

# REPRINT

## **INTERPRETATION AND GENERAL PROVISIONS ACT (CAP. 85)**

**As in force at: 1 October 2009**

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| <b>STATUS:</b> | <b>HISTORICAL</b>  |
|                | This version is that in force at the date stated above. It does not include amendments made since that date. |
|                | For list of amendments see Endnotes  |

**AN ACT TO MAKE PROVISION FOR THE INTERPRETATION OF LAWS; TO MAKE CERTAIN GENERAL PROVISIONS WITH REGARD TO LAWS; AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH AND INCIDENTAL THERETO**

## **INTERPRETATION AND GENERAL PROVISIONS ACT (CAP. 85)**

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# INTERPRETATION AND GENERAL PROVISIONS ACT (Cap. 85)

As in force at: 1 October 2009

## PART I PRELIMINARY

### 1 Short title

This Act may be cited as the *Interpretation and General Provisions Act*.

### 2 Application

- (1) This Act applies to the interpretation of and otherwise in relation to:
  - (a) this Act;
  - (b) any other Act made before the commencement of this Act, except in so far as a contrary intention appears in this Act or the other Act; and
  - (c) any other Act made after the commencement of this Act, except in so far as a contrary intention appears in the other Act.
- (2) Part X applies to subsidiary legislation, whether made before or after the commencement of this Act, except in so far as a contrary intention appears in this Act or in the Act under which the subsidiary legislation is or was made.
- (3) The reference in subsection (1)(b) to “other Act” and in subsection (2) to “the Act” includes a reference to an Ordinance which may, by virtue of section 3 of the *Citation of Ordinances Act 1978*, be cited as an Act.

### 3 Crown bound

This Act binds the Crown.

## **PART II                    GENERAL PROVISIONS RELATING TO ACTS\***

### **4                    Acts to be public Acts**

Every Act is a public Act and shall be judicially noticed as such.

### **5                    Acts to be divided into sections**

- (1) Every Act made after the commencement of this Act shall be divided into sections.
- (2) Each section of an Act takes effect as an Act.
- (3) Where any Act is divided into Parts, Titles, or other divisions, the fact and particulars of such division shall with or without express mention thereof in any Act be taken notice of in all courts and for all other purposes whatsoever.

### **6                    Schedules, etc., part of Act, etc.**

- (1) A Schedule to or table in an Act is part of the Act.
- (2) Notes to a Schedule to or table in an Act are part of the Act.
- (3) Marginal notes and headings in an Act and references to other Acts in the margin of or at the end of an Act are not part of the Act.

*\*The references to an Act in:*

*(a) sections 5 to 33, but excluding the definition of financial year in section 16(1);*

*(b) sections 39 to 60; and*

*(c) sections 63 to 68,*

*include a reference to an Ordinance of a Provincial Assembly - Vide section 32 (7) of Cap. 118*

## **PART III                    PROVISIONS RELATING TO INTERPRETATION**

### **7                    Extent of application of Act**

An Act extends to the whole of Solomon Islands in its application.

**8 Crown not bound**

An Act does not bind the Crown unless it is expressed to do so or unless it appears to do so by necessary implication.

**9 Acts always speaking, etc.**

- (1) An Act speaks from time to time.
- (2) Each Act is intended to be read as a whole.
- (3) Each Act shall be deemed to be remedial and shall receive such fair and liberal construction and interpretation as will best ensure the attainment of the object of the Act according to its true intent, meaning and spirit.

**10 Gender and number**

In an Act:

- (a) words imparting the masculine gender include females; and
- (b) words in the singular include the plural and words in the plural include the singular.

**11 Cognate words**

Where a word or an expression is defined in an Act for any purpose then for that purpose all grammatical variations and cognate and related expressions are to be understood in the same sense.

**12 International obligations**

A construction of an Act which is consistent with the international obligations of the Crown is to be preferred to a construction which is not.

**13 Citation of references**

- (1) Where a provision of an Act refers:
  - (a) to a Part, section or Schedule by a number but does not identify it as being part of any particular Act, the reference is to be read

and construed as a reference to the Part, section or Schedule, designated by that number, of or to the Act in which the reference occurs;

- (b) to a Schedule but does not refer to it by a number or identify it as being a Schedule to any particular Act, the reference is, if there is only one Schedule to the Act in which the reference occurs, to be read and construed as a reference to the Schedule to the Act in which the reference occurs; or
- (c) to a Division, subsection, paragraph, sub-paragraph, clause, subclause, item or column by a number but does not identify it as being part of any particular Act, the reference is to be read and construed as a reference:
  - (i) to the Division, designated by that number, of the Part in which the reference occurs;
  - (ii) to the subsection, designated by that number, of the section in which the reference occurs;
  - (iii) to the paragraph, designated by that number, of the section, subsection, Schedule or definition, or of the clause, subclause, item or column of, or in the Schedule, in which the reference occurs;
  - (iv) to the sub-paragraph, designated by that number, of the paragraph in which the reference occurs; or
  - (v) to the clause, subclause, item or column, designated by that number, of the Schedule in which the number occurs, as the case may require.

(2) In this section, “**number**” means:

- (a) a number expressed in words or figures;
- (b) a letter; or
- (c) a combination of a number so expressed and a letter, with or without parenthesis.



## **14 Reference to a series of provisions**

- (1) Where in an Act a reference is made to a series by reference to more than one number, one at the beginning and one at the end of the series, each number forms part of the series.
- (2) In this section, “**number**” has the same meaning as in section 13.

