

# REPRINT

## **LEADERSHIP CODE (FURTHER PROVISIONS) ACT 1999**

**As in force at: 5 August 2016**

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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 FURTHER PROVISIONS FOR THE PURPOSE OF EFFECTIVELY ATTAINING THE OBJECTS OF CHAPTER VIII OF THE CONSTITUTION BY VESTING THE LEADERSHIP CODE COMMISSION WITH ADEQUATE POWERS OF INVESTIGATION AND ENFORCEMENT AND FOR OTHER MATTERS CONSEQUENTIAL OR INCIDENTAL THERETO; AND TO REPEAL THE LEADERSHIP CODE (FURTHER PROVISIONS) ACT (CAP. 86).**

# **LEADERSHIP CODE (FURTHER PROVISIONS) ACT 1999**

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# LEADERSHIP CODE (FURTHER PROVISIONS) ACT 1999

As in force at: 5 August 2016

## PART I PRELIMINARY

### 1 Short title and commencement

This Act may be cited as the *Leadership Code (Further Provisions) Act, 1999*, and shall come into operation on such date as the Minister may appoint by notice published in the *Gazette*.

### 2 Interpretation

In this Act, unless the context otherwise requires:

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

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

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

**"Chairman"** means the Chairman of the Commission appointed pursuant to section 5;

**"child"** means a child under the age of eighteen;

**"Commission"** means the Leadership Code Commission appointed pursuant to section 5;

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

**"Government agency"** includes a Provincial Government or the authority responsible for the administration of the Honiara City;

**"Leader"** means any person:

- (a) whose office or position is specified in sections 93 and 127 (2) of the *Constitution*; or
- (b) who is appointed as a member of any statutory authority or other body established by an Act of Parliament or Provincial Ordinance and includes any person whose emoluments are paid out of the Consolidated Fund;

**"Legal Officer"** means the Legal Officer appointed pursuant to section 6(1)(b);

**"local company"** means a company incorporated under the *Companies Act*;

**"misconduct in office"** means any act or conduct which is deemed to be misconduct in office under Chapter VIII of the *Constitution* or Part III of this Act;

**"officer"** means a person appointed pursuant to section 6, and includes the Secretary and the Legal Officer;

**"Secretary"** means the Secretary appointed pursuant to section 6(1)(a);

**"unincorporated association"** means a partnership or other recognised association of persons intending to trade or carry on a business or profession for profit, but does not include a charitable organisation registered under the *Charitable Trusts Act*, or which is exempted from the payment of tax under the provisions of section 16 of the *Income Tax Act*.

### **3 Application of Act**

- (1) This Act shall apply to and in relation to all Leaders.
- (2) For the purposes of this Act, a person shall be deemed to be a Leader, notwithstanding that:

- (a) such person has resigned or ceased to hold office or position as a Leader, provided that an investigation under Part IV of this Act relates to any transaction or conduct which took place during the time such person held the aforesaid office; and
- (b) the office or position to which such person is appointed is by virtue of an Act of Parliament or Provincial Ordinance establishing such office deemed not to be a public office for the purposes of Chapter XIII of the *Constitution*.

#### **4 Nominating Committee**

- (1) There shall be a Nominating Committee which shall consist of the Prime Minister, the Leader of the Opposition, the Chairman of the Public Service Commission and the Attorney-General.
- (2) Appointments to the Commission shall be made under section 5 in accordance with the advice of the Nominating Committee.

#### **5 Appointment of the Leadership Code Commission.**

- (1) There shall be a Leadership Code Commission which shall consist of a Chairman and two other members appointed by the Governor-General acting in accordance with the advice of the Nominating Committee tendered under section 4.
- (2) A person shall be disqualified for appointment as a member of the Commission if such person is:
  - (a) a member of Parliament or a Provincial Assembly;
  - (b) a member of the Honiara Town Council;
  - (c) a public officer; or
  - (d) an officer of any body or association which is of a political nature.
- (3) Whenever the office of Chairman of the Commission is vacant or the holder thereof is for any reason unable to perform the functions of his office, such one of the other members of the Commission as the Governor-General shall appoint may act in the office of Chairman.

