Minister of Finance or proxy who shall be the Chair person;
  - (b) Each State Minister of Finance or proxy, and
- (3) The National Finance Commission shall meet at least three times a year and for extraordinary meetings as requested to do so by three State Governments.

#### **185. The functions of the National Finance Commission**

- (1) The functions of the National Finance Commission shall be to-
  - (a) Monitor the accruals and disbursement of revenue from the Revenue Sharing Account;

- (b) Monitor the processes of revenue sharing and the general operation of the financial arrangements between Federal, State and Community Governments;
  - (c) Monitor the fiscal decentralization
  - (d) Promote the desirability of stable and predictable allocations of revenue to Federal, State and Community Governments;
  - (e) Advise (Instruct) the Federal, State and Community Governments on fiscal efficiency and methods by which their revenue can be increased;
  - (f) Receive petitions, representations or submissions from the Federal, State and Community Governments, Congress of States, the Central Bank or other interested parties regarding the financial arrangements;
  - (g) Make recommendations to relevant spheres of governments and their personnel to ensure the proper implementation of the financial arrangements;
  - (h) Ensure the settlement of inter-governmental disputes relating to financial or fiscal matters by conciliation and failing conciliation by arbitration;
  - (i) Advise Federal, State and Community Governments on broadening the economic base and development needs; and
  - (j) Recommend to the Federal Government for the changes to the revenue sharing ratios to be enacted as a Constitutional Amendment.
  - (k) Discharge such other functions as are conferred on the Commission by an Act of the Federal Parliament which had the endorsement of an absolute majority of the State legislatures.
- (3) The National Finance Commission shall in the exercise of its functions in sub-clause (1) be assisted by the Governor of Central Bank, the Permanent Secretary of the Federal Ministry of Finance, each State Treasurer and officials of other relevant Ministries.

## CHAPTER SEVENTEEN HONIARA CITY

### **186. Status of Honiara City**

- (1) Until the Federal Parliament otherwise determines, the territory of Honiara City shall be federal territory.
- (2) Honiara City shall have a full measure of self-administration according to a federal law; and be responsible to the Federal Government.
- (3) The residents of Honiara City shall be represented in the Federal Parliament in accordance with the provisions of this Constitution.

(4) The Federal Parliament shall have exclusive power to make laws with respect to the boundaries of Honiara City provided that the State Government of Guadalcanal must ratify any such legislative measures before it becomes law.

**187. Objectives of Honiara City**

(1) The **objectives** of Honiara City are to –

- (a) conduct its business in an open, transparent and democratically accountable manner;
- (b) ensure the provisions of services in a sustainable manner;
- (c) promote a safe and healthy environment;
- (d) encourage the involvement of communities and community organisations in the matters of government;
- (e) promote social and economic development; and
- (f) ensure prudent stewardship and the efficient and effective use of its resources in the interests of its community.

(2) Honiara City shall, within its resources, strive to achieve the **objectives** set out in subsection (1).

**188. Administrative principles** – In performing its **objectives** Honiara City must in accordance with the following principles –

- (a) establish clear outcomes for its activities and give effect to them in an efficient and effective manner;
- (b) give priority to the basic needs of the community;
- (c) ensure that the community is adequately informed about its activities;
- (d) make itself aware of, and have regard to the views of all its community; and
- (e) ensure its by-laws are accessible to the public.

**189. Governance principles** – Honiara City in addition to the values in Chapter Six and [Clause 229](#) shall act in accordance with the following principles in relation to governance –

- (a) ensure that the role of **representative** democratic governance of the community is , and the expected conduct of elected members is clear and understood by elected members and the community;
- (b) ensure that the governance structures and processes are effective, open and transparent;
- (c) ensure that as far as practicable, responsibility and processes for decision making in relation to regulatory responsibilities is separated from the responsibility and processes for decision making for non regulatory responsibilities;
- (d) ensure that the relationship between elected members and management is effective and understood; and

- (e) be a responsible and fair employer.
- (f) regulating urban drift into Honiara city.**
- (g) maintain link between Honiara city and State governments and communities through consultations.**

**190. Federal law provision** – A federal law shall provide for the matters referred to in Clause 187 to 189.

## CHAPTER EIGHTEEN ENVIRONMENT, LAND AND DEVELOPMENT

### Part I Environment and natural resources

#### **191. Environmental principles**

- (1) Every person has the right to an environment that is not harmful to his or her health or well being.
  
- (2) All governments, organs of government, bodies and persons exercising a power or performing a function involving the management of land, natural resources, water and the sea shall be guided by the need to:
  - (a) protect the wildlife, genetic resources and biological diversity of Solomon Islands;
  - (b) protect Solomon Islands from foreign invasive species;
  - (c) protect forests and carry out reforestation;
  - (d) protect the fishery and ensure that the **harvesting** of the commercial fishery is sustainable;
  - (e) practise, encourage and, where practicable, require waste minimisation and recycling;
  - (f) preserve water quality and practise, encourage and where practicable require water conservation, and specifically to protect water catchment areas, water ways and ground water areas or reserves;
  - (g) practise, encourage and where practicable require the use and development of energy efficient technology and the use of renewable energy resources;
  - (h) protect the environment, giving priority to prevention of environmental damage and degradation, but also providing for restoration in case of damage including unavoidable damage and for compensation;
  - (i) establish systems for environmental audit and monitoring on projects likely to have a significant impact on the environment;
  - (j) protect against the importation or usage of toxic wastes; and**

- (k) ensure that environmental standards enforced by the Republic reflect the best of standards internationally.
- (3) All governments shall enact laws and other measures to give effect to the provisions of this Part.

## **Part II** **Land, Sea, Resources and Property Matters**

### **192. Ownership of Land, Sea and other property**

- (1) The ownership of all land and all natural resources on, in and above all lands in Solomon Islands inclusive of seas and resources therein shall vest in the owner or owners thereof.
- (2) No person or group may be deprived of lawfully owned or held land, sea and other property except in accordance with law and justice, including fair and prompt compensation if appropriate.

**193. Acquisition of customary land by governments** – No government shall acquire ownership to customary land other than by way of a leasehold interest or by an interest of a similar nature not exceeding 75 years.

### **194. Mutual obligations in the provision of public works** –

Customary land and resource owners and governments owe each other reciprocal obligations of good faith and fairness in dealings with each other over requests to acquire rights of access or ownership of customary land or use of resources for the purposes of public works.

## **Part III** **National, State and Community Government Development Plans**

### **195. National Development Plan**

- (1) There shall be a National Plan for the economic and social development of the Republic.
- (2) A National Development Plan shall be reviewed –
- (a) at such intervals not exceeding three years; and
  - (b) have regard to State and Community Government Plans.

### **196. State and Community Government Development Plan**

- (1) Each State and Community Governments shall adopt a Development Plan for the economic, social development and conservation of resources of the State and Communities.



(2) The first State Development Plan shall be implemented within twelve months of a State Constitution coming into effect.

(3) Clan and tribal groups, customary land and resource owners, the business community and all other persons of a State shall participate in the formulation and where it is appropriate in the implementation and the evaluation of a State Development Plan.

(4) **All** must participate equitably in the planning and decision making process of State and **Community** Plans.

(5) State law may regulate the preparation, review, administration and monitoring of State and **Community** Governments Plans.

**197. Content of plans** – The contents of a National Development Plan and a State and **Community Government** Development plan must be consistent with this Constitution.

#### **Part IV Economic and social reforms and development**

**198. Economic and social reforms and development**

- (1) Any government or any organisation or body having responsibility for –
- (a) the implementation of the National Development Plan or a State and **Community Governments** Development Plan; or
  - (b) economic or social reforms; or
  - (c) any international development loan; or
  - (d) exercising oversight of development projects, shall –
    - (i) in regard to clauses (b), (c) and (d) of subsection (1) ascertain any democratic and constitutional implications of those activities; and
    - (ii) take appropriate measures to be fully informed of the impact of any plan of development, reform, loan or project on the environment; and
    - (iii) in the case of affected village and other communities to take all appropriate measures to be fully informed of the political, social, cultural and economic impact such activities will have on those communities; and
    - (iv) shall ensure that any plan of development, reform, loan or project is environmentally sustainable and politically, socially, economically and culturally sustainable from the perspective of affected village and other communities.
- (2) The implementation of any development plan, reform, or development project shall provide for mechanisms for the monitoring of effects on the environment and affected village and other communities in terms of sustainability set out in subsection (1).
- (3) Affected village and other communities have a right to full, fair, adequate and effective participation in any development plan, reform and development project and a

right to be fully informed of the conditions or policies to be implemented on the acceptance of a development loan and all other relevant matters and to be informed of the findings of any impact assessment in terms of subsection (2).

**199. Free trade arrangements**

(1) Before agreeing to accede to any free trade arrangement, the Federal Government shall undertake an empirically based study of the economic, social, cultural, environmental, democratic and constitutional implications of free trade commitments on the Constitution, State Constitutions, subsistence and local economies, rural and other communities particularly rural women, food, manufacturing, natural resources, services, labour markets, investment and cultural knowledge and other relevant matters.

(2) A study under subsection (1) shall be conducted locally and the findings released for public comment.

**200. Control of water** – A government or organ<sub>s</sub> of government shall not–

- (a) use assets of its water as security for any purpose; or
- (b) divest its ownership or other interest in a water service or infrastructure necessary to providing water services except to another government or organ of government.

**CHAPTER NINETEEN  
THE LEGAL SYSTEM**

**Part I  
Judicial authority**

**201. Judicial authority**

(1) The judicial authority of the Republic is vested in the courts.

(2) The courts are independent and subject only to the Constitution and law, which they shall apply impartially and without fear, favour or prejudice.

(3) Governments and organs of government, through legislative and other measures shall –

- (a) assist and protect the courts to ensure the courts’ independence, impartiality, accessibility and effectiveness; and
- (b) take all necessary measures to ensure that the courts are adequately financed and resourced.

(4) No person or organ of any government may interfere with the functioning of the courts.

(5) An order or decision issued by a court binds all persons to whom and organs of government to which it applies.

## Part II The Superior Courts

### **202. The Superior Courts of Solomon Islands**

- (1) The superior courts of Solomon Islands shall be –
  - (a) Constitutional Court;
  - (b) Court of Appeal; and
  - (c) High Court.
- (2) The Court of Appeal and High Court has the jurisdiction, including inherent jurisdiction, conferred on it immediately before the commencement of this Constitution and any further jurisdiction conferred on it by this Constitution or by law.
- (3) Nothing in this Chapter affects the continuance of a person in office as a judge under an appointment made before the commencement of this Constitution.

### **203. The Constitutional Court**

- (1) There shall be a Constitutional Court for Solomon Islands, which shall be the highest court in all constitutional matters as conferred by this Constitution or by law.
- (2) The Constitutional Court shall consist of:
  - (a) the Chief Justice, who is to be President of the Constitutional Court;
  - (b) such other judges as are appointed as Justices of the Constitutional Court; and
  - (c) the Justices of Appeal.
- (3) The President of the Constitutional Court and other Justices of the Constitutional Court are appointed by the President, acting in accordance with the advice of the Judicial and legal Services Commission.
- (4) A matter before the Constitutional Court shall be heard by at least 3 judges.
- (5) The Constitutional Court has, in addition to powers conferred by this Constitution, exclusive jurisdiction, subject to such requirements as Parliament prescribes, to hear and determine:
  - (a) appeals from all final judgments of the Court of Appeal concerning any matter arising under this Constitution or a State Constitution including its interpretation;
  - (b) disputes between organs of government in the federal or state sphere concerning the constitutional status, powers or functions of any of those organs;
  - (c) the constitutionality of any bill of the Federal Parliament or State legislature;
  - (d) the constitutionality of any amendment to this Constitution or any State Constitution;
  - (e) any dispute or matter concerning the obligations of the President or a Head of a State.

- (6) An appeal may not be brought from a final judgment of the Court of Appeal unless:
- (a) the Court of Appeal gives leave to appeal on a question certified by it to a be of significant public importance; or
  - (b) the Constitutional Court gives special leave to appeal.

(7) In the exercise of its appellate jurisdiction, the Constitutional Court has power to review, vary, set aside or affirm decisions or orders of the Court of Appeal and may make such orders (including an order for a new trial and an order for award of costs) as are necessary for the administration of justice.

(8) The Constitutional Court may review any judgment, pronouncement or order made by it.

#### **204. The Court of Appeal**

- (1) The Court of Appeal **shall** consist of:
- (a) a judge, other than the Chief Justice, who is appointed as President of the Court of Appeal; and
  - (b) such other judges as are appointed as Justices of Appeal.
- (2) The President of the Court of Appeal and the other Justices of Appeal are appointed by the President **of the Republic**, acting in accordance with the advice of the Judicial and Legal Services Commission.
- (3) The Court of Appeal has jurisdiction, subject to this Constitution and to such requirements as prescribed by Parliament, to hear and determine appeals from all judgments of the High Court, and has such other jurisdiction as is conferred by law.
- (4) Parliament may provide that appeals lie to the Court of Appeal, as of right or with leave, from other judgements of the High Court in accordance with such requirements as the Parliament prescribes.

#### **205. The High Court**

- (1) The High Court **shall** consist of:
- (a) the Chief Justice; and
  - (b) such numbers of other judges as Parliament may prescribe.
- (2) The Parliament may make provision for the appointment of Masters of the High Court and may prescribe their jurisdiction and powers.
- (3) The Chief Justice and the other Justices of the High Court are appointed by the President **of the Republic**, acting in accordance with the advice of the Judicial and Legal Service Commission.

(4) The High Court has unlimited original jurisdiction to hear and determine any civil or criminal proceedings under law and such other original jurisdiction as is conferred on it under this Constitution.

(5) Subject to the exclusive jurisdiction of the Constitutional Court, the High Court has further original jurisdiction in any matter arising under this Constitution or a State Constitution including its interpretation.

(6) The High Court has further jurisdiction, subject to the conferral by Parliament of rights of appeal and to such requirements as the Parliament prescribes, to hear and determine appeals from all judgements of subordinate courts.

(7) If in any proceedings in a subordinate court any question arises as to the interpretation of this Constitution or a State Constitution and the member presiding in the proceedings considers that a substantial question of law is involved, the member presiding must refer the question to the High Court.

(8) When the High Court gives its decision on a question referred to it under subsection (6), the Court in which the question arose must dispose of the case in accordance with:

- (a) the decision; or
- (b) if the decision is the subject of appeal to the Court of Appeal or to the Constitutional Court, the decision of the Court of Appeal or Constitutional Court, as the case may be.

(9) The High Court has jurisdiction to supervise any civil or criminal proceedings before a subordinate court and may, on an application duly made to it, make such orders, issue such writs and give such directions as it considers appropriate to ensure that justice is duly administered by the subordinate court.

## **206. Advisory jurisdiction**

(1) The High Court has, on the application of an authority referred to in subsection (2), jurisdiction to give its opinion on any constitutional matter including the validity of any proposed law or [enacted](#) law.

(2) The following are entitled to make application under subsection (1) –

- (a) President **of the Republic**;
- (b) Federal Parliament;
- (c) Attorney-General;
- (d) Any body, institution or commission established under this Constitution
- (e) State **Governor**;
- (f) State Legislatures; or
- (g) **Community Government**;

- (h) Any other such person or institution specifically prescribed by a State Constitution.
- (3) The High Court shall have power to dismiss any application under this section if found not to be genuine or have merit.
- (4) The Rules of Court of the High Court may make provision in respect of matters relating to the jurisdiction of the High Court under this section.

