

# REPRINT

## HONIARA CITY ACT 1999

**As in force at: 5 February 2024**

<b>STATUS:</b>	<b>CURRENT</b>
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	For details see Endnotes
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**AN ACT** TO MAKE PROVISION FOR THE ESTABLISHMENT OF A CITY COUNCIL FOR THE HONIARA CITY; TO PRESCRIBE ITS FUNCTIONS AND POWERS AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

# HONIARA CITY ACT 1999

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# HONIARA CITY ACT 1999

As in force at: 5 February 2024

## PART I PRELIMINARY

### 1 Short title and commencement

This Act may be cited as the *Honiara City Act, 1999*, and shall come into force on such date as the Minister may appoint by notice published in the *Gazette*:

Provided that different parts of this Act may come into force at different times as the Minister may appoint from time to time.

### 2 Interpretation

In this Act, unless the context otherwise requires:

**“boundaries”** mean the City and Ward Boundaries as set out in Schedule I;

**“Boundaries Commission”** means the Constituency Boundaries Commission constituted under section 53 of the *Constitution*;

**“City Council”** means the Honiara City Council established under section 4;

**“City Fund”** means the general fund for Honiara City, established under section 39;

**“competent authority”** means an authority appointed under section 52(2);

**“Deputy Mayor”** means the Deputy Mayor appointed under section 7(2);

**“Electoral Commission”** means the Electoral Commission established by section 57 of the *Constitution*;

**“financial year”** means the twelve months commencing on first January and ending on thirty-first December in any year;

**“law enforcement officer”** means a law enforcement officer appointed under section 55M;

**“levy”** does not include collection of any tax or rate;

**“Mayor”** means the Mayor elected under section 7;

**“Minister”** unless used in a provision as a reference to a Minister charged with a specific responsibility, means the Minister for the time being charged with responsibility for Honiara City Council;

**“Ordinance”** means an Ordinance made by the City Council under section 34;

**“premises”** means:

- (a) an area of land, whether or not there is a building or structure on the land; or
- (b) a building or part of a building;

**“Standing Committee”** means a Committee appointed under section 19;

**“Standing Orders”** means orders made under section 14;

**“Town Council”** means the Honiara Appointed Council established by warrant published in the *Gazette* as Legal Notice No. 110 of 1998 and includes the Honiara Town Council dissolved under the same warrant.

**“vehicle”** means a motor vehicle, bicycle, aircraft, vessel or other thing used to carry or transport a person or goods.

## **PART II ESTABLISHMENT OF HONIARA CITY COUNCIL**

### **3 Honiara to be Honiara City**

As from the commencement of this Act, Honiara as it exists



immediately before such commencement, shall be Honiara City as provided for under the *Constitution*.

#### **4 Establishment of the Honiara City Council**

- (1) There shall be established under this Act for the purpose of the administration of Honiara City a body to be known as the Honiara City Council.
- (2) The boundaries of Honiara City shall be as set out in Schedule 1, and shall be the area of authority of the City Council.
- (3) The City Council shall be a body corporate to which the provisions of Part VII of the *Interpretation and General Provisions Act* shall apply.

#### **5 Membership of the City Council**

- (1) The City Council shall consist of:
  - (a) twelve elected members;
  - (b) four members to be appointed by the Minister provided one of the members shall be from Guadalcanal; and
  - (c) members of Parliament who represent Honiara City; and
  - (d) the Premier of Guadalcanal Province.
- (2) The members referred to in paragraphs (c) and (d) of subsection (1) shall be *ex officio* members.
- (3) Each electoral ward shall, subject to section 16 return one member.
- (4) The appointment of members under subsection (1)(b) shall be made within twenty-one days after an ordinary election is held under section 6.

#### **6 Time of election and term of office of members**

- (3A) Subject to section 9, the first ordinary election of members of the City Council held after the commencement of the *Honiara City (Amendment) Act 2023*:

- (a) must be held on a date in 2024 fixed by the Minister, acting on the advice of the Electoral Commission, by notice published in the *Gazette*; and
- (b) must not be held after 30 April 2024.

## **7 Mayor and Deputy Mayor**

- (1) The City Council shall within fourteen days after an ordinary election elect from the elected members a Mayor.
- (2) There shall be a Deputy Mayor who shall be appointed from among the elected members by the Minister acting in accordance with the advice of the Mayor.
- (3) The office of the Deputy Mayor shall become vacant:
  - (a) if his appointment is revoked by the Minister on the advice of the Mayor;
  - (b) if he resigns by writing to the Minister through the Mayor;
  - (c) if he is absent from three consecutive City Council meetings without obtaining leave from the Mayor;
  - (d) if circumstances arise that would cause him to be disqualified under section 12 from being a member of the City Council.
- (4) Where the office of the Mayor is vacant under section 8 the Deputy Mayor shall preside at the meetings of the City Council and perform the functions of the Mayor:

Provided that at the first sitting of the City Council after an election held under section 6, until the Mayor is elected the City Clerk shall preside at such meeting, in accordance with the Standing Orders.

## **8 Removal of Mayor**

- (1) The office of Mayor becomes vacant where:
  - (a) a resolution is passed by an absolute majority of the elected members of the City Council declaring that the Mayor be

removed, and the Minister makes a declaration to that effect;

- (b) it is determined by a commission established for that purpose by the Minister that the Mayor has committed misconduct in office; or
  - (c) he resigns his office by writing to the Minister.
- (2) No resolution shall be passed by the City Council under subsection (1)(a) until the expiry of a period of eighteen months from the date of the Mayor being elected to office.

## **9       Dissolution of the City Council**

- (2) The City Council shall:
- (a) stand dissolved from the date on which a competent authority is appointed under section 52(2); or
  - (b) be dissolved upon a direction of the Minister, if the City Council resolves that it should be dissolved and the resolution is supported by the votes of an absolute majority of the elected members of the City Council.

## **12       Disqualification for election of member of the City Council**

A person is disqualified for election as a member of the City Council if, at that time:

- (a) he is disqualified for election as a member of Parliament under section 48 or 49(1)(a), (c), (d) and (f) of the *Constitution*;
- (b) he is under any sentence as specified in section 49(1)(e) of the *Constitution*;
- (c) he has been convicted in Solomon Island or in any other Commonwealth country of any offence for which he was liable on conviction to imprisonment for a period of six months or more and a period of less than four years has elapsed since the date of the conviction;
- (d) he is a member of a Provincial Assembly;

- (e) he is an employee of the City Council;
- (f) he has been ordinarily resident in Honiara City for a period less than one year.

### **13 Vacancy in seat of members**

- (1) The seat of a member of the City Council shall become vacant:
  - (a) on a dissolution of the City Council; or
  - (b) if by writing addressed to the Mayor, he resigns his seat; or
  - (c) if he is absent from three consecutive meetings of the City Council without obtaining leave from the Mayor unless such absence was due to some reason approved by the Mayor.
- (2) Any person whose seat in the City Council has become vacant may, if qualified again, be elected as a member of the City Council.
- (3) The proceedings of the City Council shall not be invalidated by reason of any vacancy among its members or the want of qualification of any member.

### **14 Standing Orders**

- (1) The City Council shall with the approval of the Minister make Standing Orders for regulating its procedure and any other matters relating to the business of the Council.
- (2) The Standing Orders shall make provision for the matters referred to in Schedule 2 and shall do so in accordance with the requirements of that Schedule.

### **15 Salaries and allowances of members of the City Council**

- (1) There shall be paid to members of the City Council other than the Mayor such allowances as the Minister may by Order prescribe.
- (2) Power to determine the salaries and allowances of the Mayor shall vest in the Members of Parliament (Entitlements) Commission.

- (3) Payments under this section shall be made out of the City Fund.
- (4) In this section “**salary**” includes any benefit payable in right of membership of the City Council but does not include an allowance.

### **PART III                    ELECTIONS, VOTERS AND ELECTORAL REGISTERS**

#### **16                    Review of electoral arrangements**

- (1) Where the Boundaries Commission has conducted a review of the electoral ward boundaries for Honiara City, it shall submit proposals to the Minister accordingly.
- (2) Where the proposals are submitted to the Minister under this section he shall make an order giving effect to the proposals.

### **PART IV                    STANDING COMMITTEES OF THE CITY COUNCIL**

#### **19                    Standing Committees**

- (1) The Minister, on the advice of the Mayor shall appoint from the members of the City Council not less than seven Standing Committees. Each Standing Committee shall assume executive functions of the Council. Each Standing Committee shall consist of a Chairman and not more than five members.
- (2) The Mayor shall in writing assign to each Standing Committee executive powers, functions and responsibilities for the administration of any department of the Council, except the power to:
  - (a) make any Ordinance;
  - (b) make and levy any rate;
  - (c) borrow or lend money; and
  - (d) approve annual estimates.

## **20 Appointment of ad hoc committees**

- (1) Where a Standing Committee deems it necessary it may in consultation with the Mayor appoint an *ad hoc* committee to perform any specific task.
- (2) In appointing such an *ad hoc* committee the Standing Committee may prescribe guidelines or terms of reference to assist the *ad hoc* committee to perform such specific task.

## **PART V FUNCTIONS AND POWERS OF THE CITY COUNCIL**

### **21 Functions of the City Council**

- (1) The City Council may perform all or any of the functions listed in Part I of Schedule 5 and may for such purposes impose fees, rates or charges by Ordinance.
- (2) The Minister may after consultation with the Cabinet and the Minister concerned transfer by Order any of the statutory functions listed in Schedule 4 to the City Council.
- (3) Where any statutory function is transferred to the City Council pursuant to subsection (2), the Minister may in the Order transferring such statutory functions make such modification to any enactment as appear to him to be necessary or expedient in consequence of the Order.
- (4) Where as a result of the transfer of certain statutory provisions by an Order made under subsection (2), it appears to the Minister that certain property belonging to the Government may be used mainly for or in connection with the exercise of such statutory powers, the Minister may by order in concurrence with the Minister concerned transfer, subject to such conditions as he may specify, such property to the City Council.
- (5) In the discharge of its functions it shall be the duty of the City Council to generally promote the health, welfare and convenience of the inhabitants of the area of its authority and to maintain order and good government in such area; and for these purposes the City Council

may, within the limits of the functions so conferred, either by its own officers or by duly appointed agents do all such things as are necessary or desirable for the discharge of such functions.

- (6) Any function conferred upon the City Council shall be exercisable over all persons within the area of its authority save as is otherwise expressly provided in this Act or in any regulations, Orders or Ordinances made thereunder.

## **22 Power to accept gifts**

The City Council may accept, hold and administer any gift of property for any public purpose or for the benefit of the inhabitants of the area of its authority or any part thereof and may execute any works (including works of maintenance and improvement) incidental to or consequential on the exercise of the powers conferred by this section.

## **23 Fees**

The City Council may charge fees for any service or facility provided by the City Council or for any licence or permit issued by the City Council under the provisions of this Act or of any regulations or Ordinances made thereunder.

## **24 Power to enter into contracts**

- (1) The City Council may enter into any contract necessary for the discharge of any of its functions under this or any other Act.
- (2) The City Council or a Standing Committee duly authorised to accept tenders, may accept the tender which, having regard to all the circumstances, appears to it to be the most advantageous, and may take security for the due and faithful performance of every contract, or it may decline to accept any tender:

Provided that all tenders received shall be recorded in the minutes of the City Council or committee, as the case may be.

