

# 2013 DRAFT FEDERAL CONSTITUTION OF SOLOMON ISLANDS

## ARRANGEMENT OF CLAUSES

### PREAMBLE

#### CHAPTER ONE: FOUNDATION PROVISIONS

1. Foundations of the Republic
2. Promotion, Preservation, Maintenance of Unity, Peace, Reconciliation and Security
3. Sovereignty of the Republic
4. Capital of the Republic
5. Languages
6. National Flag
7. National Anthem
8. National Emblem
9. National Motto
10. Honours and Awards
11. Institution of Criminal Prosecution
12. Supremacy of the Federal Constitution
13. Interpretation of the Constitution.
14. Defense of the Constitution
15. Laws of the Federal Democratic Republic of Solomon Islands

#### CHAPTER TWO: THE SOCIAL CHARTER BETWEEN THE REPUBLIC AND THE PEOPLE

16. Duties of the Republic
17. Duties of the People and Citizens of Solomon Islands
18. Non-justiciability

#### CHAPTER THREE: CUSTOMARY LAND, OTHER CUSTOMARY RESOURCES OR PROPERTIES –

19. Ownership of Customary Land, Other Customary Resources or Properties.
20. Usage of Customary Lands and other Customary Resources or Properties
21. Succession Rights to Ownership and Usage Rights of Customary Lands and Other Customary Resources or Properties.
22. Right to Control Development of Customary Land and Resources
23. Right to the Conservation, Preservation, Restoration and Protection of Customary Lands and Resources.
24. Right to Retention of Ownership, Control and Protection of Culture, Arts and Intellectual Property.
25. Right to Preservation of our Worthy Customs, Laws and Traditions;
26. Right against Forceful Removal from Customary Land for Development.

**Note: The next plenary to consider a separate Chapter for Public Lands**

27. Special Provisions on Public Lands

## **CHAPTER FOUR: PROTECTION OF FUNDAMENTAL RIGHTS AND FREEDOMS OF THE INDIVIDUAL**

- 28. Fundamental Rights and Freedoms of the Individual.
- 29. Protection of Right to Life.
- 30. Protection of Right to Personal Liberty.
- 31. Protection from Slavery and Forced Labour.
- 32. Protection from Inhuman Treatment.
- 33. Protection from Deprivation of Property.
- 34. Protection for Privacy of Home and Other Property.
- 35. Provision to Secure Protection of Law.
- 36. Protection of Freedom of Conscience.
- 37. Protection of Freedom of Expression.
- 38. Protection of Freedom of Assembly and Association.
- 39. Protection of Freedom of Movement.
- 40. Protection from Discrimination on Grounds of Race, etc
- 41. Provisions for Period of Public Emergency.
- 42. Compensation for Contravention of Rights and Freedoms.
- 43. Enforcement of Protective Provisions.
- 44. Interpretation and Savings

## **CHAPTER FIVE: CITIZENSHIP**

- 45. General Principles concerning Citizenship
- 46. Retention of Existing Citizenship
- 47. Acquisition of Citizenship
- 48. Citizenship by Birth
- 49. Application for Citizenship
- 50. Dual Citizenship
- 51. Termination of Citizenship
- 52. Regaining of Solomon Islands Citizenship.
- 53. Additional Provisions

## **CHAPTER SIX: GOVERNMENT OF SOLOMON ISLANDS**

### **Part I - Structure of Government**

- 54. Composition of Government in the Republic

### **Part II - Principles of Co-operative Government**

- 55. Principles of Co-operative Government

### **Part III - Roles and Duties of Members of Government**

- 56. Duties of Members Generally
- 57. Primary Duties of Federal Members

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

- 58. Office of the President
- 59. Powers and Functions of the President

- 60. Qualifications for Election as President
- 61. Disqualification from Election
- 62. Election of the President.
- 63. Assumption of Office of President
- 64. Term of Office of the President
- 65. Impeachment of the President
- 66. Vacancy in the Office of the President
- 67. The Acting President of the Federal Democratic Republic of Solomon Islands.

## **CHAPTER EIGHT: THE FEDERAL PARLIAMENT**

### **Part I - Parliament**

- 68. Establishment of the Federal Parliament of Solomon Islands
- 69. Powers of the Federal Parliament
- 70. Executive Authority
- 71. Arrangements between Federal and State Governments

### **Part II - Composition of Parliament and Qualification of Members**

- 72. Composition of Parliament
- 73. Oath of Office
- 74. Qualification for Membership
- 75. Disqualification from Candidacy and Membership
- 76. Vacation of Seat
- 77. Recall

### **Part III - Rules and Procedures of Parliament**

- 78. Standing Orders
- 79. Presiding in Parliament
- 80. Committees of Parliament
- 81. Procedure of Parliament
- 82. Exercise of the Legislative Power
- 83. Assent of Bills
- 84. Quorum at Meetings of Parliament
- 85. Voting in Parliament

### **Part IV - Term, Sessions, Meetings and Sittings of Parliament**

- 86. Term of Parliament
- 87. Dissolution of Parliament
- 88. General Elections

### **Part V - The Speaker and other Officers of Parliament**

- 89. Speaker and Deputy Speaker
- 90. Leader of the Alternative Government
- 91. Clerk of Federal Parliament

## **Part VI - General Matters**

- 92. Privileges of Federal Parliament and its Members
- 93. Freedom of Speech and Debate
- 94. Proceedings to be Held in Public

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

### **Part 1- Formation of Government by a Political Party or Parties**

- 95. Formation of the Executive Arm of Government after a General Election
- 96. Vacation of Seat for Change of Political or Individual Allegiance

### **Part II - The Prime Minister**

- 97. Prime Minister
- 98. Term of Office
- 99. Dismissal of Government after Successful Vote of No- Confidence
- 100. Change of Leadership within the Executive Arm of Government
- 101. Resignation
- 102. Absence or Illness

### **Part III – Ministers**

- 103. Appointment
- 104. Term of Office
- 105. Accountability to Parliament
- 106. Approval to leave Solomon Islands for Official Overseas Trips

### **Part IV – Cabinet**

- 107. Cabinet
- 108. Cabinet Committees
- 109. Cabinet Responsibilities
- 110. Exercise of Executive Authority of Federal Cabinet
- 111. Proceedings of Cabinet
- 112. Decisions and Accountability
- 113. Conduct of Members of Cabinet
- 114. Secretary to Cabinet

### **Part V - Attorney –General**

- 115. The Office of Attorney -General

## **CHAPTER TEN: FEDERAL REVENUE ARRANGEMENTS**

### **Part 1 - Federal Revenues**

- 116. Federal Taxing Powers
- 117. Federal Government Tax Revenue Sources

## **Part II - The Federal Consolidated Fund**

- 118. Sharing of Taxation proceeds for Joint Ventures between Federal, State and Community Governments–
- 119. Federal Consolidated Fund
- 120. Withdrawals from the Consolidated Fund and Other Public Funds
- 121. Debts and Other Expenses charged upon the Consolidated Fund
- 122. Remuneration of Persons holding Public Office

## **Part III - Authorization of Expenditure from the Federal Consolidated Fund**

- 123. Estimates of Revenues and Expenditure
- 124. Appropriation Bills
- 125. Additional or Supplementary Appropriation
- 126. Authorization in Advance of Appropriation
- 127. Warrants for Unforeseen Expenditure
- 128. Delay in Appropriation due to Dissolution of Parliament
- 129. Excess or Unauthorized Expenditure

## **Part IV- Reserve Bank of Solomon Islands**

- 130. Reserve Bank of Solomon Islands
- 131. Currency of Solomon Islands

## **CHAPTER ELEVEN: THE CONGRESS OF STATES**

- 132. Congress of States
- 133. Powers and Functions of the Congress of States
- 134. Meetings of the Congress of States

## **CHAPTER TWELVE: STATE GOVERNMENT**

### **Part I - State Governments**

- 135. Right to Self Autonomy of State

### **Part II - States and States' Boundaries**

- 136. States and States' Boundaries

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

- 137. Certification of State Constitutions

### **Part IV - State Justice System**

- 138. State Courts

## **Part V: Traditional Justice**

### **139. Traditional Law Practice**

## **Part VI: Prime Minister and State Premiers Conference**

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

## **CHAPTER THIRTEEN: COMMUNITY GOVERNMENTS**

### **141. Community Government**

### **142. The Legislative Powers of Community Governments**

### **143. The Community Government Tax Revenue Sources**

## **CHAPTER FOURTEEN: STATE REVENUE ARRANGEMENTS**

### **144. State Government Taxes**

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

### **146. Undesignated Powers of Taxation**

### **147. State Loans**

### **148. State Banks**

### **149. Sinking Funds**

## **CHAPTER FIFTEEN: STATE POWERS**

### **150. State Powers**

### **151. Executive Authority**

### **152. Arrangements between State Governments**

### **153. Exercise of Powers Generally**

### **154. Limitations of Power**

## **CHAPTER SIXTEEN: FINANCIAL SHARING PROVISIONS**

### **Part I - Sharing of Federal Revenues**

#### **155. Federal Revenues to be Shared**

#### **156. Sharing of all Natural Resource Revenues**

#### **157. Sharing of Federal Tax Revenues**

#### **158. Review and Amendments of the Sharing Ratios**

#### **159. Revenue Sharing Account**

#### **160. Role of the Reserve Bank of Solomon Islands**

#### **161. Equalization Transfers and State Disparities**

#### **162. Foreign Aid Funds**

#### **163. Special Revenue Arrangement applying to the State of Guadalcanal**

#### **164. Special Revenue Arrangements applying to Other States.**

### **Part II - National Finance Council**

#### **165. Establishment of National Finance Council**

#### **166. The Functions of the National Finance Council**

## **CHAPTER SEVENTEEN: HONIARA CITY**

- 167. Status of Honiara City
- 168. Objectives of Honiara City
- 169. Administrative Principles
- 170. Governance Principles
- 171. Federal Law Provisions

## **CHAPTER EIGHTEEN: ENVIRONMENT, LAND AND DEVELOPMENT**

### **Part I - Environment and Natural Resources**

- 172. Environmental Principles

### **Part II - Land, Air and Sea Resources and Other Properties**

- 173. Ownership of Land, Sea, **Air** and Other Properties
- 174. **No Compulsory** Acquisition of Customary Land by Governments
- 175. Mutual Obligations in the Provision of Public Works

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

- 176. National Development Plan
- 177. State and Community Government Development Plans
- 178. Contents of Plans

### **Part IV - Economic and Social Reforms and Development**

- 179. Economic and Social Reforms and Development
- 180. Free Trade Arrangements
- 181. Control of Water

## **CHAPTER NINETEEN: THE LEGAL SYSTEM**

### **Part I - Judicial Authority**

- 182. Judicial Authority

### **Part II - The Superior Courts**

- 183. The Superior Courts of Solomon Islands
- 184. The Constitutional Court
- 185. The Court of Appeal
- 186. The High Court
- 187. Advisory Jurisdiction
- 188. Power of Courts in Constitutional Matters
- 189. Disqualification of Judge
- 190. Inherent Powers

### **Part III - Court Procedure**

191. The Rules of Court

### **Part IV - Tenure and Other Matters**

- 192. Qualification for Appointment
- 193. Criteria for Appointment of Judicial Officers
- 194. Tenure of Judges
- 195. Removal of Judge for Cause
- 196. Oath of Office
- 197. The Judicial and Legal Services Commission

## **CHAPTER TWENTY: PREROGATIVE OF MERCY**

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

198. Federal Powers of Pardon

### **Part II - Exercise of State Powers**

- 199. State Powers of Pardon
- 200. Limitation of Exercise of Power of Pardon
- 201. Power to Grant Pardon Vests Exclusively in the President or the State Governor

## **CHAPTER TWENTY-ONE: REPRESENTATION OF THE PEOPLE**

### **Part I - Electoral Arrangements**

- 202. General Principles
- 203. Disqualification from Registration
- 204. Voting Procedures
- 205. Federal Boundaries Commission

### **Part II - Political Parties**

- 206. The Right to Form a Political Party
- 207. Registration and Deregistration of Political Parties
- 208. Qualifications for Registration
- 209. Cancellation of Registration
- 210. Party Discipline
- 211. Restrictions on Holding of Office in Political Parties.
- 212. Deregistered Political Parties

## **CHAPTER TWENTY-TWO: PUBLIC ADMINISTRATION**

### **Part I - Principles Governing Federal and State Public Administration**

- 213. Purpose and Functions of the Public Service
- 214. Principles Governing Public Administration

## **Part II - Public Service Commission**

- 215. Establishment of a **Federal** Public Service Commission
- 216. The Powers and Functions of the **Federal** Public Service Commission

## **Part III - Federal and State Public Services**

- 217. The Federal Public Service
- 218. Establishment of State Public Service Commission and State Public Service
- 219. **Establishment of a Community Government Public Service**

## **Part IV – Federal and State Police Force**

- 220. **Establishment of the Federal** Police Force
- 221. **Federal** Policing Jurisdiction and Responsibilities
- 222. Solomon Islands **General** Policing Policy
- 223. **Establishment of a State Police Force**
- 224. **Each State** Policing Jurisdiction and Responsibilities
- 225. **Each State’s General** Policing Policy

## **Part V - Correctional Services**

- 226. Correctional Services
- 227. Correctional Services Responsibilities
- 228. State Responsibilities

# **CHAPTER TWENTY-THREE: INSTITUTIONS SUPPORTING AND STRENGTHENING CONSTITUTIONAL DEMOCRACY**

## **Part I - Governing Principles**

- 229. Establishment of Governing Principles
- 230. Appointments to Institutions

## **Part II - Public Solicitor**

- 231. The Office of Public Solicitor
- 232. The Functions of the Office
- 233. Tenure of Office of the Public Solicitor
- 234. Legal Aid and Cost for Services
- 235. Accessibility of Office.