## **15 Application of rules of interpretation**

Definitions and rules of interpretation in an Act apply to the provisions containing them as well as to the other provisions of the Act.

## **16 Meaning of words in Acts**

- (1) In an Act:

“**Act**” or “**Act of Parliament**” means a law made by Parliament pursuant to section 59 of the *Constitution*;

“**act**”, when used with reference to an offence or civil wrong, includes a series of acts, an illegal omission and a series of illegal omissions;

“**amend**” includes repeal, revoke, rescind, cancel, replace, add to or vary, and the doing of any two or more of such things simultaneously in the same Act or instrument;

“**Attorney-General**” means the Attorney-General of Solomon Islands appointed in accordance with the *Constitution*;

“**Auditor-General**” means the Auditor-General of Solomon Islands appointed in accordance with the *Constitution*;

“**Cabinet**” means the Cabinet established by the *Constitution*;

“**the Capital**” means the place at which is situated for the time being the headquarters of the Government;

“**Chief Justice**” means the Chief Justice of the High Court appointed under the *Constitution*;

“**Christian name**” means any name prefixed or suffixed to a surname, whether received in Christian baptism or otherwise;

**“commencement”**, when used with reference to any Act, means the date on which the Act came or comes into operation;

**“common law”** means so much of the common law, including the doctrines of equity of England as has effect for the time being in Solomon Islands;

**“the Commonwealth”** means Solomon Islands and any country to which section 24 of the *Constitution* applies, and includes the dependencies of any such country;

**“Consolidated Fund”** means the Consolidated Fund for Solomon Islands established by the *Constitution*;

**“Constitution”** means the *Constitution* set out in the Schedule to the Solomon Islands Independence Order 1978;

**“contravene”**, in relation to any requirement or condition prescribed in any Act or in any grant, permit, lease, licence or authority granted by or under any Act, includes a failure to comply with that requirement or condition;

**“court”** means any Court of Solomon Islands of competent jurisdiction;

**“the Court”** means the High Court;

**“Court of Appeal”** means the Court of Appeal for Solomon Islands established by the *Constitution*;

**“the Crown”** means the Crown in right of Solomon Islands;

**“customary land appeal court”** means a customary land appeal court established under section 255 of the *Land and Titles Act*;

**“definition”** means the interpretation given by any Act or subsidiary legislation to any word or expression;

**“Director of Public Prosecutions”** means the Director of Public Prosecutions appointed in accordance with the *Constitution*;

**“document”** includes any publication and any matter written, expressed or described upon any substance by means of letters,

figures or marks, or by more than one of those means, which is intended to be used or may be used for the purpose of recording that matter;

**“export”** means to take out or cause to be taken out of Solomon Islands by air or water;

**“financial year”** means the twelve months ending the 31st December in any year;

**“Gazette notice”** means any announcement not of a legal character nor subsidiary legislation made by or with the authority of the Government in the *Gazette*;

**“the Gazette”** means the Solomon Islands *Gazette* published by order of the Government and includes any supplements thereto and any *Gazette* Extraordinary so published;

**“the Government”** means Her Majesty’s Government of Solomon Islands;

**“the Governor-General”** means the Governor-General of Solomon Islands;

**“Government Printer”** means the Government Printer of Solomon Islands and any other printer authorised by or on behalf of the Government to print any Act or any document of the Government;

**“High Court”** means the High Court for Solomon Islands established by the *Constitution*;

**“immovable property”** means:

- (a) land, whether covered by water or not;
- (b) any estate, right, interest or easement in or over any land; and
- (c) things attached to land or permanently fastened to anything attached to land;

**“imperial enactment”** means:

- (a) any Act of the Parliament of the United Kingdom;

- (b) any Order of Her Majesty in Council; and
- (c) any rule, regulation, proclamation, order, notice, rule of court, by-law or other instrument made under or by virtue of any such Act or Order;

**“import”** means to bring or cause to be brought into Solomon Islands by air or water;

**“Judge”** means the Chief Justice or any other Judge of the High Court;

**“land”** includes land covered by water, any estate or interest in land, all things growing on land and buildings and other things permanently fixed to land and any cellar, sewer, drain or culvert in or under land;

**“law”** means any law for the time being in force in, having legislative effect in, extending to, or applicable in, Solomon Islands;

**“legal notice”** means any announcement of a legal character made by or with the authority of the Government in the *Gazette*;

**“local authority”** means a town council or a Provincial Assembly;

**“local court”** means a local court established by the Chief Justice under the *Local Courts Act*;

**“Magistrate”** means a person appointed to hold a Magistrate’s Court constituted under the *Magistrates’ Courts Act*;

**“Master”**, when used with reference to a vessel, means the person (except a pilot) having for the time being command or charge of the vessel, and when used in reference to an aircraft, means the person having for the time being command or charge of the aircraft;

**“medical officer”** means a medical practitioner in the service of the Government;

**“medical practitioner”** means a person for the time being duly registered or deemed to be registered, or licensed as a medical practitioner or otherwise permitted to practise as a medical practitioner, under the *Medical and Dental Practitioners Act*;

**“Minister”** means a Minister of the Government and includes the Prime Minister;

**“month”** means calendar month;

**“movable property”** means property of every description except immovable property;

**“oath”** and **“affidavit”**, in case of persons allowed by law to affirm, declare or promise instead of swearing, include affirmation, declaration and promise and **“swear”**, in like case, includes affirm, declare and promise;

**“occupy”** includes use, inhabit, be in possession of or enjoy the land or premises to which the word relates, otherwise than as a mere servant or for the mere purpose of the care, custody or charge thereof;