**207. Powers of courts in Constitutional matters** – When deciding a constitutional matter a court–

- (a) shall declare that any law or conduct that is inconsistent with the constitution is invalid to the extent of the its inconsistency; and
- (b) may make an order that is just and equitable, including –
  - (i) an order limiting the retrospective effect of the declaration of invalidity;
  - (ii) an order suspending the declaration of invalidity for any period and on any conditions, to allow the competent authority to correct the defect;
  - (iii) such orders or give such directions as it considers appropriate including the award of compensation; and
  - (iv) normal orders of judicial review.

**Inherent Power** – The superior courts have inherent power to protect and regulate their own process.

**208. Disqualification of judge** – A judge who has sat in a trial of a matter that is the subject of appeal to a higher court must not sit in the appeal.

### **Part III Court Procedure**

#### **209. The Rules of Court**

- (1) The Rules of Court applying to the procedures of the superior courts shall be made by a Rules Committee consisting of the –
  - (a) Chief Justice;
  - (b) President of the Court of Appeal;
  - (c) Attorney General; and
  - (d) **President of Solomon Islands Bar Association;**
  - (e) such other persons as the **President of the Republic**, acting after consultation with the Chief Justice, may appoint.

- (2) The Rules Committee may make rules, not inconsistent with this Constitution or a law made by the Parliament, for regulating and prescribing the practice and procedure to be followed in the superior courts.

#### **Part IV Tenure and other matters**

#### **210. Qualification for appointment**

- (1) A person is not qualified for appointment as a judge unless he or she –
  - (a) holds or has held high judicial office in Solomon Islands or in any country prescribed by Parliament; or
  - (b) has had not less than 5 years practice as a barrister or solicitor in Solomon Islands or in another country prescribed by Parliament.
- (2) The Chief Justice is appointed by the President **of the Republic acting in accordance with** the advice of Judicial and Legal Services Commission.
- (3) If the office of Chief Justice or judge is vacant, or if the person holding such office is for any reason unable to perform the functions of office, the President **of the Republic** acting in accordance with the advice of the Judicial and Legal Services Commission may either appoint -
  - (a) another Judge, or any person qualified to be a Judge under this section, to act as Chief Justice; or
  - (b) a person qualified to be a Judge under this **clause**, to act as a judge of the High Court,

**211. Criteria for appointment of judicial officers** – The making of appointments to judicial office is governed by the principle that judges should be of the highest quality.

#### **212. Tenure of judges**

- (1) The term of appointment of the Chief Justice, a Justice of Appeal, a Justice of the Constitutional Court (including the President of the Court of Appeal) or a judge of the High Court expires upon his or her reaching the age of 70.
- (2) A retired judge may be appointed as an acting judge for a fixed term after he or she has reached retirement age.
- (3) Nothing done by a judge shall be invalid by reason only that the retirement age has been reached.
- (4) **Sub-clause 3** shall not apply in the event of the removal of a judge from office.

### **213. Removal of judge for cause.**

- (1) A judge may be removed from office for inability to perform the functions of his or her office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour, and may not otherwise be removed.
- (2) Removal of a judge from office must be by the President **of the Republic** pursuant to sub-clause (3).
- (3) If the President **of the Republic** considers that the question of removing a judge from office ought to be investigated, then:
  - (a) the President **of the Republic** appoints:
    - (i) in the case of alleged misbehaviour-a tribunal, consisting of a chairperson and not less than 2 other members, selected by the President from among persons who hold or have held high judicial office in Solomon Islands or in another **Commonwealth** country.
    - (ii) in the case of alleged inability to perform the functions or office, a medical board, consisting of a chairperson and 2 other members, each of whom is a qualified medical practitioner;
  - (b) the tribunal or medical board enquires into the matter and furnishes a written report of the facts to the President **of the Republic** and advises **him or her** whether or not the judge should be removed from office; and
  - (c) if the tribunal or medical board advises that the judge should be removed from office, the President **of the Republic** may remove the judge from office.
- (4) If the question of removing a judge from office has been referred to a tribunal or medical board under sub-clause (3), the President **of the Republic** may suspend the judge from office and may, at any time, revoke that suspension.
- (5) The suspension of the judge from office ceases to have effect if the tribunal or medical board advises the President **of the Republic** that the judge should not be removed from office.

**214. Oath of office** – Before any judge and any judicial officer begin to perform their functions, they shall take an oath of allegiance, in accordance with Schedule **Two**, that they will uphold and protect this Constitution.

### **215. The Judicial and Legal Services Commission**

- (1) **There shall be established a** Judicial and **Legal Services** Commission **and shall consist** of:
  - (a) Chief Justice, who is the Chairperson;
  - (b) Federal Attorney-General;



- (c) Chairperson of the Public Services Commission;
- (d) the person who is from time to time the President of Solomon Islands Bar Association; and
- (e) two other members appointed by the President **of the Republic**, acting on the advice of the Federal Public Service Commission.

(2)The Judicial Legal Service Commission shall have power to make appointments to the offices to which this clause applies (including the power to confirm appointments) and to remove and to exercise disciplinary control over persons holding or acting in such offices.

(3)This clause applies to:

(a) all public offices for which a legal qualification is required except those of the Federal Attorney General, the judges of the High Court, Court of Appeal and the Constitutional Court, the Public Solicitor, the Director of Public Prosecutions, the Chair person of the Human Rights Commission, the Federal Electoral Commission and the Leadership and Anti-Corruption Commission; and

(b) Magistrates engaged in full time judicial and related duties; and

(c) such other judicial officers including Registrars of the High Court, the Court of Appeal and the Constitutional Court.

(4) In addition to the functions conferred on it elsewhere in this Constitution, the Judicial **and Legal** Services Commission may investigate complaints against legal officers, judges and judicial officers of the courts subordinate to the High Court, Court of Appeal and the Constitutional Court may take disciplinary action against them.

(5) Before members of the Commission begin to perform their functions, they shall take an oath of allegiance, in accordance with Schedule **Two**, to uphold and protect this Constitution.

## **CHAPTER TWENTY PREROGATIVE OF MERCY**

### **Part I Powers of the President**

#### **216. Federal Powers of Pardon**

- (1) There shall be a Prerogative of Mercy Committee, which shall comprise of–
  - (a) a Chairman and two other persons, one of whom shall be a qualified medical practitioner and the other shall be a social worker, appointed by the President in his own deliberate judgement; and

- (b) one person chosen from a list of nominated members submitted by each State Government, to consider a matter involving an ordinary resident of the State of that member.
- (2) A member of the Committee shall hold office at the pleasure of the President.
  - (3) Before members of the Committee begin to perform their function, they shall take an oath of allegiance, in accordance with Schedule **Two**, that they will uphold and protect the Constitution.
  - (4) The President, acting on the advice of the Prerogative of Mercy Committee, may–
    - (a) grant a pardon to any person convicted of any offence under any law in Solomon Islands, as either a free pardon or subject to lawful conditions;
    - (b) grant to any person a respite, either indefinite or for a specified period, of the execution of any punishment imposed on that person for any offence;
    - (c) substitute a less severe form of punishment imposed on any person for any offence; or
    - (d) remit the whole or any part of a punishment imposed on any person for any offence, or any penalty, forfeiture or other order imposed as a consequence of the conviction for an offence.

## **Part II**

### **Exercise of State Powers**

#### **217. State Powers of Pardon**

- (1) The State Governor of each state shall exercise powers similar to those vested in the President under Part I, in accordance with the provisions of a State Constitution or a State law.
- (2) The State power of pardon shall only apply to a person who has been convicted in State Court of an offence committed in that State.
- (3) The State Constitution or State law granting powers referred to in sub-clause (1) shall make provision for the appointment of a State Prerogative of Mercy Committee and the power to grant a pardon may only be exercised in accordance with the advice of that Committee.

**218. Limitation of exercise of power of pardon** – Neither the President or the State Governor shall exercise any power in Clause 216 (4) or clause 217 (3) respectively in respect of any offence arising under Clause 11.

## CHAPTER TWENTY ONE REPRESENTATION OF THE PEOPLE

### Part I Electoral Arrangements

#### **219. General principles**

(1) Electoral systems for any government under this Constitution shall be based on the following fundamental principles –

- (a) the right of all Solomon Islands citizens to vote and to stand for elections at federal and state level free and fair from nepotism or other social constraints;
- (b) voting shall be by secret ballot and for voting records to be kept secret;
- (c) elections shall be free and fair and where the influence of the elector's vote is based on political programmes rather than on personal or non political related criteria;
- (d) elections shall ensure where practicable fair representation of Solomon Islands communities and gender;
- (e) elections shall be by preferential voting system; and
- (f) elections shall be conducted by an independent body free from political interference.

(2) In all elections –

- (a) a person who has attained 18 years of age shall have the right to be registered to vote;
- (b) the administrative arrangements for the registration of voters and the conduct of elections shall not deny a person's right to vote and stand for election; and
- (c) as far as is practicable, there shall be a system of continuous registration.

**220. Disqualification from registration** – A citizen is not qualified to be registered as a voter –

- (a) in more than one State;
- (b) if declared to be of unsound mind under a federal law;
- (c) if disqualified from registration as an elector or from voting at elections under a federal law; or
- (d) if he or she is under a sentence of imprisonment for a term of 6 months or more **including a suspended sentence for a crime** imposed by a court.

#### **221. Voting procedures**

(1) The Electoral Commission **shall be** responsible for ensuring that –

- (a) voting procedure is simple and precise;
- (b) voters are given an opportunity to cast their votes in secret and free from the influence or intimidation of others;
- (c) ballot boxes are kept secure and that this is capable of verification;
- (d) votes are counted and recorded; and

- (e) the results of those elections are declared within a period prescribed by applicable laws which shall be as short as reasonably possible.
- (2) If a State Government does not make provision for any aspect of the conduct of elections for the State legislature, the Federal law applying to the elections to the Federal Parliament will apply, with any necessary modification.
- (3) The right to vote in an election for a State legislature is restricted to persons entitled to vote in elections for the Federal Parliament.
- (4) Nothing in this Part shall prevent a State Constitution making provision enabling a clan or tribal group or constituency to choose in accordance with their own procedures their or its representative for any public office so long as the procedure is not incompatible with this Constitution.

**222. Federal Boundaries Commission**

(1) There shall be established a Federal Boundaries Commission.

(2)The Federal Boundaries Commission shall be made up of (a) a Chair person and two other members (in this clause referred to as “the appointed members”) appointed by the President acting in accordance with the advice of the Judicial and Legal Services Commission; and

(b) the persons for the time being holding the offices of the Federal Surveyor General and the Federal Government Statistician who shall be members ex-officio.

(3)The Federal Boundaries Commission shall as soon as practicable after the commencement of this Constitution review the number and boundaries of Regional Seats in the Federal Parliament so as to ensure that such boundaries are consistent with this Constitution.

(4)The Federal Boundaries Commission may review the number and boundaries of the constituencies whenever it considers it desirable, and may make recommendations to the Federal Parliament for alterations in the number and boundaries of the constituencies.

(5)The Federal Parliament may approve or reject the recommendations of the Federal Boundaries Commission but shall not vary them; and if so approved, the recommendation shall have effect as from the next dismissal of the Federal Parliament.

(6)When conducting a review under this section, the Federal Boundaries Commission shall-

- (a) consult with each State Government, Honiara City and other interested parties;
- (b) have regard to the principle that the inhabitants of each constituency be as nearly as equal as is reasonably practicable.
- (c) ensure that constituencies do not cross State boundaries and have regard to the inconvenience of State constituencies crossing the boundaries of federal constituencies;

- (d) the [Federal Boundaries](#) Commission may depart from the principle in sub [clause](#) (b) to the extent as they consider expedient in order to take account of—
- (i) clan/tribal affiliations;
  - (ii) representation of minority ethnic groups;
  - (iii) population density, distribution and movement;
  - (iv) means of communication; and
  - (v) geographical features.

## **Part II Political Parties**

### **223. The right to form a political party**

- (1) **There shall be not more than 3 political parties allowed in the Republic.**
- (2) Any person may, by lawful association form a political party.
- (3) No person, group or authority shall represent itself as a political party unless registered as a political party under this part.
- (4) A political party is entitled to financial support from the Republic on the basis prescribed by a federal law.
- (5) No person may use public resources to promote the interests of a political party.

### **224. Registration of political parties**

- (1) All political parties shall be registered according to the requirements of a federal law.
- (2) The Electoral Commission is the register and regulator of political parties and for that purpose shall keep and maintain a register of political parties.
- (3) The Federal Parliament shall enact a law providing for the registration, regulation and funding of political parties participating in Federal and State legislatures.

### **225. Qualifications for registration**

- (1) The essential qualifications for registration of a political party are that by its constitution or rules the political party has a federal or state character, which seeks to—
  - (a) promote and uphold the union of the Republic;
  - (b) practice democracy within the party through regular, fair and free elections;
  - (c) be transparent and accountable to its members and regulatory authorities;
  - (d) promote and respect Rights and Freedoms and gender equality; and
  - (e) promote and uphold this Constitution and the rule of law.

(2) A political party is not eligible for registration if that party is founded purely on religious, linguistic, racial, ethnic, corporatist basis or seeks to engage in propaganda based on any of those matters.

(3) A political party shall not engage in corrupt practices or encourage violence or intimidation of its members, supporters or opponents or any other persons.

(4) A political party shall keep proper accounts, and proper books and records of account in the form approved by the Auditor-General.

(5) Within three months after the end of its financial year, a political party shall submit its accounts and books and records of account to the Auditor-General for audit.

(6) A political party shall comply with all requests of the Auditor –General in a timely manner and disclose and produce to the Auditor –General any document, record, financial statement and any other information or document should the Auditor–General so request;

(7) The Auditor-General shall within three months of the submission under clause (5), audit the accounts and to submit the report on the audit to the political party.

(8) The political party shall within one month of the receipt of the report of the Auditor-General publish its accounts in the Gazette and the national newspaper.

**226. Cancellation of registration** – The registration of a political party shall be cancelled if the political party –

- (a) is in breach of or has not complied with a matter listed in section **223** or law;
- (b) obtained its registration in a fraudulent or corrupt manner;
- (c) falsifies or misrepresents its records or accounts;
- (d) willfully fails to abide with requests, co-operate or intimidate the Auditor – General in carrying out his or her duties under this Part; or
- (e) instigated or connived in the commission of an election offence.

**227. Party discipline**

(1) The rules of a political party shall contain provisions that ensure internal discipline including rules to vote in accordance with the party position, the discipline of party members in breach of party rules, adherence to the Constitution, standing orders or rules of a State legislature.

(2) A political party shall not punish a Member of Parliament **who is a member of the party** for anything said in Parliament by the member in exercise of the privileges of freedom of speech.

(3) A member of any legislature who resigns from the political party that sponsored the member's election or leaves the political party to join another or remains in office as an independent loses his or her seat.

**228.** **Restrictions on holding of office in political parties** - The **President of the Republic** and public officials shall not hold office in a political party.

## **CHAPTER TWENTY-TWO THE PUBLIC ADMINISTRATION**

### **Part I**

#### **Principles governing Federal and State public administration**

**229.** **Principles governing public administration**

- (1) The guiding principles in public administration of the Republic include -
- (a) promotion and maintenance of a high standard of professional ethics free from **nepotism** and other social constraints;
  - (b) promotion of efficient, effective and economic use of resources;
  - (c) promotion and maintenance of fair employment practices;
  - (d) services shall be provided impartially, fairly, equitably and without bias;
  - (e) prompt and timely response to people's needs;
  - (f) Public administration shall be accountable;
  - (g) transparency to be fostered by providing the public with timely, accessible and accurate information;
  - (h) merit as the basis of appointments and promotions; and
  - (i) equal and adequate opportunities for training and advancement of men and women equally.
- (j) **Non engagement of political appointees in the Federal and State Public Services.**
- (2) The above principles apply to-
- (a) administration in every sphere of government;
  - (b) organs of the Republic; and
  - (c) public enterprises.