## **Part III - Director of Public Prosecutions**

- 236. The Office of the Director of Public Prosecutions
- 237. Functions of Office of the Director of Public Prosecutions
- 238. Tenure of Office of the Director of Public Prosecutions

## **Part IV - Human Rights Commission**

- 239. The Human Rights Commission
- 240. The Functions of the Human Rights Commission

## **Part V - Auditor-General**

- 241. The Auditor-General
- 242. Functions of the Auditor-General
- 243. Tenure of Office of the Auditor General

## **Part VI - Electoral Commission**

- 244. **Establishment of the** Electoral Commission
- 245. Functions of the Electoral Commission
- 246. Composition of the Electoral Commission

## **Part VII – Ombudsman**

- 247. The Office of the Ombudsman
- 248. Functions of the Ombudsman
- 249. Reporting Obligations
- 250. Tenure of Office of the Ombudsman

## **Part VIII - Leadership and Anti-Corruption Commission**

- 251. The Leadership and Anti-Corruption Commission
- 252. Focus and Functions

## **Part IV - General Provisions**

- 253. Removal of Office-Holders
- 254. Establishment of Additional Institutions to Support and Strengthen Constitutional Democracy
- 255. **Accessibility to the Institutions in the States**

## **CHAPTER TWENTY-FOUR: ACCOUNTABLE AND TRANSPARENT GOVERNMENT**

### **Part I - Leadership Code**

- 256. Application of the Leadership Code
- 257. Declaration of Assets and Liabilities
- 258. Leadership Obligations
- 259. Gifts and Donations
- 260. Actions of Nominees, Trustees etc
- 261. Serious Offences under the Leadership Code
- 262. Further Provisions Relating to Leadership

### **Part II - Transitional Arrangements and Other Matters**

- 263. Application of State Laws

## **CHAPTER TWENTY-FIVE: MISCELLANEOUS FEDERAL POWERS AND RESPONSIBILITIES**

- 264. Provision for Special Areas
- 265. Taking over Public Debts of States
- 266. International Agreements

## **CHAPTER TWENTY-SIX: AMENDMENT OF CONSTITUTION**

267. Alteration of the Constitution

## **CHAPTER TWENTY-SEVEN: GENERAL PROVISIONS**

268. Diligent Performance of Obligations

269. Definitions

270. Transitional Arrangements

271. Repeal of Laws

272. Commencement

273. Referendum

SCHEDULE ONE TO THE CONSTITUTION: Election of the President of the Republic

SCHEDULE TWO TO THE CONSTITUTION: Forms of Oaths and Affirmations

SCHEDULE THREE TO THE CONSTITUTION: Entitlements of Members of the Federal Parliament

SCHEDULE FOUR TO THE CONSTITUTION: Boundaries of the States

SCHEDULE FIVE TO THE CONSTITUTION: Federal, States and Community Governments

**Legislative Powers**

SCHEDULE SIX TO THE CONSTITUTION: Revenue Sharing Formulas

SCHEDULE SEVEN TO THE CONSTITUTION: State Constitutions

SCHEDULE EIGHT TO THE CONSTITUTION: Transitional and Savings Provisions

SCHEDULE NINE TO THE CONSTITUTION: Tax Revenue Sources

## PREAMBLE

**God Creator, Sovereign, Supreme and Almighty, acknowledging and accepting Your grand design and divine purpose for these archipelagic isles and their inhabitants to exist as manifested in their socio political systems based on cultures, traditions, customs, and practices and social human relationships based on tribes, clans and lineages;**

**We the people and citizens of the Federal Democratic Republic of Solomon Islands:**

**Confirming** the pre existing nation states of our original socio political order;

**Convinced** that our country's heterogeneous character makes a federal system of government a more suitable political system;

**Experiencing and Suffering** from the incompatibility of the unitary system of government for political independence with our heterogeneous character;

**Thereby justifying** our departure from the Solomon Islands Independence Order 1978;

**Recognizing, Acknowledging and Reaffirming** our original roots to formulate our home-grown systems of government based on the federation of our pre existing nation states;

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

**Valuing, 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, wisdom and worthy customs;

**We the people and citizens of the Federal Democratic Republic of Solomon Islands**, now under the guidance and blessings of God the Creator, commit this Federation for Solomon Islands and by Divine help;

- (a) **To uphold Christian and other similar spiritual principles** and our worthy customs and traditions;
- (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 tribes, clans, lineages, natural family or communities;
- (e) **To govern** through democracy, accountability, transparency, equality and social justice and rule of law;
- (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 the environment, land, sea and air** and our cultural identity and intellectual property rights for the present and future generations;

- (h); **To create, protect, manage and sustain** a viable economic base, for the economic growth of the Republic;
- (i) **To work against** universal problems of poverty, hunger, illiteracy, corruption, pollution, **sex slavery, human trafficking**, discrimination, unemployment, effect of climate change, health related issues, terrorism, violence, crimes and other social ills;
- (j) **To manage and monitor** population growth;
- (k) **To meet** the obligations of citizens under this Constitution with dignity and integrity; and
- (l) **To strive to** bring together a people of diversity.

**We the people and citizens of the Federal Democratic Republic of Solomon Islands**, acting under the Supremacy of God and the authority of our traditional clan and tribal systems and leadership,

**Do now therefore declare -**

Following the national consultation with the people, provincial consultations through our Constitutional Congress and the Eminent Persons Advisory Council, the Joint Constitutional Congress and the Eminent Persons Advisory Council Plenary Sessions, and **the** National Convention,

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

And acting **under** the guidance of Almighty God, through the **final** decision of **the people at the National Convention made** this \_\_\_\_\_ day of \_\_\_\_\_ 2014 **and later formally endorsed as it is by the** elected representatives on this \_\_\_\_\_ day of \_\_\_\_\_ 2014.

**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 THE FEDERAL DEMOCRATIC REPUBLIC OF SOLOMON ISLANDS**

## CHAPTER 1: FOUNDATION PROVISIONS

### 1. Foundation of the Republic-

Solomon Islands shall be a Federal Democratic Republic based upon the principles of:

- (a) Supremacy and Sovereignty of the Almighty God the Creator;
- (b) Federation of **our pre existing nation** states and our Communities;
- (c) Strength of and respect for our wisdom, worthy customs and traditions;
- (d) **Preservation, maintenance and promotion of community norms, values and governance traditional practices;**
- (e) Supremacy of the Constitution and the rule of law;
- (f) Advancement and protection of the fundamental rights and freedoms of the individual;
- (g) The promotion, preservation and maintenance of unity, peace, reconciliation and security.
- (h) **The involvement of communities in conflict resolutions;**
- (i) **The application of** adversarial and/or consensual democracy **where appropriate;**
- (j) The advancement and promotion of creativity and innovation for the common good of the Republic.

### 2. Promotion, Preservation and Maintenance of Unity, Peace, Reconciliation and Security of the Federal Democratic Republic of Solomon Islands -

- (a) No military organization shall be created or operated within the Federal Democratic Republic of Solomon Islands 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, reconciliation and security of Solomon Islands;
- (b) No law made under sub-clause (a) shall be brought into force unless it has the support of 2/3 of all the State Parliaments and Community Governments for the establishment of appropriate security organizations within the Republic;  
  
*(NOTE: ratification by 2/3 of state parliaments of federal law on military establishment to be taken to Provincial and HCC Executives and then to next Plenary).*
- (c) **All rank and file in the military, paramilitary and <sup>5</sup>militia shall be answerable to the President who is the Commander-in-Chief through the appropriate commanding officers within the hierarchy;**
- (d) The security organizations referred to in sub-clause (b) shall comprise disciplined security forces and law enforcement agencies or agents **and subject to Part IV and Part V of Chapter Twenty Two the formation of autonomous State Police Force and shared responsibilities in Correctional Services;**
- (e) **All military, paramilitary and militia shall have in their rank and file at least an equitable representation of indigenous persons and citizens of the Republic;**

- (f) All personnel of the organizations referred to in the preceding provision shall obtain authentic police and health clearance documentation and the required authentic minimum academic documents.

### **3. Sovereignty of the Republic**

- (1) The Federal Democratic Republic of Solomon Islands shall be a Sovereign Republic and will 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, provided that such international obligations and agreements are made into domestic laws by the Federal Parliament;
- (2) The States and Community Governments shall be consulted in the promulgation of domestic laws referred in sub clause (1);
- (3) Such domestic laws shall be brought into force after they have been ratified by an absolute majority of the State Parliaments and Community Governments.

### **4. Capital of the Republic**

- (1) Until determined otherwise, Honiara City on Guadalcanal shall be the Capital of the Republic and the seat of the Federal Government;
- (2) The land and sea boundaries of Honiara City shall be as contained in the official records kept by the Federal Surveyor General, unless such boundaries are varied by mutual consent of the Federal Government, State Government of Guadalcanal and Honiara City Council within a period of 5 years from the commencement of this Constitution and incorporated into a Federal Law. The Federal Government shall provide the necessary funds to enable the three parties to negotiate for a mutual settlement of the land and sea boundaries of Honiara City;
- (3) If no mutual agreement is reached under sub clause (2) then litigation to ascertain the correct land and sea boundaries of Honiara City must be commenced and completed with the period of another 5 years;
- (4) The land and sea boundaries of Honiara City shall be confirmed as that contained in the official records kept by the Federal Surveyor General if no variation is made under sub clauses (2) or (3).

### **5. Languages**

- (1) English and Pijin shall be the official languages of the Republic. Other languages shall be used where appropriate;
- (2) All indigenous vernaculars of Solomon Islands shall be equally maintained, respected and promoted.

## **6. National Flag.**

Unless changed by a Federal Law, the current National Flag of Solomon Islands shall be maintained and respected and shall become the National Flag of the Republic.

## **7. National Anthem**

Unless changed by a Federal Law, the current National Anthem of Solomon Islands shall be maintained and respected and shall become the National Anthem of the Republic.

## **8. National Emblems**

Unless changed by a Federal Law, the current National Emblems of Solomon Islands shall be maintained and respected and shall become the National Emblems of the Republic.

## **9. National Motto**

Unless changed by a Federal Law, the current National Motto shall be maintained and respected and shall become the National Motto of the Republic.

## **10. Honours and Awards**

With the coming into force of the Federal Constitution, all Honours and Awards of the British government shall cease to be conferred on persons in the Republic and only Honours and Awards of the Federal Democratic Republic of Solomon Islands shall be conferred by the Head of State acting upon advice of the Honours and Awards Committee of the Republic.

## **11. Institution of Criminal Prosecutions**

With the coming into force of the Federal Constitution, all criminal prosecutions against accused persons shall be instituted in the name of the Federal Democratic Republic of Solomon Islands.

## **12. Supremacy of the Federal Constitution -**

- (1) This Constitution is the supreme law of the Federal Democratic 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 shall not be subject to challenge in any court by any official organs of the Federal Democratic Republic of Solomon Islands.

## **13. 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 Federal Democratic Republic of Solomon Islands.

(2) The court, person or authority interpreting this Constitution shall in cases of ambiguity refer to **the Constitutional Reform Reports** and any other 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 Federal Democratic Republic of Solomon Islands.

**(Note: to take into account the Constitutional Reform Reports at the next Plenary)**

#### **14. Defense 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) organizes 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) organizes or otherwise partakes in any informal armed group or groups or unofficial militia force contrary to law; or
  - (c) aids and abets any person in the conduct prescribed in this sub-clause, commits an offence under the Constitution that may be punishable by applicable criminal law.
- (2) No law shall grant to any persons amnesty or immunity from prosecution in regard to any offence committed under sub clause (1).
- (3) A person convicted of an offence under this section shall not be eligible for election or appointment to any public office.

#### **15. Laws of the Federal Democratic Republic of Solomon Islands -**

- (1) The laws of the Federal Democratic Republic of Solomon Islands shall comprise:
  - (a) This Federal Constitution;
  - (b) The 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) Customary law and practice;

- (g) Acts of the Parliament of the United Kingdom of general application as at 7 July 1978;
- (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.

## **CHAPTER TWO: THE SOCIAL CHARTER BETWEEN THE REPUBLIC AND THE PEOPLE**

### **16. Duties of the Republic –**

- (1) The Republic shall create 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 spheres, including clan, tribal village communities, church and other local communities;
  - (c) uphold and protect the worthy customs of the clan and tribal communities, including rights of customary ownership of land and natural resources and their customary and intellectual properties;
  - (d) recognize its responsibility to future generations in safeguarding the environment and the biodiversity of Solomon Islands, and encouraging sustainable resource utilization 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 access 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 spheres of governance; and accountability by all government officials and public authorities and to eliminate corruption in all its forms;
  - (j) ensure ready access for all people to formal and traditional institutions of justice;
  - (k) promote where practicable equal participation of both men and women in public affairs, with particular emphasis on the involvement of women, youth and persons with **special needs** in the life of the Republic; and
  - (l) remove and destroy unauthorised firearms from Solomon Islands;
  - (m) assist language **and cultural** groups to write, print and document their native languages and **cultures**.