- (3) Nothing in the section shall apply to any contract for the purchase by the City Council of produce or other perishable goods bought in a public market, or any purchase entered into by the City Council as

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the result of bidding at a public auction.

**25      Property insurance**

The City Council may insure all or any of its property against risks of any type.

**26      Provision of buildings by the City Council**

- (1) The City Council may build, acquire, provide or hire and furnish buildings within the area of its authority to be used for the purpose of transacting the business of the Council and for public meetings and assemblies.
- (2) The City Council may build, provide or hire and maintain quarters or houses for any officer or employee of the City Council.

**27      Acquisition of and dealings in land**

- (1) The City Council may, for the purpose of any of its functions under this or any other Act, by agreement acquire, whether by way of purchase, lease, gift or exchange, any land situated within or outside the area of its authority, whether such land is immediately required or not.
- (2) Where any land is required by the City Council for the purpose of any of its functions and by reason of disputes or doubts as to the ownership of the land required or inability of the parties to agree to the terms or for any of other cause the acquisition of the land is being hindered, the Minister of Lands may, on the application by the City Council and on being satisfied that the purpose for which the land is required is of public benefit or importance, declare the land to be required for a public purpose under the provisions of section 71 of the *Land and Titles Act*, and direct the transfer of such land to the City Council, and, subject to any directions by the Minister to the contrary, the City Council shall pay all expenses incurred and compensation paid in respect of the acquisition of such land.
- (3) Any land acquired under subsection (1) may, until it is required for the purpose for which it was acquired, be held and used for the purpose of any of the functions of the City Council.



- (4) Any land belonging to the City Council and not required for the purpose for which it was acquired may be appropriated for any other purpose, except that in the case of land compulsorily acquired under subsection (2), the consent of the Minister shall be required.
- (5) Subject to subsection (4) the City Council may sell, let or otherwise dispose of any land which it may possess and which is not required for the purpose for which it was acquired or is being used:

Provided that nothing in this subsection shall authorise the disposal of land by the City Council whether by sale, lease or otherwise in breach of any trust, covenant or agreement binding upon the City Council.

- (6) Subject to the provisions of the *Planning and Development Act* and the *Land and Titles Act*, the City Council may lay out building plots upon or otherwise subdivide any land which it may possess for the purpose of housing or residential schemes, commercial, industrial or any other purposes within the area of its authority and may sell, let or otherwise dispose of any such plots or subdivisions of land and the buildings thereon.

## **28 Powers of Government officers**

The Minister may in consultation with the Public Service Commission or other relevant appointing authorities, by notice direct that specified Government officers, or categories of officers, be deemed to be officers of the City Council for the purposes of giving effect to and enforcing any Ordinances made by the City Council.

## **29 Power to enforce functions of City Council**

- (1) If the Minister is satisfied that the City Council has made default in the performance of any function conferred or imposed upon it by or under this Act; or any other Act for the time being in force, he may, after having given the City Council reasonable notice of his intention to do so and having considered the representations, if any, of the City Council thereon, make an order declaring the City Council to be in default and may, by the same or any other order:
  - (a) for the purpose of removing the default, direct the City Council

to perform such of its functions in such manner and within such time or times as may be specified in the order; or

- (b) subject to subsection (2) by order transfer to such person or body as he may deem fit such of the functions referred to in subsection (1).
- (2) If the City Council fails to comply with any requirement specified in an order made under paragraph (a) of subsection (1) within the time limited thereby for compliance with that requirement, the Minister may make an order under paragraph (b) of that subsection.
- (3) Where an order has been made under paragraph (b) of subsection (1), the Minister may, if he considers the default made by the City Council to be of such a nature as to so warrant, by the same or any other order, with the concurrence of the Cabinet remove the members of the City Council for such time as he may think fit from the performance of such of their functions as may be specified in such order.

### **30 Expenses in respect of transferred functions**

Where any functions of the City Council are transferred to any person or body under the provisions of paragraph (b) of subsection (1) of section 29, the expenses incurred by such person or body in discharging those functions shall be a debt due from the City Council to such person or body, as the case may be.

### **31 Powers in emergency**

In the event of any sudden disaster or emergency endangering the life or property of any person within the area of authority of the City Council, the City Clerk may, after consultation with the Mayor if practicable, and having regard to any approved plan for such emergency, make such decisions and take such steps as may be reasonably necessary to deal with the situation, without prior reference to the Council:

Provided that in the case of a natural disaster any decision taken shall as far as practicable be in consultation with the National Disaster Council:

Provided further that the City Clerk shall as soon as practicable report any such decisions and steps to the Mayor and the City Council.

## **32 Additional powers of the City Council**

- (1) Subject to the preceding sections of this Part, the City Council has the power to do all things necessary or convenient to be done for, in connection with or incidental to, and may do anything which is not otherwise unlawful for, the purpose of performing its functions.
- (2) Notwithstanding the provisions of subsection (1), the City Council shall not, in the exercise of its powers or the performance of its functions:
  - (a) conduct relations with any country outside Solomon Islands; or
  - (b) seek to obtain, or accept financial assistance from persons outside Solomon Islands, except with the consent of the Minister and in accordance with the provisions of the *Central Bank of Solomon Islands Act*.

## **33 Agency agreements**

- (1) Arrangements may be made between the City Council and any public authority for any functions of one of them to be performed by, or by officers of, the other, and for the provision by one of them for the other of any administrative, professional or technical services.
- (2) No such arrangements for the performance of any functions or the providing of any service shall affect the responsibility of the public authority on whose behalf the function is performed or the service is provided.
- (3) In this section “**public authority**” means:
  - (a) any department of the National Government;
  - (b) any Provincial Executive;
  - (c) any Area Council or similar body;
  - (d) any body corporate established by an enactment; and

- (e) any company (within the meaning of the *Companies Act*) of which a public authority is a member.

## **PART VI           LEGISLATION**

### **34           Extent of power to make laws**

- (1) Subject to the other provisions of this Act, the City Council shall have power to make laws only if and to the extent that they relate to matters within its legislative competence or to a matter which is specified in Part II of Schedule 5.
- (2) The City Council shall have no power to make a law which imposes, alters or abolishes any tax other than a rate made pursuant to Part I of Schedule 5 or any other provision of this Act.

### **35           City Ordinances**

- (1) Subject to the other provisions of this Act, laws may be made by the City Council as its Ordinances.
- (2) The laws referred to in subsection (1) shall take the form of Bills, and where a Bill is passed by the City Council, and assented to by the Minister, it shall be enacted as an Ordinance and shall have the force of law.
- (3) Where a Bill as passed by the City Council is presented to the Minister for his assent, he shall not withhold his assent except where he acts under section 36.
- (4) Subject to section 34 an Ordinance may amend or repeal any provision of an Ordinance made by it.
- (5) Ordinances shall be judicially noticed.
- (6) Notwithstanding the provisions of the *Interpretation and General Provisions Act*, an Ordinance may prescribe by way of penalty a fine not exceeding ten thousand penalty units or to imprisonment for a term not exceeding two years and further provide where necessary a penalty not exceeding fifty penalty units for each day on which the offence is continued after written notice of the offence has been

served on the offender.

### **36 Withholding of assent from Bills**

- (1) Where a Bill, as passed by the City Council, is presented to the Minister for his assent, and he is of the opinion that any provision of the Bill:
  - (a) does not relate to a matter within the legislative competence of the City Council; or
  - (b) relates to such matter but the City Council has no power, under this Act to make such provision by law,

he shall return the Bill to the City Council drawing its attention to that provision with directions that the City Council sets aside the Bill or any specified provision thereof, or give such directions for the making of such amendments to the Bill as he may consider appropriate, and the City Council shall proceed with the Bill accordingly.

- (2) Where the City Council, after considering the directions of the Minister, forwards the Bill again to the Minister for his assent, and the Minister is of the opinion that the Bill has been amended in accordance with his directions, he shall assent to the Bill.

## **PART VII EMPLOYEES OF THE CITY COUNCIL**

### **38 Staff instructions**

- (1) Subject to the provisions of this Act, the City Council may issue written instructions (to be called Staff Instructions) providing generally for the employment, control and conditions of service of officers and employees of the City Council and in particular:
  - (a) regulating appointments, grades, remuneration, promotion, termination of appointments, dismissal and leave;
  - (b) maintaining discipline, including withholding or deferring of increments, or reduction in rank or salary, or deductions from salary in respect of damage to or loss of property of the City Council by misconduct or breach of duty;

- (c) regulating the rates, conditions and payment of allowances and gratuities, the grant of advances and the terms and conditions of service generally;
  - (d) such other matters relating to departmental procedure and the duties and responsibilities of officers and employees as the Council considers can be best regulated by such instructions.
- (2) For the purposes of subsection (1), there shall be established a board which shall be called the Honiara City Council Employment Board and which shall consist of five members to be appointed by the Minister, namely:
- (a) a representative of the Public Service Commission;
  - (b) a representative of the Chamber of Commerce;
  - (c) a police officer;
  - (d) a medical practitioner; and
  - (e) one other member to be nominated by the Council.
- (3) The City Clerk shall be the Secretary to the Board.
- (4) All expenses of the Board shall be charged on the City Fund.
- (5) The term of office of the Board shall be four years.

## **PART VIII      FINANCE**

### **39            Establishment of the City Fund and other funds**

- (1) There is hereby established a general fund for Honiara City, called the City Fund, into which shall be paid all revenues and other receipts of the City Council except those which are disposed of or accounted for in accordance with any other law or provision of this Act or an arrangement made under subsection (2). There shall be paid from the City Fund all expenditure properly and lawfully incurred by the City Council unless any such expenditure is properly payable from a training fund or special fund.

- (2) Notwithstanding anything contained in this section the City Council may with the approval of the Minister establish a special fund for any specific purpose.
- (3) Where a special fund is established under subsection (2) the Minister may make rules regulating the use and administration of such fund.
- (4) No expenditure shall be incurred from the City Fund except by an Ordinance called the Appropriation Ordinance. An Appropriation Ordinance may only appropriate sums:
  - (a) for the purposes of exercising powers and performing functions by the City Council under this Act; and
  - (b) for a purpose for which they are payable out of the City Fund.
- (5) An Appropriation Ordinance may provisionally authorise the payment out of the City Fund in advance of appropriation sums not exceeding in the aggregate such amount as may be specified in the Ordinance.
- (6) An Appropriation Ordinance shall not have effect at any time unless, at the time, there is in force an Ordinance (in this Act referred to as a Financial Management Ordinance) dealing with each of the matters mentioned in Schedule 6.

#### **40        Payments out of the City Fund and other funds**

- (1) No payment shall be made out of the City Fund except under the authority of a warrant given by two officers signing jointly and specifically authorised by the City Council for that purpose.
- (2) No warrant authorising payment of any sum shall be given unless:
  - (a) the sum is part of the sums appropriated for any purpose by the City Council;
  - (b) payment of the sum has been provisionally authorised under section 39(5); or
  - (c) the sum has been charged on the City Fund by or under any law.