### **Part II**

#### **Public Service Commission**

**230.** **Establishment of a Federal Public Service Commission**

- (1) There **shall be a Federal Public Service Commission for the **Federal Government.****

(2)The composition of the Federal Public Service Commission shall be made up of:

(a) a Chairperson; and

(b) three other persons.

who shall be appointed by the President in his or her absolute discretion for a term of five years which may be renewed after expiry.

(3)The persons appointed to the Federal Public Service Commission shall be fit and proper persons with knowledge of, and experience in the administration and management of public services.

(4)The Federal Public Service Commission shall be totally independent and impartial and no person, authority or organ of government shall interfere with the functioning of the Commission and nor shall it be subjected to any direction or control from any person, authority or organ of government.

**231. The powers and functions of the Federal Public Service Commission**

(1) The powers and functions of the Federal Public Service Commission shall include:

(a) reporting to the Federal Parliament on the activities and the performance of its functions;

(b) promoting the values and principles set out in Clause 229 throughout the public service;

(c) investigating, monitoring and evaluating the organization, administration, and the personnel practices of the public service;

(d) proposing measures to ensure efficient and effective performance of the public service;

(e) giving directions throughout the public service on personnel procedures;

(f)Employment of persons in the service of the Federal Government

(g) Management and control of Federal Government employees;

(h) Terms and conditions of employment and the entitlements of Federal Government employees;

(i) Power to appoint, dismiss and discipline Federal Government employees; and

(j) performing such other functions as may be prescribed by this Constitution or by law.

**Part III  
Federal and State Public Services**

**232. The Federal Public Service**

(1) Within the public administration there shall be a Public Service for the Federal Government, which must function and be structured in terms of a Federal law.



(2) The Federal Public Service is part of the executive branch of the Federal Government and shall impartially implement the decisions of the Government of the day by providing frank, honest and comprehensive advice to Ministers.

(3) Employees of the Federal Public Service shall –

- (a) fulfill their lawful obligations to the Government with professionalism and integrity;
- (b) serve the aims and objectives of their portfolio Minister and ensure that their personal interests or activities do not interfere with this obligation;
- (c) act in such a way that their department maintains the confidence of the Minister;
- (d) cooperate timely with Ministerial requests for information; and
- (e) remain politically neutral.

(4) An employee of the Federal Public Service shall not be:

(a) victimized or discriminated against; or

(b) dismissed, removed from office, demoted in rank or otherwise punished,

for having performed his or her duties in accordance with this Constitution or other applicable enactment.

(5)A Federal law shall provide for inter alia:

- (a) the neutrality;
- (b) discipline;
- (c) loyalty to government lawful orders or directives;
- (d) training and human resources development planning;
- (e) security of tenure in office;
- (f) public service ethics and best practice;
- (g) promotions and demotions;
- (h) postings and transfers;
- (i) retirement in the public interest;
- (j) certainty of entitlements or other fringe benefits; and
- (k) review and improvements to existing and relevant laws, rules, regulations or orders

of the Federal Public Service.

(6)The criteria for employment in the Federal Public Service shall be based on:

- (a) qualification;
- (b) experience;
- (c) relevancy; and
- (d) merit.

**233. Establishment of State Public Service Commission and State Public Service**

(1) There shall be established a State Public Service Commission and State Public Service in accordance with each State Constitution which shall be responsible inter alia for the –

- (a) employment of persons in the service of the State Government;
- (b) management and control of State Government employees;
- (c) conditions of employment and the entitlements of State Government employees;
- (d) power to appoint, dismiss and discipline State Government employees; and
- (e) any other related matter.

(2) State laws for purpose of a State Public Service under this Clause shall be consistent with the uniform principles and standards of employment applying to the Federal Public Service in [Clause 232 \(5\)](#).

**Part IV  
Police Force**

**234. Police Force**

(1) The Police Force of Solomon Islands established and administered under the former Constitution shall continue to be the Police Force of Solomon Islands.

(2) The Police Force shall be under the command of the Commissioner of Police.

(3) The President of the Republic shall appoint the Commissioner of Police [from appropriate qualified and experienced officers](#) on the advice of the Cabinet given after the Cabinet has consulted with the Federal Public Service Commission.

(4) The Commissioner of Police shall exercise control over and manage the Police Force in accordance with Solomon Islands policing policy and in accordance to such directions of policy from government in accordance with this Chapter.

(5) Except as provided in the preceding subsection, the Commissioner of Police shall be responsible for controlling the operations of the Police Force and in doing so shall not be subject to the direction or control of any person or authority.

(6) The primary focus of the Police Force is to –

- (a) prevent, combat and to investigate crime in a timely manner;
- (b) be accountable to the public;
- (c) maintain public order, to protect and secure Solomon Islands citizens and their property; and
- (d) uphold and enforce the law and this Constitution.

(7) The Police Force shall be administered and operated in accordance with the provisions of this Constitution, and any applicable law which may make provision for any matter related to the –

- (a) appointment of officers of any ranks;
- (b) employment of other staff;
- (c) removal and discipline of police officers;
- (d) right of officers to appeal against decisions to remove or discipline them, and the procedures for such appeals;
- (e) establishment of an independent police complaints body to investigate any alleged misconduct of, or offence committed by, a member of the Police Force, police inefficiency or a breakdown in relations between the police and the community; and
- (f) any other related matter.

(8) In the recruitment of officers in the Police Force and in the making of appointments and promotions regard **to fair and balanced representation**.

**235. Policing jurisdiction and responsibilities**

(1) The Police Force shall have at all times, and throughout the Republic, jurisdiction to attend to all policing matters.

(2) The Police Force must be structured by law to –

- (a) function in the Federal, State and Community Governments;
- (b) ensure effective co-ordination of the Police Force and effective cooperation among the spheres of government; and
- (c) enable the Police Force to discharge its responsibilities effectively, taking into account the requirements of States.

**236. Solomon Islands policing policy**

(1) The Federal, State and Community Governments shall jointly determine a Solomon Islands policing policy which shall make provision for different policies in respect of States after taking into account the policing needs and priorities of each State.

(2) Each State Government is entitled to –

- (a) monitor police operations within the State according to the needs and priorities of the State under the Solomon Islands policing policy;
- (b) generally oversee the effectiveness and efficiency of the Police Force in the State;
- (c) monitor police conduct;
- (d) promote good relations between the police and the **community**;

(3) In order to perform the functions set out in the preceding subsection State Government may –

- (a) investigate or conduct an inquiry into any complaints of police inefficiency or a breakdown in relations between the police and any community; and
  - (b) give the Commissioner of Police directions of policy regarding the implementation of the Solomon Islands policing policy as it applies to the State;
  - (c) give the Commissioner of Police such general directions of policy with regard to the maintenance of public safety and public order.
- (4) The Commissioner of Police shall in a timely manner comply with such directions or cause them to be complied with.

**237. State policing responsibilities** – State Governments shall be responsible for policing functions –

- (a) vested in it by this Part;
- (b) assigned to it by federal law; or
- (c) allocated to it in the Solomon Islands policing policy.

## **Part V** **Correctional Services**

**238. Correctional Services**

- (1) The Correctional Service established and administered under the former Constitution shall continue to be called Correctional Services.
- (2) **Correctional Services** shall be under the command of the **Commissioner** of Correctional Services.
- (3) The President **of the Republic** on the advice of the **Cabinet** given after the **Cabinet** has consulted with the **Public Services Commission** shall appoint a **Commissioner** of **Correctional Services**.
- (4) The primary focus of the **Correctional Service** is to –
  - (a) provide a safe community;
  - (b) ensure sentences and orders of courts are administered appropriately;
  - (c) ensure that offenders are managed safely, securely and humanely and where appropriate culturally appropriate; and
  - (d) reduce re-offending through rehabilitative and re- integrative interventions.
- (5) **Correctional Services** shall be a professional and disciplined service and shall be structured and regulated so as to –
  - (a) achieve its primary focus in subsection (1);

- (b) achieve the highest standards of professionalism among its staff;
  - (c) train its staff to the highest possible standards of competence; and
  - (d) uphold the law.
- (6) **Correctional** Services shall be structured, organized and administered in such a manner as federal law may prescribe.

**239. Correctional Services responsibilities** – The **Correctional** Services must operate and be structured by law to -

- (a) function in the Federal, State and Community Governments;
- (b) ensure effective co-ordination of the **Correctional** Service and effective cooperation among the spheres of government.; and
- (c) enable the **Correctional** Service to discharge its responsibilities effectively, taking into account the requirements of States.

**240. State responsibilities**

- (1) Each State is entitled to –
  - (a) monitor **Correctional** Service operations within the State according to the policies of the State; and
  - (b) generally oversee the effectiveness and efficiency of the **Correctional** Service in the State;
- (2) A State shall be responsible for **Correctional** Service functions -
  - (a) vested in it by this Part;
  - (b) assigned to it by federal law.

**CHAPTER TWENTY-THREE**  
**INSTITUTIONS SUPPORTING AND STRENGTHENING CONSTITUTIONAL**  
**DEMOCRACY**

**Part I**  
**Governing Principles**

**241. Establishment and Governing Principles –**

- (1) The following Institutions shall support and strengthen constitutional democracy in the Republic:
  - (a) The Public Solicitor.
  - (b) The Director of Public Prosecutions
  - (c) The Human Rights Commission.
  - (d) The Auditor-General.
  - (e) The Electoral Commission.

- (f) The Ombudsman
- (g) The Leadership and Anti-Corruption Commission

(2) These institutions shall be independent and subject only to the Constitution and other laws shall -

- (a) be impartial;
- (b) exercise their powers and perform their functions without fear, favour or prejudice;
- (c) not be subject to direction or control by any person or authority or in any way interfere in the functioning of them.; and
- (d) annually report to the Federal Parliament.

(3) The Federal Government and its organs, through legislative or other measures, shall -

- (a) assist and protect these institutions to ensure their independence, impartiality, dignity and effectiveness of them; and
- (b) take all necessary measures to ensure that these institutions are adequately financed and resourced.

## **242. Appointments to Institutions**

(1) The Public Solicitor, Director of Public Prosecutions, Human Rights Commission, Electoral Commission and Leadership and Anti-Corruption Commission established by this Chapter shall be appointed by the President of the Republic acting in accordance with the advice of the Judicial and Legal Services Commission.

(2) The Auditor-General, and the Ombudsman, established by this Chapter shall be appointed by the President of the Republic acting in accordance with the advice of the Federal Public Services Commission.

(3) In addition to prescribed appointment criteria, any person to be eligible for appointment to or to hold office in any Institution in this Chapter shall be a person who -

- (a) is a Solomon Islands citizen;
- (b) is a fit and proper person to be a Commissioner or hold office; and
- (c) complies with any other requirements prescribed by this Constitution or a federal law.

(4) Membership of any Institution established by this Chapter shall reflect broadly the composition of Solomon Islands.

(5) The involvement of the Congress of States in the selection of appointees to these Institutions may be provided for as envisaged in Clause 152(1) (c);

(6) Before any member or officer appointed to these Institutions under this Chapter begins to perform the functions of any of those Institutions, they shall take an oath or affirmation, in accordance with Schedule **Two**, that they will uphold and protect the Constitution.

## **Part II Public Solicitor**

### **243. The Office of the Public Solicitor**

(1) There shall be an Office of the Public Solicitor.

(2) A person shall not be qualified as Public Solicitor unless he or she has had not less than five (5) years as a barrister and /or solicitor in Solomon Islands or within a Commonwealth country.

(3) During any period when the Public Solicitor is absent or otherwise unable to perform the duties of the office a qualified person holding the office of the Deputy Public Solicitor or any other qualified person appointed by the President of the Republic in accordance with clause 242(1) shall act in that office.

### **244. The functions of Office –**

(1) The function of the Office of Public Solicitor shall be to provide legal aid, advice and assistance to persons in need, and in particular to provide legal aid –

- (a) to persons charged with all criminal offences;
- (b) to persons facing or instituting civil suits;
- (c) to any person when directed to do so by a superior court; and
- (d) in accordance with any provisions on the Protection of Fundamental Rights and Freedoms of the Individuals stated in Chapter **Four**;
- (e) on the rights of customary land or resource owners; and
- (f) such additional functions as may be prescribed by law.

(2) To ensure that the Office of the Public Solicitor carries out its functions as provided for in sub clause (1) the Federal Parliament shall through appropriation provide adequate financial provisions to the office which will also cater for employment of enough lawyers to work in the office.

### **245. Tenure of office of the Public Solicitor**

(1) The Public Solicitor shall vacate office at the age of seventy (70) years

(2) The President of the Republic shall permit the Public Solicitor to continue in the office until such later age is attained as has been determined by the President of the Republic acting in accordance with the advice of the Judicial and Legal Services Commission under clause 242(1).

**246. Legal aid and cost for services**

- (1) A law may prescribe conditions to be met before legal aid shall be provided, and may make provision in relation to a right of appeal in the event that an application for legal aid is refused.
- (2) A law may make provision for the Public Solicitor to make a reasonable charge for services where a person is able to make a contribution toward the cost of the services provided.
- (3) Nothing in this section shall affect the right of State Government to make arrangements for the provision of legal aid and assistance to any person.

**247. Accessibility of office** – The Office of Public Solicitor shall be accessible to all persons and communities throughout the Republic.

**Part III**  
**Director of Public Prosecutions**

**248. The Office of Director of Public Prosecutions**

- (1) There shall be an Office of Director of Public Prosecutions.
- (2) A person shall not be qualified for appointment as Director of Public Prosecutions unless he or she has had not less than 5 years practice as a barrister or solicitor in Solomon Islands or within a **Commonwealth** country.
- (3) During any period when the Director of Public Prosecutions is absent or otherwise unable to perform the duties of office, a qualified person holding the office of Deputy Director of Public Prosecutions, or any other qualified person appointed by the President **of the Republic** in accordance with [clause 242\(1\)](#) shall act in that office.

**249. Functions of Office of Director of Public Prosecutions**

- (1) The functions of the Director of Public Prosecutions **shall be to–**
  - (a) institute and undertake any criminal proceedings against any person before any federal or state court in respect of any offence alleged to have been committed by that person and to carry out any functions incidental to instituting criminal proceedings;
  - (b) take over and continue any criminal proceedings (including any appeal or any case stated in a criminal proceeding) that have been instituted by any other person, or any federal or state authority; and
  - (c) discontinue at any stage before judgement is delivered, and any criminal proceedings instituted by the Office or by any other person, or any federal or state authority; and
  - (d) **Perform** such additional functions as [may be](#) prescribed by law.



(2) Where any case involves the defence, security or international relations of Solomon Islands, the Director of Public Prosecutions shall advise the Prime Minister, and shall have regard to any views officially communicated by the Prime Minister.

(3) Nothing in this section shall affect the right of State Government to make arrangements for the prosecution of offences in State courts, but such arrangements shall not derogate from the right of the Director of Public Prosecutions to exercise the functions of Office under this Constitution.

(4) All other matters concerning the office of Director of Public Prosecutions shall be determined by law.

**250. Tenure of office of the Director of Public Prosecutions**

(1) The Director of Public Prosecutions shall vacate office at the age of 70 years.

(2) The President of the Republic shall permit the Director of Public Prosecutions to continue in office until such later age is attained as has been determined by the President of the Republic acting on the advice of the [Judicial and Legal Services Commission under clause 242\(1\)](#).

**Part VI**  
**Human Rights Commission**

**251. The Human Rights Commission** – Within two years of coming into force of this Constitution, the Federal Parliament shall enact a law to establish a Human Rights Commission.