## **17. Duties of the People and Citizens of Solomon Islands -**

As part of democratic participation and reciprocity the people and residents of Solomon Islands shall-

- (a) uphold and respect the Constitution and its values;
- (b) uphold and respect the laws of Solomon Islands including the fundamental rights and freedoms of the individual;
- (c) uphold and respect the genuine and worthy local customs and cultures;
- (d) uphold and practise self-reliance, gainful occupation, subsistence economy, reciprocity, tolerance, respect, responsibility, dedication, honesty, trust, forgiveness, joy, peace, happiness, caring and sharing within the communities;**
- (e) respect and live in harmony with others;
- (f) promote and protect natural family life;
- (g) protect public property from damage, waste and misuse;
- (h) respect and protect the environment and conserve natural resources;
- (i) co-operate with public agencies for the maintenance of law and order;
- (j) refrain from conducting, assisting or condoning acts of corruption;
- (k) hold public officials and authorities to appropriately account for the fair and lawful conduct of government;
- (l) uphold and respect Christian or religious ethics, principles and values.

## **18. Non-Justiciability**

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 LANDS AND OTHER CUSTOMARY RESOURCES OR PROPERTIES**

### **19. Ownership of Customary Lands and all Other Customary Resources or Properties.**

(1) With the exception of Rennell and Bellona where the right to own customary lands and other customary resources or properties vests in the individual and not in a group, the right to own customary lands and other customary resources or properties vests in a tribe, clan, line or other customary group entity **or individuals** as the case may be indigenous to the localities where those customary lands etc are situated and where the indigenous inhabitants of such localities have settled or occupied such customary land etc and have used or enjoyed the same from time immemorial.

(2) The rights to own customary lands and other customary resources or properties referred to in the preceding sub clause includes owning the airspace over such customary lands etc and the fixtures on and everything below the same down to the centre of the earth including in particular all mineral, oil, petroleum and natural gas.

(3) The reference to customary lands and other customary resources or properties in sub clause (1) is not limited only to the things above, on and below land but includes also areas of the sea, reefs, fishing grounds which the indigenous inhabitants have used or enjoyed from time immemorial **and the extent of ownership in respect of the same shall be the same as the preceding sub clause.**

(4) No customary lands and other customary resources or properties shall be alienated unless:

- (a) the tribe, clan, line or individuals as the case may be, have given either free actual consent or free informed consent before the alienation took place ; and
- (b) the alienation is in accordance with a valid customary **practice**, process or processes applicable in the locality; and
- (c) fair and reasonable compensation for such alienation is made to the right tribe, clan, line or individuals as the case may be; or
- (d) the alienation is in accordance with a statute enacted for such purpose including provisions for due process for persons aggrieved and for payment of fair and reasonable compensation for such alienation to the right tribe, clan, line or individuals as the case may be.

## **20. Usage of Customary Land, Other Customary Resources or Properties**

(1) The rights to use customary lands and other customary resources or properties which include the sea, reef and fishing grounds is directly linked to the right to own as amplified in clause 19 and as such is limited to indigenous tribes, clans, lines or individual inhabitants of the localities as the case may be, who have been using such customary lands etc as primary, secondary or tertiary owners according to the customary law and practice of the particular locality concerned.

(2) The rights to use referred to in the preceding sub clause shall not be abrogated or alienated unless:

- (a) the tribe, clan, line or individuals as the case may be, have given either free actual consent or free informed consent before the alienation took place; and
- (b) the alienation is in accordance with a valid customary process or processes applicable in the locality; and
- (c) fair and reasonable compensation for such alienation is made to the right tribe, clan, line or individuals as the case may be; or
- (d) the alienation is in accordance with a statute enacted for such purpose including provisions for due process for persons aggrieved and for payment of fair and reasonable compensation for such alienation to the right tribe, clan, line or individuals as the case may be.

(3) The Federal, State and Community Governments shall enact laws and make administrative measures to prevent any unauthorized alienation, intrusion, interference or encroachment of the right to use.

## **21. Succession Rights to Ownership and Usage Rights of Customary Lands and Other Customary Resources or Properties.**

Succession rights as to the right to own and the right to use customary land and other customary resources or property including areas of the sea, reefs and fishing grounds as amplified in the preceding clauses shall devolve in accordance with the applicable customary law and practice of each particular locality to be set out in each State Constitution or a Community Constitution or applicable Governing Rules.

## **22. 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, utilization 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 by reputable and recognized independent body 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. **If the findings of the Environment Impact Study indicate gross harm will affect life and environment then no development shall take place.**

(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 negotiate and 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.

## **23. 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.

## **24. 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 'tabu' traditional properties, culture, arts and intellectual property subject to law.

## **25. Right to Preservation of Worthy 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.

## **26. 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 authorized 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.

**(Note: The Next Plenary to consider the possibility of creating separate chapter or shift to any Chapter that is most appropriate)**

## **27. Special Provisions on Public Lands**

(1) Return of Perpetual Estate Titles in Public Lands to Descendants of Original Customary Land Owners.

(a) All perpetual estate titles in public lands, whether developed or undeveloped shall be returned by the Commissioner of Lands to the descendants of the original customary land owners;

(b) A Federal law shall be enacted for the purpose of ascertaining the descendants of the original customary land owners before the Lands Commission transfers the perpetual estate title of such public lands;

(c) Where such public land is developed the developer which may include the Republic shall hold a leasehold title or a fixed term estate title limited to a term not exceeding 50 years from the descendants of the original customary land owners;

(d) The 50 years lease hold title or the fixed term estate title referred to in the preceding sub clause may be renewed if the descendants of the original customary land owners who are the holders of the perpetual estate title agree to any renewal.

**(2) Exceptions to Return of Perpetual Estate Titles in Public Lands to Descendents of Original Customary Land Owners.**

(a) The perpetual estate titles of the public lands in the Federal Capital (Honiara City) which are currently held by the Commissioner of Lands shall now be held instead by the Lands Commission established under sub clause (3);

(b) The perpetual estate titles of the public lands in the various Provincial Capitals which are currently held by the Commissioner of Lands shall now be held instead by each respective State Government when those Provincial Capitals become State Capitals;

(c) In addition to the exceptions in the preceding sub clauses the following class of persons or institutions shall also be permitted to hold perpetual estate titles in public lands:

(i) Community Governments;

(ii) All the Christian Churches which are members of Solomon Islands Christian Association (SICA) and Solomon Islands Full Gospel Association (SIFGA) and other Christian Churches which are registered in the Republic;

(iii) Trustees of Customary Landowning Groups (tribe, clan, line or lineage as the case may be);

(iv) Trustee of individual customary landowner;

(v) a person holding such estate on trust for a Solomon Islander subject to the filing of a statutory declaration to this effect with the Registrar and in a form required by the Registrar;

(vi) a trustee in bankruptcy;

(vii) a liquidator appointed under the provision of any existing law;

(viii) a company registered in the Republic where at least 60 per centum of the equity is held beneficially by persons who are Solomon Islanders;

(ix) a personal representative or guardian;

(x) the Public Trustee;

(xi) State Owned Enterprises incorporated by any written law of Solomon Islands;

(xii) registered co-operatives under the Co-operatives Societies Act;

(xiii) community companies, under the Companies' Act 2009;

(xiv) a settler from the former Gilbert and Ellice Islands Colony who prior to 15<sup>th</sup> September 1977 had been granted, had acquired, or was holding land in perpetuity or a descendant of such settler:

Provided that such settler or his descendant shall not be entitled to be registered as the owner of a perpetual estate in any land other than such land as is referred to in this paragraph.

**(3) Establishment of the Lands Commission**

(a) There shall be established a Lands Commission.

(b) The Lands Commission shall be constituted by representatives from the States and the Commissioner of Lands, the Surveyor General and the Director of Physical Planning of Honiara City Council who shall be ex-officio members.

(c) The Lands Commission shall inter alia have the power to allocate leasehold or fixed term estates only in respect of the public land within Honiara city.

(d) The other powers and functions that is reasonably necessary or incidental to make the Lands Commission function better shall be provided for in an Act of the Federal Parliament.

#### **(4) Vesting of Perpetual Estate Titles in the Republic**

(a) Unless permitted under clause 27 (2) (a), (b) and (c) only a Solomon Islander shall be entitled to hold a perpetual estate title in public lands under this clause.

(b) No person who is not a Solomon Islander shall be permitted to hold any perpetual estate title in any customary land.

In this clause, ‘public land’ means land where the perpetual estate title is shown in the register to be held by the Commissioner of Lands for and on behalf of the Republic.

In this clause, ‘Solomon Islander’ means a person who has at least one grandparent who is a member of a group, tribe, clan or line native, aboriginal or indigenous to the Republic.

## **CHAPTER FOUR: PROTECTION OF FUNDAMENTAL RIGHTS AND FREEDOMS OF THE INDIVIDUAL**

### **28. 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, religious affiliations, 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.

### **29. 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 defense of any person from violence or for the defense 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.

(3) No persons shall be deprived of the right to life before birth, during birth or even during conception, excepting in an effort to save the mother as certified by at least two practicing medical doctors.

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

(1) No person shall be deprived of his or her personal liberty save as may be authorized 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.

(2) 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.

### **31. Protection from slavery and forced labor**

(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 labor 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** family, communal or other civic obligations.

### **32. Protection from inhuman treatment**

No person shall be subjected to torture or to inhuman or degrading punishment or other mistreatment **except for the protection and maintenance of family, village or communal peace where reasonable chastisement may be applied.**

### **33. 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 defense, 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;
- (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;
  - (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;
- (viii) of work of soil conservation or of conservation of other natural resources;
- (ix) 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 **or the compulsory taking or deprivation of property for contravention of the worthy customs and practices of the locality.**

### **34. 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 defense, 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 authorizing 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 authorizing 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 authorizing 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.

### **35. 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 defense;

(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 authorized 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 recognized 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 defense, 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.

### **36. Protection of Freedom of Conscience**

- (1) Except with his or her own consent, no person shall be hindered in the enjoyment of his or her 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 defense, 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 practice 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.

### **37. 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 defense, 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, internet, 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.

### **38. 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 defense, 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.

### **39. 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 lawfully move freely throughout the Republic, the right to lawfully reside in any part of the Republic, the right to lawfully 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.

#### **40. Protection from 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 sub-clauses (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) for the prohibition of cohabitation of same sex partners and same sex marriages;
- (f) with respect to land, the tenure of land, the resumption and acquisition of land and other like purposes;
- (g) for the advancement of the more disadvantaged members of the community; or
- (h) 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, color, 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 authorized 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 34, 36, 37, 38 and 39 of this Constitution, being such a restriction as is authorized by Clause 34(2), 36(6), 37(2), 38(2) or 39(3), as the case may be.

Note: The next Plenary to consider having another new clause as clause 41 to further restrict the Fundamental Rights and Freedoms of the Individual which should read as;

‘The Fundamental Rights and Freedoms of the Individual shall also be subject to restrictions, prohibitions, limitations or qualifications on the grounds of worthy customs and customary practices as observed within any locality of the Republic, provided that such restrictions, prohibitions, limitations or qualifications are of current application (usages or practices) in that locality and are not harsh, reasonably justifiable in a democratic society and are not repugnant to general humanity.’

#### **41. 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 sub-clause (5) of this clause, a declaration made under sub-clause (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 30, 31 (2), 34, 36, 38, 39 or 40 of this Constitution to the extent that the law in question makes in relation to any period of public emergency provision, or authorizes 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 authorizes 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.

#### **42. 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.

#### **43. 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 28 to 40 (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 28 to 40 (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 28 to 40 (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.

#### 44. 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 clauses 29 and 31 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 Community Constabulary; or
- (g) any other constabulary or police force established by Parliament.

“lawfully” means in accordance with custom, common law and equity or statutory law.

"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 37, 38 and 39 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 29, 31, 32, 33 and 40.

(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 organization, 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 authorizes 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**

### **45. General Principles concerning Citizenship**

- (1) Subject to this Chapter, all citizens of the Federal Democratic Republic 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 **the Republic** and not to any State of the Republic.

#### **46. 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.

#### **47. Acquisition of Citizenship**

Citizenship may be acquired in accordance with this Constitution or under a federal law:

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

#### **48. 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 Islander.

(2) Subject to **clause 51**, a person who is a citizen of Solomon Islands under this section shall not be deprived of that citizenship.

#### **49. 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 at different times with a period of 12 years where the aggregate period of residence is for a period of not less than 10 years;
- (c) provide evidence of intent to maintain a permanent residence in the Solomon Islands;
- (d) certified to be of good character by Police;
- (e) have knowledge of a Solomon Islands language or pijin other than English;
- (f) have knowledge and respect of the traditions, customs and culture 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 17**.

(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.

## **50. 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.

## **51. 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.

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

(1) A previously indigenous citizen of Solomon Islands who is now a citizen of another country where dual citizenship is not allowed may automatically regain citizenship of Solomon Islands without compliance with the requirements of **Clause 49** 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 where dual citizenship is not allowed may regain citizenship of Solomon Islands after compliance with the requirements of Clause 49 and renunciation of his or her current citizenship.

