

CHAPTER 86

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CHAPTER 86

LEADERSHIP CODE (FURTHER PROVISIONS)

AN ACT TO MAKE FURTHER PROVISIONS RELATING TO THE LEADERSHIP CODE BY ESTABLISHING A COMMISSION, BY REQUIRING LEADERS TO DISCLOSE THEIR FINANCIAL AFFAIRS AND BY PRESCRIBING THOSE ACTS WHICH SHALL COMPRISE MISCONDUCT IN OFFICE AND FOR OTHER MATTERS CONNECTED THEREWITH AND INCIDENTAL THERETO

7 of 1979
3 of 1987

[1st May 1980]

PART I

PRELIMINARY

1. This Act may be cited as the Leadership Code (Further Provisions) Act.

Short title

2. In this Act, unless the context otherwise requires-

Interpretation

"assets", in relation to a Leader, include any debt or pecuniary obligation owed to him by any person, company, corporation or unincorporated association;

"associate", in relation to a Leader, includes a member of his family or a relative or other person standing in a close relationship to him according to custom, any co-director of a corporation or local company and any person included with him in an unincorporated association;

"business transaction" means any transaction carried out in furtherance of any trade, profession or occupation and any concern or adventure in the nature of trade;

"Commision" means the Commission established by section 4;

"corporation" includes any body incorporated by statute and any company incorporated outside Solomon Islands;

"Leader" means any person who or whose office or position is included in section 93 of the Constitution and any person appointed to the office of Ambassador or High Commissioner in accordance with section 127 of the Constitution;

"local company" means a company incorporated under the Companies Act; Cap. 175

"unincorporated association" means a partnership or other recognised association of persons intending to trade or carry on a business or profession for profit, but does not include a charitable organisation registered under the Charitable Trusts Act, or which is exempted from the payment of tax under the provisions of section 12 of the Income Tax Act. Cap. 55
Cap. 123

3.-(1) This Act shall apply to and in relation to all Leaders. Application of Act

(2) Parliament may by resolution determine that this Act shall apply to such other persons or offices as may be prescribed by such resolution.

4.-(1) There is hereby established for the purposes of this Act a Commission comprising three persons, each of whom shall be appointed by the Prime Minister for such period as may be specified and at such rate of remuneration as may be determined. Establishment of Commission

(2) Each member of the Commission shall, before commencing to exercise the powers conferred upon him by this Act, make before the Governor-General or some person authorised in that behalf by the Governor-General, an oath of secrecy in the

form set out in the Schedule hereto.

PART II

DISCLOSURE OF FINANCIAL AFFAIRS

5.-(1) Every Leader shall, within three months of the date of commencement of this Act or of his becoming a Leader, and thereafter at intervals not exceeding two years, give a separate statement in respect of himself, his spouse and each of his children under the age of eighteen setting out to the best of his knowledge-

Statement of assets etc.
to be supplied by Leader

(a) all directorships in any company or corporation held by each of them;

(b) the business occupations of each of them;

(c) the holdings of each of them of any shares of, or debentures or other securities charged upon, any company or corporation;

(d) the total income received by each of them during the period to which the statement relates and the sources of each of those incomes;

(e) all business transactions involving a sum of five hundred dollars or more entered into by each of them during the period to which the statement relates;

(f) subject to subsection (4), all gifts received by each of them during the period to which the statement relates, and the value of each of such gifts; and

(g) the assets acquired by each of them during the period of which the statement relates.

(2) The period to which a statement under subsection (1) shall relate is-

(a) in the case of the first statement made by a Leader, the preceeding three months;

(b) in any other case, the period since the last statement was given:

Provided that no Leader who has resigned his office within three months of the date of commencement of this Act shall be required to make a statement in respect of any period prior to such resignation.

(3) In the case of assets, income or gifts involving amounts less than one hundred dollars, it shall be sufficient if the statement gives general particulars and approximate amounts or values.