- (4) If the office of a member of the Commission other than the Chairman is vacant or the holder thereof is acting as the Chairman or is for any reason unable to perform the functions of his office, the Governor-General may in accordance with the advice tendered by the Nominating Committee appoint a person who is qualified for appointment as a member.
- (5) Each member of the Commission shall, before commencing to exercise the powers conferred upon him by this Act, make before the Governor-General or some person authorised in that behalf by the Governor-General, an oath or affirmation of secrecy in the appropriate form set out in Schedule I.

## **6        Administration**

- (1) There shall be appointed to the Commission:
  - (a) a Secretary;
  - (b) a Legal Officer; and
  - (c) such other officers as may be necessary from time to time, for the due administration of this Act.
- (2) Any appointment made under paragraphs (a) and (c) of subsection (1) shall, if the person appointed is to be a public officer, be made in accordance with the *Constitution* but otherwise shall be made by the Minister.
- (3) The Legal Officer appointed pursuant to paragraph (b) of subsection (1) shall be appointed by the Judicial and Legal Service Commission in accordance with the provisions of section 118 of the *Constitution*.
- (4) Each officer of the Commission shall, before commencing to perform the duties required of him by this Act, make before the Chairman or some person authorised in that behalf by the Commission, an oath or affirmation of secrecy in the appropriate form set out in Schedule 2.

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## **Allegations of misconduct in office to be investigated by the Commission**

The Commission or any officer authorised in that behalf by and acting under the control of the Commission is hereby empowered, notwithstanding anything in any other written law to the contrary, to direct and conduct any investigation of all allegations of misconduct in office which are made to or come to the knowledge of the Commission.

## **PART II DISCLOSURE OF FINANCIAL AFFAIRS**

### **8 Statement of assets etc. to be supplied by Leader**

- (1) Every Leader shall, within three months of his becoming a Leader, and thereafter at intervals not exceeding two years, give a separate statement in respect of himself, his spouse and each of his children setting out to the best of his knowledge:
  - (a) all directorships in any company or corporation held by each of them;
  - (b) the business occupations of each of them;
  - (c) the holdings of each of them of any shares of, or debentures or other securities charged upon, any company or corporation;
  - (d) the total income received by each of them during the period to which the statement relates and the sources of each of those incomes;
  - (e) all business transactions involving a sum of one thousand dollars or more entered into by each of them during the period to which the statement relates;
  - (f) subject to subsection (4), all gifts received by each of them during the period to which the statement relates, and the value of each of such gifts; and
  - (g) the assets acquired by each of them during the period to which the statement relates.

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- (2) The period to which a statement under sub-section (1) shall relate is :
  - (a) in the case of the first statement made by a Leader, the preceding three months;
  - (b) in any other case, the period since the last statement was given.
- (3) In the case of assets, income or gifts involving amounts less than five hundred dollars, it shall be sufficient if the statement gives general particulars and approximate amounts or values.
- (4) It shall not be necessary for a Leader to include in the statement made under subsection (1), details of gifts made to himself, his spouse or any of his children during the course of each year in any case where such gifts:
  - (a) were received from his spouse or children;
  - (b) were offered at or in connection with a custom ceremony; or
  - (c) not being gifts falling within categories (a) or (b) above, were of a total value of one hundred dollars or less.
- (5) The statement made in accordance with subsection (1) shall be submitted to the Commission.
- (6) Statements and information given to the Commission under the provisions of this section or section 9 shall not be revealed to any person except:
  - (a) in the course of the duties of the Commission;
  - (b) for the purpose of proceedings or possible proceedings under Part V; or
  - (c) under an order of a court of competent jurisdiction.
- (7) Where a Leader fails to give a statement to the Commission as required under this section before the due dates as prescribed under this Act a sum of 100 penalty units shall thereupon become payable by way of penalty.
- (8) A penalty imposed under this section shall not prevent the

Commission from taking any further action under any provision of this Act.

## **9 Requests for further information**

- (1) The Commission may, by notice in writing to a Leader require him to give such details or further details in respect of any statement made by such Leader in accordance with section 8 as may be specified in the notice.
- (2) In particular, but without affecting the generality of the powers conferred by subsection (1), such notice may relate to:
  - (a) assets or income general particulars of which were shown in accordance with section 8 (3);
  - (b) omissions or apparent omissions from the statement;
  - (c) discrepancies between the statement and any other statement or other information lawfully available to the Commission.
- (3) Upon receiving such details or additional details the Commission shall make such amendments to the Register of Leaders' Interests as maybe necessary.
- (4) The Commission shall cause to be kept a register, called the Register of Leaders' Interests, for the purposes of registering interests of Leaders.

