

# REPRINT

## LOCAL GOVERNMENT ACT (CAP. 117)

**As in force at: 1 March 1996**

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**AN ACT TO MAKE PROVISION FOR LOCAL GOVERNMENT AND FOR PURPOSES CONNECTED THEREWITH.**

## **LOCAL GOVERNMENT ACT (CAP. 117)**

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# LOCAL GOVERNMENT ACT (Cap. 117)

As in force at: 1 March 1996

## PART I PRELIMINARY

### 1 Short title

This Act may be cited as the *Local Government Act*.

### 2 Interpretation

In this Act, unless the context otherwise requires:

**“basic rate”** means the rate defined and imposed under paragraph (a) of subsection (1) of section 77;

**“cognisable offence”** shall have the same meaning as in section 2 of the *Criminal Procedure Act*;

**“committee”** means a committee appointed under the provisions of section 32 and shall include a committee appointed under section 33 and any sub-committee;

**“Council”** means a local government council established under section 3;

**“court”** means any court of competent jurisdiction over the causes and parties before it;

**“elected member”** means a member of a Council elected in accordance with the provisions of section 6;

**“financial year”** means the twelve months ending the 31st December, or such other date as may be prescribed, in any year;

**“nominated member”** means a member of a Council appointed in accordance with the provisions of the proviso to section 6;

**“person resident”** means, in relation to the area of authority of a Council, a person ordinarily residing in such area:

Provided that such a person shall not be held to have ceased to be so resident by reason only of a period of absence of less than one year;

**“President”** shall include Vice-President.

## **PART II                    ESTABLISHMENT OF LOCAL GOVERNMENT COUNCILS**

### **3                    Establishment of Councils**

- (1) The Minister may by warrant under his hand establish such Councils as he may deem necessary or expedient for the purposes of local government:

Provided that the Minister may at any time by order amend, vary or cancel any such warrant, after having (unless precluded from so doing by the urgency of the matter) given to a Council reasonable notice of his intention so to do and having considered the representations, if any, of the Council thereon.

(2)

- (a) Where, under subsection (1), the Minister cancels a warrant establishing a Council, he may direct that such Council shall be wound up.
- (b) On any direction being made under paragraph (a) with respect to a Council, such Council shall, until dissolved, continue in existence for the purpose only of winding up, and to that end shall, without undue delay, take such steps as may be necessary to wind up its affairs, and in particular shall do such acts as may be required by any direction given by the Minister under paragraph (c).
- (c) In order to facilitate any such winding up, the Minister may by notice give such directions as he may deem necessary or desirable, and particularly, but without prejudice to the generality of the foregoing, to ensure:
- (i) that all or any property, movable and immovable, vested in or belonging to such Council or to which the Council is



entitled and all or any assets and claims to which the Council is entitled, shall be transferred to and vested in such other person or body as exists or may be established for the area for which such Council was established;

- (ii) that all or any appointments made, powers conferred and notifications served or published by the Council shall be deemed respectively to have been made, conferred, served or published by such other person or body as aforesaid;
  - (iii) that all or any works and undertakings authorised to be executed, all rights, liabilities, contracts, and engagements of the Council existing, and all actions, suits and legal proceedings pending by or against the Council, shall be transferred to, vested in, and be enforced, carried on and prosecuted by or against such other person or body as aforesaid;
  - (iv) that all rates, fees, charges and debts of whatsoever description due or payable to or recoverable by the Council shall be payable to or recoverable by such other person or body as aforesaid;
  - (v) that all or any licences, registrations and permits issued, made or granted by the Council shall continue in force for the period, if any, specified in such licences, registrations or permits, unless the same are sooner suspended or cancelled by such other person or body as aforesaid;
  - (vi) that all or any by-laws made by the Council shall be deemed to be the by-laws of such other person or body as aforesaid, and shall continue in full force and effect within the area to which they apply until amended or cancelled by such other person or body.
- (d) On the Minister being satisfied that the winding up of a Council is completed, he shall by notice declare it to be dissolved with effect from such date as shall be specified in such notice.

#### **4 Contents of warrant**

- (1) A warrant establishing a Council shall:
  - (a) specify the name of the Council and the date it shall be established;
  - (b) prescribe the device of the seal of the Council;
  - (c) define the limits of the area of the authority of the Council;
  - (d) provide for the number of members; and
  - (e) specify the functions of the Council.
- (2) A warrant establishing a Council may:
  - (a) provide for the use of a rubber stamp in lieu of a seal until such time as a seal can be procured;
  - (b) generally make such other provision not inconsistent with this Act as the Minister may deem necessary or expedient for the establishment and conduct of the Council and the proper performance of its functions.

#### **5 Incorporation of Councils**

Every Council established under the provisions of this Act shall be a body corporate having perpetual succession and a common seal and shall be capable in law of suing and being sued and of acquiring, holding and disposing of movable and immovable property.

### **PART III COMPOSITION OF COUNCILS AND ELECTIONS**

#### **6 Members to be elected**

Subject to the provisions of this Act, all members of a Council shall be elected by registered voters whose names appear on the register of voters for that Council in accordance with regulations made under section 18:

Provided that in the case of a Town Council the Minister may in his

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discretion appoint such number of persons, not exceeding one-quarter of the number of the elected members of the Council, to be nominated members of the Council. Such nominated members shall be persons who in the opinion of the Minister are specially qualified by reason of their knowledge or experience to participate in the proceedings of the Council.

## **7 Qualifications of voters**

Subject to the provisions of section 8 every person who:

- (a) is a citizen of Solomon Islands;
- (b) has attained the age of eighteen years; and
- (c) is a person resident within the Council area,

shall be entitled to be registered as a voter for the area of such Council and, when so registered, to vote at the election of a member of such Council.

## **8 Disqualifications of voters**

- (1) Notwithstanding the provisions of section 7 no person shall be registered as a voter or, being registered, shall be entitled to vote for the election of a member of a Council who:
  - (a) is under sentence of death imposed on him by a court in any part of the Commonwealth, or is under a sentence of imprisonment (by whatever name called) for a term of, or exceeding, six months, other than a sentence in lieu of a fine, but including a suspended sentence, imposed on him by such a court or substituted by competent authority for some other sentence imposed on him by such a court; or
  - (b) is certified to be insane or otherwise adjudged to be of unsound mind under any law for the time being in force in Solomon Islands; or
  - (c) is disqualified from registering as a voter or voting under any law for the time being in force in Solomon Islands relating to offences connected with elections.

- (2) For the purposes of paragraph (a) of subsection (1) two or more terms of imprisonment that are required to be served consecutively shall be regarded as a single term of imprisonment for the aggregate period of those terms.
- (3) A voter shall not be entitled to have his name retained on the register of voters for any Council area if for a continuous period of twelve months he has ceased to reside within the area of authority of such Council or if he becomes disqualified for voting under the provisions of subsection (1).

## **9 Qualifications for members of Councils**

Subject to the provisions of section 10, a person shall be qualified for election as a member of a Council if he is entitled to be registered as a voter and has attained the age of twenty-one years.

## **10 Disqualification for members of Councils**

- (1) A person shall be disqualified for election as a member of a Council who:
  - (a) is in the employment of the Government in a capacity other than that of a worker employed on daily rates, and has not received the written authority of a Permanent Secretary to stand for election; or
  - (b) unless authorised in writing by the Minister to stand for election, holds or is acting in any office in the gift or disposal of the Council; or
  - (c) is an undischarged bankrupt, having been adjudged or otherwise declared bankrupt under any law in force in any part of the Commonwealth; or
  - (d) has within five years before the date of the election been surcharged under section 69 to an amount exceeding two hundred dollars; or
  - (e) is subject to any of the disqualifications specified in paragraphs (a) and (b) of subsection (1) of section 8; or

- (f) is disqualified for membership of a Council by any law for the time being in force in Solomon Islands relating to offences connected with elections.

(2) For the purposes of this section and of section 12:

- (a) a person employed by a committee; and
- (b) a person employed by two or more Councils under the provisions of section 96,

shall be deemed to be a person holding or acting in or appointed to hold or act in an office or place of profit in the gift or disposal of the Council concerned or of each of such Councils, as the case may be.

## **11 Term of office of members of Councils**

- (1) The term of office of the elected members of a Council shall be four years from the date of election unless otherwise provided in this Act or in the warrant establishing the Council; and such warrant may in particular provide for the retirement annually of one-third of the elected members of the Council:

Provided that if in the course of a general election of elected members or of elections of one-third of the elected members, any particular election has had to be held anew or any part thereof has had to be deferred, the term of office of the elected member elected at the new or deferred election shall commence as if he had been elected at the general election or elections for one-third of the elected members, and no new election had been held nor deferment occurred, as the case may be.

- (2) Any person retiring under the provisions of subsection (1) may, if qualified, seek re-election for a further term of office.
- (3) No person shall be elected to be a member of a Council without his consent.
- (4) Nominated members of the Council shall hold their seats in the Council during the Minister's pleasure.