- (3) A sum issued out of the City Fund or a special fund may not be applied for any purpose other than:
  - (a) the purpose for which it was appropriated or charged; or
  - (b) the purpose to which it is allocated in accordance with the Financial Management Ordinance, being a purpose falling within section 39(4).

**41 Bank accounts**

All moneys belonging to the City Council shall be paid into such local bank or banks registered and operating in Solomon Islands as the City Council may from time to time appoint.

**42 Officers and employees of the City Council**

- (1) The City Council shall appoint a Chief Executive who shall be the City Clerk, and appoint such other officers and employ such other persons as it shall think necessary for the efficient discharge of the functions of the City Council.
- (2) The person appointed under subsection (1) as the Chief Executive of the City Council is responsible for:
  - (a) the control and direction of officers and employees of the City Council;
  - (b) ensuring that all functions, duties and powers delegated to him or to any person employed by the City Council or imposed or conferred by any Act, regulation or Ordinance are properly performed or exercised;
  - (c) implementing the City Council's policy and decisions; and
  - (d) ensuring the effective, efficient and economic management of the activities and planning of the City Council.
- (3) The City Council may appoint a person to be the Deputy Chief Executive of the City Council.



#### **43 Delegation to officers**

- (1) The City Council may, by instrument in writing delegate to an officer or employee any of its powers and functions under this or another Act, other than the powers contained in sections 19(2) and 23.
- (2) A power or function delegated under this section by the City Council, when exercised or performed by the delegate, shall for the purposes of this Act be deemed to have been exercised or performed by the City Council.
- (3) A delegation under this section does not prevent the exercise of a power or performance of a function by the City Council.
- (4) The City Council shall cause a register of delegations made under this section to be opened and maintained.

#### **44 Payments into the City Fund by the Minister**

The Minister shall, in respect of each financial year, make payments into the City Fund; and the amount of the payment into the City Fund, and the timing and amount of any instalments by which the payment is to be made, shall be such as may be specified by the Minister by order.

#### **45 Estimates**

- (1) The Standing Committee responsible for Finance shall lay before the City Council before the 30th September in each financial year estimates of the revenue and expenditure of the City Council for the next financial year.
- (2) The estimates shall show the sources of revenue and the purpose and scope of each head of expenditure.

#### **46 Financial systems**

- (1) The City Council shall adopt financial systems and reporting and record-keeping procedures that are consistent with internationally accepted accounting practices.
- (2) The systems and procedures adopted shall:

- (a) identify the costs, revenue and financial performances of the various activities of the City Council and of each of its significant activities and include, for each significant activity, a separate allowance for depreciation and provision for a return on the capital involved;
- (b) correctly record and correctly explain the transactions of the City Council;
- (c) at any time enable the financial position of the City Council to be determined with reasonable accuracy;
- (d) enable a true and fair view of the state of affairs of the City Council to be presented at the end of each month and at the end of each financial year;
- (e) enable the accounts of the City Council to be readily and properly audited by the Internal Audit at all times and the Auditor-General at the end of the financial year;
- (f) show in full and complete manner:
  - (i) all income and expenditure;
  - (ii) all assets and liabilities including contingent liabilities and guarantees;
  - (iii) the application of all funds held or received for any particular purpose (such as special funds) and the amount and location of such funds while held by the City Council.

#### **47 Accounts**

- (1) For each financial year, the Standing Committee responsible for Finance shall prepare the following accounts:
  - (a) accounts of sums paid and received by the City Council;
  - (b) an account of payments into and out of the City Fund, and any special fund; and
  - (c) a balance sheet of the assets and liabilities of the City Council.

- (2) The accounts shall be sent to the Auditor-General as soon as practicable after the end of the financial year to which they relate but, in any event, not later than three months after the end of that year.
- (3) The Auditor-General shall, after auditing the accounts pursuant to subsection (3) of section 108 of the *Constitution* lay copies of them, together with his report as required under that subsection before the City Council.
- (4) The City Council shall publish:
  - (a) the accounts and reports received by it under subsection (3) within six months of their receipt; and
  - (b) the reports of the Standing Committee responsible for Finance.
- (5) The City Council shall pay in respect of any audit under section 108(3) of the *Constitution* such amounts as the Auditor-General may direct, and any sum payable under this subsection shall be a charge on the City Fund.

#### **48        Borrowing powers of the City Council**

- (1) The City Council shall not borrow money except in accordance with this section.
- (2) The City Council may borrow temporarily (either by way of overdraft or otherwise) from an authorised lender such sums as may appear to the City Council to be required:
  - (a) for the purposes of meeting a temporary excess of sums paid out of the City Fund or a special fund over sums paid into the respective fund; or
  - (b) for the purpose of providing a working balance in any of the respective funds referred to in paragraph (a).
- (3) The aggregate outstanding in respect of the principal sums borrowed by the City Council shall not exceed thirty per cent of the previous year's revenue actually collected, or any higher amount approved by the Minister.

- (4) Sums required for the payment of, or the payment of interest on, sums borrowed under this section shall be charged on the City Fund, or the special fund as appropriate.
- (5) Notwithstanding the provisions of subsections (1), (2) and (3), the City Council may borrow for the purposes set out in Schedule 4 and Part I of Schedule 5 from an authorised lender such sums as may be approved by the Minister of Finance.
- (6) In this section:

**“authorised lender”** means any financial institution as authorised by the Central Bank of Solomon Islands.

#### **49 Guarantee by the City Council**

The City Council shall not borrow or give a guarantee for the purposes of performing its functions under Schedule 5 where the aggregate of:

- (a) the amounts outstanding in respect of any sum borrowed by the City Council, and
- (b) the sums the repayment of which has been guaranteed by the City Council,

exceeds such sum as prescribed by order of the Minister.

#### **50 Establishment of Capital and Investment Fund**

There shall be established a Capital and Investment Fund, the financial investment of which shall not exceed five per cent of the annual budgeted internal revenue:

Provided, however, that investments exceeding five per cent of the annual budget may be made with the written approval of the Minister.

### **PART IX DISSOLUTION OF TOWN COUNCIL**

#### **51 Dissolution of Town Council**

As from the commencement of this Act:

- (a) the Town Council shall, notwithstanding anything contained in the *Local Government Act* and in the Solomon Islands Independence Order 1978, be dissolved in relation to Honiara City, and any references therein or any other enactment to the Town Council shall be construed as references to the City Council;
- (b) all sums of money, lands, buildings, bridges, wharves, vehicles, waterworks, goods and all other property and assets whatsoever vested in, belonging to, or held by the Town Council shall, without further assurance be deemed to be transferred to and to vest in a like interest in the City Council;
- (c) all fees, rates and other moneys including any interest or penalty thereon, payable to the Town Council shall become payable to the City Council;
- (d) the rights, interest, obligations and liabilities of the Town Council under any law, legal instrument or contract, including a contract of service, subsisting immediately before such commencement, shall be deemed to be vested in and assigned to the City Council; and every such law, instrument or contract shall be of full force and effect against or in favour of the City Council, and shall be enforceable by or against the City Council as fully and effectually as if, instead of the Town Council, the City Council were named therein or had been a party thereto;
- (e) all actions, suits or legal proceedings instituted by the Town Council and pending, or any cause of action existing in favour of or against the Town Council immediately before such commencement, shall be continued or enforced by or against the City Council, as they might have continued or been enforced by or against the Town Council, if this Act had not commenced;
- (f) every by-law made by the Town Council and in force immediately before such commencement, shall have effect, subject to such modifications as are specified in Part 1 of Schedule 3, as an Ordinance of the City Council enacted under this Act;

- (g) any appointment, order, resolution, rule, regulation or other instrument lawfully made, or any notice or any powers lawfully conferred, by the Town Council or by any other authority under the *Local Government Act* or any other law, and in force in the area of the authority of the Town Council immediately before such commencement, shall remain in full force and effect as if this Act had not commenced;
- (h) any document, book, register or record of the Town Council shall be deemed to be a document, book, register or record of the City Council;
- (i) any licence, registration or permit lawfully issued, made or granted by the Town Council and in force immediately before the commencement, shall continue in force for the period specified in such licence, registration or permit, as if the same was issued, made or granted by the City Council unless the same is sooner suspended or cancelled by the City Council under or in pursuance of any Act or by-law under which it was issued, made or granted;
- (k) until such time as appropriate Ordinances are enacted by the City Council all rates and levies payable under Part VIII of the *Local Government Act* shall be payable to the City Council subject to such amendments in Part II of Schedule 3.

## **PART X                    RELATIONS WITH THE NATIONAL GOVERNMENT**

### **52                    Suspension or dissolution of City Council**

- (1) Where, at any time, it appears to the Minister that a situation has arisen in which there is a failure of the administrative machinery resulting in the non-compliance with the provisions of this Act, the Minister may by order and with the concurrence of the Cabinet suspend or dissolve the City Council stating the circumstances justifying the action:

Provided that prior to making such order, the Minister shall give the City Council reasonable notice of his intention and consider representations from the City Council.

- (2) Where the City Council is suspended or dissolved pursuant to the provisions of section 9(2) or this section, the Minister shall appoint a competent authority to assume responsibility for the administration of the City Council until such suspension is removed or a new Council is elected.
- (3) For the purposes of this section “**City Council**” means the elected members and *ex officio* members of the City Council.

### **53 Power to amend Schedules**

- (1) Where the Minister considers it expedient or necessary so to do in the public interest, he may by Order, amend any Schedule except Schedules 4 and 6.
- (2) An order under subsection (1) shall be published in the *Gazette*.

### **54 Provision of information**

- (1) Where it appears to the Minister that any information relating to the exercise of functions by any Minister is required for the exercise of functions by the City Council, he may request the Minister concerned to supply the information to the City Council and that Minister shall comply with the request.
- (2) Where it appears to the Minister that any information relating to the exercise of functions by the City Council is required for the exercise of functions by any Minister, he may request the City Council to supply the information to the Minister concerned and the City Council shall comply with the request.

### **55 Investment of funds**

The City Council may invest any of its surplus funds, not exceeding in any one year five per cent of the annual budget, in such investments as may from time to time be approved by the City Council:

Provided, however, that investments exceeding in any one year five per cent of the annual budget may be made with the approval of the Minister.

## **PART XA            ENFORCEMENT**

### **Division 1            Preliminary matters for Part XA**

#### **55A            Definitions for Part XA**

In this Part:

**“fixed penalty”** means a fixed penalty prescribed under section 55J and specified in an infringement notice;

**“infringement notice”** means an infringement notice issued by a law enforcement officer under section 55F;

**“prescribed offence”** means an offence under an Ordinance that is prescribed by that Ordinance as an offence for which an infringement notice may be issued and a fixed penalty paid;

#### **55B            Purpose of Part XA**

- (1) This Part provides for the enforcement of this Act and Ordinances.
- (2) In doing so, this Part:
  - (a) provides for the appointment, function and powers of law enforcement officers; and
  - (b) provides for the manner of enforcement of this Act and Ordinances; and
  - (c) provides for prosecution of offences under this Act or an Ordinance.

#### **55C            How Ordinances are enforced**

- (1) An Ordinance:
  - (a) is enforced by law enforcement officers; and
  - (b) may only be enforced in a way specified in subsection (2)(a) or (b).