**“offence”** means any crime, felony, misdemeanour or contravention or breach of, or failure to comply with, any written law, for which a penalty is provided;

**“Ombudsman”** means the Ombudsman appointed in accordance with the *Constitution*;

**“Ordinances”** mean laws made for a province by a Provincial Assembly under Part IV of the *Provincial Government Act*, applicable only to a particular province;

**“Parliament”** means the National Parliament of Solomon Islands established by the *Constitution*;

**“Permanent Secretary”** means the holder of an office of that designation;

**“person”** includes any public body, company or association, and any body of persons corporate or unincorporate;

**“Police Force”** means the Royal Solomon Islands Police Force;

**“police officer”** means a member of the Police Force and terms and expressions referring to ranks in that Force shall be construed by reference to the ranks provided for in the *Police Act*;

**“power”** includes any privilege, authority and discretion;

**“prescribed”** and **“provided”**, when used in or with reference to any Act, means prescribed or provided by that Act or by subsidiary legislation made under that Act;

**“Prime Minister”** means the Prime Minister of Solomon Islands;

**“principal Act”** when used in an amending Act means the written law which the amending Act seeks to amend and includes all subsequent amendments made to that written law;

**“property”** includes:

- (a) money, goods, choses in action and land; and
- (b) obligations, easements and every description of estate, interest and profit, present or future, vested or contingent, arising out of or incident to property as defined in paragraph (a) of this definition;

**“provincial government officer”** means a person holding or acting in any office of emolument in the service of a provincial government authority;

**“publication”** means:

- (a) all written and printed matter;
- (b) any record, tape, wire, perforated roll, cinematograph film or images or other contrivance by means of which any word or ideas may be mechanically, electronically, or electrically produced, reproduced, represented, or conveyed;
- (c) anything whether of a similar nature to that described in paragraph (b) of this definition or not, containing any visible representation, or by its form, shape, or in any manner, capable of producing, reproducing, representing, or conveying words or ideas; and
- (d) every copy and reproduction of a publication as defined in paragraphs (a), (b) or (c) of this definition;

**“public body”** includes a provincial assembly, area council, a town council, any department of the Government and any undertaking by or of the Government;

**“public holiday”** includes any day made a general holiday by virtue of any Act;

**“public office”** means an office that is a public office for the purposes of the *Constitution*;

**“public officer”** means a person holding or acting in a public office;

**“public place”** includes every place to which the public are entitled or permitted to have access whether on payment or otherwise;

**“public seal”** means the public seal of Solomon Islands;

**“public service”** means the service of the Crown in a civil capacity in respect of the Government of Solomon Islands;

**“Public Solicitor”** means the Public Solicitor appointed in accordance with the *Constitution*;

**“Public Trustee”** means the office of Public Trustee constituted by the *Public Trustee Act*;

**“registered”**, when used with reference to a document, means registered under the provisions of any law applicable to the registration of such a document;

**“regulations”** includes rules, by-laws, proclamations, orders, schemes, notifications, directions, notices, and forms;

**“repeal”** includes rescind, revoke, cancel or replace;

**“rules of court”**, when used in relation to any court, means rules made by the authority having for the time being power to make rules and orders regulating the practice and procedure of such court;

**“Secretary to the Cabinet”** means the person appointed as such under the *Constitution*;

**“sell”** includes barter and exchange;

**“sign”** includes, in the case of a person unable to write, the affixing or making of a seal, mark or thumbprint;

**“Solomon Islands”** means the territory which immediately before the 7th July 1978 constituted the territory under Her Majesty’s protection known as the Solomon Islands;

**“Solomon Islands waters”** means the waters of Solomon Islands and includes national waters and shall be deemed to include the territorial waters of Solomon Islands;

**“standard time”** means standard time as provided in section 53;

**“statutory declaration”**, if made:

- (a) in Solomon Islands, means a declaration made by virtue of any Act or law authorising a declaration to be made otherwise than in the course of a judicial proceeding;
- (b) in the Commonwealth, elsewhere than in Solomon Islands, means a declaration made before a justice of the peace, notary public, commissioner for oaths or other person having authority therein under any law for the time being in force to take or receive a declaration; and
- (c) in any other place, means a declaration made before a British consular officer or pro-consul, or before any person having authority under any imperial enactment for the time being in force to take or receive a declaration;

**“street”** or **“road”** includes any highway, street, road, bridge, square, court, alley, lane, bridgeway, footway, parade, thoroughfare, passage or open space to which the public are entitled or permitted to have access whether on payment or otherwise;

**“subject to affirmative resolution”** when used in relation to regulations shall mean that those regulations are not to come into operation unless and until affirmed by the National Parliament;

**“subject to negative resolution”** when used in relation to any regulations shall mean that those regulations as soon as may be after they are made, are to be laid before the National Parliament, to which



the provisions of subsection (2) of section 62 of this Act shall apply:

**“subsidiary legislation”** means any legislative provision (including a delegation of powers or duties) made in exercise of any power in that behalf conferred by any Act, by way of by-law, notice, order, proclamation, regulation, rule, rule of court or other instrument;

**“summary”**, in relation to the trial of any offence, means the trial of such offence by a Magistrate’s Court;

**“summary conviction”** means conviction by a Magistrate’s Court;

**“the United Kingdom”** means the United Kingdom of Great Britain and Northern Ireland;

**“vessel”** includes any ship or boat or any other description of vessel used in navigation;

**“will”** includes any testamentary instrument;

**“words”** includes figures and symbols;

**“written law”** means an Act, any subsidiary legislation or an imperial enactment;

**“writing”** and **“printing”** include writing, printing, lithography, photography, typewriting and any other mode of representing words in a visible form;

**“year”** means a year reckoned according to the Gregorian calendar.

- (2) The expression **“the Minister”** in an Act means the Minister for the time being responsible for the administration of the Act or, if more than one Minister is so responsible, the Minister so responsible with respect to the provision of the Act in which the expression occurs.