## **12            Tenure of office of members of Councils**

- (1) Every member of a Council shall, without prejudice to his re-election or re-appointment in accordance with the provisions of this Act, cease to be a member of the Council at the expiration of his term of office under section 11, or previously thereto if his seat become vacant under the provisions of this Act.
- (2) The seat of an elected member of a Council shall become vacant:
  - (a) if by writing addressed to the President of the Council he resigns his seat; or
  - (b) if, without having obtained leave from the Council, he is absent from three consecutive meetings of the Council, unless such absence was due to some reason approved by the Council; and the Clerk to the Council shall, at the next meeting of the Council after such absence by a member, report the same to the Council and the Council shall thereupon declare the seat of such member to be vacant and the date from which such vacancy shall be deemed to have occurred;
  - (c) if, not having the authority in writing of a Permanent Secretary to retain his seat, he is appointed to or to act in any office in the service of the Government in a capacity other than that of a worker employed on daily rates; or
  - (d) if, not having the authority in writing of the Minister to retain his seat, he is appointed to or to act in any office or place of profit in the gift or disposal of the Council; or
  - (e) if he is convicted, in Solomon Islands or any part of the Commonwealth, of any offence and is sentenced to a term of imprisonment without the option of a fine or, irrespective of sentence, if he is convicted of any offence involving dishonesty in relation to the funds or other property of the Council; or
  - (f) if he is certified to be insane or otherwise judged to be of unsound mind under any law for the time being in force in Solomon Islands; or
  - (g) if any circumstances arise that if he were not an elected

member of the Council, would cause him to be disqualified for election as such by virtue of paragraphs (c), (d) or (f) of section 10.

- (3) The seat of a nominated member shall become vacant:
- (a) if by writing addressed to the Minister he resigns his seat; or
  - (b) at such time (if any) as may be specified in the instrument by which he was appointed; or
  - (c) if his appointment to be a nominated member is terminated; or
  - (d) if he accepts nomination as a candidate for election to the Council.
- (4) Any person whose seat in a Council has become vacant may, if qualified, again be elected as a member or appointed as a nominated member of a Council from time to time.

### **13 Decision on questions as to membership**

Subject to the provisions of this Act all questions which may arise as to the right of any person to be or remain a member of a Council shall be referred to and determined by a Magistrate's Court, and on appeal therefrom within the prescribed period, by the High Court whose decision shall be final.

### **14 Filling of vacancies**

- (1) Where a vacancy has occurred among the elected members of a Council, a new member to fill such vacancy shall be elected in the same manner as the person whose place he is to take was elected.
- (2) A person elected under this section to fill a vacancy shall hold office until the date upon which the person in whose place he is elected would ordinarily have retired and he shall then retire.

### **15 Presidents of Councils**

- (1) Every Council shall have an elected President and an elected Vice-President.

- (2) The President and the Vice-President of a Council shall be elected by the Council by secret ballot from among the elected members of the Council and shall be eligible for re-election. No candidate for the office of President or Vice-President shall preside over the election to the office for which he is a candidate.
- (3) No person shall be elected President or Vice-President without his consent to be so elected.
- (4) A President or Vice-President of a Council, at any time during his term of office, may resign or may be removed by resolution of three-fourths of the elected members present and voting at a meeting of the Council.
- (5) Whenever a vacancy occurs in the office of President or Vice-President, an election to fill the vacancy shall be held at the next meeting of the Council after the date on which the vacancy occurs. A person elected to fill such vacancy shall hold office until the date upon which the person in whose place he is elected would ordinarily have retired and he shall then retire but shall be eligible for re-election. In the temporary absence of both the President and Vice-President the Council may elect one of its elected members to act as President during such temporary absence.
- (6) The term of office of a President or Vice-President shall be for four years from the date of his election:

Provided that, unless he resigns or is disqualified, such person shall be deemed to continue in office until his successor is elected under subsection (2).

## **16 Notification of names of members**

- (1) Any person appointed by the Minister to be a returning officer for a Council election shall inform the Minister of:
  - (a) the name of every person elected to be a member of such Council;
  - (b) the term of office of such person; and
  - (c) the ward for which such person was elected,



and shall cause such information to be published at the Council's headquarters and in some prominent place in each electoral ward.

- (2) The Clerk to the Council shall inform the Minister of the name and term of office of each person elected to be President or Vice-President of the Council and shall cause such information to be published at the Council's headquarters and in some prominent place in each electoral ward.

## **17 Void elections**

Where, on presentation of an election petition in accordance with regulations made under section 18, it is shown to the satisfaction of the High Court that an election offence has been committed in connection with an election held under this Act, the High Court may declare such election void.

## **18 Regulation of elections**

Subject to the provisions of this Act and of the warrant establishing a Council, the Minister may make regulations for the election of members of a Council including, without prejudice to the generality of the foregoing power, the following matters, that is to say:

- (a) the registration of voters and the revision of registers of voters;
- (b) the ascertainment of the qualifications of voters and of candidates for elections;
- (c) the division of the Council area into electoral wards and the number of members to represent each ward;
- (d) the method of nominating candidates;
- (e) the holding of elections and the method of voting;
- (f) election petitions;
- (g) the definition and trial of offences relating to elections and the imposition of penalties therefor, including disqualification for membership of a Council, or for registration as a voter, or for voting at elections, of any person convicted of any such offence.

## **PART IV                    MEETINGS AND PROCEEDINGS OF COUNCILS**

### **19                    Number of meetings**

A Council shall meet at such times and at such places as the President thereof shall determine:

Provided that if a Council fails to meet at least twice in any one year it may be taken as just cause for suspension of the Council under section 47.

### **20                    Convening of meetings**

- (1) The President of a Council may call a meeting at any time either on his own motion or upon requisition of one-third of the members of the Council.
- (2) If the President of a Council refuses to call a meeting of the Council after a written requisition to do so signed by one-third of the members of the Council has been presented to him or if, without so refusing, such President does not, within two days after such requisition has been presented to him, call a meeting to take place within three weeks of the date of the requisition, the persons presenting the requisition may forthwith, on such refusal or on the expiration of two days, as the case may be, call a meeting of the Council.
- (3) In the case of any Council other than a Town Council, the period of notice to be given of a meeting of the Council and the manner in which such notice shall be given shall be determined by the Council, but in any event the period of such notice shall be not less than three clear days and a notice specifying the date, the time and the place appointed for the meeting shall be published at the office of the Council.
- (4) In the case of a Town Council:
  - (a) three clear days at least before a meeting of the Council, notice of the date, the time and place of the intended meeting shall be published at the office of the Council and, in the case of a meeting called by the members of a Council under subsection (2), such notice shall specify the business proposed to be transacted at the meeting;

- (b) the Clerk to the Council shall give at least three clear days' notice in writing to each of the members of the Council specifying the date, the time and place appointed for the meeting and the business proposed to be transacted at the meeting:

Provided that the accidental omission to serve such notice on any member shall not affect the validity of any meeting;

- (c) except as provided by the standing orders of the Council, no business shall be transacted at a meeting of the Council other than that specified in the notice relating thereto.

- (5) Notwithstanding any other provision of this section, the President of a Council may call an emergency meeting of the Council at any time:

Provided that a copy of any resolution passed at such meeting shall be sent to all members of the Council within three days thereof.

## **21 Presiding at meetings**

- (1) The President, if present and subject to the provisions of section 15 (2), shall preside at meetings of the Council.
- (2) If the President is absent from a meeting of the Council the Vice-President if present, and subject to the provisions of section 15 (2), or, in his absence, such elected member as the elected members of the Council present shall choose, shall preside.

## **22 Quorum**

No business shall be transacted at a meeting of a Council unless at least one-half of the whole number of the members of the Council are present thereat.

## **23 Admission of public to meetings**

- (1) Every meeting of a Council shall, within the limits of available accommodation, be open to the public unless the Council resolves to exclude the public from a meeting (whether during the whole or part of the proceedings) whenever publicity would be prejudicial to the public interest by reason of the confidential nature of the business

to be transacted or for other special reasons stated in the resolution and arising from the nature of that business or of the proceedings; and where such a resolution is passed this Act shall not require the meeting to be open to the public during proceedings to which the resolution applies.

- (2) The proceedings of any committee of a Council, including a committee of the whole Council, or a joint committee shall not be open to the public unless the Council or Councils appointing the committee or joint committee, as the case may be, resolve to admit the public.

## **24 Decision on questions**

- (1) Subject to the provisions of this Act and of the warrant establishing a Council, all acts of a Council and all questions coming or arising before a Council shall be done and decided by a majority of the elected members present and voting thereon at a meeting of the Council.
- (2) The President of a Council or other person presiding shall have an original vote and, in the event of an equality of votes, shall have and exercise a second or casting vote.
- (3) At the request of at least one-third of the elected members present at a meeting of a Council the President or other person presiding shall order that the voting on any question before the Council shall be conducted by secret ballot.
- (4) A nominated member shall have no vote but may, in the event of the Council of which he is a member acting against his advice, require that there shall be recorded in the minutes any advice or opinion he may give upon the question at issue and his reasons.

## **25 Breaches of order at meetings**

- (1) At any meeting of a Council, if a member of the Council shows disregard for the authority of the President or other person presiding or abuses the standing orders of the Council by persistently and wilfully obstructing the business of the Council or otherwise, the President or other person presiding shall direct the attention of the meeting to the incident mentioning by name the person concerned

and may suspend such person from the exercise of his functions as a member of the Council for the remainder of the meeting.

- (2) In the case of grave disorder arising in any meeting of a Council, the President or other person presiding may, if he thinks it necessary so to do, adjourn the meeting without question put or suspend any meeting for a time to be specified by him.
- (3) The person presiding at any meeting of a committee may, if he thinks it necessary so to do, exercise the like powers as are conferred upon a President in relation to a Council by subsections (1) and (2).