- (2) An Ordinance may be enforced in the following ways:
- (a) issue of an infringement notice under section 55F to a person for allegedly committing a prescribed offence;
  - (b) prosecution of an alleged prescribed offence as provided by Division 5.

*Note to section 55C.*

*An Ordinance may not provide for another way to enforce an Ordinance.*

*Under section 34 of the Principal Act, the City Council has power to make laws only if and to the extent that they relate to matters within the City Council's legislative competence or to matters specified in Part II of Schedule 5 to the Principal Act.*

*Under section 36 of the Principal Act, the Minister withholds assent if he or she is of the opinion that any provision of a Bill does not relate to a matter within the legislative competence of the City Council or for which the City Council does not have power under this Act to make.*

## **55D Monitoring of enforcement of Act and Ordinances**

The City Council must supervise and monitor the enforcement of this Act and Ordinances, including by:

- (a) supervising the use of infringement notices by law enforcement officers; and
- (b) supervising the arrest and detention of persons who allegedly commit an offence under this Act or an Ordinance; and
- (c) supervising the prosecution of offences under this Act or an Ordinance; and
- (d) ensuring there is no discriminatory or other improper practices carried out in enforcing this Act or an Ordinance.

## **Division 2 Infringement notices and fixed penalties**

### **55E Purpose of Part XA, Division 2**

- (1) The purpose of this Division is to enable a person alleged to have committed an offence under an Ordinance that is a prescribed offence to pay a fixed penalty instead of:
  - (a) being prosecuted for the alleged prescribed offence; and

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- (b) a penalty that may be imposed on conviction for the alleged offence being imposed on the person.
- (2) This Division does not:
  - (a) require a law enforcement officer to give a person an infringement notice for an alleged prescribed offence; or
  - (b) affect the liability of a person to be prosecuted for the alleged prescribed offence if:
    - (i) the person is not given an infringement notice; or
    - (ii) the person was given an infringement notice but fails to pay the specified fixed penalty on or before the specified date; or
  - (c) prevent more than one infringement notice being given for the alleged offence; or
  - (d) prejudice the right to a civil claim for damages arising out of the commission of the prescribed offence.

**55F Issue of infringement notice**

- (1) A law enforcement officer may, if the law enforcement officer believes on reasonable grounds that a person has committed a prescribed offence, give an infringement notice to the person.
- (2) The law enforcement officer must give the person the infringement notice not later than 14 days after the law enforcement officer becomes aware of the alleged commission of the prescribed offence by the person.
- (3) The person to whom an infringement notice is given must pay the full amount of the fixed penalty specified in the notice on or before 12 pm on the day on which the infringement notice is given to the person or proceedings for prosecuting the offence in a court can be commenced against the person.

## **55G      Form and content of infringement notice**

- (1) An infringement notice must:
  - (a) comply with subsection (2); and
  - (b) be in the form specified in Schedule 7; and
  - (c) relate to a single alleged commission of an offence.
- (2) An infringement notice is issued on behalf of the City Council.
- (3) An infringement notice must:
  - (a) be identified by a unique number; and
  - (b) specify the following:
    - (i) the date and time the infringement notice is given to the person;
    - (ii) the name and address of the person to whom it is given;
    - (iii) the drivers licence number of the person (if any);
    - (iv) the registration number of the vehicle the person is driving (if any);
    - (v) a description of the alleged offence for which the infringement notice is given;
    - (vi) the fixed penalty payable under the infringement notice;
    - (vii) that the fixed penalty must be paid by 12 pm on the day the notice is given to the person;
    - (viii) how the amount of the fixed penalty is payable;
    - (ix) that, if the full amount of the fixed penalty is not paid on or before 12 pm on the day it is issued, proceedings for prosecuting the offence in a court will be commenced against the person;

- (x) that payment of the full amount of the fixed penalty is not an admission of having committed the offence;
- (xi) a statement that the infringement notice is issued on behalf of the Honiara City Council and the name and signature of the law enforcement officer who gives the infringement notice to the person.

#### **55H Effect of issue of infringement notice**

Where a person is given an infringement notice, proceedings to prosecute for the offence must not be commenced against the person unless:

- (a) the time specified in the infringement notice for payment of the fixed penalty has passed; and
- (b) the person failed to pay the full amount of the fixed penalty on or before that time.

*Note to section 55H.*

*The effect of 55H is that payment of the fixed penalty bars prosecution of the person for the alleged commission of the offence.*

#### **55I Offences for which infringement notice issued**

An Ordinance must prescribe the offences under the Ordinance for which an infringement notice may be issued and a fixed penalty paid.

#### **55J Fixed penalties**

- (1) The Minister must by regulation prescribe the maximum fixed penalty for a prescribed offence or a class of prescribed offence.
- (2) The fixed penalty for a prescribed offence under an Ordinance:
  - (a) must be specified in the Ordinance; and
  - (b) must not be more than the prescribed maximum fixed penalty.
- (3) The full amount of the fixed penalty must be paid:

- (a) on or before 12 pm on the day specified in the infringement notice as the day on which the infringement notice was issued; and
- (b) either:
  - (i) to the City Council, by full payment being made to the City Council's cashier at the City Council office in Honiara in cash or by not negotiable cheque payable to the City Council; or
  - (ii) by full payment being made in cash to a law enforcement officer (and the law enforcement officer will give the payment to the City Council's cashier at the City Council office in Honiara); and
- (c) on being received by the City Council at the City Council office in Honiara, into the City Fund.
- (4) The law enforcement officer, or the City Council, must, on receiving the full payment of the fixed penalty, give a receipt for the amount of the fixed penalty.
- (5) A copy of the receipt must be retained by the law enforcement officer and the City Council.

**55K Requirements relating to law enforcement officers issuing infringement notices**

- (1) Before a law enforcement officer gives a person an infringement notice under section 55F(1), the law enforcement officer must inform the person:
  - (a) that the law enforcement officer believes on reasonable grounds that the person has committed a prescribed offence; and
  - (b) of the details of the alleged offence and the amount of the fixed penalty for the alleged offence; and
  - (c) that the law enforcement officer will give the person an infringement notice and the person may choose to pay the fixed

penalty specified in the notice or to contest the contravention in a court; and

- (d) that, if the person chooses to pay the fixed penalty, the person must pay the full amount of the fixed penalty on or before 12 pm on the day the law enforcement officer gives the infringement notice to the person; and
- (e) that, if the person pays the full amount of the fixed penalty on or before 12 pm on that day, the person cannot be prosecuted for the alleged offence.

(2) The law enforcement officer must maintain a complete record of:

- (a) all infringement notices issued by the law enforcement officer (including a separate record of the prescribed offences and the fixed penalties specified on the infringement notices); and
- (b) whether the fixed penalty was paid or whether the alleged offence was contested in a court; and
- (c) all payments of fixed penalties received by the law enforcement officer, the receipts issued for the payments, the date and time when the law enforcement officer delivered the fixed penalties to the City Council and the amount of fixed penalties delivered to the Council.

## **55L      Offence for person to damage or alter infringement notice**

A person commits an offence if the person intentionally or recklessly:

- (a) damages or defaces an infringement notice that has been given by a law enforcement officer to the person or another person, with the result that all or some of the information specified on the infringement notice is illegible; or
- (b) alters or falsifies the information specified on an infringement notice that has been given by a law enforcement officer to the person or another person; or
- (c) destroys or discards or disposes of an infringement notice that was given by a law enforcement officer to the person or another

person.

Maximum penalty	2,000 penalty units or imprisonment for 6 months, or both
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### **Division 3      Law enforcement officers**

#### **55M      Appointment of law enforcement officers**

- (1) The Minister may, acting on the advice of the City Council, appoint a person to be a law enforcement officer of the City Council for the purpose of enforcing this Act or Ordinances.
- (2) A person may not be appointed to be a law enforcement officer unless the person has completed an appropriate training course, and been awarded a pass in the course, on:
  - (a) this Act, Ordinances and the Honiara City Council; and
  - (b) law enforcement; and
  - (c) treatment of detained persons.
- (3) The person may:
  - (a) be an officer or employee of the City Council; or
  - (b) be contracted to the City Council to carry out the function and duties of a law enforcement officer.
- (4) If a law enforcement officer is engaged by the City Council by contract, the contract may provide that the law enforcement officer's remuneration is calculated as a portion of the amount of fixed penalties paid into the City Fund under infringement notices issued by the law enforcement officer.
- (5) A law enforcement officer must comply:
  - (a) with this Act; and
  - (b) with the terms of the law enforcement officer's appointment; and

- (c) the directions given to the law enforcement officer by the City Clerk.

**55N      Function and powers of law enforcement officers**

- (1) The function of a law enforcement officer is to enforce this Act and Ordinances.
- (2) In performing that function, if the law enforcement officer believes on reasonable grounds that a person is committing or has committed an offence under this Act or an Ordinance, the law enforcement officer may:
  - (a) require the person to state his or her full name and usual place of residence and to produce evidence of the person's identity; or
  - (b) enter and search premises or a vehicle which appear to be being used or to have been used for committing the alleged prescribed offence; or
  - (c) ask the person questions relating to the alleged prescribed offence; or
  - (d) ask the person to give the law enforcement officer specified information or a specified thing relating to the alleged prescribed offence, or to produce the information or thing at a specified place and time; or
  - (e) search the person's bags or other articles in the person's possession; or
  - (f) arrest and detain the person or arrest the person and take the person to the nearest police officer or police station; or
  - (g) ask another person, who the law enforcement officer reasonably believes has knowledge of matters in respect of information about the alleged commission of the offence, questions about such matters; or
  - (h) seize and retain goods or movable property which the law enforcement officer believes on reasonable grounds to have a



connection with the alleged commission of the prescribed offence and issue a receipt for the goods to the person in whose possession the goods appear to be; or

- (i) as provided for by a court order, destroy or demolish property in connection with the commission of a prescribed offence; or
  - (j) under Division 2, issue infringement notices and receive payments of fixed penalties; or
  - (k) take necessary steps and use reasonable force to take an action under paragraph (b), (e), (f), (g), (h) and (i).
- (3) If a law enforcement officer arrests a person under the age of 18 years, the officer must as soon as practicable take the person to the nearest police officer or police station.
  - (4) A person is not obliged to provide information as required under this section if to do so might tend to incriminate the person or make the person liable to a penalty.
  - (5) A police officer may assist a law enforcement officer perform the law enforcement officer's function.
  - (6) A law enforcement officer who arrests a person under subsection (2), must not after doing so continue investigating the case against a person, unless the law enforcement officer does so in accordance with a warrant obtained from a Magistrate.
  - (7) The procedures for arresting or detaining a person under this section must comply with the *Criminal Procedure Code* (Cap.7).

## **550 Law enforcement officer to make a report**

- (1) A law enforcement officer must, for each day he or she is on duty, make a written report to the City Clerk on the performance of the law enforcement officer's function during the day exercise of the law enforcement officer's powers in the course of doing so.
- (2) The City Clerk must retain a copy of the report.