## **17 Meaning of Islander**

- (1) In every Act, except where it is otherwise expressly provided or by necessary implication otherwise required, **“Islander”** means:
- (a) any person both of whose parents are or were members of a group, tribe or line indigenous to Solomon Islands; or

- (b) any other person at least one of whose parents or ancestors was a member of a race, group, tribe or line indigenous to any island in Melanesia, Micronesia or Polynesia and who is living in Solomon Islands in the customary mode of life of any such race, group, tribe or line.
- (2) In every Act, except where it is otherwise expressly provided or by necessary implication otherwise required, “**non Islander**” shall be construed to mean a person other than an Islander.

## **PART IV CITATION AND COMMENCEMENT OF ACTS**

### **18 Citation of Acts, etc.**

- (1) An Act may be cited:
  - (a) by its short title;
  - (b) by reference to the year in which it was enacted and its number among the Acts of that year; or
  - (c) by the Chapter number given to it in any revised edition of the Laws of Solomon Islands.
- (2) A reference to an Act in accordance with subsection (1) shall be made according to the short title, number or Chapter number used in copies of the Act printed by the Government Printer.

### **19 Reference to Act, etc to include amendments, etc.**

- (1) A reference in an Act to the *Constitution*, an Act, any subsidiary legislation, or any provision thereof, is a reference to the *Constitution*, the Act, the subsidiary legislation or the provision, as from time to time amended.
- (2) A reference in an Act to another Act includes a reference to subsidiary legislation made under the other Act.

### **20 Publication and commencement of Acts**

- (1) Every Act made after this Act shall be published in the *Gazette*.
- (2) A provision of an Act, made after this Act, comes into operation on

the date of the publication of the Act in the *Gazette* or, if it is provided that the Act (including the provision) or the provision is to come into operation on some other date, on that other date.

- (3) Any provision of an Act, made after this Act, which makes provision with respect to the coming into operation of all or any of the other provisions of the Act comes into operation on the date of the publication of the Act in the *Gazette*.
- (4) When a provision of an Act comes into operation on a particular day, it is in operation as from the beginning of that day.

## **21 Evidence of commencement of Act**

A copy of an Act printed by the Government Printer which includes a date purporting to be the date on which the Act, or any provision of the Act, came or will come into operation is evidence that the Act or provision came, or will come, into operation on that date.

## **PART V REPEAL, AMENDMENT AND EXPIRY OF ACTS**

### **22 Amending Act construed with amended Act**

An Act amending any other Act shall be read as one with the other Act.

### **23 Repeal of amended Act to include amendments**

Where a particular Act is repealed, any other Act, or provision of any other Act, in force immediately prior to the coming into operation of the repealing Act and then having effect only as an Act or, as the case may be, a provision of an Act, amending the particular Act, shall be treated as having been repealed by the repealing Act.

### **24 Effect of repeal generally**

- (1) The repeal of an Act does not:
  - (a) revive anything (including an Act) that was not in force or existing immediately before the repeal took effect;
  - (b) affect the previous operation of the Act or anything duly done or suffered under it;

- (c) affect any right, privilege, obligation or liability acquired, accrued or incurred under the Act;
- (d) affect any penalty, forfeiture or punishment incurred in respect of any offence against the Act; or
- (e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment,

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and the penalty, forfeiture or punishment may be imposed, as if the Act had continued in force.

- (2) When an Act is repealed and re-enacted (with or without modification), reference in any other written law to the Act shall be read as a reference to the repealing Act.
- (3) Where an Act repeals part only of any other Act, subsections (1) and (2) apply in relation to the part as they would apply if the other Act were wholly repealed.
- (4) Where an Act is repealed after the commencement of this Act, any subsidiary legislation made under the Act shall be treated as having been repealed by the repealing Act, except in so far as the subsidiary legislation is expressly saved by the repealing Act.
- (5) Where an Act or a provision of an Act is suspended, subsection (1) has effect as it would if the Act or provision were repealed.

## **25 Expiry etc., of Act**

- (1) Where an Act is expressed in the Act or in any other Act to expire, lapse or cease to have effect on a particular day, or on a particular day to be appointed, it expires, lapses or ceases to have effect at the beginning of the day following the particular day or the particular day so appointed.
- (2) Where an Act or a provision of an Act expires, lapses or ceases to have effect otherwise than on repeal, section 24 (other than subsection (5)) applies in relation to the Act, the provision, or subsidiary legislation made under the Act, as it would apply if the Act

or provision had been repealed.

## **26 Reprint of written laws**

- (1) The Governor-General may, in authorising the reprint or preparation of any revised edition of any written law confer on the person so authorised all powers that are exercisable by a Commissioner under the *Revision of Laws Act*.
- (2) Where any Act is revised it shall be lawful for the Government Printer with the authority of the Governor-General to print copies of the Act with the necessary additions, omissions, substitutions and amendments effected under subsection (1), and such copies shall be deemed to be authentic copies of the Act from the date the revised edition is brought into force.