## **26 Minutes**

- (1) Minutes of the proceedings of every meeting of a Council or of a committee shall be regularly entered in books kept for that purpose and shall be read and confirmed or amended, as the case may require, and signed by the person presiding at the same or next ensuing meeting of the Council or committee, as the case may be, and any minute purporting to be so signed shall be received in evidence without further proof.
- (2) The names of members of a Council or of a committee present at a meeting of the Council or committee, as the case may be, shall be recorded in the minutes.
- (3) Until the contrary be proved, a meeting of a Council or of a committee, in respect of the proceedings whereof a minute has been made and signed as provided in subsection (1), shall be deemed to have been duly convened and held, and all members present at the meeting shall be deemed to have been qualified and, where the proceedings are proceedings of a committee, the committee shall be deemed to have been duly constituted and to have had power to deal with the matter referred to in the minutes.

## **27 Minutes to be open to inspection**

The minutes of the proceedings of a Council shall at all reasonable times be open to inspection and any person may obtain a copy thereof or an extract therefrom upon payment of such fee as may be specified by the Council.

**28            Vacancy, etc. not to invalidate proceedings**

The proceedings of a Council or committee shall not be invalidated by reason of any vacancy among its members or the want of qualification of any member.

**29            Standing orders**

- (1) Subject to the provisions of this Act, a Council may, with the prior approval of the Minister, make standing orders for the regulation of its proceedings and business and may, subject to such approval, amend, vary or revoke such orders.
- (2) Such standing orders may provide for the payment of transport and attendance allowances (which may be by way of monthly allowances or salaries) to members of the Council.
- (3) Subject to the approval of the Minister the standing orders referred to in subsection (2), may also provide for terminal allowances or grants to be paid to a member at the end of his term of office calculated on a pro-rata basis, taking into consideration each member's period of service.

**30            Disability of Council members for voting on account of interest in contracts, etc.**

- (1) If a member of a Council or of any committee has any pecuniary interest, direct or indirect, in any contract or proposed contract or other matter and is present at a meeting of the Council or the committee at which the contract or other matter is the subject of consideration, he shall at the meeting, as soon as practicable after the commencement thereof, disclose the fact, which shall be recorded in the minutes of the meeting, and such member shall not take part in the consideration or discussion of, or vote on any question with respect to, the contract or other matter and, if the President so directs, he shall withdraw from the meeting during such consideration or discussion:

Provided that this section shall not apply to an interest in a contract or other matter which a member may have as a ratepayer or inhabitant of the area, or to any interest in any matter relating to the terms on which the right to participate in any service, including the

supply of goods, is offered to the public.

- (2) For the purposes of this section a member shall (subject as hereafter in this subsection provided) be treated as having indirectly a pecuniary interest in a contract or other matter, if:
- (a) he or any nominee of his is a member of a company or other body with which the contract is made or is proposed to be made or which has a direct pecuniary interest in the other matter under consideration; or
  - (b) he is a partner, or is in the employment, of a person with whom the contract is made or is proposed to be made or who has a direct pecuniary interest in the other matter under consideration:

Provided that:

- (i) this subsection shall not apply to membership of, or employment under, any public body;
- (ii) a member of a company or other body shall not, by reason only of his membership, be treated as being so interested if he has no beneficial interest in any shares or stock of that company or other body;
- (iii) a member shall not be treated as having a pecuniary interest in any contract or other matter by reason only of an interest:
  - (a) of that member; or
  - (b) of any company, body or person connected with him,

which is so remote or insignificant that it cannot reasonably be regarded as likely to influence a member in the consideration or discussion of, or in voting on, any question with respect to that contract or matter.

- (3) In the case of married persons living together the interest of one spouse shall, if known to the other, be deemed for the purposes of

this section to be also an interest of that other spouse.

- (4) A general notice given in writing by a member to the Clerk to the Council to the effect that he or his spouse is a member or in the employment of a specified company or other body, or that he or his spouse is a partner or in the employment of a specified person or that he or his spouse is the tenant of any premises owned by the Council, shall, unless and until the notice is withdrawn, be deemed to be a sufficient disclosure of his interest in any contract, proposed contract or other matter relating to that company or other body or to that person or to those premises which may be the subject of consideration after the date of the notice.
- (5) The Clerk shall record in a book to be kept for the purpose particulars of any disclosure made under subsection (1), and of any notice given under subsection (4), and the book shall be open at all reasonable hours to the inspection of any member of the Council.
- (6) If any person fails to comply with the provisions of subsection (1), he shall for each offence be liable to a fine of four hundred dollars; unless he proves that he did not know that a contract, proposed contract, or other matter in which he had a pecuniary interest was the subject of consideration at the meeting.
- (7) Any person convicted of an offence against this section shall *ipso facto* become disqualified from continuing to be a member and shall account to the Council for any profit which may accrue to him out of such contract or matter.
- (8) Any member disqualified under the provisions of subsection (7) shall not be capable, for a period of three years, of being elected or appointed a member of any Council.
- (9) A prosecution for an offence under this section shall not be instituted except by or on behalf of the Director of Public Prosecutions.
- (10) The Minister may, subject to such considerations as he may think fit to impose, remove any disability imposed by this section in any case in which the number of members of the Council so disabled at any one time would be so great a proportion of the whole as to impede the transaction of business, or in any other case in which it appears to the Minister that it is in the interests of the inhabitants of the area



of authority of the Council that the disability should be removed. The power to remove any disability shall include power to remove, either indefinitely or for any period, any such disability which would otherwise attach to any member by reason of such pecuniary interests, and in respect of such matters, as may be specified by the Minister.

- (11) Nothing in this section shall preclude any person from taking part in the consideration or discussion of, or voting on, any question whether an application should be made to the Minister for the exercise of the powers conferred by the preceding subsection.

### **31 Attendance of non-members**

- (1) The President of a Council or other person presiding may invite any person to attend and to speak upon any matter at any meeting of a Council, but no such person shall vote upon any matter.
- (2) A public officer authorised by the Minister so to do, may, to the extent so authorised, attend any meeting or meetings of a Council or committee and may take part in the proceedings thereat and, if he so requests, his advice on any matter shall be recorded in the minutes of the meeting, but he shall not vote upon any matter.

### **32 Appointment of Executive Committee and other committees**

- (1) Every Council shall appoint an Executive Committee and may appoint such other committees as it may deem fit for any general or special purpose which, in the opinion of the Council, would be better regulated or managed by means of a committee and may delegate to a committee so appointed, with or without restrictions or conditions as it thinks fit, any power or function exercisable by the Council, either with respect to the whole or any part of the area of authority of the Council, except the power of making by-laws, approving annual estimates, levying a rate or borrowing or lending money.
- (2) A Council may concur with any one or more other Councils in appointing a joint committee of such Councils for any purpose in which they are jointly interested and may delegate to such committee, with or without restrictions or conditions as they think fit, any power or function of the Councils relating to the purpose for which the joint committee is formed except the power of making by-

laws, approving annual estimates, levying a rate or borrowing or lending money.

- (3) The chairman and the number of members of a committee appointed under this section, their terms of reference, their term of office and the area within which the committee is to exercise its authority shall be specified by the Council or Councils, as the case may be, appointing the committee.
- (4) A committee appointed under this section may include persons who are not Council members, or may be authorised by the Council or Councils, as the case may be, appointing the committee to co-opt additional members not being Council members:

Provided that a majority of the members of every such committee shall be Council members.

- (5) No person shall be appointed to be or be co-opted as a member of a committee appointed under this section except with his own consent.
- (6) A committee appointed under this section may invite any person, including a Council member who is not a member of the committee, to attend meetings and take part in the deliberations of the committee, but no such person shall vote upon any matter at any such meeting.

### **33 Special area committees**

- (1) Subject to the provisions of this Act and with the prior approval of the Minister, a Council may appoint such town, village, or area committees within the area of its authority as it may deem necessary or expedient and may delegate to a committee so appointed, with or without restrictions or conditions as it thinks fit, any power or function exercisable by the Council with respect to the area of authority of the town, village or area committee, except the power of making by-laws, approving annual estimates, levying a rate or borrowing or lending money.
- (2) The chairman and the number of members of a town, village or area committee appointed under subsection (1), their term of office and method of selection, and the area within which the committee is to exercise its authority shall be specified by the Council.

### **34 Standing orders for committees**

- (1) Subject to the provisions of this Act, a Council appointing a committee (including any town, village or area committee) and Councils which concur in appointing a joint committee may make, amend, vary and revoke standing orders respecting the quorum, proceedings or place of meeting of the committee or joint committee. Subject to any such standing orders, the quorum, proceedings and place of meeting shall be such as the committee or joint committee may determine.
- (2) Without prejudice to the generality of the powers conferred by subsection (1), standing orders made under this section shall provide:
  - (a) that all acts of a committee or joint committee shall be done and decided by a majority of members present and voting thereon at a meeting of such committee or joint committee; and
  - (b) that the chairman or other person presiding at a meeting of a committee or joint committee shall, in the event of an equality of votes, have and exercise a second or casting vote.
- (3) Standing orders made under this section shall not be inconsistent with the standing orders of the Council concerned made under section 29.

### **35 Committees to report**

Every committee or joint committee appointed under the provisions of this Part shall report its proceedings to the Council or Councils appointing such committee.

## **PART V FUNCTIONS OF COUNCILS**

### **36 Duty to discharge functions**

- (1) It shall be the duty of every Council established under this Act to discharge the functions conferred by this or any other Act and generally to promote the health, welfare and convenience of the inhabitants of the area of its authority and to maintain order and good government in such area; and for these purposes a Council may,

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

- (2) Any function conferred upon a Council shall be exercisable over all persons within the area of its authority save as is otherwise expressly provided in this Act or in any regulations or by-laws made thereunder or in the warrant establishing the Council.