**55P Evidence of identity of law enforcement officer**

- (1) Every person who is a law enforcement officer must, when performing his or her function and duties:
  - (a) have on his or her person evidence of the person's appointment as a law enforcement officer and the person's identity; and
  - (b) produce that evidence if requested to do so.
- (2) If a person ceases to be a law enforcement officer, the person must surrender all things and documents (including the evidence of the person's appointment and identity) given to the person for carrying out his or her function and duties as a law enforcement officer.

**55Q Offences relating to law enforcement officers**

- (1) A person commits an offence if the person:
  - (a) assaults, obstructs or hinders a law enforcement officer performing his or her function; or
  - (b) aids or incites another person to assault, obstruct or hinder a law enforcement officer performing his or her function; or
  - (c) uses abusive, threatening or insulting language to a law enforcement officer performing his or her function; or
  - (d) if required by a law enforcement officer to give or produce information or to answer a question:
    - (i) gives, produces or provides false information; or
    - (ii) fails to comply with the requirement to the best of the person's knowledge, information and belief.

Maximum penalty: 20,000 penalty units or imprisonment for 5 years, or both

- (2) A person commits an offence if:
  - (a) the person is a law enforcement officer; and

- (b) the person directly or indirectly asks for or takes an unlawful reward or payment.

Maximum penalty: 50,000 penalty units or imprisonment for 10 years, or both

- (3) A person commits an offence if the person directly or indirectly offers or gives a law enforcement officer an unlawful reward or payment.

Maximum penalty: 50,000 penalty units or imprisonment for 10 years, or both

- (4) In subsections (2) and (3), ***“unlawful reward or payment”***:

- (a) means any reward or payment of any kind, whether monetary or otherwise, which:

- (i) is asked for, taken, offered or given in connection with the recipient’s duties or work as a law enforcement officer; and

- (ii) the recipient is not lawfully entitled to receive; and

- (b) includes a promise or security for that reward or payment.

- (5) A person commits an offence if:

- (a) the person is a law enforcement officer; and

- (b) the person enters into or acquiesces in any agreement to:

- (i) do any act or thing; or

- (ii) abstain from doing any act or thing; or

- (iii) permit or connive in the doing of any act or thing; or

- (iv) conceal any act or thing; and

- (c) the conduct set out in paragraph (b)(i), (ii), (iii) or (iv) is or would be contrary to the proper execution of the person’s duties and function as a law enforcement officer.

Maximum penalty: 50,000 penalty units or imprisonment for 10 years, or both

(6) A person commits an offence if:

- (a) the person proposes or enters into any agreement with a law enforcement officer in order to induce the law enforcement officer to:
  - (i) do any act or thing; or
  - (ii) abstain from doing any act or thing; or
  - (iii) permit or connive in the doing of any act or thing; or
  - (iv) conceal any act or thing; and
- (b) the conduct set out in paragraph (a)(i) to (iv) is or would be contrary to the proper execution of the law enforcement officer's duties and function as law enforcement officer.

Maximum penalty: 50,000 penalty units or imprisonment for 10 years, or both

## **Division 4 Detention of persons**

### **55R City Council may detain persons**

- (1) The City Council:
  - (a) may detain persons aged 18 years or more arrested by law enforcement officers; and
  - (b) may establish facilities for detaining those persons; and
  - (c) has a duty to take care of and protect the persons detained and must fulfil that duty.
- (2) The detention of a person under this section must be in accordance with:
  - (a) the *Constitution*; and

- (b) the United Nations Standard Minimum Rules for Treatment of Prisoners (General Assembly resolution 70/175, adopted 17 December 2015).
- (3) The manner of construction of the City Council's detention facilities must be to a standard and in a manner that enables the City Council to comply with subsection (2).

**55S City Council's procedures for detaining persons**

- (1) Where the City Council establishes detention facilities, the City Council must:
  - (a) establish procedures for:
    - (i) admitting and managing detainees, including their access to visitors and religious observance; and
    - (ii) maintaining good order and security at the facilities; and
    - (iii) managing the health and welfare of the persons detained; and
  - (b) establish and maintain records of detained person's identity and reason for the person's detention, warrants, appearances, sentences and other information about the detention of the person.

**55T Visits and inspections of detention facilities**

- (1) In this section:
  - “visitor”** means:
    - (a) the Minister or a person authorised in writing by the Minister; or
    - (b) a Judge or Magistrate; or
    - (c) the Ombudsman or a person authorised in writing by the Ombudsman; or
    - (d) an official of the International Committee of the Red Cross.

- (2) A visitor may enter and inspect the City Council's detention facilities at any time.
- (3) When visiting the facilities, the visitor:
  - (a) must inquire into the treatment, behaviour and conditions of the persons detained at the facilities; and
  - (b) may not interfere with or give instructions about the control or management of the persons detained.
- (4) The visitor must, as soon as practicable after the visit, make a written report on the visit to the Minister.
- (5) The Minister must ensure that a copy of the report is given to the City Council.

## **Division 5          Prosecution of offences etc.**

### **55U          Approval to prosecute**

An offence under an Ordinance may not be prosecuted under this Division unless the City Clerk has approved it.

### **55V          Law enforcement officer may charge and prosecute**

- (1) A law enforcement officer may:
  - (a) charge a person with the alleged commission of an offence under an Ordinance; and
  - (b) appear, as the legal representative of the City Council, before a magistrate and prosecute the offence.
- (2) The procedures for charging or prosecuting an offence referred to in subsection (1) must comply with the *Criminal Procedure Code* (Cap. 7).

## **PART XI            LEGAL PROVISIONS**

### **56            Notice of suit to be given by plaintiff**

- (1) No suit shall be commenced against the City Council until one month at least after written notice of intention to commence the same has been served upon the City Council by the intending plaintiff or his agent.
- (2) Such notice shall state the cause of action, the name and address of the intending plaintiff and the relief which he claims.

### **57            Limitation of suits against City Council**

When any suit is commenced against the City Council for any act done in pursuance or execution of an Act or of any public duties or authority, or in respect of any alleged neglect or default in the execution of any such Act, duty or authority, such suit shall not lie or be instituted unless it is commenced within twelve months next after the act, neglect or default complained of or, in the case of a continuance of damage or injury, within twelve months next after the ceasing thereof.

### **58            Appearance of City Council in legal proceedings**

In any civil cause or matter in which the City Council is a party the City Council may be represented by the City Clerk or legal representative duly authorised in that behalf by the City Council.

### **59            Mode of service on City Council**

Any notice or other document authorised to be served on the City Council in connection with any suit by or against the City Council shall be served by delivering the same to or by sending it by registered post addressed to the City Clerk at the principal office of the Council.

### **60            Powers of entry**

Subject to the provisions of this or any other Act, an officer or servant of the City Council duly authorised in writing for the purpose by the

City Council may, with due notice if required, upon production of his authority, enter into or upon any land, buildings or premises within the area of authority of the City Council for the purpose of carrying out any inspection, inquiry or the execution of works under the provisions of this Act or of any regulation, Ordinance or order made under the provisions of this Act.

**61 Description of property**

Wherever in any criminal process or proceeding it is necessary to refer to the ownership or description of property belonging to or under the management of the City Council, such property may be described as the property of the City Council.

**62 Publication of notices**

Save as otherwise expressly provided in this Act, the publication of any notice or other document required by this Act to be published shall be deemed to be duly made if it is fixed, for a reasonable time, in some conspicuous place on or near the outer door of the office of the City Council during office hours and also in some other conspicuous place or situation within the area of the authority of the City Council.

**63 Service of notices etc. by the City Council**

- (1) Subject to the provisions of this section, any notice, order or other document required or authorised by this or any other Act to be served by or on behalf of the City Council or by an officer of the City Council on any person shall be deemed to be duly served:
  - (a) where the person to be served is a company, if the document is addressed to the secretary of the company at its registered office or at its principal office or place of business and is either:
    - (i) sent by registered post, or
    - (ii) delivered at the registered office or, at the principal office or place of business of the company;
  - (b) where the person to be served is a partnership, if the document is addressed to the partnership at its principal place of

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business, identifying it by the name and style under which its business is carried on and is either:

- (i) sent by registered post; or
    - (ii) delivered at that office;
  - (c) where the person to be served is a public body, a local authority, or a corporation, society or other body, if the document is addressed to the clerk, president, secretary, treasurer or other principal officer of that body, authority, corporation or society at its principal office and is either:
    - (i) sent by registered post; or
    - (ii) delivered at that office;
  - (d) in any other case, if the document is addressed to the person to be served and is either sent to him by registered post or delivered at his usual residence or place of business.
- (2) Any document which is required or authorised to be served on the owner or occupier of any premises may be addressed to “the owner” or “the occupier”, as the case may be, of those premises (naming them) without further name or description and shall be deemed to be duly served:
- (a) if the document so addressed is sent or delivered in accordance with paragraph (d) of subsection (1); or
  - (b) if the document so addressed or a copy thereof so addressed is affixed to some conspicuous part of the premises.
- (3) Where a document is served on a partnership in accordance with the provisions of this section, the document shall be deemed to be served on each partner.
- (4) For the purpose of enabling any document to be served on the owner of any premises, the City Council may by notice in writing require the occupier of the premises to state the name and address of the owner thereof; and if the occupier refuses or wilfully neglects to do so or wilfully mis-states the name and address of the owner he shall,

unless in the case of a refusal he shows cause to the satisfaction of the court for his refusal, be guilty of an offence and shall be liable in respect of each offence to a fine of one thousand penalty units or, in default of payment, to imprisonment for three months.

- (5) In this section the word “**document**” means any notice, order or other document which is required or authorised to be served as specified in subsection (1).

#### **64 Authentication and execution of documents**

- (1) Every notice, order or other document requiring authentication by the City Council shall be deemed to be sufficiently authenticated if signed by the City Clerk and the Mayor.
- (2) Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not require to be under seal may be entered into or executed on behalf of the City Council by the City Clerk or other officer specifically authorised by the City Council for that purpose.
- (3) Any document purporting to be a document duly executed or issued under the seal of the City Council or on behalf of the City Council shall, unless the contrary is proved, be deemed to be a document so executed or issued, as the case may be.

### **PART XII MISCELLANEOUS**

#### **65 Amendment of enactments**

- (1) The regulations mentioned in Part II of Schedule 3 shall have effect subject to the amendments therein specified.
- (2) The Minister may by order subject to affirmative resolution make such amendments in any enactment passed or made before the passing of this Act as appear to him necessary or expedient in consequence of this Act or any order.

#### **66 Subsidiary legislation**

- (1) This section (and not sections 61(1), 62 and 65(2) of the

*Interpretation and General Provisions Act*) applies where, by any provision of this Act, power is conferred on the Minister to make any order or regulation (in this section referred to as subsidiary legislation).

- (2) If the subsidiary legislation is expressed to be subject to a negative resolution:
  - (a) a copy of the subsidiary legislation shall be laid before Parliament;
  - (b) the copy shall be laid before the subsidiary legislation comes into effect unless, in the opinion of the Minister, it is essential that the subsidiary legislation comes into effect before it can be laid; and
  - (c) if, within the period of twenty days beginning with the day on which the copy is laid, Parliament resolves that the subsidiary legislation be annulled, the subsidiary legislation shall cease to have effect as from the date of the resolution, but without prejudice to the validity of anything previously done under it or to the making of new subsidiary legislation.
- (3) In reckoning any period of twenty days for the purpose of subsection (2)(c), no account shall be taken of any time during which Parliament is prorogued or dissolved or is adjourned for more than four days.
- (4) If the subsidiary legislation is expressed to be subject to affirmative resolution, the subsidiary legislation shall not come into operation until a draft of it has been laid before Parliament and approved by a resolution of Parliament.
- (5) The subsidiary legislation shall be published in the *Gazette*.