## **27 Power to make corrections in Acts**

The Attorney-General may by order published in the *Gazette*:

- (a) rectify any printing errors;
- (b) correct any cross references;
- (c) correct any punctuations; or
- (d) correct grammatical, typographical or similar errors,

which appear to him necessary or expedient for the perfecting of any Act.

# **PART VI POWERS AND DUTIES**

## **28 Exercise and performance of powers and duties**

- (1) Where an Act confers a power or imposes a duty, the power may be exercised, or the duty shall be performed, from time to time as occasion requires.
- (2) Where any Act confers any powers or imposes a duty on the holder of any public office as such, then the power may be exercised and the duty shall be performed by the holder for the time being of that public office or by any person duly appointed to act for him.

**29            Extent of powers conferred by Act**

Where an Act confers a power to do any act or thing, all powers reasonably necessary to enable the act or thing to be done are also conferred by the Act.

**30            Construction of power conferred by Act**

- (1) A power conferred by an Act made after the commencement of this Act:
  - (a) to provide for, regulate or otherwise control any act or thing, includes a power to do so by the grant of a licence;
  - (b) to grant a licence or an exemption or to give an approval or a direction, includes a power to amend the licence, exemption, approval or direction;
  - (c) to grant a licence or an exemption or to give an approval, includes a power to do so subject to conditions not inconsistent with the Act;
  - (d) to give directions with respect to, or regulate, any matter or thing, includes a power to prohibit that matter or thing; and
  - (e) to approve any person, matter or thing, includes a power to withdraw that approval.
- (2) Where paragraph (a) of subsection (1) applies in the case of a power conferred by an Act, paragraphs (b) and (c) of that subsection also apply.
- (3) In this section, **“licence”** includes authorisation, certificate or permit.

**31            Majority may act**

- (1) Where an act or thing may be, or is required to be, done by or under an Act by more than two persons, a majority of them may do it.
- (2) Subsection (1) does not affect any requirement of a quorum.

## **32 Power to appoint**

- (1) A power under an Act to appoint a person to hold or act in an office may be exercised:
  - (a) by appointing a person by name; or
  - (b) by appointing the holder of an office by the term designating his office.
- (2) An appointment made as provided in subsection (1)(b) operates to appoint the person who, from time to time, holds, acts in or discharges the functions of the office designated.
- (3) Subject to subsection (4), where an Act confers a power to make an appointment, the power includes power to remove or suspend a person so appointed, and to appoint another person temporarily in the place of a person so removed or suspended or, where the appointee is for any reason unable or unavailable to perform his duties, to appoint another person temporarily in his place.
- (4) The power provided for in subsection (3) is exercisable only subject to any conditions to which the exercise of the original power was subject.
- (5) Where the holder of an office is on leave of absence pending the relinquishment of the office, another person may be appointed to, and may exercise and perform the functions of, the office.

## **33 Exercise of power between making and coming into operation of Act**

Where an Act, or a provision of an Act, which is not to come into operation immediately on its publication in the *Gazette* confers power:

- (a) to make any appointment;
- (b) to make subsidiary legislation;
- (c) to establish any office;
- (d) to prescribe fees or forms;

(e) to give any direction;

(f) to do any other thing for the purposes of the Act,

the power may be exercised at any time after the making of the Act, but any subsidiary legislation or any appointment made in exercise of the power shall not come into operation or, as the case may be, take effect until the Act or provision comes into operation.

#### **34 Signification of the exercise or performance of functions**

- (1) The fact of the exercise or performance by the Governor-General of a function conferred or imposed on him by a written law may be signified under the hand of the Prime Minister.
- (2) The fact of the exercise or performance by the Prime Minister of a function conferred or imposed on him by a written law may be signified under the hand of a Minister, the Attorney-General, the Secretary to the Cabinet or a Permanent Secretary.
- (3) The fact of the exercise or performance by a Minister (other than the Prime Minister) of a function conferred or imposed on him by a written law may be signified under the hand of the Attorney-General, the Secretary to the Cabinet or a Permanent Secretary.
- (4) The reference in subsections (1), (2) or (3) to a function conferred or imposed on a named authority includes a case where the named authority may exercise or perform a function by reason of its lawful delegation to him.

#### **35 Delegation of function to public authority**

- (1) Subject to this section, a person required or permitted by an Act to exercise or perform a function may delegate to a public authority the exercise or performance of the function.
- (2) A delegation under subsection (1) shall be by instrument in writing and may be made subject to such conditions as are specified in the instrument of delegation.
- (3) A function delegated under subsection (1) shall be exercised or performed in accordance with the instrument of delegation.



- (4) A delegation under subsection (1) is revocable at will and does not prevent the person making the delegation from exercising the function delegated by him.
- (5) A power to make subsidiary legislation or to exercise any judicial function shall not be delegated under this section.
- (6) The Minister may, by order, direct that this section shall apply in relation to a public office named in the order.
- (7) In this section, “**public authority**” means:
  - (a) the Governor-General;
  - (b) a Minister;
  - (c) the Attorney-General;
  - (d) the Director of Public Prosecutions; and
  - (e) the holder of, or person acting in, a public office in relation to which this section applies.

### **36 Power to make public instruments and perform acts**

Where any Act confers power upon any person to make, grant, or issue any regulations or instruments, or to do anything for the purpose of the Act, such power shall include power:

- (a) to amend or suspend such regulation or instrument;
- (b) to substitute another regulation or instrument for the one already made, issued or approved;
- (c) to withdraw approval of any regulation or instrument so approved; and
- (d) to declare the date of coming into operation, and the period of operation, of any such regulation or instrument.