### **37 Prevention of crime**

It shall be the duty of every Council to prevent the commission of any offence within the area of its authority by any person.

### **38 Records of births and deaths**

A Council shall maintain, in such form as may be approved by the Minister, records of the births and deaths of all persons not subject to the provisions of the *Births, Marriages and Deaths Registration Act* occurring within the area of authority of the Council.

### **39 Power to accept gifts**

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

### **40 Fees**

- (1) A Council may charge fees for any service or facility provided by the Council or for any licence or permit issued by such Council under the provisions of this Act or of any regulations or by-laws made thereunder.
- (2) A Council may for good cause authorise the remission in whole or in part of any fees or other charges imposed under the provisions of this Act or any regulations or bye-laws made thereunder.

## **41 Power to contract**

- (1) A Council may enter into any contract necessary for the discharge of any of its functions under this or any other Act:

Provided that a Council shall not enter into any contract to the value of five thousand dollars or upwards without the prior approval of the Minister.

- (2) Subject to the provisions of subsection (3):
- (a) a Council shall, except in those cases provided for in subsections (3) and (6), before entering into any contract for the execution of any work or the supply of any goods to the value of two thousand dollars or more, by publication on the public notice board at the office of the Council and in such other manner as it considers adequate for bringing it to the attention of persons likely to tender therefor, give not less than fourteen days' notice of such proposed contract and the purposes and other relevant particulars thereof and shall, by such notice, invite any person willing to undertake the same to submit a tender therefor to the Council;
  - (b) a Council shall not consider any tender nor enter into any contract to which this subsection applies until full and similar particulars of the proposed contract have been supplied to every person applying to the Council therefor within fourteen days after the publication of the notice in accordance with the provisions of paragraph (a) nor until the expiration of the said period of fourteen days, and shall on such expiration consider all tenders which have then been submitted to it.
- (3) The Minister may exempt any Council from compliance with the requirements of subsection (2) in the case of any particular work or goods or class of work or goods.
- (4) The Council, or a committee thereof duly authorised to accept tenders, may accept the tender which, having regard to all the circumstances, appears to it to be the most advantageous, and may take security for the due and faithful performance of every contract, or it may decline to accept any tender:

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

- (5) In cases of emergency, or where the delay from inviting tenders in accordance with the provisions of subsection (2) would cause loss to the Council, the Council may enter into a particular contract without inviting tenders.
- (6) Nothing in this section shall apply to any contract for the purchase by a Council of produce or other perishable goods bought in a public market, or to any purchase entered into by a Council as the result of bidding at a public auction.
- (7) A Council may enter into contracts with the Government for the purpose of any work or service for which the Government is responsible within or adjacent to the area of authority of the Council.

## **42 Insurance**

A Council may insure all or any of its property against risks of any type and may insure itself, its members, officers, servants or agents against any liability whatsoever; and where the Minister in writing so requires, shall insure its property, itself or such persons against all or any such risks or liability as may be specified by the Minister.

## **43 Provision of buildings by Councils**

- (1) A Council may:
  - (a) build, acquire, provide or hire and furnish buildings within the area of its authority to be used for the purpose of transacting the business of the Council and for public meetings and assemblies; or
  - (b) combine with any other Council for the purpose of building, acquiring, providing or hiring and furnishing any such buildings; or
  - (c) contribute towards the expenses incurred by any other Council in building, acquiring, providing or hiring and furnishing any building within the area of the authority of such Council suitable for use for any of the aforesaid purposes.

- (2) A Council may build, provide or hire and maintain quarters or houses for any officer or employee of the Council.

#### **44 Acquisition of and dealings in land**

- (1) A Council may, for the purpose of any of its functions under this or any other Act, by agreement acquire, whether by way of purchase, lease, gift or exchange, any land situate within or without the area of its authority, whether such land is immediately required or not.
- (2) Where any land is required by a Council for the purpose of any of its functions and by reason of disputes or doubts as to the ownership of the land required or inability of the parties to agree the terms or for any other cause the acquisition of the land is being hindered, the Minister may, on the application of the Council concerned and on being satisfied that the purpose for which the land is required is of public benefit or importance, declare the land to be required for a public purpose under the provisions of section 71 of the *Land and Titles Act*, and direct the transfer of such land to the Council, and, subject to any directions by the Minister to the contrary, the Council shall pay all expenses incurred and compensation paid in respect of the acquisition of such land.
- (3) Any land acquired under subsection (1) may, until it is required for the purpose for which it was acquired, be held and used for the purpose of any of the functions of the Council.
- (4) Any land belonging to a Council and not required for the purpose for which it was acquired may be appropriated for any other purpose, except that in the case of land compulsorily acquired under subsection (2) the consent of the Minister shall be required.
- (5) A Council may sell, let or otherwise dispose of any land which it may possess and which is not required for the purpose for which it was acquired or is being used:

Provided that:

- (i) in the case of land compulsorily acquired under subsection (2) the consent of the Minister shall be required; and
- (ii) nothing in this subsection shall authorise the disposal of land

by a Council, whether by sale, lease or otherwise in breach of any trust, covenant or agreement binding upon the Council.

- (6) Subject to the provisions of the *Town and Country Planning Act* and the *Land and Titles Act*, a Council may lay out building plots upon or otherwise subdivide any land which it may possess for the purpose of housing schemes or for the purpose of factory, residential, religious, industrial, business or workshop sites and may sell, let or otherwise dispose of any such plots or subdivisions of land and the buildings thereon.

#### **45 Functions**

- (1) A warrant establishing a Council may provide that, subject to such limitations and conditions as may be specified therein, a Council either shall perform or may perform all or any or any part of the functions listed in the Schedule.
- (2) The Minister may, after having given reasonable notice of his intention to do so and having considered such representations, if any, as may be made, by order amend the Schedule.
- (3) Nothing in this section shall be deemed to confer on any Council authority to perform any act which would constitute a contravention of the terms of any Act.

#### **46 Powers of public officers**

The Minister may by notice direct that specified public officers, or categories of officers, shall be deemed to be officers of any Council for the purposes of giving effect to and enforcing any by-laws made by such Council.

#### **47 Power to enforce functions of Councils**

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



- (a) for the purpose of removing the default direct the Council to perform such of its functions in such manner and within such time or times as may be specified in the order; or
  - (b) transfer to such person or body as he may deem fit such of the functions of the Council in default as may be specified in the order.
- (2) If a Council in respect of which an order has been made under paragraph (a) of subsection (1) fails to comply with any requirement thereof within the time limited thereby for compliance with that requirement, the Minister may make an order under paragraph (b) of that subsection.
- (3) Where an order has been made under paragraph (b) of subsection (1), the Minister may, if he considers the default made by the Council of such a nature as to so warrant, by the same or any other order, dissolve the Council or suspend the Council for such time as he may think fit from the performance of such of its functions as may be specified in such order.

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

Where any functions of a Council are transferred to any person or body under the provisions of paragraph (b) of subsection (1) of section 47, the expenses incurred by such person or body in discharging those functions shall be a debt due from the Council in default to such person or body, as the case may be.

#### **49 Powers in emergency**

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

Provided that the Clerk shall as soon as practicable report any such decisions and steps to the President and the Executive Committee of the Council.

## **PART VI            BY-LAWS**

### **50            By-laws**

- (1) A Council may from time to time make and having made, amend, vary or cancel by-laws, having the force of law in the area of authority of the Council, for the carrying into effect and for the purposes of any function conferred upon it by virtue of this or any other Act and may in such by-laws specify a fine not exceeding one hundred dollars or, in default of payment, imprisonment not exceeding three months for any breach of any such by-laws and, in the case of a continuing offence, a further penalty not exceeding five dollars for each day on which the offence is continued after written notice of the offence has been served on the offender.
- (2) Such by-laws may further provide that, in addition to any penalty specified in subsection (1), any expense incurred by the Council in consequence of any breach of the by-laws or in the execution of any work directed by any by-law to be executed by any person and not executed by such person shall be paid by the person committing such breach or failing to execute such work and shall be recoverable as a civil debt.
- (3) By-laws may make provision for the payment of such fees or charges as shall to the Council seem fit:

Provided that, if a Council shall make by-laws relating to the licensing of any occupation, trade, business or industry within the area of its authority, no person shall be required to take out a licence or to pay any licence fee for a licence entitling him to follow or exercise such occupation, trade, business or industry if such occupation, trade, business or industry is also required to be licensed under the provisions of any Act for the time being in force.

- (4) Any by-law made by a Council under the provisions of this section shall be read and construed subject to the provisions of this Act and of any other law for the time being in force in Solomon Islands:

Provided that, where a by-law makes provision for any matter for which provision is made in any other Act for the time being in force, such by-law shall not be deemed to be invalid unless there be any conflict between the provisions of such by-law and such Act, in which

event the provisions of the Act shall prevail.

- (5) Any by-law made under the provisions of this Act may require acts or things to be performed or done to the satisfaction of a specified person and may empower a specified person to issue orders to any other person requiring acts or things to be performed or done, imposing conditions and prescribing periods and dates upon, within or before which such acts or things shall be performed or done or such conditions shall be fulfilled.
- (6) Any by-law made under the provisions of this Act may confer upon a Council and any of its officers and employees specified in such by-law such powers of inspection and inquiry and such power to execute any work as may be reasonably necessary for the proper carrying out or enforcement of such by-law.
- (7) Any by-law may specify that it shall apply to the whole or any part of the area of authority of the Council or to all or any class of persons in such area and, failing such specification, a by-law shall be deemed to apply to all parts of the area of the authority of the Council and to all persons therein.