**252. The Functions of the Human Rights Commission**

(1) The functions of the Human Rights Commission shall be to –

- (a) promote respect and general awareness, [of the Fundamental Rights and Freedoms of the Individuals in Chapter Four](#);
- (b) [promote respect and general awareness for Human Rights and Culture of Human Rights](#);
- (c) [promote compliance with ratified International Human Rights Treaties or conventions and obligations therein: which have been made into domestic law](#)
- (d) promote the progressive realisation of Human Rights and Freedoms [in ratified Conventions or Treaties which have been made into domestic laws](#)
- (e) monitor or assess the observance of and the realisation of Human Rights and Freedoms [in ratified Conventions or Treaties which have been made into domestic laws](#)
- (f) adjudicate and rule on Human Rights [and Freedoms](#) Disputes and matters [in ratified Conventions or Treaties which have been made into domestic laws](#):  
and

- (g) such additional functions as [may be](#) prescribed by law.
- (2) The Human Rights Commission shall operate with the minimum of formality and shall be structured so that it is accessible to all persons and communities throughout the Republic.

## **Part V**

### **Auditor-General**

#### **253. The Auditor-General**

- (1) There shall be an Office of Auditor-General.
- (2) The Auditor-General shall be a person who has specialised knowledge of, or experience in, auditing, public finances and public administration.

#### **254. Functions of Auditor-General**

- (1) The functions of the Auditor-General are to audit and report on the accounts, financial statements and financial management of –
- (a) all Federal Ministries and authorities [or organs](#) of the Federal Government;
  - (b) all State Governments and authorities [or organs](#) of State Governments;
  - (c) [all Community Governments and authority or organs of Community Governments](#);
  - (d) [Federal Capital and State Capitals](#);
  - (d) political parties; and
  - (e) any other institution or [accountable](#) entity required by federal or state legislation to be audited by the Auditor-General.
- (2) In addition to the duties prescribed in the preceding subsection, and subject to any legislation, the Auditor-General shall audit and report on the accounts, financial statements and financial management of-
- (a) any institution funded from the Federal Consolidated Fund;
  - (b) any [institution funded from the](#) State Consolidated Fund; or
  - (c) [any institution funded from Community Government Funds](#)
  - (d) any institution that is authorised in terms of any law to receive money for a public purpose.
- (3) The Auditor-General shall prepare a report in respect of each audit done under subsections (1) and (2), and shall cause such report to be laid before the Federal Parliament, and any State legislature of the State Government to which a report relates.
- (4) A copy of each report prepared by the Auditor-General shall be given to the Federal Minister for Finance, and the Federal Minister responsible for the Ministry or federal

authority or organ to which it relates **and appropriate State Minister for Finance and State Minister responsible for the Ministry or State authority or organs to which it relate.**

(5) The Auditor-General may have additional powers and functions as may be prescribed by law.

### **255. Tenure of Office of the Auditor General**

(1)The Auditor General shall vacate office the age of seventy(70) years

(2)The President of the Republic shall permit the Auditor General to continue in office until such later age is attained as has been determined by the President of the Republic acting in accordance with the advice of the Federal Public Service Commission in accordance with clause 242(2)

## **Part VI Electoral Commission**

**256. Electoral Commission** – There shall be an Electoral Commission.

**257. Functions of Electoral Commission** – The functions of the Electoral Commission **shall be-**

- (a) To manage elections of Federal, State and other governments, unless a State establishes a body under state law to discharge these functions within the State;
- (b) To ensure that those elections are free and fair.
- (c) To supervise political parties;
- (d) To delimit electoral boundaries;
- (e) To promote voter education; and
- (f) such additional functions as may be prescribed by law.

### **258. Composition of Electoral Commission**

(1) The Electoral Commission shall consist of a Chairperson and **six** other persons **one of whom shall be the Federal Surveyor General and the other the Federal Government Statistician.**

(2) The period of appointment shall be five (5) years and may be renewed.

(3) A person shall only be qualified to be appointed Chairperson if he or she is qualified to hold office as a judge under this Constitution.

(4) The Electoral Commission shall elect a Deputy Chairperson from among its members.

- (5) A person shall not be appointed as a member of the Electoral Commission if he or she is -
- (a) a member of the Federal Parliament, a State legislature or any publicly elected authority;
  - (b) a candidate in an election to any public office;
  - (c) an un-discharged bankrupt;
  - (d) convicted or found guilty of any offence involving dishonesty; or
  - (e) removed from public or private office for reasons of misconduct.
- (6) A member of the Electoral Commission shall vacate office-
- (a) at the expiration of the 5 year term from the date of appointment, but may be eligible for re-appointment;
  - (b) if the member becomes disqualified to be appointed a member of the Electoral Commission under this section;
  - (c) if the member is removed from office under subsection (5); or
  - (d) if the member dies or resigns from office.
- (7) The provisions of section **265** shall apply to members of the Electoral Commission, with the functions of the President **of the Republic** under that section, including sub clause **7** being exercised in accordance with the advice of the Judicial and Legal Services Commission.

## **Part VII Ombudsman**

**259. The Office of Ombudsman** – There shall be an office of Ombudsman.

**260. Functions of the Ombudsman**

- (1) The functions of the Ombudsman **shall be** to:
- (a) investigate any conduct in **Federal, State and Community Government**, or in the public administration in **the** sphere of government in the **Federal, State or Community Government** that is alleged or suspected to be improper or an abuse of authority and of the conduct of any person to whom this section applies in the exercise of the functions, powers and duties of office.
  - (b) **institute civil suits in cases of mal-administration on behalf of clients.**
  - (c) assist in the improvement of the practices and procedures of **the** Federal or State **Government** or body, authority or organ of the Federal or State Government;
  - (d) ensure the elimination of arbitrary and unfair decisions; and
  - (e) educate the public as to the role of Ombudsman.

(2) This clause applies to members of the Federal and State Public Services, the Police Force, the Correctional Services, the government of Honiara City, the Federal, States and Community Governments, Commissions, State Owned Enterprises, Public Agencies and such other bodies as may be prescribed by law.

(3) Sub clause(1) does not apply to the President of the Republic or his personal staff, or to the Director of Public Prosecutions or any person acting in accordance with his or her instructions.

(4) The Ombudsman shall not:

- (a) investigate court decisions or the performance of any judge or judicial officer; or
- (b) conduct an investigation into a matter if advice is given by the Federal Cabinet that the investigation would not be in the interests of the national security of Solomon Islands.

(5) The Ombudsman shall have additional powers and functions as may be prescribed by law.

#### **261. Reporting obligations**

(1) The Ombudsman shall make an annual report to the Federal Parliament, and to each State Parliament, and may make such additional reports concerning the discharge of the authority and of the Ombudsman as is necessary to draw attention to any defects in the administration of any sphere of government or the application of any law.

(2) Any report issued by the Ombudsman shall be open to the public unless exceptional circumstances, to be determined by federal legislation, require that a report be kept confidential.

#### **262. Tenure**

(1) The Ombudsman shall not perform the functions of any other Federal or State office, and shall not, without the approval of the President of the Republic, engage in any other occupation or receive any other official remuneration.

(2) The Ombudsman shall hold office for a period of five (5) years, unless he or she is removed from office on the grounds and the same procedures as those, which apply to the removal of a judge as, provided by this Constitution.

### **Part VIII Leadership and Anti-Corruption Commission**

#### **263. The Leadership and Anti-Corruption Commission**

(1) There shall be established a Leadership and Anti-Corruption Commission which shall operate in accordance with the provisions of this Chapter and law.

(2) The persons appointed to the Leadership and Anti-Corruption Commission shall be persons of integrity chosen for their knowledge of and experience in administration and the prosecution or investigation of crime.

(3) No person shall be eligible for appointment if such person is -

- (a) a [elected member of the Federal or State Government](#).
- (b) a public officer in the [Federal or State Government](#).
- (c) an officer of any body or association that is of a political nature;
- (d) convicted or found guilty of a crime or convicted of a [crime of dishonesty](#) or upon investigation under clause **271(3)(b)** is found to be involved in any offence involving dishonesty.

#### **264. Focus and Functions**

(1) The focus of the Leadership and Anti-Corruption Commission is to educate the public, government and public officials on corruption and the ethics of good leadership.

(2) The functions of the Leadership and Anti-Corruption Commission are to –

- (a) enforce **by institution of criminal prosecution** the Leadership Code and law in relation to the Leadership and Anti- Corruption Commission;
- (b) receive declarations in accordance with the Leadership Code or a law in relation to the Leadership and Anti-Corruption Commission;
- (c) retain custody of the declarations and make them available for public inspection on terms and conditions prescribed by the Federal Parliament;.
- (d) receive and investigate complaints about non-compliance with or breach of the Leadership Code or a law in relation to the Leadership and Anti – Corruption Commission.
- (e) investigate whether persons who avail themselves for appointment as public officers or who are prepared to stand for public elections are free of corruption and therefore fit and proper persons for these offices.
- (f) combat corruption, theft, misappropriation and other improprieties in the conduct of public office;
- (g) put in place measures aimed at the prevention of corruption; and
- (h) such additional functions [as may be](#) prescribed by law.

## Part IV General Provisions

### **265. Removal of office-holders**

- (1) This clause applies to –
  - (a) the offices of the Public Solicitor, Director of Public Prosecutions and the Auditor General; and
  - (b) members of a Commission established by this Chapter or other provisions of the Constitution.
- (2) A person to whom this clause applies may be removed from office only for inability to discharge the functions of his office (whether from infirmity of body or mind or any other cause) or for misbehaviour, and shall not be so removed except in accordance with the provisions of this section.
- (3) A person to whom this clause applies shall be removed from office by the President **of the Republic** if the question of his removal from office has been referred to a tribunal appointed under subsection (4), and the tribunal has recommended to the President **of the Republic** that he or she ought to be removed from office for inability or misbehaviour.
- (4) If the President **of the Republic** considers that the question of removing a person to whom this clause applies from office for inability or misbehaviour ought to be investigated, or if **Federal Cabinet through** the Prime Minister represents to the President **of the Republic** that a question involving the holder of an office referred to in paragraph (a) and (b) of sub clause(1) ought to be investigated, then –
  - (a) the President **of the Republic** shall appoint a tribunal which, subject to sub - clause(5) shall consist of a Chairman who is a person who holds or has held high judicial office in some part of the Commonwealth, and not less than 2 other members; and
  - (b) the tribunal shall inquire into the matter and report on the facts to the President **of the Republic** and recommend to **him or her** whether the person ought to be removed from office for inability or misbehaviour.
- (5) Notwithstanding sub clause(4), in the case of a tribunal to investigate the removal of a member of the Judicial and Legal Service Commission, all members of the tribunal shall be persons who hold or have held high judicial office in some part of the Commonwealth.
- (6) If the question of removing a person to whom this section applies has been referred to a tribunal under subsection (4), the President **of the Republic** may suspend the person from performing the functions of his or her office, and any such suspension may at any time be revoked by the President **of the Republic**, and shall in any case cease to have effect if the tribunal recommends to the President **of the Republic** that the person should be removed.

(7) Except as provided in subsection (2), the functions of the President of the Republic shall be exercised –

- (a) in relation to the office of Auditor – General, in accordance with the advice of the Federal Public Service Commission;
- (b) in relation to the office of Director of Public Prosecutions or Public Solicitor, in accordance with the advice of the Judicial and Legal Services Commission; and
- (c) in relation to a member of a Commission established by this Chapter of the Constitution, in accordance with the advice of the Judicial and Legal Services Commission and in relation to a member of a Commission established by other provisions of the Constitution in accordance with the advised of the designated authority which recommended the appointee's appointment.

(8) The provisions of this section shall not apply to any person acting in the office of Auditor-General, the Director of Public Prosecutions or the Public Solicitor, and the acting appointment of such a person may be lawfully revoked at any time.

## CHAPTER TWENTY-FOUR ACCOUNTABLE AND TRANSPARENT GOVERNMENT

### Part I Leadership Code

**266. Application of the Leadership Code** – The provisions of this Part, and of any law imposing obligations and duties of leadership, shall apply to persons holding the office of –

- (a) the President of the Republic;
- (b) the Prime Minister, Deputy Prime Minister and Members of the Federal Parliament;
- (c) Heads of Solomon Islands diplomatic missions;
- (d) the head of Federal Public Service (the Secretary to Cabinet) and the heads of Federal Ministries (Permanent Secretaries);
- (e) members of any Commission and holders of office of institutions established under this Constitution;
- (f) Chief Executive Officers of State Owned Enterprises (SOEs);
- (g) State Governors;
- (h) Members of State legislatures;
- (i) the head of State Ministries (head of the State bureaucracy) and any State authority (CEO);



- (j) [Councilors](#) of the Honiara City and senior officers ([seconded Federal employees and direct employees](#)); and
- (k) any other office holder as provided by a law or State Constitution.

### **267. Declaration of Assets and Liabilities**

(1) Every person to whom this Part applies shall, if an existing office holder at the date of this Constitution coming into force, or otherwise before the office holder assumes office; and

- (a) at the end of every two years; and
- (b) at the end of the public officers term of office, submit to the Leadership and Anti - Corruption Commission a written declaration of properties, assets and liabilities as prescribed by federal law.

(2) The Leadership and Anti-Corruption Commission shall establish and maintain a register in which the assets and liabilities of persons to whom this Part applies are recorded and it is an offence of the Code if such person fails to make a declaration of assets and liabilities so that they are not recorded on the register or falsifies such a declaration.

(3) A person elected to any legislature shall before taking office, declare their assets and liabilities and subsequently take and subscribe before the Speaker of the relevant House the Oath of Allegiance, but a member may before taking the oath take part in the election of the Speaker or Deputy Speaker of the House.

(4) The Speaker and Deputy Speaker of the Federal Parliament and any person having authority to preside over a State legislature shall declare their assets and liabilities and subsequently take and subscribe the Oath of Allegiance.

(5) A person who is elected as the President and every Head of State government shall not begin to perform the functions of office unless that person has made the declaration of assets and liabilities and subsequently take the subscribed Oath of Allegiance.

(6) Any property or asset acquired by a person after the declaration required under this Code and which is not fairly attributed to income, gift or loan approved by this Code shall be deemed to have been acquired in breach of the Code unless the contrary is proved.

(7) Law may regulate the process established by this section.

### **268. Leadership Obligations**

(1) Any person to whom this Part applies shall not be in a position where their personal interest conflicts with the duties and responsibilities of office or compromise the honesty, impartiality and integrity of the office holder.

- (2) A public officer shall not -
- (a) place themselves in positions in which they have, or could be seen as having, a conflict between their private interest and their public duties;
  - (b) compromise the fair exercise of their public duties;
  - (c) use their office for private gain;
  - (d) allow their integrity to be called into question; or
  - (e) cause respect for, or confidence in the integrity of, the governance of Solomon Islands to be diminished.
- (3) In addition to the general obligations any person to whom this Part applies shall not:
- (a) maintain or operate a bank account in a country outside Solomon Islands;
  - (b) accept any loan, except from a government of the Federal Republic or an agency of government, a bank, building society, mortgage institution or any other financial institution recognised by law;
  - (c) ask for or accept any benefit or property of whatever nature from any company, business enterprise, contractor, or businessman in return for anything to be done or omitted to be done in the performance of a public function;
- (4) It is the further duty of persons to whom this Part applies to—
- (a) ensure, as far as is within their lawful power, that their spouse and children, and any person for whom they are responsible by custom, including *wantok* obligations, do not conduct themselves so as to compromise, or be seen to compromise, the obligations applying under this Part;
  - (b) publicly disassociate themselves from any activity or enterprise of any person specified in paragraph (a), and any other associate, that might be expected to give rise to a doubt as to whether an obligation has been compromised;
  - (c) safeguard public funds and ensure that they are spent only on legally authorised purposes and in legally authorised amounts;
  - (d) safeguard public property and ensure that it is not lost, destroyed, damaged, misapplied or misused.