### **37 Power to relate back to appointment**

Any appointment made under the provisions of any Act may be

declared to have effect as from the date upon which the person appointed in fact began to exercise the powers and perform the duties of the appointment, not being a date earlier than the commencement of the Act under which the appointment is made.

**38            Exercise of powers of appointment to public office**

Notwithstanding anything to the contrary in any Act, where under the provisions of such Act, any appointment to any public office is to be made, such appointment shall be made by the Public Service Commission in accordance with the *Constitution*.

**PART VII            STATUTORY BODIES**

**39            Bodies corporate**

- (1) A body corporate constituted by an Act:
  - (a) shall have a seal;
  - (b) may sue and be sued in its corporate name;
  - (c) may acquire, hold and dispose of movable and immovable property; and
  - (d) may do all other things necessary for or incidental to the purposes for which it is constituted.
- (2) The design of the seal of a body corporate constituted by an Act shall be as determined by the body corporate.
- (3) The seal of a body corporate shall be kept in such custody as the body corporate directs and shall not be used except as authorised by the body corporate.
- (4) All courts, Judges and persons acting judicially shall take judicial notice of the seal of a body corporate constituted by an Act affixed to a document and shall presume that it was duly affixed.
- (5) A provision of an Act requiring a document to be signed is complied with by a body corporate constituted by an Act if the document is sealed by the body corporate.

**40 Acts and proceedings of statutory body**

An act or decision of a body, whether corporate or unincorporate, constituted or established by an Act is not invalid by reason only:

- (a) of a vacancy or vacancies in the membership of the body;
- (b) of a defect or irregularity in connection with the appointment or election of one, or more than one, member of the body; or
- (c) of an irregularity in the convening of a meeting of the body.

**41 Alternate member of body, etc.**

- (1) The power under an Act to appoint a member of a body, whether corporate or unincorporate, includes a power:

- (a) to appoint an alternate for the member; and
- (b) to appoint a person to act for the member during any period when the member is unable to exercise and perform his functions as a member,

and the alternate or person so acting shall be treated as a member of the body when, pursuant to his appointment, he attends at meetings of the body.

- (2) A person appointed a member of a body, whether corporate or unincorporate, constituted or established by an Act may resign his office by writing under his hand delivered to the authority appointing him.

**42 Chairman, etc., of body**

The power under an Act to appoint the members of a body, whether corporate or unincorporate, includes a power:

- (a) to appoint from amongst the members a person to the office of chairman, deputy chairman or vice-chairman of the body; and
- (b) to appoint a member to the office of secretary of the body,

and may stipulate the terms on which any such person is to hold the

office to which he is so appointed.

## **PART VIII            GENERAL PROVISIONS REGARDING LEGAL PROCEEDINGS AND PENALTIES**

### **43            Evidence**

Where an Act provides that a document is evidence of a fact without anything in the context to indicate that the document is conclusive evidence of the fact then, in any legal proceedings, the document is admissible in evidence and the fact shall be deemed to be established in the absence of evidence to the contrary.

### **44            Evidence of signature of authority**

Where the consent of an authority is necessary before any proceedings, whether civil or criminal, are commenced, a document giving the consent and purporting to be signed by the authority is evidence that the consent has been given, without proof that the signature to the document is that of the authority.

### **45            Ex officio proceedings not to abate**

Civil proceedings taken by or against a person in virtue of his office are not discontinued or abated by his death, resignation, absence or removal from office, but may be carried on by or against the person for the time being holding, acting in or discharging the functions of the office.

### **46            Administration of oath**

Any court, Judge or person authorised by law or by the consent of the parties to hear and determine any matter or thing has authority to administer an oath to all witnesses legally called before the court, Judge or person.

### **47            Imposition of penalty no bar to civil action**

The imposition of a penalty or fine by or under the authority of an Act does not relieve a person from any liability which may exist to answer for damages to a person injured.

**48 Provision as to offences under two or more Acts**

Where an act constitutes an offence under two or more Acts, an offender is liable to be prosecuted and punished under either or any of those Acts, but is not liable to be punished twice for the same offence.

**49 Penalties are maximum penalties**

When a penalty for an offence is prescribed in an Act, the offence is punishable by a penalty not exceeding the penalty prescribed.

**50 Statement of penalty at end of section**

Where in, or at the foot of, any section or part of a section of an Act a penalty or punishment (pecuniary or other) is set out, the same shall indicate that a contravention of the section or part is an offence under the Act which is punishable upon conviction by a penalty or punishment not exceeding that so set out.

**50A Penalty units**

- (1) Penalties (whether for an offence or otherwise) in all written laws shall be expressed in penalty units.
- (2) If a written law provides for monetary penalty, that penalty shall be treated as and converted into penalty units.
- (3) The value of one penalty unit is one dollar.

**51 Offences by bodies corporate**

- (1) Where at any time a body corporate commits an offence under an Act made after the commencement of this Act with the consent or connivance of, or because of neglect by, any individual, the individual commits the same offence if at that time:
  - (a) he is a director, manager, secretary or similar officer of the body corporate;
  - (b) he is purporting to act as such an officer; or
  - (c) the body corporate is managed by its members of whom he is

one.

- (2) Where a body corporate commits an offence against an Act made after the commencement of this Act for which the only penalty prescribed is a term of imprisonment, the body corporate is punishable on conviction by a fine which:
- (a) if the penalty so prescribed is a term of six months or under, shall not exceed two thousand penalty units;
  - (b) if the penalty so prescribed is over a term of six months but not over a term of two years, shall not exceed five thousand penalty units; and
  - (c) if the penalty so prescribed is over a term of two years, shall not exceed ten thousand penalty units.