## **53. 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 acquisition, termination, deprivation and renunciation of citizenship;
- (c) impose requirements or prescribe procedures for the making of applications for citizenship by naturalization;
- (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’ mean descendents of indigenous Solomon Islanders who were removed out of Solomon Islands during the black birding era or as a result of natural or manmade disasters or **activities**.

## **CHAPTER SIX: GOVERNMENT OF SOLOMON ISLANDS**

### **Part I - Structure of Government**

#### **54. 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**

#### **55. Principles of Co-operative Government**

(1) All governments and organs of government shall:

- (a) be loyal to this Constitution;
- (b) preserve the Federation of States and Communities;
- (c) secure the well being of the people;
- (d) provide **efficient**, 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**

## 56. 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, skills 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, consulting and educating the electorate on political and government issues.

## 57. Primary Duties 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 the Federal Parliament shall visit their Constituencies at least three times a year.

## CHAPTER SEVEN: THE PRESIDENT OF SOLOMON ISLANDS

### 58. Office of President

- (1) The President is the **Titular** Head of State and the symbol of national unity in Solomon Islands.
- (2) The President shall be the custodian of the Federal Constitution **for and on behalf of the people and citizens of the Republic.**

### 59. Powers and Functions of the President

- (1) The powers and functions of the President shall be limited only 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 **or an Act** to the High Court for its opinion on the bill's **or Act's** constitutionality **or otherwise**;
- (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 **95 (3) or 99 (4)**;
- (f) declaring a state of emergency;
- (g) making Presidential appointments required by this Constitution or any law;
- (h) receiving and recognizing foreign diplomatic and consular representatives;
- (i) pardoning or relieving offenders;
- (j) conferring honors and awards; and
- (k) such other powers and functions as conferred by law.

## **60. Qualifications for Election as President**

The President shall be:

- (a) a citizen of the Republic; and
- (b) of age not less than fifty years.

## **61. Disqualification from Election**

(1) No person shall hold the Office of President if that person:

- (a) is under an oath of allegiance to a foreign state except where such a person is a holder of dual citizenship under clause **50**;
- (b) is not of a good moral and ethical standing;
- (c) has not completed reasonable education and wide experience;
- (d) holds or is acting in any office in the public service, or any judicial office;

- (e) is an elected member of any legislature or governmental position;
- (f) is a candidate in an election for any legislative or governmental position, other than the Office of President;
- (g) 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;
- (h) has been convicted of a criminal offence; or
- (i) is medically certified by two practicing medical practitioners to be of poor physical or mental health or otherwise adjudged to be of unsound mind;
- (j) is an undercharged bankrupt, having been adjudged or otherwise declared bankrupt under any law for the time being in force in any part of the Commonwealth;
- (k) is otherwise disqualified from holding the office of President under this Constitution.

(2) A person who is disqualified under the preceding provision, 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.

## **62. Election of the President**

- (1) The Federal Parliament shall elect the President in accordance with sub clause (3).
- (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
  - (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.

## **63. Assumption of Office of the President**

(1) The person elected as President shall assume office by taking an oath affirming allegiance to the Federal Democratic 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.

#### **64. Term of Office of the President**

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

#### **65. 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 to uphold the impeachment charges.

#### **66. 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 **62 (5)**.

#### **67. The Acting President of the Federal Democratic 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 permanent 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 until the incumbent President or the successor of the deceased President assumes office.

## **CHAPTER EIGHT: THE FEDERAL PARLIAMENT**

### **Part I - Parliament**

#### **68. Establishment of the Federal Parliament of Solomon Islands**

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

*(Note: The next Plenary acknowledged and noted that further work on the arrangement for a second chamber to be worked out for submission to the next Plenary for a decision whether or not to have a second chamber after consultation with each Provincial Executives/ Honiara City Council - resolved by Plenary on Wednesday 30/10/2013)*

#### **69. 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 Legislative matters enumerated in **List III** of Schedule Five shall be exercisable within a transitional period of ten years.
- (7)The Federal Government shall release to the State Government mentioned in the preceding sub clause all or any legislative matter in List III upon advice from each State Government that it has the necessary capacity to exercise 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**.
- (8) 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).

(9) After the ten (10) years transitional period referred to in sub clause (6), **List III of Schedule Five** shall be expunged from that schedule as the legislative matters in that list would have been all transferred to **List II of Schedule Five** such that **List II** as added upon would then constitute all of the States' legislative powers.

## **70. 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.

## **71. Arrangements between Federal and State Government**

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**

### **72. 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) State of Central - 2
  - (b) State of Choiseul - 3
  - (c) State of Guadalcanal - 4
  - (d) Honiara City - 2
  - (e) State of Isabel - 3
  - (f) State of Makira/Ulawa - 3
  - (g) State of Malaita - 4
  - (h) State of Rennell Bellona - 2
  - (i) State of Temotu - 3
  - (j) State of Western Solomons - 4

- (3) The Seat in Parliament of each elected representative shall be known as a **Regional Seat**. *(Note: the question of constituency or regional seats to be finalised at next plenary)*
- (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.

### **73. 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.

### **74. Qualification for Membership**

A Member of Parliament must be

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

### **75. 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 **74**;
- (b) fails to qualify as a candidate through a Federal Law providing for vetting by respective 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 medically 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 **261 (3)**;
- (k) is serving a sentence of imprisonment of six **(6)** months or more, including a suspended sentence for the commission of a crime;

- (l) is in a defacto relationship;
- (m) if found guilty of a corrupt or illegal practice during an election petition;
- (n) is not an indigenous person from the State;
- (o) has completed education up to tertiary level;
- (p) with a previous conviction for more than six months imprisonment.

(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.

## **76. 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 **77**;
  - (f) 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).

## **77. Recall**

- (1) A person elected to Parliament may be recalled by his or her home electorate.
- (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 or offence to the constituents and home electorate;
  - (c) Violation without reasonable cause of a member's duties in Clauses **56** and **57**;
  - (d) non performance of member's duties in Parliament upon certification of such failure by the Speaker after three reminders before notification to Constituents and home **electorate**;
  - (e) conviction for a serious offence under clause **261(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 Procedures of Parliament**

#### **78. Standing Orders**

- (1) Parliament shall prepare and adopt standing orders that appear **best suited** to Parliament 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 **83**;
  - (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.

#### **79. 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.

## **80. 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;
- (b) the ethical conduct of members and parliamentary powers, rights and immunities;
- (c) petitions received by Parliament raising public policy issues within the legislative competency of Parliament;
- (d) the integrity, economy, efficiency and effectiveness of governmental financial management;
- (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;
- (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.

## **81. 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.

## **82. 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.

## **83. 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 thirty (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 laws passed by Parliament shall as soon as practicable on assent and gazette be distributed to State and Community Governments.

## **84. 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.

## **85. 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 shall have a casting vote in the event of a tie of votes.

## **Part IV - Term, Sessions, Meetings and Sittings of Parliament**

### **86. 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.

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

(4) Sessions of Parliament shall be held so that a period of twelve months does not intervene between the end of one session and the first sitting of Parliament in the next session.

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

### **87. Dissolution of Parliament**

(1) The President shall dissolve Parliament if:

(a) by an absolute majority Parliament so decides;

(b) a Government is not formed having the confidence of Parliament in the circumstances contemplated in clause 95 (3) or

(c) an alternative Prime Minister fails to get the confidence of Parliament in the circumstances contemplated in clause 99 (4).

(2) If, after dissolution of Parliament and before holding of the general election, some matter of urgent national importance arises that necessitates recalling 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 sub -clause (2), the persons who were members of Parliament immediately before the dissolution shall be deemed still members of Parliament, but, subject to Clause 89, 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.

## 88. 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

### 89. 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 for election as a member of the Federal Parliament under Clauses 74 and 75; 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.

#### **90. Leader of the Alternative Government**

(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.

#### **91. 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**

#### **92. Privileges of Parliament and its Members**

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

### **93. 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.

### **94. 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.
- (3) 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 - Political Party or Parties Government Formation and Political Allegiance**

#### **95. Formation of the Executive Arm of Government after a General Election**

- (1) If following a general election one political party has an absolute majority of all the members in the Federal Parliament, the President shall recognize that one political party as the Executive Arm of Government.
- (2) If following a general election no party has an absolute majority of seats in Parliament, the preferred choice as leader of the coalition partners shall be recognized by the President as the Prime Minister of the coalition government.
- (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 immediate dissolution of the Parliament.
- (4) The first meeting of Parliament referred to in the preceding sub clause shall be held within fourteen (14) days after the announcement and publication of the last election results in the Gazette.

#### **96. Vacation of Seat for Change of Political or Individual 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

### 97. Prime Minister

- (1) There shall be a Prime Minister of Solomon Islands who shall be the head of the Executive Arm of the Government, as shall be recognized by the President **under** clause **95 (1) and (2)**.
- (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.
- (4) Where Parliament has been dissolved pursuant to Clause **95 (3)** or Clause **99(4)**, the incumbent Prime Minister shall continue as caretaker Prime Minister until a new Prime Minister is elected.
- (5) 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.

### 98. 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;
  - (d) is absent due to illness without leave and without reasonable cause for a period not exceeding three months;

## **99. Dismissal of Government after Successful Vote of No-confidence**

- (1) If the Federal Parliament, by vote supported by an absolute majority of all its elected representatives, passes a motion of no confidence in the Government, the Government shall vacate office.
- (2) A motion for a resolution of no confidence in the Government 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 in 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 Government vacating office the President shall invite the political party with the relative numerical strength in the Federal Parliament to form a new Government.
- (3) If a new Government is not formed within 14 days from the vote of no confidence in the ousted government, the President, acting on his or her own deliberate judgment, shall advise the Speaker on the immediate dissolution of the Federal Parliament.

*(Note: The next Plenary to decide on a mechanism to remove a minority government which decided to hold on to power and therefore not convening Parliament)*

## **100. Change of Leadership within the Executive Arm of Government**

- (1) The members of the government, whether it is a one party government or a coalition government, may by a vote supported by an absolute majority of all its members change the leadership within government.
- (2) The President shall be informed of the new Prime Minister after the leadership change within government.

## **101. 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.

## **102. 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 which duration shall not exceed 3 months or has vacated office.

### **Part III - Ministers**

#### **103. Appointment**

- (1) There shall be such number of Ministers as the Government 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 **after consultation with the Government under the preceding provision** 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 Government.
- (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.

#### **104. 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.

### **105. 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.

### **106. Approval to leave Solomon Islands for Official Overseas Trips –**

(1) The **Prime Minister**, Deputy Prime Minister and **Federal** Ministers shall not leave Solomon Islands except with **the prior approval of the Federal Cabinet**.

## **Part IV - Cabinet**

### **107. 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.

### **108. 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.

### **109. 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 organizations;

- (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 **sub-clause (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 **sub - clause (1)**.

### **110. 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.

### **111. 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.

### **112. 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;

(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.

### **113. 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.

### **114. 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**

### **115. 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 and Private practice 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**

#### **116. Federal Taxing Powers**

(1) The Federal Government shall impose federal taxes other than state **and** community 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 **juristic** person;
  - (c) spend any public money.
- (3) 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.
- (4) The Federal Government may enter into any taxation arrangement with State Governments for further sharing of Federal Tax Revenues.
- (5) For the avoidance of doubt, it is hereby declared that the Federal, States and Community Governments shall not impose double taxation on revenue generating sources which they are permitted to levy and collect taxes on in this Constitution.

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

The Federal Tax Revenue sources shall be as set out in **paragraph 6 (Public Finance) of List I of Schedule Five and in Part I of Schedule Nine.**

### **118. Sharing of Taxation proceeds for Joint Ventures between Federal, State and Community Governments–**

The Federal Government **shall levy and** collect profit, sales, excise, and personal income taxes on enterprises **it jointly owns with a State Government and or Community Government provided that the taxation proceeds shall be shared in accordance with a sharing formula to be agreed between them.**

## **Part II - The Federal Consolidated Fund**

### **119. 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.

### **120. 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.

#### **121. 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.

#### **122. 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 **sub-clause** (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 - Authorization of expenditure from the Federal Consolidated Fund**

#### **123. Estimates of Revenues and Expenditures**

- (1) At least two months before the commencement 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.

#### **124. 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.

#### **125. Additional or Supplementary Appropriations**

(1) In any financial year, Supplementary Appropriation Bills may make provision for additional expenditure where the original estimates were insufficient, or if authorization 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.

#### **126. Authorization 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 authorize 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 authorization under the preceding sub-clause may only apply for a period of 3 months from the commencement of the financial year.

#### **127. 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.

**128. 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.

**129. 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 - Reserve Bank of Solomon Islands**

**130. Reserve Bank of Solomon Islands**

- (1) There shall be a Reserve Bank of Solomon Islands.
- (2) The primary object of the Reserve 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 Reserve 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 Reserve 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 Reserve Bank of Solomon Islands in Parliament.

### **131. 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 Reserve Bank of Solomon Islands.

## **CHAPTER ELEVEN: CONGRESS OF STATES**

### **132. 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 all appointees are citizens of Solomon Islands

(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 and reasonable expenses referred to in sub-clause (4) shall be determined and approved by the Federal Parliamentary Entitlements Commission and shall be paid out of the Federal Consolidated Fund.