### **269. Gifts and Donations**

- (1) A gift or donation to a person to whom this Part applies on a public or ceremonial occasion is a gift made to the appropriate institution. A receipt of a gift or donation is not a contravention of this Code so long as the public officer hands over the gift to the appropriate institution as soon as possible [unless he or she has permission in writing from the Secretary of the Federal Cabinet or the Head of the State Public Service to keep the gift or donation.](#)

- (2) Any person or business enterprise shall not offer a public officer to whom this Part applies any property, gift or benefit of any kind for the granting of a favour or the performance of a function or non-performance in favour of that person.

**270. Actions of nominees, trustees etc** – A person to whom this section applies who engages in an act prohibited by this Code through a nominee, trustee, or other agent shall be deemed to have committed a breach of the Code.

**271. Serious Offences under the Leadership Code**

(1) The following constitute serious offences under the Leadership Code-

- (i) conviction of an offence relating to the performance of the functions and duties of public office;
- (ii) misappropriation of the funds of public office or the destruction or conversion of properties of public office;
- (iii) engaging in corrupt practice or seeking or accepting a bribe for performing or not performing a duty or task;
- (iv) engaging in sexual harassment in office, engaging in sexual acts within the confines of an office, physical abuse of other staff members in office or abuse of office or position to obtain sexual favours or any other undue advantage from other staff members or members of the public;
- (v) abuse of office to obtain a direct or an indirect undue advantage or enrichment;
- (vi) by intimidation, violent or other unlawful means interferes with the orderly conduct of government or organ of government;
- (vii) fails to comply with or obstructs the compliance of any obligation under this Constitution or an investigation conducted by the Leadership Anti-Corruption Commission; or
- (viii) commits any act or omission prohibited under this Part or in any law relating to the obligations of leadership.

(2) Consent to any of the acts in sub-clause (1) (iv) shall not be a defence or an excuse to any prosecution for such acts.

(3) A person is not a fit and proper person to hold public office and shall be dismissed from office if-

- (a) convicted of a serious offence under this section; or
- (b) the Leadership and Anti-Corruption Commission finds upon an investigation that the person is not a fit and proper person to hold public office under this Part.

(4) A law may provide for a procedure by which investigations may be undertaken by the Leadership and Anti-Corruption Commission under sub clause (3) (b) and if there is

[evidence to support a case of serious offence to prosecute it or refer the case to the Director of Public Prosecutions to prosecute.](#)

**272. Further provisions relating to Leadership**

(1) A law may prescribe any further matter relating to the obligations of leadership, including –

- (a) the further description of any obligation, and the prescription of any act or omission that will constitute misconduct in office;
- (b) provision for the monitoring of standards of leadership conduct, including the disclosure and verification of any relevant information by a person to whom this Part applies;
- (c) any matter relating to the investigation of any breach of an obligation of leadership, or any suspected breach;
- (d) procedures for the reference of cases of alleged or suspected misconduct in office for determination by a court or independent tribunal;
- (e) powers and procedures of the courts or independent tribunals vested with authority to consider and adjudicate on matters of misconduct in office, including the prescription of penalties; and
- (f) any other matter as may be necessary or expedient for promoting accountability in government.

(2) A law may make provision for such supplementary and ancillary matters as are expedient to give effect to this Part.

**Part II**  
**Transitional arrangement and other matters**

**273. Application of State Laws**

(1) Nothing in this Chapter shall affect the right of a State Government to make additional provision under State law relating to -

- (a) applying obligations of leadership to any person employed by a State Government;
- (b) the nature and extent of the obligations of leadership in a State administration;
- (c) the investigation, referral and determination of any matter involving the breach of obligations of leadership, and the penalties to be imposed for such breaches; or
- (d) the review and investigation of any aspect of governance.

(2) Any law made pursuant to this section shall be consistent with the provisions of this Constitution. In the event of any inconsistency with the provisions of a federal law, the federal law shall prevail.

**CHAPTER TWENTY-FIVE**  
**MISCELLANEOUS FEDERAL POWERS AND RESPONSIBILITIES**

**274. Provision for special areas**

- (1) The Federal Government may make laws for the government of any Federal territory or any State territory surrendered by the State and may allow representation in the Federal Parliament on terms which it thinks fit.
- (2) The Federal Government may only exercise power under Clause (1) in consultation and with the co-operation of the people occupying the area or island community in question and any applicable State Government.
- (3) State Constitutions may make provision consistent with this clause in respect of any area under its jurisdiction.

**275. Taking over public debts of States**

- (1) The Federal Government may make an arrangement with a State regarding the public debt of the State, including—
  - (a) taking over such debt or proportion of the debt by the Republic;
  - (b) the management of such debts;
  - (c) payment of interest and the provision and management of a sinking fund in respect of such debts;
  - (d) the consolidation, renewal, conversion and redemption of such debts;
  - (e) the borrowing of money by a State or the borrowing of money by the Republic for the State; or
  - (f) the indemnification of the Republic by the State in respect of the debt taken over by the Republic.
- (2) A Federal law may provide for the carrying out of an arrangement under clause (1).

**276. International agreements**

- (1) The negotiating and signing of all international agreements and participation in **all** international forums is the **primary** responsibility of the Federal Government. **Where a State's or Community Governments interests, of any kind will be affected by an international agreement, the State or Community Government shall be a party to the negotiations together with the Federal Government.**
- (2) An international agreement binds the Republic only after it has been approved by resolution of the Federal Parliament, unless it is an agreement referred to in clause (3).
- (3) An international agreement of a technical, administrative or executive nature, or an agreement which does not require either ratification or accession, entered into by the Federal Government, binds the Republic without approval of the Federal Parliament, but shall be tabled in Parliament within reasonable time.

(4) Subject to [Clause 199](#) relating to the accession of free trade agreements, any international agreement becomes law in the Republic when the Federal Parliament enacts it into law; but a self-executing provision of an agreement, which has been approved by Parliament, is law in the Republic unless it is inconsistent with this Constitution or law.

(5) The Republic is bound by international agreements, which were binding on the Republic when this Constitution took effect.

## **CHAPTER TWENTY-SIX AMENDMENT OF CONSTITUTION**

### **277. Alteration of the Constitution**

(1) This Constitution may be altered in the way set out in this Chapter and shall not be altered in any other way.

(2) Chapters **One, Two, Three, Four** and [Clauses 198, 199 and 200](#) and this clause may be amended by a bill passed by –

(a) the Federal Parliament, with a supporting vote of at least 75 per cent of its members; and

(b) with the endorsement of an absolute majority of the State legislatures.

(3) Any other provisions of this Constitution may be amended by a bill passed –

(a) by the Federal Parliament with a supporting vote of at least two thirds of its members; and

(b) with the endorsement of an absolute majority of the State legislatures, if the amendment –

(c) relates to a matter that affects a State or States; or

(d) concerns a matter within the legislative competence of a State or States.

(4) If a Bill referred to in subsection (3) or any part of a bill, concerns only a specific State or States, the Federal Parliament may not pass the bill or the relevant part unless it has been approved by the legislature or legislatures of the State or States concerned.

(5) The procedures for the consideration and endorsement, or rejection, of any amendment by a State legislature may be provided for in the State Constitution, or if no provision is made, shall be as is determined by the State legislature.

(6) Any bill amending the Constitution under this section shall not be introduced into the Federal Parliament unless notice of the bill has been given to the -

(a) Speaker;

- (b) Chairperson of the Congress of States; and
- (c) State legislatures, at least 8 weeks before the first reading of the bill in Parliament.

(7) A *law* to amend the Constitution shall not be submitted to the President for assent unless -

- (a) there has been an interval of not less than 90 days between the introduction of the bill in the Federal Parliament and the beginning of proceedings in Parliament in the second reading of the bill ; and
- (b) after it has been passed by Parliament the bill has been endorsed by the State legislatures in accordance with this Chapter.

(8) A bill amending the Constitution may not include provisions other than the constitutional amendments and is clearly expressed to be a bill to alter the Constitution.

(9) In this clause –

references to this Constitution or to any particular provision of it, includes references to any other law in so far as that law alters the Constitution or any provision of it, as the case may be;

- (a) references to altering this Constitution or any particular provision of it, includes references to –
  - (b) repealing it , with or without re-enactment of it, or the making of a different provision in lieu of it;
  - (c) modifying it, whether by omitting or amending any of its provisions,
  - (d) or inserting any additional provisions in it, or otherwise;
  - (e) suspending its operation for any period, or terminating any suspension; and
  - (f) making any other provision that is repugnant to or otherwise inconsistent with it.

## CHAPTER TWENTY-SEVEN GENERAL PROVISIONS

**278. Diligent performance of obligations** – All constitutional matters shall be performed diligently and without delay.

### **279. Definitions**

(1) In this Constitution, unless the context indicates otherwise–

“absolute majority” means at least one-half of all members plus one;

“constitutional matter” means any question involving the interpretation, protection or enforcement of this Constitution and any State Constitution.

“customary practice” means the rules of customary practice prevailing in and applying to an area of Solomon Islands;

“department” in relation to the Federal Government, includes any Department or Ministry of the Federal Government under the supervision of [the Permanent Secretary](#) and under the general direction of a Federal Minister;

“financial year” means the 12 months ending on the 31 December in any year, or on such other date as may from time to time be prescribed by [the](#) federal law;

“former Constitution” means the Constitution set out in the Schedule to The Solomon Islands Independence Order 1978;

“freehold interest” means an estate in [fee](#) simple absolute in possession or any interest in customary land of a similar nature;

“functions” includes rights, duties and powers;

“Government” means [the](#) Federal Government, [the](#) States Governments and [Community Governments](#).

[“government” means a government of a municipal authority or of a federal or state territory under Clause 261.](#)

[“Grand Government” means the Government as constituted under part 1 of Chapter Nine clause 92;](#)

[“Head of State” means the President of the Democratic Federal Republic of Solomon Islands;](#)

“Head of a State” means [the State Governor elected as the Head of each State under Schedule Seven;](#)

“indigenous Solomon Islander” [means any person who is or one of whose parents is of a group, tribe or line aboriginal or native to Solomon Islands;](#)

“Judge” means a Judge of the Constitutional Court, Court of Appeal or High Court;

“judicial officer” means a statutory officer of a court;

[“land” means customary land, registered land under the Torrens System and under the archipelagic baseline principle under the Law of the Sea Convention;](#)



“lawyer” means a person entitled by law to [practise](#) as a barrister [and](#) solicitor in Solomon Islands;

"leasehold interest" means the interest of a tenant arising by virtue of a lease of land;

“meeting” in relation to the Federal Parliament, means any sittings of the Parliament commencing when the Parliament first meets after being summoned at any time, and terminating when Parliament is adjourned, or at the conclusion of a session;

“oath of allegiance” means the oath of allegiance stated in Schedule **Two**.

“organ of Government” or “organ of the Republic” means any department, government enterprise, administration [or](#) any other functionary institution exercising a power [emanating from this](#) Constitution which [relate to the Federal, State and Community Governments](#).

“[organ of government](#)” means any department, government enterprise, administration [or](#) any other functionary institution exercising a power [emanating from this](#) Constitution which [relate to a government of a municipal authority or a federal or a state territory](#);

“President” means the [Head of State of the Democratic Federal Republic of Solomon Islands](#);

“public office” includes any office under this Constitution, [State Constitutions and Constitutional Arrangements of Community Governments](#) and any office for reward in the service of the Federal, State, [and Community](#) Governments under any federal, state or [community](#) law;

“public service” or “public service of the Republic” means the service in a civil capacity of the Federal, State and [Community](#) Governments;

“Rights and Freedoms” means the Fundamental Rights and Freedoms [of the Individual as](#) set out in Chapter Four.

“session” means the sitting of the Federal Parliament commencing when Parliament first meets after its prorogation or dissolution at any time, and ending when Parliament is prorogued or dissolved without having been prorogued;

“sitting” in relation to the Federal Parliament, means a period during which Parliament sits without adjournment, and includes any period during which the Parliament is in committee;

“Solomon Islands” means the territory recognised as the territory of Solomon Islands on 7 July 1978;

“Speaker” means the Speaker of the Federal Parliament”.

“Standing orders” means the standing orders of the Federal Parliament.

“statutory expenditure” means expenditure charged on the Federal Consolidated Fund, or on the general revenues and assets of the [Federal Government](#), by virtue of any of the provisions of this Constitution, or by virtue of any provision of any federal law for the time being in force in Solomon Islands.

“subordinate court” means any court of law other than the High Court, Court of Appeal or Constitutional Court.

(2) A federal law may make provision for any additional definition to be applied in relation [to words or expressions in this](#) Constitution.

**[280. Transitional arrangements](#)** – Schedule **Eight** applies to the transition to this Constitution.

**[281. Repeal of laws](#)** – The following Acts are repealed, subject to [Clause 280](#) and Schedule **Eight**

(a) No. 783 of 1978 The Solomon Islands Independence Order 1978

(b) No.2 of 2001 The Constitutional (Amendment) Act 2001

(c) No.8 of 2000 The Amnesty Act 2000

**[282. Commencement](#)**

This Act called the Federal Constitution of [the Democratic Federal Republic of Solomon Islands, 2012](#), and comes into effect as soon as possible on a date set by the President by written instrument, which shall be no later than **(a nominated date)**.

**[283. Referendum](#)**

[\(1\) Any matter relating to the social, economic or political development of the Republic which is in the national interest or which may have a profound or adverse effect on the whole or part of the Republic and which requires a Constitutional amendment shall be referred to the voting population of the Republic by way of a referendum for their endorsement.](#)

[\(2\) The endorsement referred to in sub-clause \(1\) shall carry if it has the absolute majority vote of the voting population.](#)

**SCHEDULE ONE**  
**ELECTION OF THE PRESIDENT OF THE REPUBLIC**  
[Clause 58 (3)]

**1. Calling of election meeting**

(1) Whenever there is a vacancy in the office of President of the Republic, the Speaker shall convene a meeting of the members for the purpose of electing a President by issuing to each member a notice stating –

- (a) the date, place and time of the election meeting; and
- (b) the place at and the date and time on which nomination papers are to be delivered to [the Speaker of the Federal Parliament](#) which time shall not be later than four days before the date appointed for the election meeting.

(2) All nomination papers must be accompanied by a declaration sworn by the candidate that he [or she](#) is not disqualified under [clause 72](#) of this Constitution to hold office as President.

**2. List of Candidates**

(1) A list specifying all candidates nominated and their respective nominators shall be submitted by, or by the direction of, the [Speaker of the Federal Parliament](#) to each member prior to the election meeting.

**3. Candidature**

(1) The choice of candidature shall be determined on a rotational basis in accordance with [clause 58\(4\)](#).

(2) No person shall be a candidate unless he or she is nominated as such by four members, and no member may nominate more than one candidate.

(3) Any candidate may withdraw his or her candidature at any time before the conclusion of the election.

**4. Election may be countermanded or suspended –**

(1) The [Speaker of the Federal Parliament](#) may countermand or suspend an election, at any stage of an election, if –

- (a) a candidate dies;
- (b) a candidate, in the opinion of the [Speaker of the Federal Parliament](#) is seriously incapacitated; or
- (c) a candidate is not eligible or there are issues regarding the nomination or eligibility of a candidate.

(d) in the opinion of the [Speaker of the Federal Parliament](#) the election cannot be, or is unlikely to be, successfully completed.

(2) If an election is countermanded the election procedure shall be commenced from its beginning.

(3) If an election is suspended, the election proceedings shall be undertaken at a later time nominated by the [Speaker of the Federal Parliament](#).

## **5. Method of voting**

(1) The election shall be by secret ballot.