(4) It shall not be necessary for a Leader to include in the statement made under subsection (1) details of gifts made to himself, his wife or any of his children during the course of each year in any case where such gifts-

(a) were received from his spouse or children; or

(b) were offered at or in connection with a custom ceremony; or

(c) not being gifts falling within categories (a) or (b) above, were of a total value of ten dollars or less.

(5) The statement made in accordance with subsection (1) shall be submitted to the Commission.

(6) Statements and information given to the Commission under the provisions of this section or section 6 shall not be revealed to any person except-

(a) in the course of the duties of the Commission; or

(b) for the purpose of proceedings or possible proceedings under section 21:
or

(c) under an order of a court of competent jurisdiction.

6.-(1) The Commission may, by notice in writing to a Leader require him to give such details or further details in respect of any statement made by such Leader in accordance with section 5 as may be specified in the notice.

Requests for further
information

(2) In particular, but without affecting the generality of the powers conferred by subsection (1), such notice may relate to-

(a) assets or income general particulars of which were shown in accordance with section 5(3);

(b) omissions or apparent omissions from the statement;

(c) discrepancies in the statement; or

(d) discrepancies between the statement and any other statement or other information lawfully available to the Commission.

(3) Upon receiving such details or additional details the Commission shall make such amendments to the Register of Leaders' Interests as may be necessary.

7. Any Leader who-

Offences relating to
supply of statement

(a) fails without reasonable excuse (the burden of proof of which shall be upon him) to give to the Commission a statement as required under section 5; or

(b) fails without reasonable excuse (the burden of proof of which shall be upon him) to give to the Commission such details or further details as he may be required to supply in order to comply with any notice issued under section 6; or

(c) knowingly, recklessly or negligently gives in such statement or details any information that is false, misleading, or incomplete in a material particular,

is guilty of misconduct in office.

PART III
MISCONDUCT IN OFFICE

8.-(1) Any Leader who directly or indirectly asks for or accepts, on behalf of himself or any associate of his, any benefit in relation to any action in the course of his official duties (whether such action has already been taken, is continuing or is to be taken in the future) or by reason of his official position, is guilty of misconduct in office:

Use of office for personal
benefit

Provided that this section shall not be construed so as to apply to any request made by a Leader for the payment of travel or subsistence expenses to which he may be entitled as a result of his carrying out his official duties or for the receipt by him of proper remuneration.

(2) Subsection (1) shall include the case of a Leader, who, except in the course of and for the purpose of his official duties or his official position, uses or allows his name or his official position to be used for the benefit of himself or any other person.

9.-(1) Subject to the provisions of this section, a Leader-

Shareholdings and other
interests

(a) who holds shares or any other investment in any company, corporation or incorporated association;

(b) whose spouse or any of whose children under the age of eighteen holds any such shares or other investment,

(c) who or whose spouse or children under the age of eighteen holds any position or any financial interest (whether as debtor, creditor or guarantor) in any company, corporation or unincorporated association,

that could reasonably be expected to place him in a position in which he could be faced with a conflict of interest or might be compromised when discharging his public or official duties, is guilty of misconduct in office.

(2) Subsection (1) shall not apply to a Leader or to a spouse or child of a Leader who, prior to holding any shares, investment, position or financial interest referred to in subsection (1), has obtained the written approval of the Commission to do so.

(3) Subsection (1) shall not operate to prevent a person who becomes a Leader, or the spouse or child of such a person, who-

(a) at the time that he becomes a Leader holds shares or other investment or holds a position or has a financial interest in any company, corporation or unincorporated association; or

(b) unexpectedly receives shares or other investment or financial interest in any company, corporation or an incorporated association,

from holding the shares, or maintaining his investment or financial interest therein for such period as is reasonably necessary to divest himself thereof.