## **67 No Crown immunity**

The functions of the City Council are not to be regarded as performed on behalf of the Crown.

## **68 Obstruction of officers, etc.**

Any person who:

- (a) wilfully obstructs any member, officer or servant of the City Council in the execution of his duty as such; or
- (b) being the occupier of any premises, prevents the owner of such premises from complying with any requirements of the City Council,

shall be guilty of an offence and shall be liable to a fine of one thousand penalty units or to imprisonment for three months or to both such fine and imprisonment.

#### **68A Impersonation of officers etc**

A person commits an offence if the person:

- (a) represents, by words or conduct, that the person or another person is a member, officer or employee of the City Council; and
- (b) knows the representation is false.

Maximum penalty: 5,000 penalty units or imprisonment for 6 months, or both.

#### **68B Protection of officers etc from liability**

- (1) In this section:

**“person”** means a person who is or was:

- (a) a member, officer or employee of the City Council; or
- (b) a visitor to detention facilities under section 55R.

- (2) A person is not civilly or criminally liable for an act done or omitted to be done by the person in good faith in the exercise or purported exercise of a power or performance or purported performance of a function under this Act or an Ordinance.
- (3) Subsection (2) does not affect any liability the City Council would, apart from that subsection, have for the act or omission.

**69           Penalty for unqualified person sitting or voting**

Any person who sits or votes in the City Council after his seat therein has become vacant or he has become disqualified from sitting or voting therein, knowing, or having reasonable grounds for knowing, that he was so disqualified or that his seat had become vacant, as the case may be, shall be liable to a penalty not exceeding fifty penalty units for every day upon which he so sits or votes.

**70           Supply of information**

It shall be the duty of the City Council to furnish the Minister with such information as he may require in relation to the provisions of this Act.

**71           General penalty**

- (1) Any person who is convicted of an offence under the provisions of this Act for which no other penalty is expressly provided shall be liable to a fine not exceeding one thousand penalty units or, in default of payment, to imprisonment for three months, and in the case of a continuing offence, a further penalty not exceeding fifty penalty units for each day on which the offence is continued after written notice of the offence has been served on the offender.
- (2) In addition to any penalty imposed under subsection (1) any expense incurred by the City Council in consequence of the commission of an offence under this Act shall be paid by the person committing such offence and shall be recoverable as a civil debt by the City Council.

**72           Power to remove difficulties**

The Minister may by Order published in the *Gazette*, make provisions as appear to him necessary or expedient for the purpose of:

- (a) providing for any unforeseen or special circumstances; or
- (b) resolving, determining or adjusting any doubt, question or matter,

which may arise in relation to the application or implementation of this Act or in respect of which no provision or effective provision has been made in or under this Act.

## **73 Regulations**

The Minister may, for the purposes of the effective implementation of this Act, make regulations as may appear to him necessary.

## **SCHEDULE 1**

(Sections 2 and 4(2))

### **PART I**

#### **CITY BOUNDARIES OF HONIARA CITY**

The Town known as Honiara in Solomon Islands shall, by virtue of this Act be Honiara City, the boundaries of which are delineated on Plan No. 1981 Town Land (Honiara) Order 1973 and deposited in the office of the Surveyor-General, Ministry of Lands.

### **PART II**

#### **Ward Boundaries of Honiara City**

The existing twelve Ward Boundaries into which Honiara is divided for the purposes of the *Local Government Act* shall be the Ward boundaries of Honiara City as delineated on plan number 1635A deposited in the office of the Surveyor-General, Ministry of Lands for the purposes of this Act.

#### **Area**

Nggosi

Commencing at a point on high water mark being the intersection of the western boundary of the town of Honiara with high water mark: thence in a general southerly and easterly direction by the said town boundary to a point of approximately UTM grid co-ordinates 603060m east and 8956940m north: thence in a northerly direction to a point of approximately UTM grid co-ordinates 602920m east and 8957330m north: thence in a general north westerly direction to a point of approximately UTM grid co-ordinates 603100m east and 8957750m north: thence in a general westerly direction to a point of approximately UTM grid co-ordinates 603000m east and 8957750m north: thence in a general northerly direction along the centre line of Tasahe Highway: thence in a general northerly direction to a point on high water mark of approximately UTM grid co-ordinates 603170m east and 893841m north: thence in a general westerly direction

following high water mark to the point of commencement.

#### Mbumburu

Commencement at a point of approximately UTM grid co-ordinates 603060m east and 8956940m north: thence in a general easterly direction along the town boundary to a point of approximately UTM grid co-ordinates 603950m east and 8956820m north: thence in a general northerly direction to a point of approximately UTM grid co-ordinates 604089m east and 8957140m north: thence in a general northerly direction along Mbokona Creek to a point of approximately UTM grid co-ordinates 604350m east and 8957680m north: thence in a general westerly direction to a point of approximately UTM grid co-ordinates 604150m east and 8957650m north: thence in a general north westerly direction to a point of approximately UTM grid co-ordinates 603920m east and 8957750m north: thence in a general westerly direction to a point of approximately UTM grid co-ordinates 603570m east and 8957670m north: thence in a northerly direction to a point of approximately UTM grid co-ordinates 603500m east and 8957850m north: thence in a general south westerly direction to a point of approximately UTM grid co-ordinates 603300m east and 8957800m north: thence in a general southerly direction to connect on Nggosi boundary at the point of approximately UTM grid co-ordinates 603200m east and 8957650m north: thence in a general southerly direction by the said Nggosi boundary to the point of commencement.

#### Rove - Lengakiki

Commencing at a point on high water mark being the intersection of the eastern boundary of Nggosi with high water marks: thence in a general southerly direction by the said Nggosi boundary to the intersection point of Nggosi boundary and Mbumburu boundary: thence in a general easterly direction by the said Mbumburu boundary to the point of approximately UTM grid co-ordinates 604350m east and 8957680m north: thence in a general north easterly direction to a point of approximately UTM grid co-ordinates 604530m east and 9857760m north: thence in a general northerly direction to a point of approximately UTM grid co-ordinates 604500m east and 8957890m north: thence in a general north westerly direction to a point of approximately UTM grid co-ordinates 604340m



east and 8957950m north: thence in a general northerly direction to the point of intersection of Hibiscus Avenue with Koti Lane: thence in a northerly direction to high water mark at approximately UTM grid co-ordinates 604380m east and 8958320m north: thence in a general westerly direction by high water mark to the point of commencement.

Cruz.

Commencing at the point of approximately UTM grid co-ordinates 604380m east and 8958320m north: thence in a general southerly direction along the Rove-Lengakiki boundary to the point of approximately UTM grid co-ordinates 604530m east and 8957760m north: thence in a general north easterly direction to a point of approximately UTM grid co-ordinates 604630m east and 8957870m north: thence in a general easterly direction to a point of approximately UTM grid co-ordinates 604880m east and 8957860m north: thence in a general south easterly direction to a point of approximately UTM grid co-ordinates 605010m east and 8957810m north: thence along a straight line to a point on the centreline of Mendana Avenue of approximately UTM grid co-ordinates 605130m east to 895801m north: thence along the centre of Mendana Avenue in a westerly direction to a point of intersection by the centreline of Commonwealth Street and Mendana Avenue: thence in a general northerly direction along the centreline of Commonwealth Street to a point of approximately UTM grid co-ordinates 605060m east and 8958300m north: thence by a straight line to a point of approximately UTM grid co-ordinates 604940m east to 8958370m north being a point to high water mark: thence in a general westerly direction following high water mark to the point of commencement.

Vavaea.

Commencing at a point on the town boundary being the intersection of the southern boundary of the town of Honiara with the eastern boundary of Mbumburu: thence in a general easterly direction following the said town boundary to a point being the intersection of the centreline of Mataniko River with the southern boundary of the town of Honiara: thence northwards following the centreline of Mataniko River to a point of approximately UTM grid co-ordinates

6053390m east and 8957220m north: thence in a general north westerly direction to a point of approximately UTM grid co-ordinates 605350m east and 8957310m north: thence in a general easterly direction to a point of approximately UTM grid co-ordinates 605450m east and 8957510m north: thence in a generally easterly direction following the centreline of Mbokonavera Road to its intersection with Vavea Ridge Road: thence by the centreline of Vavea Ridge Road in a generally north westerly direction to a point of approximately UTM grid co-ordinates 605340m east and 8957710m north: thence by a straight line in an easterly direction to intersect the centreline of Mendana Avenue at a point of approximately UTM grid co-ordinates 605310m east and 8957850m north: thence by the centreline of Mendana Avenue in a general easterly direction to a point of approximately UTM grid co-ordinates 605530m east and 8957770m north: thence by a straight line to intersect high water mark at a point of approximately 605580m east and 895784m north: thence by high water mark in a westerly direction to the NE boundary Point of Cruz on high water mark: thence in a generally southerly direction following the eastern and southern boundaries of Cruz, south eastern boundary of Rove-Lengakiki and eastern boundary of Mbumburu to the point of commencement.

Vuhokesa.

Commencing at a point on high water mark being the intersection point of the north-east boundary of Vavaea with high water mark: thence by high water mark in an easterly direction to its intersection with the centreline of Mataniko River: thence in a southerly direction by the centreline of Mataniko River to its intersection with the eastern boundary of Vavaea at approximately UTM grid co-ordinates 605390m east and 8957220m north: thence by the said eastern boundary of Vavaea in a general northerly direction to the point of commencement.

Mataniko.

Commencing at a point of intersection of high water mark with the centreline of Mataniko River: thence by the centreline of the said River in a generally southerly direction to its intersection with the boundary of the town of Honiara: thence by the said town boundary to a point on the said town boundary of approximately UTM grid co-

ordinates 605200m east and 895537m north: thence in a general northerly direction to a point of approximately UTM grid co-ordinates 605300m east and 8956400m north: thence in a general north easterly direction to a point of approximately UTM grid co-ordinates 605860m east and 8957150m north being the intersection point of this line with the centreline of Kukum Highway: thence by the said centreline in a north easterly direction to its intersection with the centreline of the drain running to Mataniko River: thence by the centreline of the said drain in a generally northerly direction to a point of approximately UTM grid co-ordinates 6066180m east and 895760m north: thence in a general north easterly direction to a point of approximately UTM grid co-ordinates 606290m east and 8957570m north: thence in a general north westerly direction to a point of approximately UTM grid co-ordinates 606160m east and 8957750m north being its intersection with high water mark: thence by high water mark in a general westerly direction to the point of commencement.

Kolaa.