(2) Each member shall have only one vote at the first, and at each subsequent ballot, if any, held in accordance with paragraph 7.

## **6. Conduct of the meeting**

(1) The election meeting shall be presided over, and the election shall be conducted by the [Speaker of the Federal Parliament](#).

(2) The Speaker of the Federal Parliament may for the purpose of counting votes, and for any other purpose related to the conduct of the election, enlist the assistance of any officer that may be necessary.

(3) No person other than the [Speaker of the Federal Parliament](#), or an appointed officer shall be present at an election meeting.

## **7. Voting procedure**

(1) If any candidate receives an absolute majority of votes at any ballot he or she shall thereby be elected as President.

(2) If no candidate receives an absolute majority of votes at the first ballot, a further ballot shall be held, at which –

(a) the candidate who received the fewest votes at the first ballot shall be eliminated;

(b) if there is a tie between two or more candidates for the fewest number of votes received at the first ballot, the [Speaker of the Federal Parliament](#) shall decide by lot which of the candidates shall be eliminated.

(3) If in the second ballot no candidate receives an absolute majority of votes, subject to sub-[paragraph](#) (5), further ballots shall be held until one candidate receives an absolute majority of votes.

(4) The procedure specified in sub-[paragraphs](#) (1) and (2) relating to the first and second ballots shall apply to subsequent ballots.

(5) If, after one or more ballots, all candidates save two have been eliminated, only one further ballot shall be conducted to decide the election between the two candidates at which the candidate receiving the greatest number of votes shall be elected President.

(6) If the ballot conducted in accordance with sub-[paragraph](#) (5) results in a tie between two candidates, one further ballot shall be conducted to decide the election between the two candidates, and if there is again a tie between them, the [Speaker of the Federal](#)

[Parliament](#) shall countermand the election and the procedure shall be commenced from the beginning.

(7) No ballot shall be held within a period of less than six hours after the conclusion of the preceding ballot.

**8. Announcement of results** – When the count has been completed in any ballot the [Speaker of the Federal Parliament](#) shall forthwith announce to the meeting the number of votes received by each candidate and, where any candidate has received an absolute majority of votes, or the greater number of votes under [paragraphs](#) 7 (5) or (6), shall declare the candidate to have been elected President.

**9. Notification results** – Upon the election of a President, the [Speaker of the Federal Parliament](#) shall cause the fact and the identity of the President to be –

- (a) made known to the public in any appropriate manner; and
- (b) published as soon as possible in the Gazette.

**10. Resolution of disputes** – Any dispute arising out of or in connection with the calling or conduct of any election meeting or the election of the President under this Schedule shall be determined by the [Speaker of the Federal Parliament](#), whose determination of the matter in dispute shall be final and conclusive, and may not be questioned in any proceeding whatsoever.

**11. Functions of the [Speaker of the Federal Parliament](#)**– The functions conferred upon the Speaker of the Federal Parliament by this Schedule shall be exercised in the deliberate judgement of the [Speaker of the Federal Parliament](#).

## SCHEDULE TWO FORMS OF OATHS AND AFFIRMATIONS

### 1. Oath of Allegiance

I ....., do swear (or solemnly affirm) that I will uphold and protect the Constitution and be faithful and bear true allegiance to the Federal Republic of Solomon Islands.

(So help me God)

### 2. Oath for the due execution of the Office of President

I ....., do swear (or solemnly affirm) that I will uphold and protect the Constitution and will truly serve the Federal Republic of Solomon Islands in the office of President of Solomon Islands.

(So help me God)

### 3. Oath for the due execution of the office of member of Cabinet

I ....., being a member of the Cabinet of the Federal Government of Solomon Islands, do swear (or solemnly affirm) that I will uphold and protect the Constitution and to the best of my judgement, at all times when required, freely give my advice to the President of Solomon Islands for the management of the public affairs of Solomon Islands, and I do further swear (or solemnly affirm) that I will not on any account, at any time whatsoever, disclose the advice, opinion or vote of any member of the Cabinet, and that I will not, except with the authority of Cabinet and only for the best interests of Solomon Islands, reveal the proceedings of Cabinet, and in all things I will be a true and faithful member of Cabinet.

(So help me God)

## SCHEDULE THREE ENTITLEMENTS OF MEMBERS OF THE FEDERAL PARLIAMENT [Clause 68 (4)]

### 1. Members of the Federal Parliament (Entitlements) Commission

(1) There shall be a Members of the Federal Parliament (Entitlements) Commission consisting of -

- (a) a Chairperson and two members appointed by the President.
- (b) **the Governor of Central Bank;**
- (c) **the Chairman of the Association of Chartered Accountants of Solomon Islands.**

(2) A person shall not be qualified to be an appointed member of the Commission if he/she is a member of the Federal Parliament.

(3) The office of the Chairperson and of appointed members shall become vacant -

- (a) at the expiration of such period not exceeding three years as may be specified in the instrument by which he/she was appointed;
- (b) on death, or by resignation in writing delivered to the President; or
- (c) upon his /her removal by the President.

(4) The Chairperson and members shall be entitled to receive a daily allowance at the rate from time to time prescribed by the Constitutional Offices (Salaries) Act 1978 in respect of members of the Public Service

### 2. Powers of the Members of Parliament (Entitlements) Commission

(1) The power to determine the entitlements of members of Parliament, and to amend them **as and when the need arises**, shall vest in the Members of Parliament (Entitlements) Commission.

(2) In the exercise of their powers the Members of Parliament (Entitlements) Commission shall -

- (a) consider such representation as they may receive from persons, within such time as may be notified by them; and

(b) have regard to such information as may be supplied to them by the Government, the Federal Parliament, or any other organisation in relation to the following matters –

- (i) the state of the national economy and the financial position of the Government;
- (ii) movements in the level of pay and other entitlements admissible to other persons in employment; and
- (iii) changes in the retail price index and other relevant indicators showing the cost of maintaining the standard of living the Parliamentarians might reasonably be expected to enjoy.

(c) make regulations providing for the following matters-

- (i) the scales of salaries and other entitlements payable to [Federal Parliamentarians](#);
- (ii) the terms, conditions and manner of payment of such salaries and entitlements, loans and advances of such salaries;
- (iii) such other matters (including matters specified in subsection (3) as may facilitate the discharge of their functions as [Federal Parliamentarians](#).

(3) In making or amending the regulations, the Members of Parliament (Entitlements)

Commission shall -

(a) consider in relation to Federal Parliamentarians and their [immediate](#) families, the following matters –

- (i) accommodation during sittings of the Federal Parliament;
- (ii) housing;
- (iii) medical treatment;
- (iv) internal and external transport;
- (v) travelling imprest;
- (vi) **retirement and death** benefits;
- (vii) appointment and terminal grants;
- (viii) advances and loans;
- (ix) additional payment for service in committees of the Federal Parliament;
- (x) **life** insurance; and
- (xi) such other matters as may facilitate the discharge of their function as [Federal Parliamentarians](#).

(b) ensure that the salaries and other entitlements of Federal Parliamentarians increase **subject to clause 2(2)(b) of this Schedule**.

(4) Every regulation made or amended under this section-

- (a) shall come into force on 1st day of April –
  - (i) of the year in which it was made, if it is made on that day; or

- (ii) of the year next following the date on which it was made, if made on any other date - PROVIDED that the Members of Parliament (Entitlements) Commission may, in order to comply with subsection 3 (b), enforce any such regulation from such other date prospectively or retrospectively, as they may specify in that regulation; and
- (b) shall, during the period such regulation is in force, have effect as if it were a provision of this Constitution.

### **3. Admissibility of entitlements to be in accordance with regulations**

(1) Upon the commencement of regulations made or amended under section 2, no entitlement, and no exemption of an entitlement from any tax or other liability, shall be applicable to any Federal Parliamentarian, except in accordance with those regulations.

(2) In this Schedule –

- (a) “entitlements” includes salaries, allowances and such other benefits, services or facilities, whether in cash or otherwise, as the Members of Parliament (Entitlements) Commission may consider necessary to be provided to Federal Parliamentarians to enable them to maintain the dignity of their office;
- (b) “[Federal](#) Parliamentarian” means the Prime Minister, Ministers, the Leader of the Federal Opposition, Deputy Speaker, and all other members of the Federal Parliament, whether or not Parliament is in session or is sitting;
- (c) “year” means a period of twelve months commencing on 1 April and ending with 31 March next following.

(3) In the exercise of its functions under this Schedule, the Federal Parliament (Entitlements) Commission shall not be subjected to the direction or control of any other person or authority except where otherwise provided by this Constitution.



**SCHEDULE FOUR**  
**BOUNDARIES OF THE STATES**  
**[Clause 158 (1)]**

**(N.B See latest Technical Report on Revised Proposed States Maritime Boundaries 2011 prepared by CC member/ Technical Adviser Mr. Patt R. Loe) which will supersede the old version of the Proposed States Maritime Boundaries contained in the 2004 Draft Federal Constitution of Solomon Islands which is set out below.)**

<b>Column A – Name</b>	<b>Column B – Description and Limits of Boundaries</b>
Central	The area bounded by Longitude 159° East and 160° 30 East and Latitudes 8° 45 South and 9° 13 South.
Choiseul	The area bounded by a line commencing at a point on the boundary between Solomon Islands and Papua New Guinea in Longitude 156°13 30 East, thence in an easterly direction along that boundary to the intersection of that boundary at Longitude 157° 55 East, thence due south to Latitude 7° 55 South, thence by a straight line in a westerly direction to the point Latitude 7° 43 00 South Longitude 157° 30 00 East, thence in the same general direction to the point Latitude 7° 36 30 South Longitude 157° 00 00 East, thence in the same general direction to the point Latitude 7° 13 15 South Longitude 156° 23 45 East, thence to the point Latitude 6° 57 30 South Longitude 156° 22 00 East, thence in a northerly direction to the point Latitude 6° 45 45 South Longitude 156° 18 45 East, thence in a northerly direction to the point Latitude 6° 45 00 South Longitude 156° 13 30 East, thence due north to the point of commencement.
Guadalcanal	Excluding Honiara, the area bounded by a line commencing at a point in Latitude 9° 13 South Longitude 160° 30 East and bearing due south to a point in Latitude 9° 20 South, thence by a line bearing due east to a point in Longitude 161° East,

	<p>thence by a line bearing due south to a point in Latitude 10° 30 South, thence along the common boundary with Central Province to a point in Longitude 159° East, thence by a line bearing due north to a point in Latitude 9°13 South, and thence along the common boundary with Central Province to the point of commencement.</p>
Isabel	<p>The area bounded by a line commencing at a point in Latitude 7° South Longitude 160° 30 East, thence by a line bearing due south to a point in Latitude 8° 45 South, thence by a line bearing due west to a point in Longitude 159° East, and thence along the common boundary with Western Province in a northerly direction to a point in Latitude 7° South, and thence to the point of commencement.</p>
Makira/Ulawa	<p>The area bounded by a line commencing at a point in Latitude 9° South Longitude 161° 50 East, thence by a line bearing due east to a point in Longitude 164° East, thence by a line bearing due south to a point in Latitude 12° 30 South, thence by a line bearing due west to a point in Longitude 161° East, and thence in a generally northerly direction along the common boundary with Central, Guadalcanal and Malaita Provinces to the point of commencement.</p>
Malaita	<p>The area bounded by a line commencing at a point on the boundary of Solomon Islands and Papua New Guinea in an approximate Latitude 4° 52 South Longitude 160° East, thence by a line bearing due east to a point in Longitude 163° East, thence by a line bearing due south to a point in Latitude 9° South, thence by a line bearing due west to a point in Longitude 161° 50 East, thence by a line bearing due south to a point in Latitude 10° South, thence by a line bearing due west to a point in Longitude 161° East, thence in a northerly</p>

	direction along the common boundary with Guadalcanal, Central, Isabel and Western Provinces to a point intersecting the boundary of Solomon Islands and Papua New Guinea, thence generally north-easterly along that boundary to a point in approximate Longitude 159° East, and thence generally along that boundary to the point of commencement.
Rennell and Bellona	The area bounded by Longitude 159° East and 161° East and Latitudes 10° 30 South and 13°06 South.
Temotu	The area bounded by a line commencing at a point in Latitude 9° South and Longitude 164° East, thence by a line bearing due east to a point in Longitude 170° 20 East, thence by a line bearing due south to a point in Latitude 12° 30 South, thence by a line bearing due west to a point in Longitude 164° East, and thence north along the common boundary with Makira/Ulawa Province to the point of commencement.
Western	The area bounded by a line commencing at a point on the boundary between Solomon Islands and Papua New Guinea in Longitude 156° 13 30 East, thence by a line due south to Latitude 6° 45 00 South, thence in an easterly direction to the point Latitude 6° 45 45 South Longitude 156° 18 45 East, thence in a southerly direction to the point Latitude 6° 57 30 South Longitude 156° 22 00 East, thence in the same direction to point Latitude 7° 13 15 South Longitude 156° 23 45 East, thence by a line in an easterly direction to the point Latitude 7° 35 30 South Longitude 157° 00 00 East, thence in the same general direction to the point Latitude 7° 43 00 South Longitude 157° 30 00

	<p>East, thence by a line in the same general direction to the point Latitude 7° 55 00 South</p> <p>Longitude 150° 55 00 East, thence by a line due south to point in Latitude 8° 20 00 South, thence by a line bearing due East to a point in Longitude 159° East, thence by a line bearing due south to a point in Latitude 9° 20 00 South, thence by a line bearing due west to a point in Longitude 155° 20 East, thence by a line bearing due north to intercept the boundary between Solomon Islands and Papua New Guinea, and thence along that boundary to the point of commencement.</p>
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**SCHEDULE FIVE  
FEDERAL AND STATE LEGISLATIVE POWERS**

**LIST I  
FEDERAL POWERS  
[Clause 65 (2)]**

In addition to matters prescribed by this Constitution, the Federal Parliament may make laws in relation to the following subjects –

**1. Justice**

- (a) Civil and criminal procedure and law subject to Chapter 12 of the Constitution
- (b) The legal profession and the practice of the law (Including – law of evidence, interpretation of Federal laws, contract, partnership, agency, reciprocal enforcement of judgments, mutual assistance in criminal matters with foreign States, extradition, limitation of actions, bankruptcy and insolvency, administration of deceased estates, succession, statutory declarations, oaths and affirmations, actionable wrongs, property law, equity and trusts, negotiable instruments, registration of foreign investment, business names and age of majority)

**2. Defence**

- (a) Defence co-operation with foreign States
- (b) Civil Defence (*concurrent*)
- (c) Maintenance of national security

### **3. Internal Security**

- (a) Control of fire-arms and offensive weapons
- (b) Public order
- (c) Police Force subject to Chapter **Twenty-two** of the Constitution
- (d) Intelligence services
- (e) Correctional Services subject to Chapter **Twenty-two** of the Constitution
- (f) **Immigration**
- (g) **Emigration**

### **4. External Affairs**

- (a) Treaties, agreements and conventions and their implementation
- (b) Diplomatic, consular representation
- (c) Participation in and membership of International Organisations
- (d) Customs and the raising of custom revenue;
- (e) Quarantine;
- (f) Extra-territorial jurisdiction;
- (g) International fishing and enforcement obligations
- (h) **Illicit drugs and narcotics**
- (i) **Human trafficking and human organ trades**

### **5. Citizenship**

- (a) Citizenship
- (b) Naturalisation
- (c) Deportation of foreign citizens

### **6. Public Finance**

- (a) Currency and foreign exchange
- (b) Regulation of banks, insurance and financial institutions
- (c) Public borrowings
- (d) Public debt management
- (e) Financial management by **Federal** Government and **its** agencies
- (f) Taxes and rates in federal territories;
- (g) Taxation on income and profits from individuals, companies and businesses.
- (h) Taxation on sales and goods and services;

- (i) Fees payable under federal law
- (j) Securities
- (k) Shares and Stocks

## **7. Education**

- (a) Tertiary education (education curriculum at this level)
- (b) Teacher training and certification

## **8. Health**

- (a) registration of medical practitioners
- (b) Health professional training and certification
- (c) poisons and drug control
- (d) pharmaceuticals
- (e) international health matters and clearance requirements with WHO

## **9. Federal Institutions and Services**

- (a) Federal institutions and services
- (b) Constitutional institutions
- (c) Federal Government enterprises, agencies and authorities
- (d) Official Secrets
- (e) Use of coats of arms, armorial bearings, flags, uniforms, orders and decorations (other than those of a State)

## **10. Trade, Commerce and Industry**

- (a) Quality and standards
- (b) Imports and Exports
- (c) Regulation of local and foreign companies
- (d) Anti- monopolistic practices and trade practices
- (e) Intellectual property
- (f) Weights and measures
- (g) Hazardous substances

## **11. Shipping and navigation**

- (a) All shipping, maritime matters and navigation
- (b) Maritime zones and territorial waters
- (c) Wrecks and salvage

## 12. Aviation and Transport

- (a) Civil aviation
- (b) Regulation of inter-state transport
- (c) Carriage of passengers and cargoes
- (d) Vehicle standards

## LIST II

### STATE POWERS FOR STATES OF CHOISEUL, WESTERN SOLOMONS, ISABEL, CENTRAL ISLANDS, GUADALCANAL, MALAITA, RENNELL/BELLONA, MAKIRA/ULAWA AND TEMOTU).