10.-(1) Subject to the provisions of subsection (2) of this section and section 17, where any Leader or the spouse or child under 18 of such Leader has a controlling interest in any corporation or local company (such corporation or local company being in this section referred to as "a relevant company") and that relevant company seeks, accepts or holds a beneficial interest in any contract concluded with the Government of Solomon Islands (such contract in this section being referred to as a "Government contract") such Leader is guilty of misconduct in office.

Interest in contracts

(2) Subsection (1) shall not apply in the case of any Leader who, prior to the relevant company seeking, accepting or otherwise obtaining a beneficial interest in a Government contract, has obtained a written permission of the Commission to such action.

(3) The Commission shall not give its permission under subsection (2) in any case where it is of the opinion that-

(a) the fact that the relevant company has sought, accepted, or obtained the beneficial interest in any Government contract might in the future involve the Leader in a conflict of interest: or

(b) the seeking, accepting or obtaining by the relevant company of the beneficial interest in any Government contract involved or may involve the use by the Leader of his official position.

11.-(1) Any Leader is guilty of misconduct in office who after the relevant date continues or engages in any paid employment other than his official employment, or accepts any emoluments for services rendered by him outside his official duties, without having first obtained the written approval of the Commission, which shall have special regard to the needs of the country in any case where the Leader has professional or other special skills.

Engaging in other paid employment

(2) The Commission shall not give its approval under subsection (1) where it is of opinion that-

(a) the remaining or engaging in other paid employment, or acceptance of any emoluments for his services might in future involve the Leader in a conflict of interest; or

(b) the obtaining of the other paid employment or the acceptance of any emoluments for his services involves or involved the use by the Leader of his official position.

(3) The Commission shall not give its approval under subsection (1) in any case where the Leader is a public officer without having first ensured that the Leader has obtained the consent of the Secretary for the Public Service or, if the officer is employed by a Provincial Assembly, the Provincial Secretary, to his engaging in paid employment or accepting emoluments for his services.

(4) For the purposes of this section-

(a) "relevant date" means the day three calendar months after the commencement of this Act; and

(b) "paid employment" shall include the holding of a directorship in any corporation or local company whether or not any fees are paid or payable in respect of such directorship.

(5) The provisions of this section shall not be construed as relieving any Leader from complying with the provisions of section 5 in relation to salary or emoluments received in respect of any paid employment other than his official employment or services rendered by him outside his official duties.

12. In considering whether the conduct of a Leader or his spouse or any of his children under the age of eighteen has given or may give rise to a conflict of interest, (that is to say a situation where the Leader has to make a choice between his personal interests and his obligations as a Leader) account shall be taken by the Commission of the following matters-

Interpretation of "conflict of interest"

(a) the amount of influence the Leader may have on the decision-making process of the Ministry, department or authority in which he works or for which is responsible;

(b) the esteem in which the public hold the office to which the Leader has been appointed and the need to ensure that the good reputation of that office is upheld:

(c) the possible financial gain or other benefit to the Leader; and

(d) the value to the development of Solomon Islands as a whole of the investment the Leader has made or may make, or the position the Leader is holding or may hold or the services he has given or may give to the company, corporation or unincorporated association concerned:

Provided that in any case where there is doubt as to whether a conflict of interest has arisen, additional weight shall be given to those matters specified in paragraph (d).

13. Any Leader who asks for, receives or obtains, or agrees or attempts to receive or obtain any property, benefit or favour of any kind for himself or any other person in consideration of his actions in carrying out his duties as a Leader being influenced in any manner, or on account of his having acted as a Leader in any manner (whether generally or in a particular case), is guilty of misconduct in office.

Acceptance of bribes

14.-(1) Any Leader who, or whose spouse or child under eighteen,-

Acceptance of loans etc.

(a) accepts any loan of money; or

(b) holds any franchise; or

(c) accepts any gift or other benefit or advantage, from any person, company, corporation or incorporated association,

is guilty of misconduct in office.