## **10 Offences relating to supply of statement**

Any Leader who:

- (a) fails without reasonable excuse (the burden of proof of which shall be upon him) to give to the Commission a statement as required under section 8; or
- (b) fails without reasonable excuse (the burden of proof of which shall be upon him) to give to the Commission such details or further details as he may be required to supply in order to comply with any notice issued under section 9; or
- (c) knowingly, recklessly or negligently gives in such statement or

details any information that is false, misleading or incomplete in a material particular,

is guilty of misconduct in office.

## **PART III MISCONDUCT IN OFFICE**

### **11 Use of office for personal benefit**

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

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

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

### **12 Shareholdings and other interests**

- (1) Subject to the provisions of this section, a Leader:
  - (a) who holds shares or any other investment in any company, corporation or unincorporated association;
  - (b) whose spouse or any of whose children holds any such shares or other investment; or
  - (c) who or whose spouse or children holds any position or any financial interest (whether as debtor, creditor or guarantor) in any company, corporation or unincorporated association,

that could reasonably be expected to place him in a position in which he could be faced with a conflict of interest or might be compromised

when discharging his public or official duties, is guilty of misconduct in office.

- (2) Subsection (1) shall not apply to a Leader or to a spouse or child of a Leader who, prior to holding any shares, investment, position or financial interest referred to in subsection (1), has obtained the written approval of the Commission to do so.
- (3) Subsection (1) shall not operate to prevent a person who becomes a Leader, or the spouse or child of such person, who:
  - (a) at the time that he becomes a Leader holds shares or other investment or holds a position or has a financial interest in any company, corporation or unincorporated association; or
  - (b) unexpectedly receives shares or other investment or financial interest in any unincorporated association,

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

### **13 Neglect of official business deemed misconduct**

A Leader who in furthering his personal business interests neglects or fails to give priority to his official business is guilty of misconduct in office.

### **14 Interest in contracts**

- (1) Subject to the provisions of subsection (2) of this section and section 22, where any Leader or the spouse or child of such Leader has a controlling interest in any corporation or local company (such corporation or local company being in this section referred to as the "**relevant company**") and that relevant company seeks, accepts or holds a beneficial interest in any contract concluded with the Government of Solomon Islands (such contract in this section being referred to as a "**Government contract**") such Leader is guilty of misconduct in office.
- (2) Subsection (1) shall not apply in the case of any Leader who, prior to the relevant company seeking, accepting or otherwise obtaining a

beneficial interest in a Government contract, has obtained written permission of the Commission to such action.

- (3) The Commission shall not give its permission under subsection (2) in any case where it is of the opinion that:
  - (a) the fact that the relevant company has sought, accepted or obtained the beneficial interest in any Government contract might in the future involve the Leader in a conflict of interest; or
  - (b) the seeking, accepting or obtaining by the relevant company of the beneficial interest in any Government contract involved or may involve the use by the Leader of his official position.

## **15 Engaging in other paid employment**

- (1) A Leader is guilty of misconduct in office if he engages in any paid employment other than his official employment, or accepts any emoluments for services rendered by him outside his official duties, without having first obtained the written approval of the Commission, which shall have special regard to the needs of the country in any case where the Leader has professional or other special skills.
- (2) The Commission shall not give its approval under subsection (1) where it is of the opinion that:
  - (a) the engaging in other paid employment or acceptance of any emoluments for his services might in future involve the leader in a conflict of interest; or
  - (b) the obtaining of the other paid employment or the acceptance of any emoluments for his services involves or involved the use by the Leader of his official position.
- (3) The Commission shall not give its approval under subsection (1) in any case where the Leader is a public officer without having first ensured that the Leader has obtained the consent of the Secretary for the Public Service or, if the officer is employed by a Government agency, the Chief Executive of the agency, to his engaging in paid employment or accepting emoluments for his services.
- (4) For the purposes of this section:

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

- (5) The provisions of this section shall not be construed as relieving any Leader from complying with the provisions of section 8 in relation to salary or emoluments received in respect of any paid employment other than his official employment or services rendered by him outside his official duties.