### **133. 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.

**Note: The next Plenary to consider the mediation process under clause 55(2) if in the event of a stalemate to be part of the role of Congress of States under this clause.**

- (2) The Congress of States shall through the President report to the Federal Parliament and through the State Governors report to all State Parliaments.

### **134. 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**

#### **135. 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 Parliament, State Governor, a State Premier and Ministers of the State (state cabinet) and a State Public Service.
- (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**

#### **136. States and State Boundaries**

**(Note: Federal and State Maritime boundaries to be reconsidered at the next Plenary)**

- (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) Where an island (in this sub clause referred to as a “special area”) which is situated within the maritime boundary of a particular State as specified in Schedule Four and there are competing claims of customary ownership and usage to that special area by customary land owning groups from that State and an adjacent State, the harvesting of,

utilization, usage, control or management of that special area or the sharing of benefits derived from that special area shall be governed or regulated by: -

(a) an existing arrangement between the competing customary land owning groups, if there is an existing arrangement; or

(b) by an arrangement to be mutually agreed upon by such competing customary land owning groups if there is no existing arrangement; any such mutual arrangements to be made within a period of ten (10) years to allow for court litigation to be completed if any.

(3) The special areas referred to in preceding sub clause are -

(a) Oema atoll and Nunungari Islands between Western State and Choiseul State;

(b) Arnavon Island between Choiseul State and Isabel State;

(c) Mborokua or Mary Island between Western State and Central State;

(d) Ramos Island or Anogou between Isabel State and Malaita State

(4) 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.

(5) 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.

(6) An arrangement under sub clause (5) shall not be inconsistent with this Constitution.

(7) 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**

#### **137. 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 **136(5)** 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

### 138. 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 **each State** Constitution and **/or State** 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

### 139. 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 **traditions**, customs and norms of the parties to the conflict **except where their application would be:**

- (a) inconsistent with this Constitution or any legislative enactment;
- (b) harsh or repugnant to general humanity;**
- (c) not acceptable in any democratic society.**

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 **shall** 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 centers outside the State Capital Territories.

## **Part VI - Prime Minister and State Premiers Conference**

### **140. 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 all 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 by the Conference
- (2) Where consensus is reached on the above matters, implementation shall be carried out either:
  - (a) Jointly by all spheres of governments; or
  - (b) Separately by any particular sphere of government.

## **CHAPTER THIRTEEN: COMMUNITY GOVERNMENTS**

### **141. 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 **through chiefs and other traditional leaders** 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.
- 142.** The legislature powers of the Community Governments shall be as specified in **List IV of Schedule Five.**
- 143.** The Community Governments Tax Revenue Sources shall be as set out in **Part III of Schedule Nine.**

## **CHAPTER FOURTEEN: STATE REVENUE ARRANGEMENTS**

### **144. State Government Taxes**

- (1) A State Government **shall** impose **State Taxes** other than federal taxes and Community 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

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

The State Governments Tax Revenue sources shall be as set out in **Part II of Schedule Nine.**

### **146. Undesignated Powers of Taxation -**

Technocrats of the Federal and State Governments together with the appropriate Community Government resource owners which will be affected by the activity which would give rise to the imposition of a new tax shall, in a joint session determine by an absolute majority vote which sphere of government will impose that tax which has not been specifically provided in **Schedule 9** of the Constitution.

### **147. State Loans –**

- (1) Subject to Clause **144 (2) (b)**, a State Government may raise a loan, receive any money as a loan or give a guarantee after approval has been given following consultations between the Reserve Bank, the National Finance Council, the Federal Government and the State Government concerned.

(2) A State Government must not raise a loan to finance recurrent expenditures or raise a loan from banks or related financial institutions or enterprises that it either owns or has a controlling interest.

**148. State Banks –**

(1) State Governments may establish or participate in the establishment of commercial banks and other related financial institutions, which may extend their operations beyond the boundaries of the State after consultations with the Reserve Bank.

(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.

**149. Sinking Funds -**

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

**(Note: The next Plenary to consider the Inter-governmental arrangements between State and Community Governments, Federal and Community Governments' akin to chapters 8 & 15 – Cooperative Federalism)**

**CHAPTER FIFTEEN: STATE POWERS**

**150. 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**.

**151. Executive Authority**

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

(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.

**152. 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.

### **153. 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 powers 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.

### **154. 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**

#### **155. Federal Revenues to be Shared**

(1) The Federal revenues derived from Natural Resources shall be shared amongst the Federal, States and Community Governments, and Revenue Resource Owners in accordance with clause **156**, but the Federal Revenues derived from Federal Taxes shall be shared between the Federal and the States Government in accordance with clause **157**.

(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 19** and who have allowed their natural resources for development, use, utilization, exploitation or extraction which produce the Federal Revenues from the natural resources.

#### **156. 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 **but the Reserve Bank shall hold in trust such funds in the ‘Revenue Sharing Account’ until:**

- (a) a State has attained statehood following certification of its state constitution by the Constitutional Court;
- (b) a community government has been established as required by this Constitution.

#### **157. 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** **but the Reserve Bank shall hold in trust such funds in the ‘Revenue Sharing Account’ until:**

- (a) a State has attained statehood following certification of its state constitution by the Constitutional Court;
- (b) a community government has been established as required by this Constitution.

#### **158. 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**.

#### **159. Revenue Sharing Account**

(1) The Reserve 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 156** and to the States Governments of their share of Federal Revenues derived from Federal Taxes under **Clause 157**.

(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 Reserve 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 Reserve Bank shall make payments of the share of federal revenues under this Part, to the Consolidated Fund Accounts of the State and Community Governments and Resource Owners on a weekly basis.

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

#### **160. Role of the Reserve Bank of Solomon Islands**

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

(2) The Governor of the Reserve 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.

#### **161. Equalization 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 minimized.
- (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.

#### **162. 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 State 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 Community Governments in the ratio of **30%** to State Governments and **70%** to its Community Governments.

- (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.

#### **163. 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.
- (3) The beneficiaries referred to in sub clause (2) shall be determined by an Act of the State Parliament of Guadalcanal enacted for that purpose.

#### **164. Special Revenue Arrangements applying to other States**

- (1) Every State other than the State of Guadalcanal shall negotiate with the descendants of the original landowners of the area constituting the state capital for a lump sum payment as a final and full settlement for the permanent deprivation of such area including its foreshore, adjacent sea, reefs and fishing grounds.
- (2) The beneficiaries referred to in the preceding sub clause shall be determined by an Act of each State Parliament.

### **Part II - National Finance Council**

#### **165. Establishment of National Finance Council**

- (1) There shall be established a National Finance **Council**.
- (2) The National Finance **Council** shall comprise the following members:

- (a) The Federal Minister of Finance or **Acting** Federal Minister of Finance who shall be the Chairperson; and
  - (b) Each State Minister of Finance or **Acting** State Minister of Finance
- (3) The National Finance **Council** shall meet at least three times a year and for extraordinary meetings as requested to do so by three State Governments.

**166. The functions of the National Finance Council**

- (1) The functions of the National Finance **Council** 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 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 Reserve 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 **Council** by an Act of the Federal Parliament which had the endorsement of an absolute majority of the State legislatures.

(1)The National Finance **Council** shall in the exercise of its functions in sub-clause **(1)** be assisted by the Governor of Reserve Bank, the Permanent Secretary of the Federal Ministry of Finance, each State Treasurer and officials of other relevant Ministries.

**CHAPTER SEVENTEEN: HONIARA CITY**

**167. Status of Honiara City**

- (1) Until the Federal Parliament otherwise determines, the territory of Honiara City as designated under **clause 4** of this Constitution 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 councilors and the residents of Honiara City shall be consulted by the Federal Government in the promulgation of the Federal Law for Honiara City.
- (5) 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.

#### **168. 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 sub clause (1).

#### **169. 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.

#### **170. Governance Principles -**

Honiara City in addition to the values in Chapter **Six** and Clause **214** 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.
- (h) Representation in the government of Honiara City Council shall be made up of:
  - (i) Twelve (12) elected councilors from the existing wards;
  - (ii) One (1) appointed councilor from each of the States to be chosen by an electoral college of persons from that State residing in Honiara; and
  - (iii) One (1) councilor each selected by the people of Gaubata, Malango and Tandai.
- (i) The powers of the elected and appointed councilors shall be set out in an Act of the Federal Parliament.

**(Note: to be referred to the next plenary)**

**171. Federal Law Provision –**

A federal law shall provide for the matters referred to in Clause 168 to 170

**CHAPTER EIGHTEEN: ENVIRONMENT, LAND, AND DEVELOPMENT**

**Part I - Environment and Natural Resources**

**172. 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, sea and air 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.
- (l) protect the Republic from genetically modified foods.

(3) All governments shall enact laws and other measures to give effect to the provisions of this Part.

## **Part II - Land, Air and Sea Resources and Other Properties**

### **173. Ownership of Land, Sea, Air and Other Properties**

(1) The ownership of all land and all natural resources on, in and above all lands in Solomon Islands inclusive of seas and air 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, air and other property except in accordance with law and justice, including fair and prompt compensation if appropriate.

### **174. No compulsory acquisition of Customary Land by Governments –**

- (1) No government shall acquire ownership to customary land by compulsory acquisition except by way of:
  - (a) a leasehold title interest or;
  - (b) a fixed term estate not exceeding 50 years.

(2) The preceding provision shall not apply where the customary land owners decide otherwise.

**(Note: The next Plenary to reconcile this clause with clause 33)**

### **175. 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 not exceeding 50 years lease hold interest or use of resources for the purposes of public works.

**(Note: the next Plenary to consider possibility of including clause 27 after this clause)**

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

#### **176. National Development Plan**

- (1) There shall be a National Development 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.

#### **177. 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, monitoring 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.

#### **178. 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**

#### **179. Economic and Social Reforms and Development**

**(Note: The next Plenary to consider other types of economic systems e.g subsistence economy, semi-commercial and plantations economy)**

- (1) Any government or any organization 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
    - (iv) 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
    - (v) 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 sub clause (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 or grant and all other relevant matters and to be informed of the findings of any impact assessment in terms of sub clause (2).

#### **180. 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, labor markets, investment and cultural knowledge and other relevant matters;
- (2) A study under sub clause (1) shall be conducted locally and the findings released for public comment;
- (3) Any accession to any free trade agreement by the Federal Government shall be with the concurrence of all State and Community Governments.

#### **181. Control of Water –**

A government or organs 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**

#### **182. 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) **A judgement, decision and or order(s)** issued by a court binds all persons to whom and organs of government to which it applies.

### **Part II - The Superior Courts**

#### **183. 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.

#### **184. 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; and
  - (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 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.

#### **185. 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 judgments of the High Court in accordance with such requirements as the Parliament prescribes.

## **186. 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 Registrars or Commissioners 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 and Community 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 judgments 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 or Community Constitution and the member presiding in the proceedings considers that a substantial question of law is involved, the member presiding shall refer the question to the High Court.
- (8) When the High Court gives its decision on a question referred to it under sub clause (6), the subordinate Court in which the question arose shall 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.

### **187. Advisory Jurisdiction**

(1) The High Court has, on the application of an authority or person referred to in sub clause (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 sub clause (1):

- (a) The President of the Republic;
- (b) Any elected Member of the Federal Parliament;
- (c) Speaker of the Federal Parliament;
- (c) The Federal Attorney -General;
- (d) Any institution or commission established under this Constitution;
- (e) Any State Governor;
- (f) Any member of a State Parliament;
- (g) Speaker of each State Parliament;
- (h) State Attorney General;
- (i) Any institution or commission established under each State Constitution;
- (j) Chairperson of each Community Government;
- (k) Any institution or commission established under each Community Constitution;
- (l) Any aggrieved citizen or **executive member of the** civil society.

(3) The High Court shall have power to dismiss any application under this clause if found to be **frivolous, vexatious, or the application discloses no reasonable cause of action or is an abuse of the courts process;**

(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 clause.

### **188. 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 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.

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

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

### **Part III - Court Procedure**

#### **191. 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; and
- (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**

#### **192. Qualification for Appointment**

- (1) A person shall **not be** 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 **shall be** 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,

#### **193. 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.

#### **194. 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.

#### **195. 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.

**196. 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.

**197. 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.

- (3) 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.

- (4) 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;

(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.

- (5) 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 and may take disciplinary action against them.

- (6) 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**

### **198. Federal Powers of Pardon**

- (1) There shall be a Prerogative of Mercy Committee, which shall comprise of—
  - (a) a Chairperson 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 judgment; 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.

**(Note: The next Plenary to consider additional members from churches and traditional leadership)**

- (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**

### **199. 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.

## **200. Limitation of Exercise of Power of Pardon**

Neither the President nor the State Governor shall exercise any power in Clause **198 (4)** or clause **199 (3)** respectively in respect of any offence arising under Clause **14**.

## **201. Power to Grant Pardon Vests exclusively in the President or the State Governor**

The power to grant a pardon, respite, revision and reprimand or a lesser form of punishment than that imposed shall be vested exclusively in the President or the State Governor as the case may be.