## **51 Method of making by-laws**

- (1) By-laws shall be made under the common seal of the Council and shall be signed by the President after formal resolution of the Council, the date of which shall be recorded in the by-law.
- (2) A by-law made or amended under the provisions of this Act shall not have effect unless and until approved by the Minister, who may in approving the by-law determine the date on which it shall come into operation and also amend it provided that no such amendment shall be inconsistent with the principles or objects of the by-law. The Minister may also refuse to approve any by-law and in so doing may advise the Council to amend the by-law or to cancel or make a by-law, and if the Council refuses or neglects to do so, the matter may be dealt with under subsection (7).
- (3) At least fourteen days before application for approval of any by-law intended to be made by a Council under the provisions of subsection (1) is made, notice of intention to apply for such approval shall be posted on a public notice board at the office of the Council.

- (4) For at least fourteen days before application for approval of any by-law is made a copy of such by-law shall be deposited at the office of the Council and shall at all reasonable hours be open to public inspection without payment, and the Council shall, on application by any person and on payment of such sum as the Council may determine, furnish to such person a copy of such by-law.
- (5) Any objection to the proposed by-law shall be in writing and shall be lodged with the Clerk to the Council within twelve days of the date of posting of notice under subsection (3).
- (6) Every by-law submitted to the Minister for approval shall be accompanied by:
  - (a) a copy of the resolution of the Council that the by-law be made;
  - (b) a certificate by the Clerk to the Council that the provisions of subsections (3) and (4) have been complied with; and
  - (c) copies of any objection to the by-law lodged in accordance with subsection (5), or, if no such objection has been lodged, a certificate by the Clerk to the Council to that effect.
- (7) If a Council, having been advised by the Minister, whether under subsection (2) or otherwise to make, amend or cancel a by-law, refuses or neglects to do so then and in such case the Minister, after he has considered the observations (if any) of the Council, may make, amend or cancel a by-law and every by-law so made or amended shall have the same force and validity as it if had been made by the Council.

## **52 Publication**

- (1) A copy of every by-law when approved by the Minister shall be deposited at the office of the Council by which the by-law was made and shall at all reasonable times be open to public inspection without payment; and a copy thereof shall, on application, be furnished to any person on payment of such sum as the Council may determine.
- (2) Every by-law made and approved under the provisions of this Act shall be published by exhibiting a copy thereof on a public notice board at the office of the Council by which the by-law was made and

shall come into operation on the date of such publication, or on such later date as may be specified. The Council may give such other notice as it thinks requisite for bringing it to the attention of the persons affected thereby.

**53 Evidence of by-laws**

A copy of a by-law purporting to be made by a Council, upon which is endorsed a certificate purporting to be signed by the President or such other officer of the Council authorised in that behalf, stating:

- (a) that the by-law was made and published by the Council in the prescribed manner;
- (b) that the copy is a true copy of the by-law; and
- (c) that on a specified date the by-law was duly approved by the Minister and came into operation on a specified date,

shall be admitted in evidence in any court without further proof, and such certificate shall be evidence of the facts stated therein without further proof and without proof of the handwriting or official position of the person purporting to sign the certificate.

**PART VII FINANCIAL PROVISIONS AND AUDIT**

**54 Establishment of Council funds**

- (1) Every Council shall set up a general fund into which shall be paid all revenue and other moneys accruing to the Council and from which shall be paid all expenditure properly and lawfully incurred by such Council.
- (2) Notwithstanding anything contained in this section, a Council may with the approval of the Minister establish a special fund for any specific purpose.

**55 Revenues of Councils**

- (1) The revenues or other funds of a Council are hereby declared to be as follows:
  - (a) all sums of money vested in a Council by virtue of the provisions

of paragraph (c) of section 127;

- (b) revenue accruing to a Council from the following sources:
  - (i) moneys derived from any rate imposed by the Council by virtue of the provisions of this Act;
  - (ii) moneys derived from licences, permits, dues, charges or fees specified by any by-law made by a Council;
  - (iii) moneys payable to a Council under the provisions of any other Act;
  - (iv) receipts derived from any public utility concern or any service or undertaking belonging to or maintained by a Council either in whole or in part;
  - (v) rents derived from the letting or leasing of any building or land belonging to a Council;
  - (vi) grants-in-aid out of the Consolidated Fund or other public revenue;
  - (vii) any particular public revenue which may lawfully be assigned to a Council;
  - (viii) any sums of money which may lawfully be assigned to a Council by any public corporation;
  - (ix) interest on the invested funds of a Council;
  - (x) moneys which may accrue from loans received under the provisions of section 57; and
  - (xi) moneys granted to a Council by way of gift for any public purpose or for the welfare of all or any of the inhabitants of the area of authority of the Council
- (2) Any other moneys lawfully derived by a Council from any other source whatsoever not hereinbefore specifically mentioned shall be and form part of the revenue and funds of such Council.

**56 Expenditure**

Subject to the provisions of this Act, a Council may incur all expenditure necessary for and incidental to the carrying out of any functions conferred upon it under this or any other Act or by the warrant establishing such Council.

**57 Power to borrow money**

- (1) A Council may from time to time, in accordance with a resolution of the Council in that behalf, raise loans within Solomon Islands of such amounts, from such sources, in such manner, for such purposes and upon such conditions as the Minister may approve.
- (2) All such loans, whether raised before or after the commencement of this Act, shall be charged indifferently on all the revenues of the Council and all securities therefor shall rank equally without any priority:

Provided that:

- (a) nothing in this subsection shall apply to any money borrowed by way of temporary loan or overdraft without security; or
  - (b) affect any priority existing at, or any right to priority conferred by a security created before, the commencement of this Act.
- (3) Where any interest or any payment of capital on any loan is due and remains unpaid for three months after a demand therefor has been served on the Council in writing by the person entitled thereto, the Minister may:
  - (a) order the sum due, whether in respect of capital or of interest, to be paid by the Council from the general fund or any other funds of the Council to the person entitled to receive the sum due; or
  - (b) order the sale of any property of the Council, including land, and the payment of the whole or any part of the proceeds of the sale of such property in satisfaction or partial satisfaction of the sum due; or

- (c) order that a rate necessary to produce the sum due shall be levied upon and collected from the ratepayers of the area of authority of the Council, either immediately or at such date as the Minister shall order; and for the purpose of raising such sum the Minister shall in addition have the same power as the Council concerned of making and levying a rate.
- (4) The power of the Minister under paragraph (c) of subsection (3) of making and levying a rate may be exercised at any time.

**58        Overdrafts**

It shall be lawful for a Council with the prior approval of the Minister to borrow from a bank by way of temporary loan or overdraft any sum which it may temporarily require.

**59        Power to lend money**

A Council may from time to time, in accordance with a resolution of the Council in that behalf, lend money within Solomon Islands, of such amounts, to such persons, in such manner, for such purposes and upon such conditions as the Minister may approve.

**60        Investment of funds**

A Council may invest all or any portion of the moneys of the Council in such investments as may from time to time be approved by the Minister:

Provided that no such approval shall be required should a Council wish to place any portion of its moneys on fixed deposit account with the bank holding the general fund of the Council.

**61        Deposit and advance accounts**

A Council may make advances and operate deposit and suspense accounts within such limits and upon such conditions as shall be approved in writing by the Minister, and such approval may be given either generally or with respect to any particular Council or with respect to the Councils in any particular area.



## **62 Accounts to be kept**

Every Council shall keep proper accounts and other records in relation thereto and immediately after the end of each financial year shall cause its accounts for that year to be brought to a balance and a balance sheet to be prepared with respect thereto, together with a statement or abstract of such accounts.

## **63 Financial Instructions**

The Minister shall issue written instructions (to be called Financial Instructions), not inconsistent with the provisions of this Act, to regulate and control the issuing of receipts, the making of payments and the operation of bank accounts by Councils, and generally for the better control and management of the financial business of Councils; and such instructions may be issued either generally or with respect to any particular Council or with respect to the Councils in any particular area and shall be observed and obeyed by the Council or Councils with respect to which such instructions have been issued.

## **64 Estimates of Councils**

- (1) Every Council shall, not later than 30th September each year or such other date as the Minister may in writing prescribe generally or in relation to that Council, pass detailed estimates of revenue and expenditure of the Council for the next financial year.
- (2) Such estimates shall be passed by formal resolution at a meeting of the Council specially convened for the purpose and shall be submitted to the Minister for approval as soon as possible thereafter.
- (3) The Minister may either approve or disapprove such estimates as a whole or disapprove, amend or reserve any item or items contained therein and shall notify the Council accordingly;

Provided that, if such notification is not received by the Council before the commencement of the financial year for which such estimate is prepared, the Council may incur expenditure on recurrent heads of expenditure in accordance with the approved estimates for the previous year.

- (4) Where it appears to a Council in any financial year that expenditure for any specified purpose is desirable and no or insufficient provision therefor has been made in the estimates for such year, a Council may submit an application for supplementary expenditure to the Minister for approval. The Minister may either approve or disapprove such application as a whole or disapprove, amend or reserve any item or items contained therein and shall notify the Council accordingly.
- (5) No Council shall collect revenue or incur expenditure which has not been approved in accordance with the provisions of this Act except with the sanction of the Minister; and any Council member, officer or servant who has applied or connived at or concurred in the collection or application of moneys for purposes which have not been lawfully approved shall be liable to be surcharged and to account for such moneys.
- (6) The annual estimates and all supplementary estimates shall be submitted in such form and manner and shall contain such information as may be specified in Financial Instructions issued under the provisions of section 63.