(2) Subsection (1) shall not apply to-

(a) a gift from his spouse or children;

(b) a loan or transaction in the nature of a loan which has been obtained or entered into on the same or similar terms as may be applied to other borrowers; or

(c) any gift not exceeding fifty dollars in value, or any other minor benefit or advantage, where such gift, benefit or advantage is clearly intended to be a memento of a ceremony or social occasion attended by the Leader or where such benefit or advantage falls within accepted standards of hospitality:

Provided that the provisions of this subsection shall not be construed as relieving a Leader from complying with the provisions of section 5 in relation to such loan, franchise or gift.

15.-(1) Any Leader who for personal gain or advantage, or for the personal gain or advantage of some other person, discloses or uses any information acquired by him in the course of his official duty, is guilty of misconduct in office.

Use of official information

(2) The provisions of subsection (1) shall not apply to information which has been officially released by the person or body having power to release it for public information.

16.-(1) Any Leader who, being a member of a statutory corporation, Government agency or other public body proposes to speak or vote on any matter before such body or before a Committee thereof, and who has a direct or indirect interest in the matter shall before speaking or voting thereon comply with the rules of such body or committee thereof relating to the disclosure of interest, or, if the rules of such body do not specifically make provision in that regard, shall be under a duty to give adequate notice of his interest in the matter under discussion.

Disclosure of interest

(2) The Prime Minister may on the advice of the Commission make regulations relating to the disclosure of interest by Leaders who are members of any body which

has no formal rules relating to disclosure of interest by members thereof.

(3) A Leader who fails to make a disclosure as required by subsection (1) or by regulation made under subsection (1) is guilty of misconduct in office.

17.-(1) Any Leader who after being requested so to do by the Commission, fails to publicly dissociate himself from any activity or enterprise of his spouse, any of his children under the age of eighteen, any other person for whom he is responsible or of any of his associates which might be expected to give rise to doubt in the public mind as to the Leader's compliance with the provisions of this Act, or of Chapter VIII of the Constitution, is guilty of misconduct in office.

Dissociation from
activities of associates

(2) Where a Leader has publicly dissociated himself from an activity or enterprise upon the request of the Commission, he shall not be guilty of misconduct in office or be otherwise liable under this Act for the actions of any of the persons referred to in subsection (1) to which that dissociation relates.

(3) For the purposes of this section-

"publicly" means by inserting a notice in a newspaper, or causing an announcement to be made over the broadcasting network on at least three separate occasions or by circularising members of the public in such other manner as the Commission may advise.

PART IV

ENFORCEMENT AND PENALTIES

18.-(1) Any person may make a complaint to the Commission concerning any alleged or suspected misconduct in office of a Leader.

Complaints and
investigation
3 of 1987, s. 2

(2) The Commission shall investigate or may lawfully delegate or authorise any person it deems fit to investigate any complaint received by it unless it decides not to do so on the ground that-

(a) the complaint is trivial, frivolous, vexatious or has not been made in good faith; or

(b) the complaint has been too long delayed to justify an investigation; or

(c) the subject-matter of the complaint does not fall within the provisions of this Act or Chapter VIII of the Constitution.

(3) The Commission may defer or discontinue an investigation on any of the grounds specified in subsection (2).

(4) The decision of the Commission not to investigate a complaint, or to defer or discontinue an investigation shall not be called in question in any court of law.

(5) On completion of an investigation by a person duly authorised under subsection (2), he shall submit his findings to the Commission, who shall thereupon make such determination as provided for in section 21.

3 of 1987, s. 2

19.-(1) Every investigation carried out by the Commission under this Part shall be conducted in private.

Conduct of investigation

(2) The Commission may hear or obtain information from any person whom it reasonably considers may be able to assist it, and may make whatever inquiries it thinks fit.