# **CHAPTER TWENTY ONE: REPRESENTATION OF THE PEOPLE**

## **Part I - Electoral Arrangements**

### **202. 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 free and fair elections at Federal, States and Community governments;
  - (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.
  
- (3) 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.

### **203. Disqualification from Registration**

A citizen is not qualified to be registered as a voter:

- (a) in more than one **Region**; (**Note: subjects to decision on 72(3)**)
- (b) if medically certified to be of poor mental health **or of unsound mind** under a federal law;
- (c) if disqualified from registration as an elector or from voting at elections under a federal law.

## 204. 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 **undue** 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.

## 205. Federal Boundaries Commission

- (1) There shall be established a Federal Boundaries Commission.
- (2) The Federal Boundaries Commission shall be made up of:
  - (a) a Chairperson 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 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 seats whenever it considers it desirable, and may make recommendations to the Federal Parliament for alterations in the number and boundaries of the seats **by necessary amendment to clause 68.**
- (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 and Community Government, Honiara City and other interested parties;

- (b) to ensure that the boundaries of a seat do not overlap into the boundaries of another **regional** seat; (**Refer to 203 (a)**)
- (c) 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**

### **206. The Right to Form a Political Party**

- (1) Notwithstanding the freedom of assembly and association in **clause 38**, there shall be in the Republic not less than three (3) and not more than seven (7) political parties.
- (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.

**(Note: The next Plenary to reconsider whether or not political parties should be funded by the Republic)**

### **207. Registration of Political Parties**

- (1) All political parties shall be registered according to the requirements of a federal law which may include inter alia:
  - (a) national level of party membership;
  - (b) nature of recruitment and threshold;
  - (c) community reception;
  - (d) national coverage and scope; and
  - (e) fair ethnic and State representation.
- (2) The Electoral Commission is the registrar 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.

## 208. 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 of the individual 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 **sub 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 **in the local print media**.

## 209. 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 **clause 208** 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.

## 210. 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.

### **211. Restrictions on Holding of Office in Political Parties**

The President of the Republic and public officials shall not hold office in a political party.

### **212. Deregistered Political Parties**

(1) In the event of a political party being deregistered, the members of the deregistered party shall remain as members of the Federal Parliament until the next election.

(2) Members of the deregistered party shall be barred from joining other political parties within the life of the current Parliament.

## **CHAPTER TWENTY-TWO: THE PUBLIC ADMINISTRATION**

### **Part I – Principles Governing Federal, State and Community Governments Public Administration**

#### **213 Purpose and Functions of the Public Service**

(1) The purpose and functions of the Public Service shall be to carry out the plans and policies of the government of the day.

(2) Notwithstanding **the provision of the preceding sub clause**, such a government, its representatives or agents shall not interfere with the duties and responsibilities of the Public Servants, as well as the processes and procedures that may be laid down in the Federal, State or Community government laws.

#### **214. 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;
  - (k) Fair and equitable representation of the population of the States from time to time in the recruitment and promotion of employees.
- (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**

### **215. 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.

### **216. 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 214** 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) **the** employment of persons in the service of the Federal Government;
  - (g) **the** management and control of Federal Government employees;

- (h) **prescribing the** terms and conditions of employment and the entitlements of Federal Government employees;
- (i) **the power to** appoint, dismiss and discipline Federal Government employees; and
- (j) **the performance of** such other functions as may be prescribed by this Constitution or by law.

### **Part III - Federal and State Public Services**

#### **217. 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 and State 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; through regular undertaking of tests and examinations of General Orders, Financial Instructions, Stores Instructions, Public Service Regulations 1988, Code of Conduct and Practice of the Public Service and other required legislations.
  - (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 and the State Public Service.

(6)The criteria for employment in the Federal Public Service shall be based on merit derived from:

- (a) qualification;
- (b) experience;
- (c) relevancy

#### **218. 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 **217 (3), (4), (5) and (6)**.

#### **219. Establishment of a Community Government Public Service**

(1) There shall be established within each Community Government Constitution or Governing Law a Community Government Public Service.

(2) A Community Government Law shall be enacted to provide inter alia for-

- (a) employment of persons in the service of the Community Government;
- (b) management and control of Community Government employees;
- (c) terms and conditions of employment and the entitlements of Community Government employees;
- (d) power to appoint, dismiss and discipline Community Government employees; and
- (e) any other related matter.

### **Part IV – Federal and State Police Force**

#### **220. Establishment of the Federal Police Force**

(1)The **existing** Police Force of Solomon Islands established and administered under the former Constitution shall continue **as** the **Federal** Police Force of Solomon Islands.

(2) The **Federal** Police Force shall be under the command of the **Federal** Commissioner of Police.

(3) The President of the Republic shall appoint the **Federal** Commissioner of Police from appropriate qualified and experienced officers on the advice of the **Federal** Cabinet given after the **Federal** Cabinet has consulted with the Federal Public Service Commission.

(4) The **Federal** Commissioner of Police shall exercise control over and manage the **Federal** Police Force in accordance with **Republic's general** 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 **Federal** Commissioner of Police shall be responsible for controlling the operations of the **Federal** 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 **Federal** Police Force shall be 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;
- (d) uphold and enforce the law and this Constitution; and
- (e) advocate for crime prevention in the communities.

(7) The **Federal Police** shall be responsible for the enforcement of federal laws within a part or the whole of the Republic.

(8) Where a problem becomes too complex and difficult for the Federal Police to handle or resolve, the Federal Government may request the assistance of the States' Police.

(9) The Federal Government in consultation with State Governments shall enact a Federal Law to provide for the details of the matters in the preceding provision.

(10) The **Federal Police establishment** shall have in their rank and file at least an equitable representation of indigenous **persons and citizens of the Republic**.

(11) All **personnel of the establishment referred to in the preceding provision shall obtain authentic police and health clearance documentation and the required authentic minimum academic documents**.

(12) The **Federal** Police Force shall be administered and operated in accordance with the provisions of this Constitution, and any applicable **federal** law which may make provision for any matter related to the

- (a) appointment of **federal police** officers of any ranks;
- (b) employment of other staff;
- (c) removal and discipline of **federal** police officers;

- (d) right of **federal police** officers to appeal against decisions to remove or discipline them, and the procedures for such appeals;
  - (e) establishment of an independent **federal** police complaints body to investigate any alleged misconduct of, or offence committed by, a member of the **Federal Police Force**, **federal** police inefficiency or a breakdown in relations between the **federal** police and the communities; and
  - (f) any other related matter.
- (13) In the recruitment of officers in the **Federal** Police Force and in the making of appointments and promotion fair and balance representation of the States' population from time to time shall be given regard to.

## **221. Federal Policing Jurisdiction and Responsibilities**

- (1) The **Federal** Police Force shall have at all times, and throughout the Republic, jurisdiction to attend to all **federal** policing matters.
- (2) The **Federal** Police Force **shall** be structured by law to
  - (a) function in the Federal, State and Community Governments;
  - (b) ensure effective co-ordination of the **Federal** Police Force and effective cooperation among the **three** spheres of government;
  - (c) enable the **Federal** Police Force to discharge its responsibilities effectively, taking into account the requirements of States **and Community Governments**; **and**
  - (d) promote and maintain the integrity of the **Federal** Police force to enable it to discharge its responsibilities **effectively and efficiently**.
- (3) **Each State Government shall assist the Federal Government where the functions and responsibilities within a state relating to matters or issues concerning the national security of the Republic on:**
  - (i) **command;**
  - (ii) **control;**
  - (iii) **intelligence;**
  - (iv) **logistics; or**
  - (v) **operation.**
- (4) **The Federal Government in consultation with State Governments shall enact a Federal Law to provide for the details of the matters in the preceding provision.**

## **222. Solomon Islands General Policing Policy**

- (1) The Federal, State and Community Governments shall jointly determine a Solomon Islands **general** policing policy which shall make provision for different policies in respect of States **and Community Governments** after taking into account **their** policing needs and priorities.
- (2) State **and Community** Governments **shall be** entitled to
  - (a) monitor police operations within the States **and Community Government** according to **their** needs and priorities under the Solomon Islands **general** policing policy;

- (b) generally oversee the effectiveness and efficiency of the **Federal** Police Force in the State;
  - (c) monitor **federal** police conduct;
  - (d) promote good relations between the **federal** police and the communities;
- (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 **federal** police inefficiency or a breakdown in relations between the **federal** police and any community;
  - (b) give the **Federal** Commissioner of Police directions of policy regarding the implementation of the Solomon Islands **general** policing policy as it applies to the State; and
  - (c) give the **Federal** Commissioner of Police such general directions of policy with regard to the maintenance of public safety and public order.
- (4) The **Federal** Commissioner of Police shall in a timely manner comply with such directions or cause them to be complied with.

**223. Establishment of a State Police Force**

- 1. There shall be established in each State a State Police Force;
- 2. Each State Police Force shall come under the command of a State Commissioner of Police;
- 3. Each State Governor shall appoint its State Commissioner of Police from appropriate qualified and experienced officers on the advice of each State Cabinet after consultation with its State's Public Service Commission;
- (4) Each State Commissioner of Police shall exercise control over and manage its State Police Force in accordance with its State Policing Policy and in accordance with such directions or policy from its State Government in accordance with this Chapter.
- (5) Except as provided in the preceding sub-clause, each State Commissioner of Police shall be responsible for controlling the operations of its State 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 each State Police Force shall be to
  - (a) prevent, combat and to investigate crime within its territory in a timely manner;
  - (b) be accountable to its public;
  - (c) maintain public order, protect and secure Solomon Islands citizens safety and their property; and
  - (d) uphold and enforce the law and this Constitution;
  - (e) advocate for crime prevention in the communities;

(7) Each State Police shall be responsible for the enforcement of state laws within a part or the whole of a State.

(8) Each State Police Force shall be administered and operated in accordance with the provisions of this Constitution and each States Constitution and any applicable federal and state law which may make provision for any matter related to the –

- (a) appointment of its state police officers of any ranks;
- (b) employment of other staff;
- (c) removal and discipline of its state police officers;
- (d) right of its state police officers to appeal against decisions to remove or discipline them, and the procedures for such appeals;
- (e) establishment of an independent state police complaints body to investigate any alleged misconduct of, or offence committed by, a member of the State Police Force, state police ineffectiveness and inefficiency or a breakdown in relations between its state police and their communities; and
- (f) any other related matter.

(9) In the recruitment of officers in the State Police Force and in the making of appointments and promotion fair and balance representation of every States' population from time to time shall be given regard to.

(10) All personnel of the establishment referred to in the preceding provision shall obtain authentic police and health clearance documentation and the required authentic minimum academic documents.

#### **224. Each State Policing Jurisdiction and Responsibilities**

(1) Each State Police Force shall have at all times and within its territory in the Republic, jurisdiction to attend to all its state policing matters.

(2) Each State Police Force shall be structured by law to:

- (a) function within its State and Community Governments territories;
- (b) ensure effective co-ordination of the State Police Force and effective cooperation among the three spheres of government; and
- (c) enable the State Police Force to discharge its responsibilities effectively, taking into account the requirements of each States and their Community Governments.
- (d) promote and maintain the integrity of each State Police force to enable it to discharge its responsibilities effectively and efficiently.

#### **225. Each State's General Policing Policy**

(1) Each State and their Community Governments shall jointly determine a general state policing policy which shall make provision for different policies in respect of each States and their Community Governments after taking into account their policing needs and priorities.

(2) Each State and their Community Governments shall be entitled to –

- (a) monitor **its state** police operations within **each State and their Community Governments** according to **their** needs and priorities under **each state** general policing policy;
  - (b) generally oversee the effectiveness and efficiency of **its State** Police Force;
  - (c) monitor **state** police conduct;
  - (d) promote good relations between **its state** police and **their** communities.
- (3) In order to perform the functions set out in the preceding sub **clause each** State Government may
- (a) investigate or conduct an inquiry into any complaints of **state** police inefficiency or a breakdown in relations between **each state** police and any community;
  - (b) give the **State** Commissioner of Police directions of policy regarding the implementation of **its state's general** policing policy as it applies to **each** State; **and**
  - (c) give **each State** Commissioner of Police such general directions of policy with regard to the maintenance of public safety and public order.
- (4) The **State** Commissioner of Police shall in a timely manner comply with such directions or cause them to be complied with.
- (5) Where a problem becomes too complex and difficult for a particular state police to handle or resolve, that state may request the assistance of the Federal Police or other State Police as the case maybe depending on the nature of the problem on the ground.**

## **Part V - Correctional Services**

**(Note: The next Plenary to reconsider clauses 226 to 228 for the establishment of a Federal and State Correctional Services just as the Federal and State Police arrangement)**

### **226. 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 Federal 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 sub-clause (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) **The Correctional Services establishment shall have in their rank and file at least an equitable representation of indigenous persons and citizens of the Republic.**

(7) **All personnel of the establishment referred to in the preceding provision shall obtain authentic police and health clearance documentation and the required authentic minimum academic documents.**

(8) Correctional Services shall be structured, organized and administered in such a manner as federal law may prescribe.

#### **227. 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.

#### **228. 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 -

Each State shall have correctional facilities for incarceration of its State Prisoners

- (a) vested in it by this Part;
- (b) assigned to it by Federal Law.