## **65 Joint funds**

A joint committee appointed under the provisions of subsection (2) of section 32 may, with the approval of and subject to any conditions imposed by the Councils appointing the committee, operate a fund in accordance with the provisions of this Part of this Act and to such extent such committee shall be deemed to be a Council to which, subject to the provisions of subsection (2) of section 32, the provisions of this Part shall apply.

## **66 Access to records of Councils**

The Minister may authorise any person to have access to the records of any Council; and any person so authorised shall at all reasonable times have access to and be entitled to inspect all books, accounts and records of the Council and may advise the Council thereon and submit reports to the Minister in connection therewith.

## **67            Audit of accounts**

- (1) The accounts kept by a Council under section 62, together with all books, vouchers and papers relating thereto and the annual statement or abstract thereof shall be laid before an auditor to be appointed by the Minister.
- (2) At least fourteen days before the laying by a Council of its accounts before an auditor as required by subsection (1), notice of intention so to do shall be posted on a public notice board at the office of the Council.
- (3) The auditor shall make a full and complete audit of the accounts of the Council using due care, skill and diligence and:
  - (a) shall certify whether or not in his opinion:
    - (i) the accounts of the Council are in order;
    - (ii) the accounts present a true and correct view of the financial position and affairs of the Council;
    - (iii) due provision has been made for the repayment of all moneys borrowed by the Council;
    - (iv) the value of the assets of the Council have been fairly stated;
    - (v) due diligence and care have been shown in the collection and banking of income;
    - (vi) the expenditure incurred has been duly authorised, vouched and supervised;
    - (vii) proper account has been kept of plant, stores and materials;
    - (viii) any of the money or other property of the Council has been misappropriated or improperly or irregularly dealt with;
    - (ix) all his requirements and recommendations have been complied with and carried out; and

- (b) shall report as to any other matters which in his opinion call for special notice or which are prescribed.
- (4) A copy of the auditors' report shall be sent to the Council, and together with a copy of the statement or abstract of accounts of the Council, to the Minister and the Minister responsible for finance.
- (5) Every Council shall permit the auditor to check any cash, investments or other assets in its possession and to have access at all times to all its accounts and all books, vouchers and papers relating thereto.

**68 Cost of audit**

The Minister may fix the amount to be charged in respect of any audit carried out under this Act and may require the Council concerned to pay such amount together with any expenses incurred by an auditor in the performance of his duties under this Act.

**69 Powers and duties of auditor**

- (1) An auditor appointed by the Minister at every audit held by him may:
  - (a) disallow any item of expenditure which is contrary to law;
  - (b) surcharge the amount of any expenditure disallowed upon the person responsible for incurring or authorising the expenditure;
  - (c) surcharge any sum which has not been duly brought into account upon the person by whom that sum ought to have been brought into account;
  - (d) surcharge the amount of any loss or deficiency upon any person by whose negligence or misconduct the loss or deficiency has been incurred:

Provided that no item of expenditure incurred by a Council shall be disallowed by the auditor if it has been sanctioned by the Minister.

- (2) It shall be the duty of any such auditor:
  - (a) to certify the amount due from any person upon whom he has made a surcharge; and

- (b) to certify at the conclusion of the audit his allowance of the accounts, subject to any disallowances or surcharges which he may have made.
- (3) Any person registered as a voter for the area of a Council to the accounts of which the audit relates may be present or may be represented at the audit and may make any objection to the accounts before the auditor.
- (4) The auditor shall, on the application of any person who is aggrieved by his decision on any matter with respect to which that person has made an objection, or of any person aggrieved by a disallowance or surcharge made by the auditor, state in writing the reasons for his decision.

## **70 Special relief for officers and servants**

Notwithstanding any of the provisions of section 69, no liability to surcharge shall be incurred by an officer or servant of the Council who can prove to the satisfaction of the auditor that he acted in pursuance of and in accordance with the terms of a resolution of the Council or a committee duly appointed by the Council or on instructions of any officer of the Council to whom he is subordinate.

## **71 Auditor may take evidence**

- (1) For the purposes of any examination under the provisions of this Part the auditor may take evidence and examine witnesses upon oath or affirmation (which oath or affirmation the auditor is hereby empowered to administer) and may, by summons under his hand, require all such persons as he may think fit to appear personally before him at a time and place to be stated in such summons and to produce all such books and papers, including the minutes of the proceedings of the Council or of any committee thereof, as he may consider necessary for such examination:

Provided that no person shall be bound to incriminate himself and every witness shall in respect of any evidence given by him before the auditor be entitled to the same privileges to which he would have been entitled if giving evidence before a court.

- (2) Any person who, when so required, without reasonable excuse:

- (a) neglects or refuses to comply with the terms of such summons;  
or
- (b) having appeared, refuses to be examined on oath or affirmation  
or to take such oath or affirmation; or
- (c) having taken such oath or affirmation, refuses to answer such  
questions as are put to him,

shall be guilty of an offence and shall be liable on conviction by a court, for every such neglect or refusal, to a fine of one hundred dollars, or in default of payment, to imprisonment for three months.

## **72 Payment of sums certified to be due**

Every sum certified by the auditor to be due from any person shall be paid by that person to the Council concerned within sixty days after it has been so certified or, if an appeal with respect to that sum has been made, within thirty days after the appeal is finally disposed of or abandoned or fails by reason of the non-prosecution thereof.

## **73 Recovery of sums certified to be due**

- (1) Any sum which is certified by the auditor to be due and has become payable shall, on complaint made by the Council or action taken by or under the direction of the Minister, be recoverable by the Council as a civil debt.
- (2) In any proceedings for the recovery of such a sum a certificate signed by the auditor shall be conclusive evidence of the facts certified and a certificate signed by the President of the Council concerned or other officer whose duty it is to keep the accounts that the sum certified to be due has not been paid to him shall be conclusive evidence of non-payment, unless it is proved that the sum certified to be due has been paid since the date of the certificate.
- (3) Unless the contrary is proved, a certificate purporting to be signed by the auditor or the President of the Council or other officer whose duty it is to keep the accounts shall be deemed to have been signed by the case such auditor, President or other officer, as the case may be.

## **74 Appeals against decisions of auditor**

- (1) Any person who is aggrieved by a decision of the auditor on any matter with respect to which he made an objection at the audit and any person aggrieved by a disallowance or surcharge made by the auditor may appeal to a Magistrate's Court, unless such decision, disallowance or surcharge relates to an amount exceeding one thousand dollars, in which case an appeal shall be to the High Court:

Provided that no appeal shall be allowed unless, within sixty days of the date of decision or the certificate of disallowance or surcharge of the auditor, as the case may be, the appellant serves upon the auditor a notice of appeal and files such appeal in the Magistrate's Court or the High Court, as the case may be, in conformity with any rules of court relating thereto.

- (2) A Magistrate's Court or the High Court on such appeal shall have power to confirm, vary or quash the decision of the auditor and to remit the case to the auditor with such directions as it thinks fit for giving effect to the decision on appeal; and, if the decision of the auditor is quashed or is varied so as to reduce the amount of surcharge to two hundred dollars or less, the appellant shall not be subject to the disqualification by reason of the surcharge imposed by section 10 or section 12.

## **75 Publication of statement of accounts and auditor's report**

Every Council shall, within six months of the receipt of the auditor's report, at its own offices publish:

- (a) the annual balance sheet and statement or abstract of accounts prepared under section 62; and
- (b) any report on such accounts and statement or abstract signed by the auditor under section 67.

## **PART VIII RATES**

### **76 Rating authority**

For the purposes of this Act every Council shall be the rating authority for the area of its authority and, subject to the provisions of section

57 or except as may be otherwise specifically provided in this or any other Act, no authority other than the Council shall have power to make or levy any rate in the area of authority of such Council, notwithstanding any customary law to the contrary.

## **77       Types of rate**

- (1) Subject to the approval of the Minister and to the provisions of any regulations made under section 79, a Council may make and levy annually general rates based on any one or more of the following systems, that is to say:
  - (a) a rate, which may be referred to as the basic rate, at a uniform or graduated amount per capita on all persons of or above the age of eighteen years being persons resident within the area of its authority;
  - (b) a rate on immovable property situated within the area of its authority or any part of such area;
  - (c) a rate assessed on the possessions or any category of possessions of persons within the area of its authority or any part of such area.
- (2) In addition to making and levying a general rate under subsection (1) a Council may, subject to the approval of the Minister and to the provisions of any regulations made under section 79, make and levy a rate, which may be referred to as a special rate:
  - (a) at a uniform or graduated amount per capita on any person or class of person resident within the area of its authority or any part of such area; or
  - (b) on immovable property situated within such area or any part of such area,in order to provide for some specific purpose within such area or any part of such area.

## **78       Duty to make rates**

Unless a formal resolution to refrain from so doing shall have been



passed by the Council and approved by the Minister, every Council shall make and levy one or more of the rates specified in subsection (1) of section 77 as will be sufficient to provide for such part of the total estimated expenditure to be incurred by the Council during the period in respect of which the rate is made as is to be met out of moneys raised by rates, together with such additional amount as is, in the opinion of the Council, required to cover expenditure previously incurred or to meet contingencies or to defray any expenditure which may fall to be defrayed before the date on which the money to be received in respect of the next subsequent rate will become available.