Commencing at a point on high water mark being the intersection point of high water mark with the north east boundary of Mataniko: thence in a general southerly direction by the said boundary of Mataniko to its intersection with the boundary of the town of Honiara: thence by the said town boundary in a general easterly direction to the town boundary corner point GUXI: thence in a general northerly direction following a straight line to a point of approximately UTM grid co-ordinates 607400m east and 8956850m north: thence by a straight line in a general north easterly direction to a point of approximately UTM grid co-ordinates 607520m east and 895700m north: thence in a general north easterly direction following the centreline of Kolaa Ridge Road to a point of approximately UTM grid co-ordinates 607760m east and 8957280m north: thence in a general westerly direction to a point of approximately UTM grid co-ordinates 607450m east and 8957490m north: thence in a general westerly direction to a point of approximately UTM grid co-ordinates 607220m east and 8957600m north: thence in a general westerly direction following the centreline of St. Nicholas road to its intersection with Kukum Highway: thence in a general north westerly direction to a point on high water mark of approximately UTM grid co-

ordinates 606940m east and 8957800m north: thence by high water mark in a general westerly direction to the point of commencement.

Kukum.

Commencing at a point of high water mark at approximately UTM grid co-ordinates 606940m east and 8957800m north: thence following the northeast boundaries of Kolaa in a general south easterly direction to a point of approximately UTM grid co-ordinates 607760m east and 8957280m north: thence in a general northerly direction by the centreline of Kolaa Ridge to its intersection with centreline of Mbua Road, thence in south westerly direction by the centreline of Mbua Road to a point of approximately UTM grid co-ordinates 607710m east and 8957730m north: thence in a general westerly direction by a straight line to a point of approximately UTM grid co-ordinates 607660m east and 8957730m north: thence in a general northerly direction by a straight line to a point on the centreline of Tanuhue Road of approximately UTM grid co-ordinates 607640m east and 8957850m north: thence in a general westerly direction by centreline of the said road to its intersection point with the centreline of Tavuli Street: thence in a general northerly direction following the centreline of Tavuli Street and its production to an intersection with high water mark: thence in a general westerly direction by high water mark to the point of commencement.

Naha.

Commencing at the intersection of high water mark and the centreline of Naha Creek: thence by the centreline of the said Creek upstream for about 170m: thence in a general south westerly direction to the intersection point of the centreline of Kolaa Ridge Road with the centreline of Mbua Road: thence by the boundary of Kukum in a general westerly direction to the high water mark: thence in a general easterly direction by high water mark to the point of commencement.

Vura.

Commencing at GUXI, one of the southern boundary corners of the town boundary thence in a general northerly direction following the boundaries of Kolaa, Kukum and Naha respectively to high water

mark: thence in a general easterly direction by high water mark to a point on high water mark of approximately UTM grid co-ordinates 608520m east and 8958140m north: thence in a general southerly direction by a straight line to a point on the centreline of Kukum Highway of approximately UTM grid co-ordinates 608540m east and 895060m north: thence westerly by the said centreline of Kukum Highway to its intersection with the centreline of Vura Road: thence southerly following the centreline of Vura Road for 150m approximately: thence in a general easterly direction for approximately 40m: thence in a general southerly direction to a point of approximately UTM grid co-ordinates 608250m east and 8957610m north: thence in a general south easterly direction to a point on the centreline of the old Mt. Austin Road of approximately UTM grid co-ordinates 608480m east and 8957470m north: thence by the centreline of the said road in a southerly direction to a point of the centreline of Mt. Austin Road of approximately UTM grid co-ordinates 607920m east and 8955550m north: thence in a general southerly direction to intersection of the town boundary at a point of approximately UTM grid co-ordinates 607940m east and 8955430m north: thence in a generally easterly direction by the town boundary to the point of commencement.

Panatina.

Commencing at a point on the town of approximately UTM grid co-ordinates 607940m east and 8955430m north: thence in a generally north easterly direction by the said town boundary to Burns Creek and downstream to high water mark: thence westward by high water mark to the intersection of high water mark with the eastern boundary of Vura: thence following the said boundary of Vura, in a generally southerly direction to the point of commencement.

## **SCHEDULE 2**

(Section 14)

### **MATTERS TO BE PROVIDED FOR IN STANDING ORDERS**

#### **1 Meetings**

- (1) Provision for an election of a member of the City Council to

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preside at meetings in the absence of the Mayor and Deputy Mayor.

- (2) Summoning of meetings of the City Council by the Mayor or other members and proceedings generally.
- (3) Standing Orders made in pursuance of sub- paragraph (2) shall provide for the City Council to meet at least four times in any period of twelve calendar months.
- (4) Order of business at meetings.

## **2 Oaths**

Provision for ensuring that no member of the City Council takes part in any of its proceedings or the proceedings of any of its committees until he has made an oath or affirmation of allegiance in the form set out in the Standing Orders.

## **3 Quorum**

Quorum of the City Council and of any of its committees.

## **4 Order**

- (1) Preservation of order in the proceedings of the Council and its committees.
- (2) Standing orders made in pursuance of this paragraph may include provision for excluding a member from the proceedings.

## **5 Passing legislation**

- (1) Provision:
  - (a) for general debate of a proposed Ordinance with an opportunity for members to vote on its general principles;
  - (b) for the consideration of, and an opportunity for members to vote on, the details of a proposed Ordinance; and
  - (c) for final stage at which a proposed Ordinance can be

passed or rejected but not amended.

- (2) Provision for the procedure to be adopted where the Minister has withheld his assent from a proposed Ordinance.

## **6 City Council Standing Committees**

- (1) The City Council Standing Committees:
  - (a) convening of meetings of the Standing Committee;
  - (b) choosing of a person to perform the functions of the Mayor in the absence of the Mayor and the Deputy Mayor;
  - (c) quorum for the meetings;
  - (d) order of business at the meetings;
  - (e) taking of decisions at the meetings of the members of the Standing Committee and the minutes of such meetings;
  - (f) summoning of any person not being a member of the Standing Committee at a meeting if his presence is considered desirable;
  - (g) the number and names of the departments of the City Council;
  - (h) the assignment of matters for which each member of the Standing Committee shall have specific responsibility;
  - (i) the designation of a member of a Standing Committee when assigned with the executive responsibility;
  - (j) requiring the Mayor, the Deputy Mayor or any other member not to discharge any of his functions:
    - (i) while he stands charged with an offence, if on conviction, he would be liable to a term of imprisonment of six months or more; or
    - (ii) if he is liable to be detained as a patient in a mental

hospital under the *Mental Treatment Act*;

- (k) any other matters for which orders may be made under this Schedule.

- (2) Other Committees.
- (3) Chairman and members of the Committees.
- (4) Meetings of Committees.
- (5) Record of Proceedings.

## **7 Proceedings in public**

Provision for proceedings of the City Council and of any of its Committees to be held in public, subject to any exceptions made by Standing Orders.

## **8 Members' interest**

- (1) Ensuring that a member with an interest in any matter (whether it is a financial or some other kind of interest which is specified in the Standing Orders) discloses the interest before taking part in any proceedings dealing with that matter.
- (2) Standing Orders made in pursuance of this paragraph may include provision:
  - (a) for preventing or restricting participation of such members in such proceedings; and
  - (b) for excluding members from those proceedings.

## **9 Financial control**

- (1) Ensuring that the City Council does not proceed with any proposed Ordinance to appropriate any sum out of the City Fund unless either:
  - (a) there has been laid before the City Council the estimates of expenditure on which the proposed Ordinance is



based; or

- (b) the proposed Ordinance would have effect only in relation to the first four months of a financial year and would appropriate a sum sufficient only to maintain existing services.
- (2) Ensuring that the City Council does not pass such an Ordinance except in pursuance of a recommendation of the respective Standing Committee.

#### **10 Accounts Committee**

- (1) The appointment of an Accounts Committee.
- (2) Ensuring that the majority of members of the Committee are not members of the respective Standing Committee.
- (3) Provision requiring the Committee to examine and report to the City Council on the accounts and reports laid before the City Council by the Auditor-General.

#### **11 Relations with National Government**

The admission to meetings of the City Council or its committees of any member of Parliament whose constituency includes any part of Honiara City.

#### **12 Co-ordinating Committee**

The establishment of a co-ordinating committee to include any such member of Parliament.

#### **13 Resolution to remove Mayor or dissolve Council**

Where a motion is to be moved under section 8 or 9 provision ensuring that adequate notice of the motion (not being less than 28 whole days) is given to members of the City Council.

### **SCHEDULE 3**

(Section 51(f) and (k))

## **PART I MODIFICATIONS OF BY-LAWS**

1. Upon the commencement of this Act, the By-laws made by the Town Council under the *Local Government Act* and in force, immediately before such commencement, shall have effect as Ordinances of the City Council enacted under this Act, subject to the following modifications:
  - (a) references to the exercise of powers by, and the resolutions of, the Town Council and to the approval of the Minister, in the making of the by-laws shall be substituted by references to “Enacted by the Honiara City Council”;
  - (b) reference to “Honiara” or “Honiara Town” shall be construed as references to “Honiara City”;
  - (c) references to “by-law”, “bye-law”, “bye-laws” and “by-laws”, shall be construed as references to “Ordinance” and “Ordinances”, as the case may be;
  - (d) references to “Municipal Authority” or “Town Council” in the title of the by-laws, shall be construed as references to the City Council;
  - (e) references to “Council” in the rest of the by-laws shall be construed as references to the City Council;
  - (f) references to the making of the by-laws under the common seal of the Honiara Town Council or the Honiara Municipal Authority shall be deleted and shall be construed as under the common seal of the Honiara City Council; and
  - (g) reference in the Honiara (Licensing of Businesses) By-laws to “fees” shall be construed as references to “taxes”.

## **PART II AMENDMENTS**

The *Local Government (Rating of Land) Regulations* are amended by deleting regulation 24(1) and substituting instead the following sub-regulation:

“24. (1) Every rate made and levied by a Council under these Regulations may be assessed at a varied amount on the unimproved value of all rateable land within the Council area in accordance with the following categories:

- (a) residential;
- (b) commercial;
- (c) industrial - light; and
- (d) industrial - heavy.”

## **SCHEDULE 4**

(section 21(2))

### **FUNCTIONS THAT MAY BE TRANSFERRED**

#### Land

##### 1. The *Land and Titles Act* (Cap. 133):

- (i) Control and management over all land in Honiara now held by the Commissioner of Lands.
- (ii) Land rents received by the Commissioner of Lands to be received by the City Council.
- (iii) The functions given to the Minister under Division 2 of Part V of the Act (compulsory acquisition of land) in relation to land required for the purposes of the City Council's functions.

#### Cultural matters

##### 2. The *Cinematograph Act* (Cap. 137):

- (i) The functions given to the Licensing Authority.
- (ii) The functions given to the Minister under section 14 (making rules).

### Gaming and Lotteries

#### 3. The *Gaming and Lotteries Act* (Cap. 139):

- (i) The functions given to the Gaming and Lotteries Board under section 20.
- (ii) The functions given to the Minister under section 4 (making regulations).

### Roads

#### 4. The *Roads Act* (Cap. 129):

- (i) The functions given to the Minister under sections 3, 5, 27 and 29(b) to (f) and (so far as relating to the aforesaid paragraphs) the imposition of a fine not exceeding \$1,000.00 or 3 months imprisonment.