## **16 Interpretation of "conflict of interest"**

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

- (a) the amount of influence the Leader may have on the decision-making process of the Ministry, department, Government agency or authority in which he works or for which he is responsible;
- (b) the esteem in which the public hold the office to which the Leader has been appointed and the need to ensure that the good reputation of that office is upheld;
- (c) the possible financial gain or other benefit to the Leader; and
- (d) the value to the development of Solomon Islands as a whole of the investment the Leader has made or may make, or the position the Leader is holding or may hold or the services he has given or may give to the company, corporation or unincorporated association concerned:

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

## **17 Bribery**

- (1) Any Leader who asks for, receives or obtains, or agrees or attempts

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

- (2) Any person who offers, gives or attempts to give any property, benefit or favour of any kind to any Leader in consideration or as an inducement or reward for his doing or forbearing to do any act in his capacity as a Leader is guilty of an offence.
  - (3) Any person who contravenes the provisions of subsection (1) or (2) shall be liable to a fine not exceeding 10,000 penalty units.
- 18      To own or to have owned property deemed under this section to be property acquired by misconduct in office or property to which property acquired by misconduct in office has or had been converted is to be an offence**
- (1) Where a Leader has or had acquired any property:
    - (a) being money, cannot be or could not have been:
      - (i) part of his known income or receipts; or
      - (ii) money to which any part of his known receipts has or had been converted; or
    - (b) being property other than money, cannot be or could not have been:
      - (i) property acquired with any part of his known income; or
      - (ii) property which is or was part of his known receipts; or
      - (iii) property to which any part of his known receipts has or had been converted,

then, for the purposes of any investigation under this section, it shall be deemed, until the contrary is proved by him, that such property is or was property which he has or had acquired by misconduct in office or to which he has or had converted any property acquired by him by misconduct in office.

- (2) Any Leader who is or has been the owner of any property which is deemed under subsection (1) to be property which he has or had acquired by misconduct in office or to which he has or had converted any property acquired by him by misconduct in office shall be guilty of misconduct in office and subject to penalties imposed under section 17 or 34.
- (3) For the purposes of this section, where a spouse or unmarried child of a person who has or had acquired property movable or immovable on or after such person became a Leader, it shall be presumed until the contrary is proved that such property was acquired by such person aforesaid and not by a spouse or unmarried child, as the case may be.
- (4) In any investigation for any misconduct in office under this section, a certificate from the Principal Valuer of the Government with regard to the value of any immovable property or the cost of construction of any building on such property shall be sufficient proof of such value and the cost of construction unless and until the contrary is proved.

## **19       Acceptance of loans, etc.**

- (1) A leader who, or whose spouse or child:
  - (a) accepts any loan of money; or
  - (b) holds any franchise; or
  - (c) accepts any gift or other benefit or advantage, from any person, company, corporation or unincorporated association, is guilty of misconduct in office.
- (2) Subsection (1) shall not apply to:
  - (a) a gift from his spouse or children;
  - (b) a loan or transaction in the nature of a loan which has been obtained or entered, into on the same or similar terms as may be applied to other borrowers; or
  - (c) any gift not exceeding one hundred dollars in value, or any other minor benefit or advantage, where such gift, benefit or

advantage is clearly intended to be a memento of a ceremony or social occasion attended by the Leader or where such benefit or advantage falls within accepted standards of hospitality:

Provided that the provisions of this subsection shall not be construed as relieving a Leader from complying with the provisions of section 8 in relation to such loan, franchise or gift.

**20 Use of official information**

- (1) Any Leader who for personal gain or advantage, or for the personal gain or advantage of some other person, discloses or uses any information acquired by him in the course of his official duty, is guilty of misconduct in office.
- (2) The provisions of subsection (1) shall not apply to information which has been officially released by the person or body having power to release it for public information.

**21 Disclosure of interest**

- (1) Any Leader who, being a member of a statutory corporation, Government agency or other public body, proposes to speak or vote on any matter before such body or before a committee thereof, and who has a direct or indirect interest in the matter shall before speaking or voting thereon comply with the rules of such body or committee thereof relating to the disclosure of interest, or, if the rules of such body or committee thereof do not specifically make provision in that regard, shall be under a duty to give adequate notice of his interest in the matter under discussion.
- (2) The Minister may on the advice of the Commission make regulations relating to the disclosure of interest by Leaders who are members of any body which has no formal rules relating to disclosure of interest by members thereof.
- (3) A Leader who fails to make a disclosure as required by subsection (1) or by regulations made under subsection (2) is guilty of misconduct in office.