## **79 Rating regulations**

Subject to the provisions of section 80, the Minister may make regulations providing generally for the making and levying of rates by any Council on persons resident or temporarily resident in or immovable property situated within the area of authority of such Council and, without prejudice to the generality of the foregoing, providing in particular for:

- (a) the basis and incidence of any rate to be levied under section 77;
- (b) the notice to be given by a Council of its intention to make and levy a rate;
- (c) the procedure for the appointment of assessment committees appointed under section 91 and the procedure, powers and duties of such committees;
- (d) the method of assessment of property or possessions for the purposes of any rate to be levied under this Act;
- (e) the hearing of appeals against any such assessment;
- (f) the preparation of rating rolls and the rendering of returns by or the registration of persons liable to pay any rate;
- (g) the dates and places for the payment of any rate;
- (h) to whom payment shall be made;

- (i) the exemption of any category of persons from liability to pay the whole or any part of any rate;
- (j) the imposition of pecuniary penalties for non-payment or late payment of any rate.

## **80 Basic rate**

- (1) Notwithstanding the provisions of any regulations made under section 79, the provisions of this section shall apply to the making, levying and payment of a basic rate imposed under paragraph (a) of subsection (1) of section 77.

(2)

- (a) Any person of or above the age of eighteen years shall:

- (i) on the first day of January in every year become liable to pay the basic rate (if any) imposed by the Council in its area of authority of which he is a person resident on such first day of January; and
- (ii) if at any time during any year he becomes temporarily resident in the area of authority of any other Council which has imposed a basic rate for that year, forthwith be liable also to pay such basic rate:

Provided that no person shall be liable to pay a basic rate if he is generally or specifically exempted from payment thereof.

- (b) Any person who, having become liable to pay any basic rate before the thirtieth day of June in any year, fails to pay such rate before that day, shall in addition become liable to pay to any Council receiving or seeking to recover from him the basic rate due to it from him for that year in pursuance of paragraph (a), a penalty of two dollars or twenty-five *per centum* of the rate received or sought to be recovered, whichever is the greater.
- (3) For the purposes of this Part a person shall be deemed not to be temporarily resident in the area of authority of any Council if he has become temporarily resident in that area primarily or partly for the

purpose of avoiding liability for payment of a higher rate imposed by any other Council, and if any question should arise as to whether any person became temporarily resident in any area for such purpose, until the contrary is proved, the onus whereof shall lie upon such person, it shall be presumed that he became so resident for that purpose.

- (4) Notwithstanding the other provisions of this section, a person visiting Solomon Islands for a period of less than six months shall not be liable to pay a basic rate.

## **81 Payment of rates**

(1)

- (a) Subject to the provisions of any regulations made by the Minister under section 79, it shall be the duty of every person liable to pay any rate to a Council to pay the amount of such rate to a rate collector or other person duly appointed or authorised by the Council concerned to collect and receive the same at such time and at such place as may from time to time be specified by the Council.
- (b) If no person has been appointed or authorised to collect and receive rates, the payment of rates shall be made to the Clerk to the Council.
- (c) If no time nor place for payment shall have been specified the time shall be deemed to be on or before the thirtieth day of April in every year and the place shall be deemed to be the usual place of office of the Clerk to the Council.

- (2) For the purposes of any proceedings for the recovery of any rate imposed under the provisions of this Act, if any question arises as to whether or not a person is under a specified age, or resides in the area of authority of any particular Council, or has paid a rate for any year or has or has not any income of any particular amount, the burden of proving that he is under such age, or does not so reside, or has paid a rate for that year or has no such income shall lie upon the person alleging the same.

(3)

- (a) A Council may by formal resolution require any employer operating in its area of authority to deduct from the wages or salaries of its employees the basic rate levied by the Council for the current year under paragraph (a) of subsection (1) of section 77 and remit the same to the Council by such instalments as the Council shall resolve prior to thirty-first day of December in each year and any employer which shall refuse or fail to deduct such basic rate as aforesaid shall render an employer liable to a fine of five dollars per day for such refusal or failure as aforesaid;
- (b) An employer shall not be under any obligation to a Council once any employee ceases to be employed by him;
- (c) The Council may call upon any employer to provide a list of the names and addresses of its employees as shown in the employer's records and failure to provide such information within twenty-eight days of the request being made shall render an employer liable to a fine of five dollars per day for such failure as aforesaid.
- (d) The expression "**employer**" for the purposes of this section shall include a company defined by the *Companies Act*, any Council and, notwithstanding the provisions of section 126, the Crown.

## **82 Exemptions from and remissions of rates**

- (1) Notwithstanding any other provision of this Act, if any person, who would otherwise be liable for payment of a basic rate to any Council for any year, produces to the Clerk to such Council or to a rate collector appointed by such Council a valid receipt issued by or on behalf of any other Council in evidence of the payment by him of a basic rate levied by such other Council for that year, being a basic rate which he was liable to pay under the provisions of this Act, he shall be deemed not to be liable for payment of the basic rate for such year levied by such first-mentioned Council nor to any penalty under section 80(2)(b) in respect of that year if the receipt records payment of the basic rate before the thirtieth day of April in that year.
- (2) The following immovable property shall be exempt from assessment and rating under this Act:

- (a) lands and buildings appropriated exclusively for the purpose of public worship;
  - (b) cemeteries and burial grounds;
  - (c) charitable and educational institutions; and
  - (d) any other immovable property specifically or generally exempted by the Minister by notice.
- (3) A Council may reduce or remit payment of any rate on account of the poverty of any person liable to the payment thereof or for any other good reason.
- (4) Subject to the provisions of any regulations made under section 79 a Council may exempt women from the liability to pay any rate.

### **83 Claim for amount of rate**

- (1) If any person fails to pay any rate for which he is liable on or before the date on which it is payable, the Council concerned may recover the same as a civil debt together with such costs and such penalty as may be prescribed under the provisions of this Act or any regulations made thereunder:

Provided that no demand shall be made for any rate or penalty nor shall any proceedings for the recovery thereof be commenced more than three years after the date on which such rate became due and payable.

- (2) Any proceedings against a person subject to the jurisdiction of a Local Court under the provisions of the *Local Courts Act* brought by a Council for the recovery of any rate or penalty under the provisions of subsection (1) may be brought in a Local Court.

### **84 Evidence of rate**

In any proceedings to recover a rate levied under the provisions of this Act the rate books and other records of the Council concerned and all certified copies of entries made therein purporting to be signed by the President or Clerk to the Council shall, upon production thereof, be *prima facie* evidence of such rate and of the

matters stated therein without further evidence that the requirements of this Act have been complied with:

Provided that it shall be competent for any person proceeded against to offer evidence to prove the contrary.

**85           Penalty for refusal to pay rates and wilful misrepresentation**

- (1) Any person who, without lawful justification or excuse, the proof of which shall lie on the person charged, refuses or neglects to pay any rate payable by him under the provisions of this Act shall be guilty of an offence and shall be liable to a fine of one hundred dollars or to imprisonment for three months or to both such fine and imprisonment.
- (2) Any person who wilfully misrepresents in any way his rateable capacity shall be guilty of an offence and shall be liable to a fine of one hundred dollars or to imprisonment for three months or to both such fine and imprisonment.
- (3) The conviction of any person of an offence under the provisions of subsection (1) shall not affect, bar, prejudice or limit the power to bring any civil proceedings for the recovery of any rate under the provisions of section 83; and a person so convicted shall remain liable for the payment of such rate notwithstanding that he has paid any fine or served any sentence imposed upon such conviction; nor shall such conviction affect, bar, prejudice or limit the power to lay a further charge under subsection (1) for a separate offence of refusal or neglect to pay such rate subsequent to the date of such conviction.

**86           Penalty for inciting a person to refuse to pay rates**

Any person who, without lawful justification or excuse, the proof of which shall lie on the person charged, incites any person to refuse to pay any rate payable by him under the provisions of this Act or who incites or assists any person to misrepresent in any way his or any other person's rateable capacity shall be guilty of an offence and shall be liable to a fine of two hundred dollars or to imprisonment for six months or to both such fine and imprisonment.

**87            Penalty for unauthorised collection of rates**

Any person who:

- (a) not being authorised under this Act or by the Council concerned so to do, collects or attempts to collect any rate imposed under this Act; or
- (b) collects or attempts to collect any rate other than a rate prescribed in this Act or authorised by any other Act,

shall be guilty of an offence and shall be liable to a fine of two hundred dollars or to imprisonment for six months or to both such fine and imprisonment.

**88            Duty to give information**

- (1) Any person who may be required so to do shall give all such information as may reasonably be required of him by any Council, rate collector or assessment committee for the purpose of obtaining information for the assessment or collection of a rate.
- (2) Any person having been required to give information under subsection (1) who wilfully misleads or attempts to mislead any Council, rate collector or assessment committee or their agents on any matter connected with the collection of a rate shall be guilty of an offence and shall be liable to a fine of two hundred dollars or to imprisonment for six months or to both such fine and imprisonment.
- (3) Any person having been required to give information under subsection (1) who refuses or wilfully neglects to give such information shall be guilty of an offence and shall be liable to a fine of one hundred dollars or, in default of payment, to imprisonment for three months.

**89            Rate collectors**

- (1) A Council may in writing appoint any suitable person to be a rate collector in respect of any specified area within the Council's area of authority.
- (2) It shall be the duty of every rate collector:

- (a) to furnish orally or in writing to the Council concerned a nominal roll of all rateable persons or immovable property, as the case may be, in the area for which he has been appointed;
- (b) to collect and receive from each person liable for the payment of rates in the area to which he has been appointed the rates payable by each such person;
- (c) to pay all amounts so collected to the Council concerned; and
- (d) to report to the Council concerned the name of any person who has failed to pay the amount due from him for rates.