#### [Clause 170 (2)]

In addition to the matters prescribed by this Constitution State Governments may make laws in relation to the following subjects –

#### 1. Custom

- (a) Application of customary laws, practices and traditions.
- (b) Codification of customary laws
- (c) Dispute resolution
- (d) Clan, tribal or village community governance and justice;

#### 2. Town government

- (a) Establishment of town areas
- (b) Town government, administration and management
- (c) Imposition of rates and taxes
- (d) Enforcement of town laws

#### 3. Businesses and trade

- (a) Hotels and rest houses
- (b) Markets and trade stores
- (c) Public entertainment including eating establishments
- (d) Gambling

- 4. State Government matters**
  - (a) State government and State judicial institutions and services
  - (b) State financial management and investment
  - (c) State business and commercial enterprises
  - (d) Civil list and State pensions
- 5. Education**
  - (a) **Early Childhood** and primary education
  - (b) Secondary education
  - (c) **Vocational Education**
  - (d) **Tertiary Education**
  - (e) **Curriculum**
  - (f) **Vocational Training**
  - (g) **Scholarship**
- 6. Information Technology**
  - (a) **Internet Services**
  - (b) **Television, Broadcasting**
  - (c) **Communication Services**

### LIST III

**STATE POWERS HELD IN TRUST BY THE FEDERAL GOVERNMENT FOR STATES OF CHOISEUL, ISABEL, CENTRAL ISLANDS, GUADALCANAL, MALAITA, RENNELL/BELLONA, MAKIRA/ULAWA AND TEMOTU).**

**[Clause 65 (5), (6) and (7)]**

- 1. Governance**
  - (a) Public service
  - (b) Public holidays
  - (c) Civil emergency
  - (d) Commissions of inquiry
- 2. Justice**
  - (a) The administration of justice
  - (b) Establishment of tribunals and quasi-judicial bodies



- 3. Provision of services**
  - (a) Water supply, sanitation and sewage disposal
  - (b) Electricity and power generation
  - (c) Postal and telecommunications
  - (d) Ports and harbours
  - (e) Airports
  - (f) Broadcasting
  - (g) Fire services and fire prevention
  - (h) Public works
  
- 4. Education**
  - (a) Curriculum
  - (b) Vocational and technical training
  - (c) Scholarships
  - (d) Archives and government records
  - (e) Libraries and museums
  
- 5. Health**
  - (a) Public health
  - (b) Medical and hospital services
  - (c) Malaria and disease control
  
- 6. Land and water**
  - (a) Land tenure and dealings
  - (b) Land registration
  - (c) Land planning, use and development
  - (d) Water and protection of water
  
- 7. Minerals and Petroleum**
  - (a) Prospecting and mining minerals
  - (b) Exploration for and extraction of oil and gas
  
- 8. Agriculture, Fisheries and Forestry**
  - (a) Forests and forest resources
  - (b) Agriculture, apiaries and livestock
  - (c) Animal welfare
  - (d) Fisheries, subject to Chapter 12, Part II of this Constitution
  
- 9. Trade, Commerce and Industry**
  - (a) Price control
  - (b) Consumer protection and fair trading
  - (c) Regulation of imports
  - (d) Insurance
  - (e) Alcohol and tobacco
  - (f) Regulation of trade practices
  - (g) State Tourism

- 10. Social Security and Trade Organisations**  
(a) Employment, welfare of labour and trade unions  
(b) Compensation and superannuation schemes  
(c) Employment benefits and pensions
- 11. Environment and Conservation**  
(a) Environment protection and regulation  
(b) Conservation of natural resources and regulation of invasive species  
(c) Wild life protection and preservation of biological diversity  
(d) Genetic resources and genetically modified resources
- 12. Land Planning and Management**  
(a) Land use planning and development  
(b) Regulation of building and construction  
(d) Preservation and protection of historical sites and cultural heritage

#### LIST IV

#### COMMUNITY GOVERNMENT POWERS

[Clause 161]

- (a) Regenerate essential values of traditional governance and leadership systems including customary arbitration methods;
- (b) Control and manage customary land and boundaries and other resources;
- (c) Formulate and coordinate development plans and use of resources;
- (d) Indigenization of traditional human rights, education system, Christian principles, traditional medicines and cures, labour, and balance of economic activities;
- (e) Codify and enact customary laws, norms and systems;
- (f) Control of moral standards and values of society;
- (g) Decree over cultural norms, customs, customary land, sea resources and other cultural rights or customary justice on crimes and civil wrongs;
- (h) Protect and conserve natural environment;
- (i) Community security, including food, water, sanitation, and general health and hygiene; and
- (j) Promote cordial inter-communal relationships and harmony.
- (k) keeping copies of births, deaths and marriages certificates.
- (l) maintain a register of Land boundaries, lease agreement, customary wills and agreements.
- (m) keeping copies of records of chiefs and court decisions.

- (n) promulgate rules and regulations for the issuance of licenses for liquor, business, hawkers license, street vendors sales, hotels, gaming, logging, fishing, wild birds, dogs fees etc
- (o) encourage the continuation of the existing customary systems to provide care to the disabled, the aged and the destitute.
- (p) inspect and audit schools within the community.
- (q) promulgate road traffic and sea traffic rules governing speed, toll payments and access by the public.
- (r) promulgate rules and regulations governing squatters and itinerants in accordance with customs of the area.
- (s) organize – in consultation with State and Federal Police – community policing to deal with violence (especially against women and girls), theft and public disorder.
- (t) promulgate rules and regulations for logging, milling and mining camps within their areas to prevent the abuse of young, mentally disabled and desperate people.
- (u) tabu sites, cemeteries, correctional community service (summary offenders), museum and archives, traditional knowledge on herbal medicine and intellectual property (folklore, chants, custom stories, dance etc) birds and other wildlife sanctuaries, marine protected areas, sports and recreation facilities (children’s parks).
- (v) to maintain and regulate communal work in the community.
- (w) immoral conduct in the communities.
- (x) protection of rivers, streams, catchment areas and water sources.

## SCHEDULE SIX REVENUE SHARING FORMULA

### PART I Natural Resource Revenues [Clause 176]

1. The revenue sharing ratios for all natural resources referred to in clause 176 of this Constitution inclusive of forestry, mining, petroleum, gas, agricultural products (CEMA products), marine and fisheries ( non migratory), air space and other natural resources shall be as follows:-
  - (a) Federal Government – 30%;
  - (b) State and Community Governments and Resource Owners – 70%.

2. The 70% referred to in paragraph (1) shall be apportioned to the State and Community Governments and Resource Owners in accordance with a sharing ratio to be stipulated in each State Constitution. A portion of the share of the Resource Owners shall be set aside for social, economic, educational, environmental and rehabilitation needs to be administered in accordance with the State and Community Governments legislations.
3. No remission of export duties shall be granted in respect of any logs harvested unless the relevant State legislature (in consultation with the Community Government) and the Federal legislature have endorsed the granting of the remission prior to it being made.
4. Any remission granted that is not in compliance with paragraph 3 shall be void and of no effect.
5. All current remissions of export duties on log exports shall cease 6 months after the date of commencement of this Constitution, unless they have been ratified by the Federal Legislature and the relevant State legislature.
6. In respect of all Federal revenues derived from duties paid in relation to the export of migratory fish and any fees paid for fishing rights to migratory fish is to be determined by a calculation based upon the respective areas of sea within the boundaries of a State as defined in Schedule **Four**

**PART II**  
**Federal Tax Revenues**  
**[Clause 177]**

**1. The sharing ratio –**

- (1) The sharing ratio of revenues referred to in [Clause 177](#) of this Constitution shall be 50% to the Federal Government, and 50% to be shared by the State Governments in accordance with the formula set out in [paragraph 2](#).
- (2) The State share of revenue is to be apportioned according to the following formula -
  - (a) 20% of the available funds shall be distributed on an equal basis to each State;
  - (b) 50% of the available funds shall be distributed on the basis of the population of each State, as taken from the most recent census; and
  - (c) 30% of the available funds shall be distributed on the basis of the land [and sea](#) area of each State.

**PART III**  
**Review and Amendment**  
**Review and amendment of the sharing ratio**

[Clause 178]

(7) Subject to paragraph 8, the Federal Parliament may review and amend the sharing ratios in Parts I and II of this schedule by a Constitutional amendment.

(8) Any changes to the formula shall only come into effect on the –

- (a) recommendation of the National Finance Commission;
- (b) enactment by the Federal Parliament of a Constitutional amendment to that effect; and
- (c) subsequent endorsement of the Constitutional amendment by an absolute majority of State legislatures.

(9) The Constitutional amendment to change the sharing formula shall not be submitted to the President for assent unless it has the endorsement of an absolute majority of State legislatures.

**SCHEDULE SEVEN**  
**STATE CONSTITUTIONS**  
[Clause 154 (5)]

**1. Preparation –**

- (1) Existing Provincial Assemblies are responsible in overseeing the preparation of **their** State Constitutions and shall do so through a body appointed by it representative of the community and gender of the Province.
- (2) Clans, **tribes**, village **and** church communities and all persons of the province have a right to participate in the creation of a State Constitution and to be consulted.
- (3) Community consultations must be undertaken in good faith with the objective of achieving, through procedure determined by them, substantial agreement or consent to a draft constitution.
- (4) For the purposes of this clause an “existing Provincial Assembly” shall be each of the Provincial Assemblies established under the Provincial Government Act 1997, in place immediately as at the commencement of this Constitution.

**2. Content –**

- (1) A State Constitution must not be inconsistent with this Constitution, **and shall** provide for:
  - (a) **State Legislative and Executive Structures; and**
  - (b) the institution of **community government which shall include the powers, functions and status of community leaders or traditional chiefs where applicable.**

(2) A State Constitution shall **also** provide for:

- (a) State **Governor**;
- (b) provisions of financial management **at the state and community government levels** that are consistent with the federal revenue arrangements contained in Chapter **Ten** of this Constitution;
- (c) **provisions for resource revenue sharing between state and resource owners**;
- (d) provisions for a **state** public service; and
- (e) for such additional matters considered to be appropriate for the administration of State **and Community** governments.
- (f) The establishment of a State Electoral College
- (g) Provision for voting by preferential voting system

### **3. Adoption of a State Constitution –**

- (1) A Provincial Assembly may pass a State Constitution if at least three quarters of its members vote in favour of it.
- (2) A State Constitution shall not be introduced into the Provincial Assembly unless the Speaker of the Assembly is satisfied that the constitution making process -
  - (a) involved genuine public participation of the State community and that consultations were genuine;
  - (b) engaged clan and tribal communities; and
  - (c) that the views of women and youth were independently sought in that process.
- (3) If the Provincial Assembly passes a State Constitution, the Speaker of the Provincial Assembly shall submit the document to the Constitutional Court for certification in accordance with clause 156 of this Constitution.

## **SCHEDULE EIGHT TRANSITIONAL AND SAVINGS PROVISIONS [Clause 280]**

### **Part I Transitional Arrangements**

#### **1. Transitional process obligations**

- (1) All governments, organs of government, agencies and persons involved in effecting a transition under this Constitution shall -
  - (a) act diligently and in good full faith;
  - (b) as far as is practicable ensure that the process is seamless and undertaken with minimal disruption;

- (c) ensure that the transition process is at a pace according to each State's needs, capacities and preferred timetable.

## **2. Definitions**

“former Constitution” means the Constitution set out in the Schedule to The Solomon Islands Independence Order 1978.

“this Constitution” means the Federal Constitution of Solomon Islands, 2004.

## **3. Continuation of existing laws**

- (1) All laws that were in force when this Constitution took effect including subsidiary legislation, unless inconsistent with the text or clearly inappropriate shall continue in force and shall continue to be administered by the authorities that administered them, subject to –
  - (a) any amendment or repeal; and
  - (b) such modifications as are necessary to bring them into conformity and to be consistent with this Constitution.

- 4. The President *of the Republic*** - The person holding the office of Governor-General at the commencement date of this Constitution shall assume the office of President until an election is held pursuant to [Clause 58](#).

## **5. Federal Parliament**

- (1) Anyone who was a member or office-bearer of the National Parliament when this Constitution took effect becomes a member or office bearer of the Federal Parliament under this Constitution and holds office as a member or office bearer in terms of this Constitution.
- (2) The Federal Parliament shall be regarded as being elected under this Constitution for a term that expires on **30 April 2012**.
- (3) The Federal Parliament consists of 50 members for the duration of its term that expires on **30 April 2012** subject to [Clause 84 or 94\(7\) of this Constitution, as the case may be](#).
- (4) The standing orders of the National Parliament applying at the date when this Constitution took effect shall continue to apply to the Federal Parliament until Parliament –
  - (a) amends or replaces them; and
  - (b) such modifications as are necessary to bring them into conformity and to be consistent with this Constitution.
- (5) The Standing Committees of Parliament constituted at the date of commencement of this Constitution shall continue to be Committees of Parliament until it resolves to change or replace them.

**6. Unfinished business of the National Parliament**

(1) Any unfinished business before the National Parliament when this Constitution took effect shall be proceeded with in terms of this Constitution.

**7. Elections of the Federal Parliament**

(1) No election of the Federal Parliament may be held before **30 April 2012** unless Parliament is dissolved in terms of [Clause 84 \(1\) \(c\)](#) after a motion of no confidence in the Prime Minister.

(2) Section **93** of this Constitution is suspended until **30 April 2012**.

**8. Federal Cabinet-** Anyone who was Prime Minister, Deputy Prime Minister a Minister under the previous Constitution when this Constitution took effect continues in and holds office in terms of this Constitution.

**9. Central Bank** – The *Central Bank of Solomon Islands Act (Cap No. 49)* shall continue to have full force and effect, subject to the provisions of this section and consistency with this Constitution, until such time as it is amended or replaced by an Act of the Federal Parliament.

**10. Provincial Assemblies**

(1) Anyone who is a member or office bearer of a Provincial Assembly when this Constitution took effect shall continue as a member or office bearer of the Assembly for that Province and the Provincial Assembly shall operate and remain subject to the Provincial Government Act 1997 and relevant laws until such time a State Constitution comes into effect subject to [paragraph 14](#).