## 22 Dissociation from activities of associates

- (1) Any Leader who after being requested so to do by the Commission, fails to publicly dissociate himself from any activity or enterprise of his spouse, any of his children, any other person for whom he is responsible or of any of his associates which might be expected to give rise to doubt in the public mind as to the Leader's compliance with the provisions of this Act or of Chapter VIII of the *Constitution*, is guilty of misconduct in office.
  - (2) Where a leader has publicly dissociated himself from an activity or enterprise upon the request of the Commission, he shall not be guilty of misconduct in office or be otherwise liable under this Act for the actions of any of the persons referred to in subsection (1) to which that dissociation relates.
  - (3) For the purposes of this section:

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

## **PART IV COMPLAINTS AND INVESTIGATION**

## 23 Complaints and investigation

- (1) Any person may make a complaint to the Commission concerning any alleged or suspected misconduct in office of a Leader.
  - (2) The Commission shall investigate or may lawfully delegate or authorise any person it deems fit to investigate any complaint received by it or which has come to its knowledge, unless it decides not to do so on the ground that:
    - (a) the complaint or the allegation is trivial, frivolous, vexatious or has not been made in good faith; or
    - (b) the complaint or allegation has been too long delayed to justify an investigation; or

- (c) the subject-matter of the complaint or allegation does not fall within the provisions of this Act or Chapter VIII of the *Constitution*.
- (3) The Commission may defer or discontinue an investigation on any of the grounds specified in subsection (2).
- (4) The decision of the Commission not to investigate a complaint or allegation or to defer or discontinue an investigation shall not be called in question in any court of law.
- (5) If at any stage of the investigation, it appears to the Commission that the offence is of such a nature that it may suitably be dealt with by the Court, the Commission may refer the matter to the High Court.
- (6) Where the Commission on completion of the investigation proceeds to hold an inquiry under this Part, the same practice and procedure as applicable in the Magistrates' Courts shall as far as circumstances permit apply *mutatis mutandis* to the proceedings before the Commission.

## **24 Action by Commission on conclusion of investigation**

- (1) On completion of an investigation, the Commission may:
  - (a) where the Commission has determined that there is no substance in the allegations made against the Leader whose conduct or affairs have been under investigation, so declare;
  - (b) where the Commission has determined that there has been misconduct in office on the part of the Leader whose conduct or affairs have been under investigation, but is of the opinion that such misconduct was of a minor or technical nature warn or reprimand the Leader; and
  - (c) where the Commission has determined that the misconduct warrants a greater penalty than that prescribed under paragraph (b) the Commission may impose a fine not exceeding 50,000 penalty units on such Leader.
- (2) Where the Commission has determined that such misconduct is of a nature that requires to be determined by the High Court, the

Commission may refer such case to the High Court for determination.

- (3) Any Leader who is aggrieved by the decision of the Commission may appeal to the High Court.

## **25 Commission's power to regulate proceedings**

The Commission may make rules not inconsistent with the provisions of this Act for the conduct and management of the proceedings of the inquiry.

## **26 Powers of the Commission**

- (1) The Commission when carrying out an inquiry under this Part shall have the same powers as those vested in a Magistrate in respect of:
  - (a) the administration of oaths or affirmations to witnesses and compelling them to give evidence;
  - (b) compelling the attendance of witnesses and the production of documents; and
  - (c) punishment for contempt of Court.
- (2) No person, other than the person whose conduct is the subject of the inquiry and his legal representative (if any), shall be entitled as of right to be heard by the Commission.
- (3) Any person appearing as a witness before the Commission who wilfully gives false evidence is liable to prosecution for perjury under the *Penal Code*.

## **27 Power to require production of documents, books, etc.**

For the purposes of obtaining full information in respect of the assets of any leader whose conduct is the subject of an inquiry, the Commission may, by notice in writing require:

- (a) any person, bank, department, office, corporation, or institution to produce for examination by the Commission at such time and place as may be specified in such notice, any accounts, books of accounts, statements or other documents which the Commission may consider necessary for the purpose;

- (b) any person not to destroy, damage or deface on or after such service of notice, any of the accounts, books of accounts or other documents so specified; and
- (c) the leader in respect of whom the Commission is holding an inquiry to furnish on oath a statement in writing enumerating all movable and immovable property belonging to or possessed by such Leader and by the spouse and children of such leader and specifying the date on which each of the properties enumerated was acquired whether by way of purchase, gift, bequest, inheritance or otherwise.