(3) **In the area of correctional services, the Federal and States' Correctional Services shall mutually agree as to the transfer and rehabilitation of Federal and State Prisoners between them.**

# CHAPTER TWENTY-THREE: INSTITUTIONS SUPPORTING AND STRENGTHENING CONSTITUTIONAL DEMOCRACY

## Part I - Governing Principles

### 229. 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 and 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) report annually 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.

### 230. 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, appropriately qualified and experienced representatives from all States in its composition, where possible.
- (5) The involvement of the Congress of States in the selection of appointees to these Institutions may be provided for as envisaged in Clause **133(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, **he or she** shall take an oath or affirmation, in accordance with Schedule Two, that **he or she** will uphold and protect the Constitution.

## **Part II - Public Solicitor**

### **231. 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 230(1)** shall act in that office.

### **232. 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;
  - (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 **adequate** lawyers to work in the office.

**233. 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 **230(1)**.

**234. 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 clause shall affect the right of State Government to make arrangements for the provision of legal aid and assistance to any person.

**235. Accessibility of Office**

The Office of Public Solicitor shall be accessible to all persons and communities in the Republic and shall establish offices in all State Capitals.

**Part III - Director of Public Prosecutions**

**236. 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 **230 (1)** shall act in that office.

**237. Functions of the 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, and through State Police in Community Courts 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 judgment 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.

### **238. 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 **230(1)**.

## **Part VI - Human Rights Commission**

### **239. 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.

### **240. 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**

**(Note: The next Plenary to reconsider whether or not each State should have its own Auditor General)**

### **241. The Auditor General**

- (1) There shall be an Office of Auditor General.
- (2) The Auditor General shall be a person who has specialized knowledge of, or experience in, auditing, public finances and public administration.

### **242. 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 sub-clause, 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;
- (c) any institution funded from Community Government Funds; or
- (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 sub-clauses (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.

(6) Any findings of impropriety as to the management and use of public funds shall be reported to the Federal Director of Public Prosecution for criminal prosecution and to the Leadership and Anti- Corruption Commission for laying of misconduct charges.

#### **243. 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 **230 (2)**

### **Part VI - Electoral Commission**

#### **244. Electoral Commission**

There shall be an Electoral Commission.

#### **245. Functions of Electoral Commission**

The functions of the Electoral Commission shall be:

- (a)to manage elections of Federal, State and Community Governments, unless a State establishes a body under state law to discharge these functions within the State and Community Governments;
- (b)to ensure that those elections referred to above are free and fair;
- (c)to supervise, register and deregister political parties in accordance with **clauses 207 (2) and 209** respectively;
- (d)to delimit electoral boundaries in accordance with **clause 205(2) and (3)**;
- (e)to promote voter education in accordance with **clause 204**;
- (f) to determine the question of qualification or disqualification of a candidate before a general election or a bye election; and
- (g) such additional functions as may be prescribed by law.

#### **246. 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 who shall hold office Ex Officio.

- (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 Parliament and Community Government.
  - (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 **sub-clause (5)**; or
  - (d) if the member dies or resigns from office.
- (7) The provisions of **Clause 230 (1)** shall apply to members of the Electoral Commission, with the functions of the President of the Republic under that **clause**, being exercised in accordance with the advice of the Judicial and Legal Services Commission.

## **Part VII - Ombudsman**

### **247. The Office of Ombudsman**

There shall be an office of Ombudsman.

### **248. 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.

#### **249. 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.

#### **250. Tenure of Office of Ombudsman -**

- (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.
- (3) The Ombudsman shall vacate office at the age of 70 years.

### **Part VIII - Leadership and Anti-Corruption Commission**

#### **251. 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) an elected member of the Federal or State Government or elected/appointed member of the Community Governments;
- (b) a public officer in the Federal, State or Community Government;
- (c) an officer of anybody or association that is of a political nature; and
- (d) convicted or found guilty of a crime or convicted of a crime of dishonesty or upon investigation under **clause 261(3)(b)** is found to be involved in any offence involving dishonesty.

## **252. 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 **shall be** 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**

### **253. 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 misbehavior, 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 sub clause (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 misbehavior.
- (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 misbehavior 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 Chairperson 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 sub clause (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 advice 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.

**254. Establishment of Additional Institutions to Support and Strengthen Constitutional Democracy**

Where a need arises in the best interest of the Republic the Federal Parliament may by an amendment of this constitution establish additional institution similar to those in this chapter which shall promote, support and strengthen constitutional democracy in the Republic.

**255. Accessibility to the Institutions in the States**

All the institutions established in this chapter including additional institutions established in clause 254 shall all establish offices in the States

**CHAPTER TWENTY-FOUR: ACCOUNTABLE AND TRANSPARENT GOVERNMENT**

**Part I - Leadership Code**

**256. 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, Federal Ministers and ordinary **Federal** Members;
- (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 and all officers of State Owned Enterprises (SOEs);
- (g) State Governors;
- (h) The Premier, Deputy Premier, State Ministers and ordinary State Members;
- (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);
- (k) Members of and the direct employees of Community Governments;
- (l) Churches and members of the Clergy;
- (m) Chiefs and Leaders in Community Government; and
- (n) any other office holder as provided by a law or State Constitution.

## **257. 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:
  - (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 sub clause.

## **258. 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 public office.
- (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 recognized 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 authorized purposes and in legally authorized amounts;
  - (d) safeguard public property and ensure that it is not lost, destroyed, damaged, misapplied or misused.

### **259. 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 favors or the performance of a function or non-performance in favour of that person.

### **260. Actions of Nominees, Trustees etc**

A person to whom this **clause** 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.

### **261. 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 and out of office, engaging in sexual acts within and without 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 defense 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.

## **262. 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**

### **263. 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**

### **264. 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.

### **265. 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).
- (3) The Federal Government shall upon coming into force of this constitution transfer to the States, public ownership held under custodianship of the National Government in all States:
  - (a) properties and institutions that promote and provide health services, education, law enforcement and public works;
  - (b) Land Titles held by the Commissioner of Lands in the States **in accordance with clause 27 (2) (b).**

## **266. 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 sub 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 180** 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.

- (6) Foreign personnel who are in the Republic on a peace keeping mission maybe granted amnesty or immunity from criminal prosecutions if the offences committed in the Republic in the course of official duties are misdemeanors but no amnesty or immunity shall be granted to such personnel if such offences are felonies.
- (7) No State Government may enter into any diplomatic relations with any foreign State but it may enter into sister relationship which is non diplomatic in nature with part or any foreign State or any international organization for purposes of trade, commerce and development of the State Government.

## CHAPTER TWENTY-SIX: AMENDMENT OF CONSTITUTION

### 267. 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 **179, 180 and 181** 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 Parliaments and Community Governments.
- (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;
  - (b) with the endorsement of an absolute majority of the State Parliaments and Community Governments;
  - (c) if the amendment relates to a matter that affects a State or States or concerns a matter within the legislative competence of a State or States; or
  - (d) if the amendment relates to a matter that affects a Community or Community Governments or concerns a matter within the legislative competence of a Community or Community Governments.
- (4) If a Bill referred to in sub clause (3) or any part of a bill, concerns only a specific State or States or Community Government, the Federal Parliament may not pass the bill or the relevant part unless it has been approved by the parliament or parliaments 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.
- (8) 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**

### **268. Diligent Performance of Obligations**

All constitutional matters shall be performed diligently and without delay.

### **269. Definitions**

**(Note: To be completed by legal experts at the final draft)**

- (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 or Community 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 of a federal or state territory under **Clause 264**.

“Head of State” means the President of the Federal Democratic 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 Federal Democratic 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.

## **270. Transitional Arrangements –**

**Schedule Eight** applies to the transition to this Constitution.

## 271. Repeal of Laws –

The following Acts are repealed, subject to **Clause 270 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
- (d) The facilitation of International Assistance Act 2003.

## 272. Commencement

This Act called the Federal Constitution of the Federal Democratic Republic of Solomon Islands, 2014, 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)**.

## 273. 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 is not provided for in the Constitution but** requires a Constitutional amendment shall be referred **by the Federal Parliament** to the voting population of the Republic by way of a referendum for their endorsement.

(2)The endorsement referred to in **the preceding** sub-clause shall carry if it has the absolute majority (51%) vote of the voting population.

**(Note: All schedules to commence on separate page)**

## SCHEDULE ONE TO THE CONSTITUTION

### ELECTION OF THE PRESIDENT OF THE REPUBLIC **[Clause 62 (3)]**

## **1. Calling of Election Meeting**

- (1) Whenever there is a **permanent** 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 74** 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 62(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 judgment of the Speaker of the Federal Parliament.

## **SCHEDULE TWO TO THE CONSTITUTION**

### **FORMS OF OATHS AND AFFIRMATIONS**

**[Clauses 63 (2), 73(a) 98 (1), 103 (4) (a), 196, 197 (6), 230 (6), 257(3), (4) and (5)]**

**(Reminder for the next Plenary: to include Acting Presidents, Federal Commissioner of Police, Federal Commissioner of Correctional Services, National Finance Council, Lands Commissions, Federal Public Service Commission, Congress of States, Federal Attorney General, Secretary to Federal Cabinet, Federal Permanent Secretaries, Clerk to Federal Parliament, Federal Parliamentary Entitlements Commission, Our Heads of Overseas Diplomatic Missions)**

**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 Democratic 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 Democratic 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 judgment, 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 TO THE CONSTITUTION**

**ENTITLEMENTS OF MEMBERS OF THE FEDERAL PARLIAMENT**

**[Clause 72 (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 the Reserve Bank;
  - (c) the Chairperson of the Association of Institute of Solomon Islands Chartered Accountants;
  - (d) Chairperson of Economic Association of Solomon Islands;
  - (e) General Secretary of the Development Services Exchange;
  - (f) Chief Executive Officer of the Solomon Island Chamber of Commerce and Industries.
- (2) A person shall not be qualified to be an appointed member of the Commission if he/she is a current or former member of the National or 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 or she was appointed;
  - (b) on death, or by resignation in writing delivered to the President; or
  - (c) upon his or 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 once every four years 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 based on an assessment report of the state of the economy to be made public;
    - (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 impress;
    - (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 **para 2(2)(b)** of this Schedule.
- (4) Every regulation made or amended under this section
- (a) shall come into force on 1<sup>st</sup> day 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 **para 2(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 **para 2 (1)**, 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 **only** 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 January and ending 31 December**.

(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 TO THE CONSTITUTION**  
**BOUNDARIES OF THE STATES**  
**[Clause 136 (1)]**

*(Note: The next Plenary to reconsider whether Federal Government will have a maritime area)*

<b>Column A – Name</b>	<b>Column B – Description and Limits of Boundaries</b>
Central	The area bounded by a line commencing at a point Latitude 8 degrees 32’ 35” South and Longitude 158 degrees 47’ 50” East, thence along the common borders with Western, Guadalcanal, Malaita and Isabel States, thence to the point of commencement”.
Choiseul	“The area bounded by a line commencing at a point on the boundary between Solomon Islands and Papua New Guinea in Longitude 156 degrees 14’ 46” East, thence along the common borders of Western, Isabel and Malaita States, thence continue along the line due north to a point of intersection on the Solomon Islands and Papua New Guinea boundary, and thence along that boundary to the point of commencement.”
Guadalcanal	“The area bounded by a line commencing at a point Latitude 9 degrees 14’ 20” South and Longitude 160 degrees 38’ 25” East, thence by a line bearing due south-west westerly to a point Latitude 9 degrees 17’ 30” South and Longitude 160 degrees 30’ East, thence by a line bearing due south-west westerly to a point latitude 9 degrees 18’ South and Longitude 160 degrees 20’ East, thence by a line bearing due south-west westerly to a point Latitude 9 degrees 13’ South and Longitude 160 degrees east, thence by a line bearing due west to a point Latitude 9 degrees 13’ South and Longitude 159 degrees 28’ East, thence by a line bearing due south-west to a point Latitude 9 degrees 25’ South and Longitude 159 degrees 08’ 30” East, thence by a line bearing north-west-northerly to a point Latitude 9 degrees 20’ South and Longitude 158 degrees 53’ East, thence by a line Latitude 9 degrees 20’ south due west along the common border with the Western Solomons State to a point on the SI-PNG int. Boundary, thence due southeast along the same boundary to a point of intersection at Latitude 10 degrees 30’ East, thence by a line due east to a point Latitude 10 degrees 30’ East and Longitude 158 degrees 53, East, thence along the common boarders with Rennell and Bellona, Makira/Ulawa and Malaita States, and thence to the point of commencement”.
Isabel	“The area bounded by a line commencing at a point Latitude 8 degrees 33’ 35” South and Longitude 158 degrees 57’ 05” East, thence along the common borders with Central islands, Malaita, Choiseul and Western States, and thence to the point of commencement”.
Makira/Ulawa	“The area bounded by a line commencing at a point Latitude 13 degrees 45 South and Longitude 163 degrees 40’ East, thence by a line bearing due north-east northerly to a point Latitude 13 degrees South and Longitude 164 degrees East, thence along the common border with Temotu, Malaita, Guadalcanal and Rennell/Bellona States, and thence to the point of commencement”.
Malaita	“The Area bounded by a line commencing at a point Latitude 9 degrees South and Longitude 164 degrees East, thence along the common border with Temotu northerly to a point Latitude 8 degrees South and Longitude 164 degrees East, thence by a line bearing due north to a point Latitude 4 degrees 46’ South and Longitude 164 degrees East, thence by a line bearing due west to a point Latitude 4 degrees 52’ 18” South and Longitude 158 degrees 14’ 07’ East, thence by a line bearing due south-west to a point Latitude 5 degrees 03’ South and Longitude 157 degrees 55’ East, thence along the common borders with Choiseul, Isabel, Central Islands, Guadalcanal and Makira/Ulawa States, thence to the