(2) Members and office bearers of Provincial Assemblies shall be subject to the provisions of their respective State Constitutions.

**11. Provincial executives**

(1) Anyone who was Premier, and a member of the Executive of a Province when this Constitution took effect, continues to hold office in terms of the Provincial Government Act 1997 and relevant laws until such time a State Constitution comes into effect subject to [paragraph 14](#).

**12. Provincial ordinances and other laws** – Ordinances, rules and other laws of a Provincial Assembly in force when this Constitution took effect shall continue in force subject to –

(a) any amendment or repeal; and

(b) such modifications as are necessary to bring them into conformity and to be consistent with this Constitution.

**13. Continuation of Provincial Government authority**

(1) On coming into effect of this Constitution and subject to its provisions, the Federal Government and Provincial Governments shall continue to perform their functions and exercise jurisdiction as it did under the laws of the former Constitution until –



- (a) the coming into effect of a State Constitution; and
  - (b) the assignment of powers in accordance with [paragraph 14](#).
- (2) All assets owned by the Federal Government within a State that falls within a functional area in List II (State powers) and List III ([State powers held in trust](#)) in this Constitution coming into effect shall remain in the ownership and control of the Federal Government and its relevant agencies and shall be held by the Federal Government on behalf of a State Government pending their establishment and assignment pursuant to [paragraph 14](#).

#### **14. Assignment of legislation and powers to States**

- (1) A State has the right to structure a transition process within a preferred timetable, not exceeding **10 years** from the date this Constitution comes into effect, according to its needs and capacities.
- (2) The assignment of jurisdiction and power under this Constitution to State Government shall be subject to a transitional arrangement agreed to between the State and the Federal Government.
- (3) Legislation or jurisdiction with regard to a matter within a functional area in List III ([State powers held in trust](#)) by Federal Government for [graduating States](#) shall be assigned by the President, on the advice of Cabinet, by written instrument, to a State Government.
- (4) For an assignment to be effectively carried out under sub clause (3) the President, on the advice of Cabinet, by written instrument, may –
- (a) re-enact, amend or adapt the legislation to regulate its interpretation or application and if the assignment relates to only a part of the legislation, to amend or adapt the legislation to the extent that the legislation applies to State government;
  - (b) regulate any other matter necessary as a result of the assignment, including such matters as secondment of staff, or the transfer of assets, rights, liabilities and obligations to or from the federal administration to the State Government.
- (5) A copy of the written instrument made in terms of sub clause (3) or (4) shall be submitted to the relevant State government, Congress of States and tabled before the Federal Parliament.
- (6) Any legislation devolved by Devolution Order to Provincial Governments by legislation under the previous Constitution or law, including any amendment or repeal and re-enactment of that legislation and any action taken under any Devolution Order, is regarded as having been done under this [clause](#).

#### **15. Transfer or secondment of public servants**

- (1) This [clause](#) is subject to any transitional arrangement under the preceding sub - [clause](#).

- (2) When any department, public office or an employee of the Federal Public Service becomes transferred or seconded to a State, the employee shall become an employee of the State Public Service subject to the control of the Federal Government.
- (3) Any employee of the Federal Public Service who is not retained in the Federal Public Service shall, unless he or she is transferred or seconded to some other office of equal employment in the public service of the Republic, shall be entitled to receive redundancy compensation from the Federal Government under a federal law.
- (4) Any employee of the Federal Public Service who is retained in the Federal Public Service shall preserve all existing and accruing rights and shall be entitled to retire from office at the time, and on the pension or retiring allowance which would be permitted if the transfer or secondment was a continuation of his or her service.
- (5) The Federal Government shall pay any existing accrued right on the secondment of an employee of the Federal Public Service to a State. The State shall pay the Federal Government a contribution of any such accrued right to be calculated on the proportion, which the seconded employee's term of service with the State bears to his or her whole term of service.
- (6) For the purpose of calculation of salary under subsection (4) the salary paid shall be that paid to the public employee as at the date of transfer or secondment.

## **16. Courts**

- (1) Every court existing when this Constitution took effect continues to function and to exercise jurisdiction in terms of the legislation applicable to it, and anyone holding office as a judge or judicial officer continues to hold office in terms of legislation applicable to that office subject to:
  - (a) any amendment or repeal of that legislation; and
  - (b) such modifications as are necessary to bring them into conformity and to be consistent with this Constitution.
- (2) The Rules of Court applying to the proceedings of the High Court and the Court of Appeal and any other court as at the commencement of this Constitution shall continue to apply to those courts subject to;
  - (a) any amendment or repeal; and
  - (b) such modifications as are necessary to bring them into conformity with and consistency this Constitution.
- (3) The court of Appeal becomes the Court of Appeal under this Constitution.
- (4) Anyone holding office as President or as a Justice of Appeal when this Constitution took effect becomes the President or a Justice of Appeal of the Court of Appeal under this Constitution.

- (5) The High Court becomes the High Court under this Constitution.
- (6) Any one holding office as Chief Justice or judge of the High Court when this Constitution took effect becomes the Chief Justice or judge of the High Court under this Constitution subject to any rationalisation contemplated in clause (8).
- (7) Every other person who holds a judicial warrant for any subordinate court when this Constitution took effect continues to hold the warrant for that court under this Constitution subject to any rationalisation contemplated in clause 8.
- (8) As soon as is practical after this Constitution takes effect all courts, including their structure, composition, functioning and jurisdiction and all relevant legislation shall be rationalised with a view to establishing a judicial system suited the requirements of this Constitution.
- (9) The Cabinet member responsible for the administration of justice, acting after consultation with the Judicial and Legal Services Commission shall manage the rationalisation envisaged in clause (8).

**17. Cases pending before the courts** – All proceedings which were pending before a court when this Constitution took effect, shall be disposed of as if this Constitution had not been enacted, unless the interests of justice requires otherwise.

**18. Oaths and affirmations** – A person who has continued in office in terms of this Schedule and who has taken an oath of allegiance under the former Constitution is not entitled to repeat the oath of allegiance under this Constitution.

**19. Other constitutional institutions** –

(1) In this [clause](#) “Constitutional Institutions” means –

- (a) The Ombudsman;
- (b) Leadership Code Commission;
- (c) Constituency Boundaries Commission;
- (d) The Electoral Commission;
- (e) The Judicial and Legal Services Commission;
- (f) The Auditor-General;
- (g) The Public Solicitor;
- (h) The Director of Public Prosecutions;
- (i) Members of Parliament (Entitlements) Commission;
- (j) The Attorney-General; and any
- (k) Constitutional office constituted under Section **44** of the former Constitution.

- (2) A Constitutional Institution established in terms of the former Constitution continues to function in terms of the former Constitution and any legislation applicable to it, and anyone holding office as a commission member, the Auditor-General, the Public-Solicitor, the Attorney-General, Director of Public Prosecutions, Ombudsman and any constitutional officer appointed by the Governor-General when this Constitution takes effect continues to hold office in terms of the former Constitution and legislation applicable to that office, subject to –
- (a) any amendment or repeal of that legislation or office; and
  - (b) such modifications as are necessary to bring them into conformity and to be consistent with this Constitution.
- (3) Persons holding offices under this Constitution that are not retained under the federal system of government shall cease to hold office at the date this Constitution takes effect.

**20. Amalgamation of roles** – Nothing in this Constitution shall affect the operation of any law, which aims to amalgamate the administration of the office of Ombudsman with those of the Leadership Code and Anti- Corruption Commission and Auditor-General and any other appropriate body.

**21. Public administration and security services**

- (1) Subject to any transitional arrangement under clause 13, the administration of the Public Service, Police Force and **Correctional** Service referred to in Chapter XIII of the former Constitution shall continue to function in terms of that Chapter and the legislation applicable to it, subject to –
- (a) any amendment or repeal of that legislation; and
  - (b) such modifications as are necessary to bring them into conformity and to be consistent with this Constitution
- (2) Any investigation, referral or proceeding instituted in accordance with the provisions of Chapter VIII of the former Constitution and which are current as at the date of commencement of this Constitution shall be disposed of as if this Constitution had not been enacted, unless the interests of justice requires otherwise.
- (3) As soon as is practical after this Constitution takes effect the Police Force and **Correctional** Service, including their structure, composition, functioning and jurisdiction and all relevant legislation shall be rationalised with a view to establishing a Police Force and **Correctional** Service suited the requirements of this Constitution.

**22. Enactment of legislation required by this Constitution-**

- (1) Where this Constitution requires the enactment of legislation, that legislation shall be enacted within the time specified otherwise the legislation shall be enacted within **three** years of the date this Constitution took effect.

## Part II Saving Provisions

### 23. Savings provisions –

- (1) All rights and all duties or obligations, however arising, by the National Government and subsisting immediately before this Constitution coming into effect shall be the rights, duties and obligations of the Federal Government under this Constitution.
- (2) All rights and all duties or obligations, however arising, by a Provincial Government and subsisting immediately before this Constitution coming into effect shall be the rights, duties and obligations of the State Government under this Constitution.

## SCHEDULE NINE

### TAX REVENUE SOURCES

#### Part I

#### Federal Government Tax Revenues

[Clause 137]

1. export duty (to be revised) awaiting further talk
2. import duty
3. excise duty
4. licence fees and charges
5. company tax
6. PAYE
7. Goods and service tax
8. Sales tax
9. Stamp duties
10. tariff tax
11. penalties and fines
12. land premiums and annual rents
13. boarding tax
14. air space tax
15. landing fees
16. harbour fees
17. berthing fees
18. bed tax
19. gamming and lotteries tax
20. residence and work permit fees
21. FIB application and approval fees
22. research fees

Part II  
States Governments Tax Revenues  
[Clause 164]

1. licence fees and charges
2. company tax
3. PAYE
4. Goods and services tax
5. Sales tax
6. Stamp duties
7. tariff tax
8. penalties and fines
9. land premiums and annual rents
10. boarding tax
11. air space tax
12. landing fees
13. harbour fees
14. berthing fees
15. bed tax
16. gamming and lotteries tax
17. residence and work permit fees
18. FIB application and approval fees
19. researches fees
20. mining and prospecting fees

Part III  
Community Governments Tax Revenues  
[Clause 162]

1. basic rates
2. local business tax
3. entrance and anchorage fees
4. court fees
5. live stock tax
6. dog fees
7. air craft landing fees
8. intellectual property fees
9. terrestrial and marine resources fees
10. royalties
11. withholding tax
12. carbon trading
13. conservation fees
14. National heritage area fees
15. liquor licences fees
16. land leases fees
17. fuel depot fees
18. researches fees
19. excursion fees

- [20. filming fees](#)
- [21. penalties and fines](#)
- [22. access fees](#)
- [23. berthing fees](#)

SCHEDULE TEN  
ELECTION OF THE PRIME MINISTER  
(Clause 118 (1))

**1. Calling of election meeting**

- (1) Whenever there is a vacancy in the office of the Prime Minister, the Speaker [of the Federal Parliament](#) shall convene a meeting of the members for the purpose of electing [the Prime Minister](#) by issuing to each member a notice stating –
- (a) the date, place and time of the election meeting; and
  - (b) the place at and the date and time on which nomination papers are to be delivered to the [Speaker of the Federal Parliament](#) which time shall not be later than four days before the date appointed for the election meeting.
- (2) All nomination papers must be accompanied by a declaration sworn by the candidate that he or she is not disqualified under clause [72](#) of this Constitution to hold office as the [Prime Minister](#).

**2. List of Candidates**

- (1) A list specifying all candidates nominated and their respective nominators shall be submitted by, or by the direction of, the [Speaker of the Federal Parliament](#) to each member prior to the election meeting.

**3. Candidature**

- (1) [All members of the Federal Parliament shall be eligible for candidature.](#)
- (2) No person shall be a candidate unless he or she is nominated as such by four members, and no member may nominate more than one candidate.
- (3) Any candidate may withdraw his or her candidature at any time before the conclusion of the election.

**4. Election may be countermanded or suspended –**

- (1) The [Speaker of the Federal Parliament](#) may countermand or suspend an election, at any stage of an election, if –
- (a) a candidate dies;
  - (b) a candidate, in the opinion of the [Speaker of the Federal Parliament](#) is seriously incapacitated; or
  - (c) a candidate is not eligible or there are issues regarding the nomination or eligibility of a candidate.

(d) in the opinion of the [Speaker of the Federal Parliament](#) the election cannot be, or is unlikely to be, successfully completed.

(2) If an election is countermanded the election procedure shall be commenced from its beginning.

(3) If an election is suspended, the election proceedings shall be undertaken at a later time nominated by the [Speaker of the Federal Parliament](#).

## **5. Method of voting**

(1) The election shall be by secret ballot.

(2) Each member shall have only one vote at the first, and at each subsequent ballot, if any, held in accordance with paragraph 7.

## **6. Conduct of the meeting**

(1) The election meeting shall be presided over, and the election shall be conducted by the [Speaker of the Federal Parliament](#).

(2) The [Speaker of the Federal Parliament](#) may for the purpose of counting votes, and for any other purpose related to the conduct of the election, enlist the assistance of any officer that may be necessary.

(3) No person other than the [Speaker of the Federal Parliament](#), or an appointed officer shall be present at an election meeting.

## **7. Voting procedure**

(1) If any candidate receives an absolute majority of votes at any ballot he or she shall thereby be elected as [the Prime Minister](#).

(2) If no candidate receives an absolute majority of votes at the first ballot, a further ballot shall be held, at which –

(a) the candidate who received the fewest votes at the first ballot shall be eliminated;

(b) if there is a tie between two or more candidates for the fewest number of votes received at the first ballot, the [Speaker of the Federal Parliament](#) shall decide by lot which of the candidates shall be eliminated.

(3) If in the second ballot no candidate receives an absolute majority of votes, subject to sub-[clause](#) (5), further ballots shall be held until one candidate receives an absolute majority of votes.

(4) The procedure specified in sub- [paragraph](#) (1) and (2) relating to the first and second ballots shall apply to subsequent ballots.



(5) If, after one or more ballots, all candidates save two have been eliminated, only one further ballot shall be conducted to decide the election between the two candidates at which the candidate receiving the greatest number of votes shall be elected [the Prime Minister](#).

(6) If the ballot conducted in accordance with sub-[paragraph](#) (5) results in a tie between two candidates, one further ballot shall be conducted to decide the election between the two candidates, and if there is again a tie between them, the [Speaker of the Federal Parliament](#) shall countermand the election and the procedure shall be commenced from the beginning.

(7) No ballot shall be held within a period of less than six hours after the conclusion of the preceding ballot.

**8. Announcement of results** – When the count has been completed in any ballot the [Speaker of the Federal Parliament](#) shall forthwith announce to the meeting the number of votes received by each candidate and, where any candidate has received an absolute majority of votes, or the greater number of votes under [clause](#) 7 (5) or (6), shall declare the candidate to have been elected [Prime Minister](#).

**9. Notification results** – Upon the election of [the Prime Minister](#), the [Speaker of the Federal Parliament](#) shall cause the fact and the identity of the [Prime Minister](#) to be –

- (a) made known to the public in any appropriate manner; and
- (b) published as soon as possible in the Gazette.

**10. Resolution of disputes** – Any dispute arising out of or in connection with the calling or conduct of any election meeting or the election of the [Prime Minister](#) under this Schedule shall be determined by the [Speaker of the Federal Parliament](#), whose determination of the matter in dispute shall be final and conclusive, and may not be questioned in any proceeding whatsoever.

**11. Functions of the [Speaker of the Federal Parliament](#)** – The functions conferred upon the [Speaker of the Federal Parliament](#) by this Schedule shall be exercised in [his or her own](#) deliberate judgment.