## **28 Penalty for failure to comply with notice**

Where:

- (a) any person, bank, department, office, corporation or institution fails to produce any accounts, books of accounts, statements or other documents for examination by the Commission in accordance with the requirements of any notice served on him under section 27(a); or
- (b) any person destroys, damages or defaces any accounts, books of accounts or other documents in contravention of any notice served on him under section 27(b); and
- (c) any Leader fails or refuses to furnish a full and true statement of assets and liabilities in accordance with the requirements of any notice served on him under section 27(c),

such person or body shall be guilty of an offence and liable on conviction to a fine of not less than 1,000 penalty units.

## **29 Failure to attend before Commission**

Any person who having been summoned to attend before the Commission fails without reasonable excuse (the burden of proof of which shall be upon him) to attend before it, or who wilfully, interrupts any proceedings conducted by the Commission, is guilty of an offence and shall be liable to a fine not exceeding 20,000 penalty units.

## **30 Action by Commission on conclusion of inquiry**

- (1) On completion of an inquiry the Commission may:
  - (a) where the Commission has determined that there is no substance in the allegations made against the Leader whose conduct or affairs have been the subject of the inquiry, so declare;
  - (b) where the Commission has determined that there has been misconduct in office on the part of the Leader whose conduct or affairs have been the subject of the inquiry, impose as it deems appropriate any of the penalties specified in section 24.
- (2) The Commission shall give such publicity as it may consider desirable to its action in any particular case.

## **31 Disposal of assets**

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

- (a) be placed in trust with such person (including any member of the Commission) as the Commission may require, for return to the Leader when he has ceased to be a Leader; or
- (b) in the case of any shareholding, be transferred by the Leader to such nominee as the Commission may specify, for such nominee to hold until such time as the Leader shall have ceased to be a Leader; or
- (c) be otherwise disposed of in such manner as the Commission in the circumstances of the individual case may require.

## **32 Inquiry despite absence of person affected**

Where a person in respect of whom an inquiry is being held refuses or neglects to attend the inquiry, the Commission may proceed with

the inquiry in his absence.

### 33 Proceedings to commence in the High Court

Proceedings may commence in the High Court where:

- (a) a case is referred to it by the Commission under the provisions of section 24(2); or
  - (b) an appeal is lodged under section 24(3) by any Leader who is aggrieved by a determination of the Commission.

34 Assessment of value of gratification where the High Court finds a person guilty of having received or accepted gratification

- (1) Where the High Court finds that any person is guilty of having accepted a gratification as specified in section 18, the High Court shall then, if that gratification is a sum of money, state that sum or if the value of that gratification can be assessed, assess and declare that value, and direct the Leader to pay that sum of money or the value of the gratification into the Consolidated Fund within such time as may be specified in the order.
  - (2) If a Leader fails to pay the sum directed under subsection (1), the Attorney-General may apply to the High Court and recover such sum as if it were a debt due to the Government.

## 35 Powers of the High Court

Where proceedings are commenced in the High Court, the Court may:

- (a) if such case is a reference pursuant to paragraph (a) of section 33, impose a fine not exceeding 10,000 penalty units and notwithstanding the provisions of any other law declare that such Leader be subject to the disqualifications specified in subsection (1) or (2) of section 36, as the case may be; or
  - (b) if such case is a reference pursuant to paragraph (b) of section

33, affirm, vary or reverse the decision of the Commission and make such other order as it deems fit.

### **36      Effect of a conviction or finding**

- (1) Subject to subsection (2), where a Leader is convicted or found guilty of misconduct in office by the High Court then by reason of such conviction or finding:
  - (a) he shall become incapable for the period of three years from the date of such conviction or finding to hold any public office; and
  - (b) be disqualified from standing as a candidate from the period of three years in any:
    - (i) national election for Parliament; or
    - (ii) provincial election or local Government election.
- (2) Where a Leader is referred to in subsection (1) who is disqualified from office is re-employed in the public service or is elected as a member of the National Parliament, a Provincial Assembly or a local authority after the expiry of the period of disqualification referred to subsection (1), but is subsequently found guilty of misconduct in office a second time, he shall be disqualified for all time from being employed as a public servant and from standing for any national, provincial or local government election.