(3) The Commission when carrying out an investigation under this Part shall have the same powers as those vested in the Magistrate's Court in respect of-

(a) the administration of oaths or affirmations to witnesses and compelling them to give evidence;

(b) compelling the attendance of witnesses and the production of documents; and

(c) punishment for contempt of court.

(4) Nothing in this Part shall require the Commission to hold a hearing, and no person, other than the person whose conduct is being investigated and his legal representative (if any), shall be entitled as of right to be heard by the Commission.

(5) Any person appearing as a witness before the Commission who wilfully gives false evidence is liable to prosecution for perjury under the Penal Code.

Cap. 26

20. Any person, having been summoned to attend before the Commission fails without reasonable excuse (the burden of proof of which shall be upon him) to attend before him, or who wilfully, interrupts any proceedings conducted by the Commission

Failure to attend before Commission

is guilty of an offence and shall be liable to a fine of five hundred dollars.

21.-(1) On completion of an investigation the Commission may-

Action by Commission on
conclusion of
investigation

(a) where the Commission has determined that there is no substance in the allegations made against the Leader whose conduct or affairs have been under investigation, so declare;

(b) where the Commission has determined that there has been misconduct on the part of the Leader whose conduct or affairs have been under investigation, but is of the opinion that such misconduct was of a minor or technical nature, warn or reprimand the Leader;

(c) where the Commission has determined that there has been misconduct on the part of the Leader whose conduct or affairs have been under investigation, refer the matter to the Director of Public Prosecutions.

(2) The Commission shall give such publicity as it may consider desirable to its action in any particular case.

22. In any case where the Commission is of the opinion that the continued ownership and control by a Leader of any real or personal property or any interest in such property might involve him in a conflict of interest, it may, after giving the Leader adequate opportunity to state his case to the Commission, order that the whole or any part of such real or personal property or interest therein-

Disposal of assets

(a) be placed in trust with such person (including any member of the Commission) as the Commission may require, for return to the Leader when he has ceased to be a Leader; or

(b) in the case of any shareholding, be transferred by the Leader to such nominee as the Commission may specify, for such nominee to hold until such time as the Leader shall have ceased to be a Leader;

(c) be otherwise disposed of in such manner as the Commission in the circumstances of the individual case may require.

23.-(1) Proceedings for misconduct in office shall be commenced in the High Court of Solomon Islands.

Proceedings for
misconduct in office

(2) No proceedings may be commenced for misconduct in office except by the Director of Public Prosecutions.

(3) In the event that the Director of Public Prosecutions does not institute proceedings in respect of any matter referred to him by the Commission, he may furnish the Commission with a statement of the reasons for such decision:

Provided that such statement shall not be divulged to any other person by the Commission.

24. It is hereby declared that the powers, practice and procedure relating to an investigation before the Commission in pursuance of this Part shall, *mutatis mutandis*, be the powers, practice and procedure to investigations before a person duly authorised under subsection (2) of section 18 to investigate a complaint.

Practice, powers and
procedure to apply
mutatis mutandis

25.-(1) Any Leader convicted of misconduct in office shall be liable to a fine of one thousand dollars or imprisonment for one year or both such fine or imprisonment.

Penalties

(2) Any Leader convicted of an offence against section 13, shall in addition to any fine imposed under subsection (1) be liable to pay over to the Chief Accountant such amount as the Court may determine, as being the value of the property, benefit or favour received or obtained by such Leader.

PART V

MISCELLANEOUS

26. The Prime Minister may make Regulations for the better carrying into effect of the provisions of this Act, and in particular, but without prejudice to the generality of this section, such Regulations may prescribe the form in which statements under section 5 shall be made, and for the manner in which Leaders may obtain advice regarding compliance with Parts II and III of this Act.

Regulations

27. Except where the contrary intentions appear, no action taken under this Act shall prejudice any other action that may be taken under any other law:

Application of other laws

Provided that no person shall be liable to be punished twice for the same offence.

(No Subsidiary Legislation)