	point of commencement”.
Rennell and Bellona	“The Area bounded by a line commencing at a point Latitude 10 degrees 30’ South and Longitude 158 degrees 53’ East, thence by a line bearing due east to a point Latitude 10 degrees 30’ 50” South and Longitude 159 degrees 48’ East, thence by a line bearing due east to a point Latitude 10 degrees 46’ South and Longitude 160 degrees 32’ East, thence by a line bearing due south-east to a point Latitude 10 degrees 52’ 20” South and Longitude 160 degrees 41’ 10” East, thence by a line bearing due south-east to a point Latitude 11 degrees 50’ South and Longitude 161 degrees 50’ East, thence by a line bearing due south to a point Latitude 13 degrees 45’ South and Longitude 161 degrees 50’ East, thence by a line due west along the line in Latitude 13 degrees 45’ East to a point of intersection with the SI-PNG international boundary, thence along the same international boundary due north-west to a point of intersection at Latitude 10 degrees 30’ East, thence by a line due east along the common border with Guadalcanal State to a point Latitude 10 degrees 30’ East and Longitude 158 degrees 53’ East, thence to the point of commencement.”
Temotu	“The area bounded by a line commencing at a point Latitude 8 degrees South and Longitude 164 degrees East, thence by a line bearing due east to a point Latitude 8 degrees South and Longitude 171 degrees East, thence by a line bearing due south to a point Latitude 13 degrees South and Longitude 171 degrees East, thence by a line bearing due west to a point Latitude 13 degrees South and Longitude 168 degrees 26’ East, thence by a line bearing due north-west to a point Latitude 12 degrees 30’ South and Longitude 167 degrees 58’ East, thence by a line bearing due west to a point Latitude 12 degrees 30’ South and Longitude 167 degrees 15’ East, thence by a line bearing due north-west westerly to a point Latitude 12 degrees 12’ South and Longitude 165 degrees 12’ East, thence by a line bearing due south-west westerly to a point Latitude 12 degrees 36’ South and Longitude 164 degrees 10’ East, thence by a line bearing due south-west southerly to a point Latitude 13 degrees South and Longitude 164 degrees East, thence along the common borders with Makira/Ulawa and Malaita States 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 on Latitude 6 degrees 23’ 59” South and Longitude 156 degrees 14’ 46” East, thence by a line due south to a point Latitude 6 degrees 42’ 50” South and Longitude 156 degrees 15’ 14” East, thence by a line due south-east southerly to a point 6 degrees 57’ 28” South and Longitude 156 degrees 21’ 58” East, thence by a line south-east to a point Latitude 7 degrees 17’ 25” South and Longitude 156 degrees 38’ 20” East, thence by a line due south-east easterly to a point Latitude 7 degrees 35’ 30” South and Longitude 157 degrees 00’ 00” East, thence by a line due south-east easterly to a point Latitude 7 degrees 42’ 47” South and Longitude 157 degrees 30’ 00” East, thence by a line due south-west easterly to a point Latitude 7 degrees 52’ 37” South and Longitude 157 degrees 58’ 07” East, thence by a line due south-east easterly to a point Latitude 8 degrees 10’ 28” South and Longitude 158 degrees 27’ 00” East, thence by a line due south-east to a point Latitude 8 degrees 32’ 35” South and Longitude 158 degrees 47’ 50” East, thence by a line due south-west southerly to a point Latitude 8 degrees 42’ 50” South and Longitude 158 degrees 53’ 10” East, thence by a line due south-west southerly to a point Latitude 8 degrees 56’ 50” South and Longitude 158 degrees 53’ 12” East, thence by a line due south-east southerly to a point latitude 9 degrees 05’ 25” South and Longitude 158 degrees 52’ 50” East, thence by a line due

	<p>south-west to a point Latitude 9 degrees 11' 05" South and Longitude 158 degrees 51' 50" East, thence by a line due south to a point 9 degrees 20' 00" South and Longitude 158 degrees 53' 00" East, thence by a line due westerly to a point Latitude 9 degrees 20' 00" South and Longitude 155 degrees 32' 21" East on the Solomon Islands and Papua New Guinea international boundary, and thence along that boundary to the point of commencement."</p>
Honiara City	<p>"The area bounded by a line commencing at a point on high water mark being the intersection of the western boundary of the Honiara city with high water mark, thence in a general southerly and easterly direction along the city boundary to a point of approximately UTM grid coordinates 603 060m east and 8956 940m north, thence in a general easterly direction along the city boundary to a point of approximately UTM grid coordinates 603 950m east and 8956 820m north, thence in a general easterly direction along the city boundary to a point being the intersection of the centre line of Mataniko River, thence along the centre line of the said river in a generally southerly direction to its intersection with the boundary of the Honiara City, thence along the said city boundary to a point approximately UTM grid coordinates 605 200m east and 8955 370m north, thence along the said city boundary in a general easterly direction to the corner point GUX1 with UTM grid coordinates 607 092.57 east and 8 855 073.08 in north, thence along the said city boundary to a point of approximately UTM grid coordinates 607 940 in east and 8 955 430m north, thence in a generally north easterly direction along the city boundary to Burns Creek and downstream to high water mark, thence by a line due north to a point approximately UTM grid coordinates 611 360m east and 8 961 140m north, thence by a line due west to a point of approximately UTM grid coordinates 600 680m east and 8960 080m north, thence by a line due south to the point of commencement".</p>

**Note:**

*The coordinates that appear in Schedule Four column B in the 2011 draft Federal Constitution are now replaced with the coordinates that appear in the 2011 technical report by CC member/ Technical Adviser Mr. Patt R. Loe) on the proposed States Maritime Boundaries. Note, however that Mr. Loe must need to get further work done as required, on those new proposals by Guadalcanal and Rennell and Bellona although the new coordinates are already in place and must be assisted by CRU Secretariat, as he will be doing extra duties outside of Plenary. Special areas or Hot Spots that have been agreed upon will stand as confirmed and those that are still to be decided upon will continue to be deliberated upon internally.*

**SCHEDULE FIVE TO THE CONSTITUTION**

**FEDERAL, STATE AND COMMUNITY GOVERNMENTS LEGISLATIVE  
POWERS**

**LIST I - FEDERAL POWERS  
[Clause 69 (2)]**

**(Note: The next Plenary to relook at List I on matters relating to Military, Police and Correctional Services)**

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. Defense**

- (a) Defense co-operation with foreign States
- (b) Civil Defense (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) (i) Human trafficking and human organ trades

**5. Citizenship**

(a) Citizenship

(b) Naturalisation

(c) Registration of all citizens

(d) Deportation of foreign citizens

**6. Public Finance**

(a) Currency and foreign exchange

(b) Regulation of banks, insurance, and other 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 gains 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 W.H.O

**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 the States of Choiseul, Western Solomon, Isabel, Central, Guadalcanal, Malaita, Rennell/Bellona, Makira/ Ulawa and Temotu).

**[Clause 150 (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 and practices;
- (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
  - © 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
- 7. State Police and Security**
- 8. Registration of Births, Deaths and Marriages**

**LIST III - STATE POWERS HELD IN TRUST BY THE FEDERAL  
GOVERNMENT FOR STATES OF**

**(Note: The next Plenary to consider shifting some List III legislative matters to List II.)**

**Choiseul, Central, Guadalcanal, Isabel, Malaita, Rennell/Bellona, Makira/Ulawa  
and Temotu).**

**[Clause 69 (5), (6),(7), (8) and (9)]**

**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 harbors
- (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 **Clause 136 (1)**
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
13. State Police and Security

#### **LIST IV - COMMUNITY GOVERNMENT POWERS**

**[Clause 142]**

- (1) Regenerate essential values of traditional governance and leadership systems including customary arbitration methods;
- (2) Control and manage customary land and boundaries and other resources;
- (3) Formulate and coordinate development plans and use of resources;
- (4) **Recognize and give effect to** traditional human rights, education system, Christian and **religious** principles, traditional medicines and cures, labour, and balance of economic activities;
- (5) Codify and enact customary laws, norms and systems;
- (6) Control of moral standards and values of society;

- (7) Decree over cultural norms, customs, customary land, sea resources and other cultural rights or customary justice on crimes and civil wrongs;
- (8) Protect and conserve natural environment;
- (9) Community security, including food, shelter, water, sanitation, and general health and hygiene; and
- (10) Promote cordial inter-communal relationships and harmony.
- (11) keeping copies of records of births, deaths and marriages certificates.
- (12) maintain a register of Land boundaries, lease agreement, customary wills and agreements.
- (13) keeping copies of records of chiefs and court decisions.
- (14) 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.
- (15) encourage the continuation of the existing customary systems to provide care to persons with disability, the aged and the destitute.
- (16) inspect and audit schools within the community.
- (17) promulgate road traffic and sea traffic rules governing speed, toll payments and access by the public.
- (18) promulgate rules and regulations governing squatters and itinerants in accordance with customs of the area.
- (19) organize – in consultation with State and Federal Police – community policing to deal with domestic violence (especially against women and girls), theft and public disorder.
- (20) promulgate rules and regulations for logging, **milling**, mining camps and other industries within their areas to prevent the abuse of young, vulnerable, desperate, mentally disabled and people.
- (21) '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).
- (22) to maintain and regulate communal work in the community.
- (23) Discourage immoral conduct in the communities.
- (24) protection of rivers, streams, catchment areas and water sources.
- (25) Inspect and audit clinics within a community.
- (26) Reviewing and monitoring of community projects to ensure that they meet community expectations.

**SCHEDULE SIX TO THE CONSTITUTION**

## REVENUE SHARING FORMULA

### PART I - Natural Resource Revenues

#### [Clause 156]

1. The revenue sharing ratios for all natural resources referred to in **clause 156** 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 157]

#### 1. The sharing ratio –

- (1) The sharing ratio of revenues referred to in **Clause 157** 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 (using the archipelagic baselines principle) and sea area of each State.

### **PART III - Review and Amendment**

#### **Review and amendment of the sharing ratio**

#### **[Clause 158]**

(1) 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.

(2) 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.

(3) 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.

## STATE CONSTITUTIONS

### [Clause 135 (2)]

*(Note: Plenary to take clear position whether or not Community Governments should have separate Constitutions or be part of State' Constitution.)*

#### 1. Preparation

- (1) Existing Provincial Assemblies are responsible in overseeing the preparation of their State and Community Constitutions and shall do so through a body appointed by it.
- (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 **paragraph** 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, Executive and Judicial Structures where appropriate 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) State Premiers and State Ministers;
  - (c) provisions of financial management at the state and community government levels that are consistent with the federal revenue arrangements contained in **Chapter Sixteen** of this Constitution;
  - (d) provisions for resource revenue sharing between State, Community and resource owners;
  - (e) provisions for a state public service; and
  - (f) for such additional matters considered to be appropriate for the administration of State and Community governments.
  - (g) The establishment of a State Electoral College
  - (h) 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) Ratification should be by State Convention
- (3) 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.
- (4) 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 137** of this Constitution.

*(Note: Should a State and its community governments be governed by one and the same document namely, a state constitution or by two separate constitutional documents – refer to next plenary)*

# TRANSITIONAL AND SAVINGS PROVISIONS

[Clause 270]

## 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 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, 20--(appropriate date)

### 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 62**.

### 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 (appropriate date).

(3) The Federal Parliament consists of 50 members for the duration of its term that expires on (appropriate date) subject to **Clause 72 (1) of** this Constitution.

(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 (appropriate date) unless Parliament is **dismissed** in terms of **Clause 99** after a motion of no confidence in the Prime Minister.

(2) **Clause 93** of this Constitution is suspended until (appropriate date).

## **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. Reserve 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 **paragraph (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 **paragraph** (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 with 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 rationalization contemplated in **sub para (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 **sub paragraph 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 to 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 **sub paragraph (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 require 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 **paragraph 15**, 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.

*Note: A provision for debt servicing of external and local loans be incorporated in the transitional provisions – refer to next Plenary for inclusion.*

## **SCHEDULE NINE TO THE CONSTITUTION**

## TAX REVENUE SOURCES

### Part I - Federal Government Tax Revenues

[Clause 117]

1. export duty
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. gambling and lotteries tax
20. residence and work permit fees
21. FIB application and approval fees
22. research fees
23. Passport fees
24. Departure fees

### Part II - States Governments Tax Revenues

[Clause 145]

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. gambling and lotteries tax
17. residence and work permit fees
18. FIB application and approval fees
19. researches fees
20. mining and prospecting fees

21. Liquor license fees
22. Property fees

Part III - Community Governments Tax Revenues

[Clause 143]

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
24. mining and prospecting fees

*(Note: Imposing tax on different aspects of a particular chargeable goods and services or activities does not amount to double taxation. The List is to be sorted out by taxation experts.)*