## **52 Service of documents and notices**

- (1) A document or notice required or permitted to be served on, or given to, a person under or for the purposes of an Act, may be served or given:
- (a) in the case of an individual (except where paragraphs (b) or (c) applies), by serving it personally upon the individual or by sending it by post to him at his usual or last known place of abode or business;
  - (b) in the case of a public officer as such, by serving it personally upon him or by leaving it at or sending it by post to him at the principal office where he exercises and performs his functions as a public officer;
  - (c) in the case of a partnership:
    - (i) by serving it personally upon a partner or the person having the control or management of the partnership or by sending it by post to him at his usual or last known place of abode;
    - (ii) by leaving it at or sending it by post to the principal office of the partnership;

- (d) in the case of a body corporate, by leaving it at or sending it by post to the registered or principal office of the body corporate; or
  - (e) in the case of a body, whether corporate or unincorporate, constituted or established by an Act, by leaving it at or sending it by post to the principal office of the body or any other office specified by the body as one at which it will accept service of documents or notices of the same kind as that document or notice.
- (2) For the purposes of subsections (1)(c) or (1)(d), the principal office of a company registered outside Solomon Islands or of a partnership carrying on business outside Solomon Islands is its principal office within Solomon Islands.
- (3) Where a document or notice is required or permitted under or for the purposes of an Act to be served on, or given to, a person as being the person having an interest in land and it is not practicable after reasonable inquiry to ascertain that person's name or address, the document or notice may be served or given:
  - (a) by addressing it to that person by the description of the person having that interest in the land (naming it); and
  - (b) by delivering the document or notice to some responsible person on the land or affixing it, or a copy of it, in a conspicuous position on the land.
- (4) Where a document or notice is sent by post pursuant to subsection (1), service or notice shall be deemed to have been effected or given, unless the contrary is proved, at the time at which the document or notice would be delivered in the ordinary course of post.

## **PART IX MISCELLANEOUS**

### **53 References to time**

- (1) Words and expressions in an Act relating to time and references in an Act to a point of time shall be read and construed as relating to or as reference to:

- (a) advanced time, during any period in respect of which advanced time is prescribed under this section; and
  - (b) at all other times, standard time.
- (2) Standard time is such time as the Governor-General may, by notice, declare to be standard time for Solomon Islands.
- (3) Advanced time is such time as the Governor-General may, by notice, declare to be advanced time for Solomon Islands, and applies during such periods as the Governor-General may specify in the notice.

**54 Provision where no time prescribed etc.**

- (1) Where no time is prescribed in an Act for the doing of any act or thing, it may or shall be done, as the case may be, with all convenient speed and as often as the occasion arises.
- (2) Where a court or an authority is empowered by an Act to extend the period of time within which any act or thing is required or permitted to be done or taken, the power may be exercised by the court or authority notwithstanding that the period of time has expired when the power is so exercised.

**55 Computation of time**

- (1) In computing time for the purposes of an Act:
  - (a) a period reckoned by days from the happening of an event or the doing of an act or thing is exclusive of the day on which the event happens or the act or thing is done;
  - (b) where a period is expressed to begin or end at, or with a specified day or to continue to or until a specified day, the period shall exclude that day;
  - (c) where a period is expressed to begin after or to be from a specified day, the period shall not include that day;
  - (d) where the last day of a period is an excluded day, the period includes the next following day (not being an excluded day); and



- (e) where an act or proceeding may be or is required to be done or taken on a certain day and that day is an excluded day, the act may be done or the proceeding taken on the next following day (not being an excluded day).

- (2) In this section “***excluded day***” means a public holiday.

**56 Distance**

In determining any distance for the purposes of an Act, the measured distance shall be reduced to that distance which would be recorded if the distance were measured in a straight line on a horizontal.

**57 Gazette to be evidence**

- (1) A copy of the *Gazette* containing an Act is evidence of the due making of the Act and of its tenor.
- (2) A copy of the *Gazette* containing any notice or publication (not being subsidiary legislation) is evidence of the tenor of the notice or publication.

**58 Fee to be paid**

An authority required by an Act to do any act or thing for which a fee or charge is to be paid is not required to do the act or thing until the fee or charge is paid.

**59 Deviation from form**

Where a form is prescribed for use, the use of the form is not invalidated by any variation or alteration of the form that is not calculated to mislead and does not affect the substance of the form.

**60 Fines**

A fine or penalty imposed by, or under the authority of, an Act shall be paid into the Consolidated Fund.

## **PART X                    SUBSIDIARY LEGISLATION**

### **61                    Publication of subsidiary legislation**

- (1) Subsidiary legislation made after the commencement of this Act:
  - (a) shall be published in the *Gazette*; and
  - (b) shall come into operation on the date of publication or, if it is provided that the subsidiary legislation is to come into operation on some other date, on that date.
- (2) Subsidiary legislation is in operation as from the beginning of the day on which it comes into operation.

### **62                    Subsidiary legislation to be laid before Parliament**

- (1) Subject to subsection (3), subsidiary legislation made under an Act after the commencement of this Act shall be laid before Parliament.
- (2) If Parliament passes a resolution, within three months after any subsidiary legislation is laid before it, to the effect that the subsidiary legislation is annulled, the subsidiary legislation shall thereupon cease to have effect, but without prejudice to the validity of anything previously done under the subsidiary legislation.
- (3) Subsection (1) does not apply to any subsidiary legislation a draft of which is laid before, and approved by resolution by, Parliament before the making of the subsidiary legislation.