### **37      Appeals**

Any person aggrieved by any decision of the High Court may on points of law, appeal to the Court of Appeal whose decision shall be final.

## **PART VI                   MISCELLANEOUS**

### **38      Regulations**

The Minister may on the advice of the Commission make regulations for the better carrying into effect of the provisions of this Act, and in particular, but without prejudice to the generality of this section, such

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regulations may prescribe the form in which statements under section 8 shall be made, and for the manner in which Leaders may obtain advice regarding compliance with Parts II and III of this Act.

**39 Meetings, etc.**

- (1) The Commission shall meet as often as may be necessary or expedient for the transaction of its business, and such meetings shall be held at such places and times and on such days as the Secretary may, in consultation with the Chairman, determine.
- (2) The Chairman shall preside at all meetings of the Commission at which he is present, and his absence the Acting Chairman shall preside.
- (3) The quorum of the Commission shall be two.

**40 Application of other laws**

No action taken under this Act shall prejudice any other investigation or judicial proceedings under any other laws.

**41 Repeal and savings**

- (1) The *Leadership Code (Further Provisions) Act* (in this section referred to as "the repealed Act") is hereby repealed.
- (2) Any investigation commenced under the repealed Act prior to the coming into operation of this Act shall be deemed to have been commenced under this Act and anything done in relation thereto under the repealed Act shall be deemed to have been done under the corresponding provisions of this Act.
- (3) Notwithstanding the repeal of the repealed Act, the members of the Commission appointed under the repealed Act shall continue in office until such time as their term of office expires in accordance with the respective instruments of appointment.

## **SCHEDULE 1**

(Section 5(5))

### **Oath and Affirmation of Secrecy to be taken or made by members of the Commission.**

#### **OATH**

I, ..... a member of the Leadership Code Commission, do swear that I will at all times maintain secrecy in relation to the affairs of the Commission and that I will not directly or indirectly communicate or divulge any information that comes to my knowledge in the performance of my functions as a member of the Commission, except as provided by law.

So help me God.

#### **AFFIRMATION**

I, ..... a member of the Leadership Code Commission, do solemnly and sincerely promise and declare that I will at all times maintain secrecy in relation to the affairs of the Commission and that I will not directly or indirectly communicate or divulge any information that comes to my knowledge in the performance of my functions as a member of the Commission, except as provided by law.

## **SCHEDULE 2**

(Section 6(4))

### **Oath and Affirmation of Secrecy to be taken or made by officers and employees of the Commission.**

## **OATH**

I, ......., (an officer or employee of the Leadership Code Commission, as the case requires) do swear that I will at all times maintain secrecy in relation to the affairs of the Commission, and in particular, that I will not directly or indirectly communicate or divulge any information that comes to my knowledge in the performance of any functions as an officer/employee of the Commission, except as provided by law.

So help me God.

## **AFFIRMATION**

I, ......., (an officer or employee of the Leadership Code Commission, as the case requires) do solemnly and sincerely promise and declare that I will at all times maintain secrecy in relation to the affairs of the Commission, and in particular, that I will not directly or indirectly communicate or divulge any information that comes to my knowledge in the performance of any functions as an officer/employee of the Commission, except as provided by law.

## 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
It = long title	st = short title
LN = Legal Notice	sub = substituted
nc = not commenced	

### 2 LIST OF LEGISLATION

#### ***Leadership Code (Further Provisions) Act 1999 (No. 1 of 1999)***

Assent date	24 September 1999
Gazetted	26 October 1999
Commenced	4 January 2000

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

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

#### ***Correction to Penalties Miscellaneous Amendment Act 2009 (LN 43 of 2016)***

Gazetted	5 August 2016
Commenced	5 August 2016

### 3 LIST OF AMENDMENTS

s 17	amd by Act No. 14 of 2009
s 24	amd by Act No. 14 of 2009; LN 43 of 2016
s 28	amd by Act No. 14 of 2009
s 29	amd by Act No. 14 of 2009; LN 43 of 2016
s 35	amd by Act No. 14 of 2009