### Traffic

#### 5. The *Road Transport Act* (Cap. 131):

- (i) The functions given to the Minister and Principal Licensing Officer under sections 3 and 4 (Vehicle registration and driving licences).
- (ii) All functions given to the Highway Authority other than under section 66.

### Public Holidays

#### 6. The *Public Holidays Act* (Cap. 151):

The functions given to the Minister under section 6 of that Act (appointment of special public holidays) in so far as Honiara is concerned.

### Liquor

#### 7. The *Liquor Act* (Cap. 144):

- (i) The functions given to the Minister under section 82 (closure of bars).
- (ii) The functions given to the Minister under sections 3 and 94 (power to alter fees and forms and amend any of the Schedules.)

#### Protected Industries

8. The *Protected Industries Act* (Cap. 177):

The functions given to the Minister under section 3.

#### River Waters

9. The *River Waters Act* (Cap. 135):

The functions given to the Minister under that Act.

#### Planning

10. The *Planning and Development Act* (Cap. 154):

The functions given to the Minister under that Act.

## **SCHEDULE 5**

(Section 21)

### **PART I**

#### **FUNCTIONS OF THE CITY COUNCIL**

##### Trade and Industry

1. (i) To licence trades, businesses, professions and other occupations.
- (ii) To regulate trading hours of retail and wholesale shops.

##### Culture and Environment

2. To regulate, control and promote conservation of the

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environment:

- (i) To provide reference and lending libraries.
- (ii) Conservation of the environment.
- (iii) To promote sports and other cultural and recreative activities.
- (iv) To provide and preserve public monuments and identify and preserve antique artefacts and sites of historical and cultural interest.
- (v) To promote arts and local crafts.

### Finance

3. Raising revenue by:

- (i) Head Tax - Basic Rate
- (ii) Property Tax - Land Rate
- (iii) Business Tax
- (iv) Gaming/Casino Tax
- (v) Vehicle Tax
- (vi) Liquor Tax
- (vii) Fees for services performed or licences issued by or on behalf of the City Council.
- (viii) Such other matters as may be approved for the purposes of this paragraph by the Minister by order.

### Local Matters

4. To provide:

- (i) Refuse collection and street cleaning.

- (ii) Refuse Disposal.
- (iii) Public Conveniences.
- (iv) Parks and Open Spaces.
- (v) Halls and Public Buildings.
- (vi) Swimming Pools.
- (vii) Markets.
- (viii) Street Names and House Numbers.
- (ix) Animal Control.
- (x) Parking.
- (xi) Public Roads Maintenance and Constructions as assigned to the City Council under section 4 of the *Roads Act* and Lighting.
- (xii) Drainage and open drains for the public roads as assigned to the City Council under section 4 of the *Roads Act*.
- (xiii) Building Regulations/Codes.
- (xiv) Regulating and controlling public collections in public places and public entertainment.
- (xvi) Promote and assist the development of Youths/Women.
- (xvii) Measures to control and deal with Public Nuisances.

#### Health

- 5. (i) To control Environment Health.
- (ii) To provide and promote Health Education.

#### Transport

6. To provide transport for school children.

#### Education

7. To provide education services, boards, committees, kindergarten, primary schools, secondary schools and community education in accordance with the *Education Act*.

#### Housing

8. (i) To plan, construct and maintain houses for Council staff.  
(ii) Housing schemes to provide dwellings for persons of small means.  
(iii) To regulate rents.

#### Rivers and Water

9. Control and use of rivers and waters.

#### Local Government

10. The constitution, area and general powers and duties of Area/Ward Committees and similar bodies and their revenue and expenditure.

#### Corporate or Statutory Bodies

11. To establish corporate or statutory bodies for the providing of City Functions including economic activity in respect of items 4, 6, 8 and 9.

#### Employment

12. To provide guidance and placement services.

#### Medical Services

13. To provide medical services.

The performance of the functions specified in paragraphs 12 and 13



shall only be carried out if there is an agency agreement in force.

## **PART II**

(Section 34)

### **THE CITY COUNCIL SHALL HAVE LEGISLATIVE COMPETENCE OVER THE FOLLOWING FUNCTIONS**

1. Trade and Industry
2. Culture and Environment
3. Finance
4. Local Matters
5. Housing
6. Rivers and Water
7. Local Government
8. Corporate or Statutory Bodies

## **SCHEDULE 6**

(Section 39(5))

### **MATTERS TO BE INCLUDED IN FINANCIAL MANAGEMENT ORDINANCE**

1. The form of the Annual Estimates.
2. The method of authorising and making issues from the City Fund.
3. The management and reallocation of funds within the amounts appropriated.
4. The provision of funds in advance of appropriation.
5. The use of bank accounts and the investment of moneys

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forming part of the City Fund.

6. The making of advances.
7. The acceptance of deposits.
8. The creation and control of special funds.
9. The appointments and responsibilities of staff charged with accounting tasks.
10. The making of rules and regulations relating to financial management and the procurement, safekeeping, accounting for and disposal of stores.

## **SCHEDULE 7**

(Section 55G)

### **FORM OF INFRINGEMENT NOTICE**

#### **HONIARA CITY COUNCIL**

#### **INFRINGEMENT NOTICE**

*Honiara City Act 1999*  
(Section 55G)

Section ..... of the ..... Ordinance .....

**UNIQUE REFERENCE NUMBER OF THIS NOTICE:.....**

**Time and date:** *(specify time and date law enforcement officer gives person the infringement notice)*

**To:** *(name of person alleged to have committed an offence)*

**Address:** *(specify address of person to whom infringement notice given)*

**Drivers Licence:** *(specify driver's licence of person to whom infringement notice is given)*

**Vehicle registration number:** *(specify registration number of vehicle person to whom infringement notice is driving)*

1. You are alleged to have committed an offence under section ..... of the .....  
*Ordinance* .....

The offence is an offence prescribed by section ..... of the Ordinance as an offence for which an infringement notice may be given to you under section 55F of the *Honiara City Act 1999*.

*(specify particulars of offence and facts on which allegation that offence has been committed is based)*

2. The fixed penalty for the alleged offence is \$ .....

3. The full amount of the penalty is payable by you on or before 12pm on this day, being .....  
*(specify date infringement notice is given to the person)*.

4. You may pay the full amount of the fixed penalty to a law enforcement officer or to the City Council (by paying the cashier at the City Council office). The law enforcement officer or the City Council will give you a receipt for the payment.

5. If you pay the full amount of the fixed penalty on or before 12pm on *(specify the date)* proceedings to prosecute you for the offence cannot be commenced.

If you do not pay the full amount, you can be charged and prosecuted for the alleged offence.

Payment of the full amount of the fixed penalty is not an admission of guilt.

This infringement notice is given to you on behalf of the Honiara

City Council by *(insert name of law enforcement officer giving the infringement notice)*

Signature of law enforcement officer:

## HISTORICAL ENDNOTES

### 1

#### KEY

amd = amended	Pt = Part
Ch = Chapter	rem = remainder
Div = Division	renum = renumbered
exp = expires/expired	rep = repealed
GN = Gazette Notice	Sch = Schedule
hdg = heading	Sdiv = Subdivision
ins = inserted	SIG = Solomon Islands Gazette
lt = long title	st = short title
LN = Legal Notice	sub = substituted
nc = not commenced	

### 2

#### LIST OF LEGISLATION

##### ***Honiara City Act 1999 (No. 2 of 1999)***

Assent date	28 September 1999
Gazetted	26 October 1999
Commenced	29 October 1999

##### ***Penalties Miscellaneous Amendments Act 2009 (No. 14 of 2009)***

Assent date	29 July 2009
Gazetted	1 October 2009
Commenced	1 October 2009

##### ***Traffic (Amendment) Act 2009 (No. 10 of 2009)***

Assent date	17 July 2009
Gazetted	24 July 2009
Commenced	1 November 2009

##### ***Town and Country Planning (Amendment) Act 2017 (No. 1 of 2017)***

Assent date	17 March 2017
Gazetted	24 March 2017
Commenced	1 May 2017

##### ***Electoral Act 2018 (No. 6 of 2018)***

Assent date	7 September 2018
Gazetted	7 September 2018
Commenced	25 September 2018

##### ***Honiara City (Amendment) Act 2023 (No. 1 of 2023)***

Assent date:	17 May 2023
Gazetted:	18 May 2023

Commenced 19 May 2023

***Honiara City (Amendment) (No. 2) Act 2023 (No. 6 of 2023)***

Assent date: 9 August 2023  
Gazetted: 10 August 2023  
Commenced: 1 November 2023

***Provincial Assemblies and Honiara City Council Electoral Act 2023 (No. 14 of 2023)***

Assent date: 22 December 2023  
Gazetted: 28 December 2023  
Commenced: 5 January 2024

***Legislation Amendment, Repeal and Validation Act 2023 (No. 17 of 2023)***

Assent date: 29 December 2023  
Gazetted: 29 December 2023  
Commenced: 5 February 2024

### **3 LIST OF AMENDMENTS**

s 1	amd by Act No. 17 of 2023
s 2	amd by Acts No. 1 of 2023; No. 6 of 2023
s 6	amd by Act No. 1 of 2023
s 10	amd by Act No. 1 of 2023
s 17	amd by Act No. 6 of 2018; sub by Act No. 1 of 2023
s 17A	ins by Act No. 1 of 2023; rep by Act No. 14 of 2023
s 18	amd by Acts No. 6 of 2018; No. 1 of 2023; rep by Act No. 14 of 2023
s 27	amd by Act No. 1 of 2017
s 35	amd by Act No. 14 of 2009
s 37	rep by Act No. 6 of 2023
s 49	amd by Act No. 17 of 2023
Part XA	ins by Act No. 6 of 2023
s 55A	ins by Act No. 6 of 2023
s 55B	ins by Act No. 6 of 2023
s 55C	ins by Act No. 6 of 2023
s 55D	ins by Act No. 6 of 2023
s 55E	ins by Act No. 6 of 2023
s 55F	ins by Act No. 6 of 2023
s 55G	ins by Act No. 6 of 2023
s 55H	ins by Act No. 6 of 2023
s 55I	ins by Act No. 6 of 2023
s 55J	ins by Act No. 6 of 2023
s 55K	ins by Act No. 6 of 2023
s 55L	ins by Act No. 6 of 2023
s 55M	ins by Act No. 6 of 2023
s 55N	ins by Act No. 6 of 2023
s 55O	ins by Act No. 6 of 2023
s 55P	ins by Act No. 6 of 2023

s 55Q	ins by Act No. 6 of 2023
s 55R	ins by Act No. 6 of 2023
s 55S	ins by Act No. 6 of 2023
s 55T	ins by Act No. 6 of 2023
s 55U	ins by Act No. 6 of 2023
s 55V	ins by Act No. 6 of 2023
s 58	amd by Act No. 6 of 2023
s 63	amd by Act No. 14 of 2009
s 68	amd by Act No. 14 of 2009
s 68A	ins by Act No. 6 of 2023
s 68B	ins by Act No. 6 of 2023
s 69	amd by Act No. 14 of 2009
s 71	amd by Act No. 14 of 2009
Sch 4	amd by Acts No. 10 of 2009; No. 1 of 2017
Sch 7	ins by Act No. 6 of 2023