### **63                    Application of certain provisions to subsidiary legislation**

- (1) Sections 10 to 16, Part VI, sections 43 and 47, sections 48 to 54, and Part IX apply to subsidiary legislation made under an Act to the extent that those provisions apply to the Act.
- (2) Except where the context otherwise requires, words and expressions used in subsidiary legislation have the same meaning as they have in the Act under which the subsidiary legislation is made.
- (3) A reference in subsidiary legislation to “the Act” is a reference to the Act under which the subsidiary legislation is made.

- (4) For the purposes of the application (referred to in subsection (1)) of section 13, the reference in that section to any portion of an Act shall be read and construed as a reference to the appropriate portion of the subsidiary legislation.

#### **64 Citation of subsidiary legislation**

- (1) Any subsidiary legislation may be cited:
  - (a) by its title; or
  - (b) by reference to the year in which it was made and the number of the notice in which it was published in the *Gazette*.
- (2) A reference in any subsidiary legislation to the *Constitution*, an Act, any other subsidiary legislation, or any provision thereof, is a reference to the *Constitution*, the Act, the subsidiary legislation or the provision thereof, as from time to time amended.

#### **65 General provisions relating to subsidiary legislation**

- (1) Any subsidiary legislation which purports to be made in exercise of a power shall be treated as having been made in exercise also of all other powers which would have enabled the subsidiary legislation to be made.
- (2) Any subsidiary legislation may be amended, in the same manner as it was made, by the authority who made it or by any other authority lawfully substituted for that authority.
- (3) Where an Act confers power on an authority to make subsidiary legislation for any general purpose and for any special purposes, the enumeration of the special purposes does not derogate from the generality of the powers conferred with reference to the general purpose.
- (4) There is a rebuttable presumption that all conditions and preliminary steps precedent to the making of any subsidiary legislation have been complied with and performed.

#### **66 Power to make regulations**

- (1) Regulations made under an Act:

- (a) may constitute offences; and
  - (b) may provide, in respect of any such offence, for the imposition by way of penalty of a fine not exceeding 5,000 penalty units or imprisonment for a term not exceeding six months, or both.
- (2) The power under an Act to make regulations may be exercised:
- (a) either in relation to all cases to which the power extends, or in relation to all of those cases subject to specified exemptions, or in relation to any specified case or class of case; and
  - (b) so as to make, as respects the cases in relation to which it is exercised:
    - (i) the same provision for all the cases, a different provision for different cases or classes of cases, or different provisions for the same case or classes of cases for different purposes of the Act; or
    - (ii) any such provision either unconditionally or subject to any specified condition.

## **67 Fees**

- (1) The power under an Act to make regulations providing for fees or charges may be exercised by making provision:
- (a) for specific fees or charges;
  - (b) for maximum or minimum, or for maximum and minimum, fees or charges;
  - (c) for *ad valorem* fees or charges;
  - (d) for the payment of fees or charges either generally or under specific conditions or in specified circumstances;
  - (e) for the reduction, waiver or refund, in whole or in part, of the fees or charges, either upon the happening of an event or in the discretion of a specified authority; or
  - (f) for more than one of the foregoing.

- (2) A reduction, waiver or refund made pursuant to subsection (1)(e) may be expressed to apply or to be applicable either generally or specially:
- (a) in respect of certain matters or transactions or clauses of matters or transactions;
  - (b) in respect of certain documents or classes of documents;
  - (c) when an event happens or ceases to happen;
  - (d) in respect of certain persons or classes of persons; or
  - (e) in respect of any continuation of such matters, transactions, documents or events.
- (3) Where any fees or charges referred to in subsection (1), is in respect of any services provided by any public body, such fees or charges shall as far as practicable be within a range properly chargeable in respect of the services provided, and shall not be excessive or unreasonable.

## **68 Effect of repeal of subsidiary legislation**

- (1) The repeal of any subsidiary legislation does not:
- (a) affect the previous operation of the subsidiary legislation or anything duly done or suffered under the subsidiary legislation;
  - (b) affect any right, privilege, obligation or liability acquired, accrued or incurred under the subsidiary legislation; or
  - (c) affect any investigation, legal proceedings or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture, or punishment,
- and the investigation, legal proceedings or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if the repeal had not occurred.
- (2) Where part only of any subsidiary legislation is repealed, subsection (1) applies in relation to the part as it would apply if the subsidiary legislation were wholly repealed.



## 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    |                               |

#### NOTE

This Reprint comprises the Act and amendments as in force on 1 March 1996 and published as Chapter 85 of the Revised Edition of the Laws of Solomon Islands, together with amendments made to the Act from that date to 1 October 2009.

### 2

#### LIST OF LEGISLATION

##### ***Interpretation and General Provisions Act (Cap. 85)***

|                          |  |
|--------------------------|--|
| Constituent legislation: | 20 of 1978 (Commenced 29 September 1978) |
|                          | LN 82 of 1978                            |
|                          | 15 of 1979                               |
|                          | 7 of 1981                                |
|                          | 9 of 1986                                |
|                          | 4 of 1987                                |
|                          | 15 of 1987                               |

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

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

### 3

#### LIST OF AMENDMENTS

|       |                           |
|-------|---------------------------|
| s 50A | ins by Act No. 14 of 2009 |
| s 51  | amd by Act No. 14 of 2009 |
| s 66  | amd by Act No. 14 of 2009 |