## **90 Offences by rate collectors**

Any rate collector who:

- (a) fails to deposit with the Council concerned any sum of money collected by him as rates; or
- (b) knowingly demands from any person an amount in excess of the duly assessed rates; or
- (c) knowingly or recklessly renders false returns, whether orally or in writing, of the number of ratepayers or the amounts of rates collected or received by him; or
- (d) wilfully fails to carry out any duty imposed upon him as a rate collector by subsection (2) of section 89,

shall be guilty of an offence and shall be liable to a fine of two hundred dollars or to imprisonment for six months or to both such fine and imprisonment.

## **91 Assessment committees**

A Council may appoint such assessment committee or committees as it thinks fit for the purpose of assessing the liability of any person or persons for payment of any rate levied or to be levied under the provisions of this Act.



**92            Legal proceedings**

Proceedings for the recovery of any rate or penalty under the provisions of this Part may, without prejudice to the right of any other person or authority to institute criminal proceedings, be taken by the President of the Council responsible for the collection of the rate or by any other person duly appointed by him in that behalf.

**93            Contribution in lieu of rates by Government**

Regulations made under section 79 may provide for the payment by the Government of a contribution in lieu of rates levied upon immovable property and where such regulations so provide, it shall be lawful for the Minister to authorise the payment of such contribution out of the Consolidated Fund.

**PART IX            OFFICERS AND STAFF**

**94            Power to engage staff**

- (1) Subject to the provisions of any instructions issued under section 102, a Council shall appoint a Clerk and treasurer to the Council and may appoint such other officers and employ such other persons as it shall think necessary for the efficient discharge of the functions of the Council and may, subject as aforesaid, dismiss any person so appointed or employed.
- (2) A Council may, subject to the provisions of any such instructions as aforesaid, pay to any person so appointed or employed such reasonable remuneration as it may determine.

**95            Powers and duties of Council messengers**

- (1) Subject to the provisions of any instructions issued under section 102, a Council may appoint such Council messengers as it shall think necessary.
- (2) It shall be the duty of every Council messenger, in addition to any other duties which may be assigned to him by the Council appointing him, on the order of a Local Court or a Magistrate's Court, to arrest and bring before such Local Court or Magistrate's Court any person within the area of authority of such Council who is charged with an

offence.

- (3) A Council messenger may, without an order from a Local Court or a Magistrate's Court and without warrant, arrest:
  - (a) any person whom he suspects upon reasonable grounds of having committed a cognisable offence;
  - (b) any person whom he finds in any place during the night and whom he suspects upon reasonable grounds to being about to commit a cognisable offence;
  - (c) any person who commits any offence in his presence;
  - (d) any person who obstructs a police officer or Council messenger while in the execution of his duty or who has escaped or attempts to escape from lawful custody;
  - (e) any person in whose possession anything is found which may reasonably be suspected to be stolen property or who may reasonably be suspected of having committed an offence with reference to such thing;
  - (f) any person for whom he has reasonable cause to believe a warrant of arrest has been issued.
- (4) A Council messenger making an arrest without a warrant shall, without unnecessary delay, take the person arrested before a police officer, a Local Court or a Magistrate.

## **96 Joint appointments**

- (1) A Council may agree with any one or more Councils on the joint employment of any staff or the appointment of an officer.
- (2) Where the Minister deems it expedient so to do, he may require any two or more Councils to concur in the joint employment of any staff or the appointment of any officer and, if any such Council fails to employ or appoint any person when required to do so under this subsection, the Minister may exercise, on behalf of such Council, the powers of employment and appointment conferred on a Council by this Act.

**97            Disclosure by officers of interest in Contracts**

- (1) If it comes to the knowledge of an officer or servant of a Council, that a contract in which he has any pecuniary interest, whether direct or indirect (not being a contract to which he is himself a party), has been or is proposed to be, entered into by the Council or any committee thereof, he shall, as soon as practicable, give notice in writing to the Council of the fact that he is interested therein.
- (2) For the purposes of this section an officer or servant of a Council shall (subject as hereinafter in this subsection provided) be treated as having indirectly a pecuniary interest in a contract or other matter, if:
  - (a) he or any nominee of his is a member of a company or other body with which the contract is made or is proposed to be made or which has a direct pecuniary interest in the other matter under consideration; or
  - (b) he is a partner, or is in the employment, of a person with whom the contract is made or is proposed to be made or who has a direct pecuniary interest in the other matter under consideration:

Provided that:

- (i) this subsection shall not apply to membership of, or employment under, any public body;
- (ii) a member of a company or other body shall not, by reason only of his membership, be treated as being so interested if he has no beneficial interest in any shares or stock of that company or other body;
- (iii) an officer or servant of a Council shall not be treated as having a pecuniary interest in any contract by reason only of any interest:
  - (a) of that officer or servant; or
  - (b) of any company, body or person connected with him as mentioned in this subsection,

which is so remote or insignificant that it cannot reasonably be regarded as likely to influence an officer or servant in discharging his duties.

- (3) In the case of married persons living together the interest of one spouse shall, if known to the other, be deemed for the purposes of this section to be also an interest of that other spouse.
- (4) An officer or servant of a Council shall not, under colour of his office or employment, exact or accept any fee or reward whatsoever other than his proper remuneration.
- (5) If any person fails to comply with the provisions of subsection (1) or contravenes any of the provisions of subsection (4) he shall for each offence be liable to a fine of four hundred dollars.

## **98 Appointment of seconded public officers**

- (1) The Minister may require a Council to appoint to any office in its service which may be vacant, a public officer posted or seconded to the Council for that purpose, on such terms and conditions as the Minister may direct.
- (2) The Minister may transfer or replace any public officer posted or seconded to the service or a Council, having first given notice to the Council of his intention to do so and considered any representations by the Council.

## **99 Security may be demanded of officers**

A Council may, in the case of any officer or person, other than a public officer appointed under the provisions of section 98, in its employment, whether under this or any other Act and whether appointed or employed jointly with another Council or not, or, in the case of a person not in its employment but who is likely to be entrusted with the custody or control of money or property belonging to the Council, either require him to give or itself take such security for the faithful execution of his office and for his duly accounting for all money or property which may be entrusted to him as the Council thinks sufficient.

## **100 Accountability of officers**

- (1) Every officer employed by a Council, whether under this or any other Act, shall, at such times during the continuance of his office or within three months after his ceasing to hold it and in such manner as the Council directs, make out and deliver to the Council, or as it directs, a true account in writing of all money and property committed to his charge and of his receipts and payments, with vouchers and other documents and records supporting the entries therein, and a list of persons from whom or to whom money is due in connection with his office, showing the amount due from or to each.
- (2) Every such officer shall pay all money due from him to the Council, or otherwise as such Council may direct.
- (3) If any such officer:
  - (a) refuses or wilfully neglects to make any payment which he is required by this section to make; or
  - (b) after three days' notice in writing signed by the President of the Council or by three members thereof and given or left at his usual or last known place of residence, refuses or wilfully neglects to make out or deliver to the Council, or as it directs, any account or list which he is required by this section to make out and deliver, or any voucher or other document or record relating thereto, or to give satisfaction respecting it to the Council, or as it directs,

a Magistrate's Court may, on complaint, order him to make such payment or delivery or to give such satisfaction.
- (4) Any person who fails to comply with any such order shall be guilty of an offence and shall be liable to a fine of one hundred dollars or to imprisonment for three months or to both such fine and imprisonment.
- (5) Nothing in this section shall affect any remedy by action against any such officer or his surety, except that the officer shall not be both sued by action and proceeded against under the provisions of this section for the same cause.

## **101 Powers of interdiction**

Subject to any instructions issued under section 102, the President of a Council may interdict any officer or servant of the Council from the duties and emoluments of his office or employment for incapacity, neglect or misconduct, pending the decision of the Council as to his removal and, in the event of removal, such officer or servant shall be deemed to have been removed from officer or employment as from the date of such interdiction.

## **102 Staff Instructions**

Subject to the provisions of this Act, the Minister may issue written instructions providing generally for the employment, numbers, control and conditions of service of officers and employees of Councils, including public officers posted or seconded to councils, and such instructions shall be binding on all Councils to whom they are directed. Without prejudice to the generality of the foregoing, such instructions may provide for:

- (a) establishing a body to advise the Minister on local Government staff matters, and prescribing the powers and duties of such body;
- (b) maintaining discipline, including with-holding or deferring of increments, or reduction in rank or salary, or deductions from salary in respect of damage to or loss of property of the Council by misconduct or breach of duty;
- (c) regulating appointments, grades, remuneration, promotion, termination of appointments, dismissals and leave;
- (d) regulating the rates, conditions and payment of allowances and gratuities granted under section 103, the grant of advances and the terms and conditions of service generally;
- (e) such other matters relating to departmental procedure and the duties and responsibilities of officers and employees as the Minister considers can best be regulated by such instructions.

**103      Gratuities and allowances**

Subject to the approval of the Minister, a Council may grant gratuities and allowances to officers and persons who have been employed by the Council or to the legal personal representatives, estates or dependants of such officers and persons.

**104      Attachment of gratuities or allowances**

No gratuity or other allowance granted in pursuance of the provisions of this Part shall be assignable or transferable, or liable to be attached or sequestered, or levied upon, for or in respect of any debt or claim whatsoever:

Provided that the provisions of this section shall not affect the right of the Council or the Government to recover from any sums due or payable to or in respect of any officer or employee any amount owing to the Council or the Government by such officer or employee.

**105      Protection of Council members, officers and employees**

No matter or thing done and no contract entered into by a Council and no matter or thing done by any member, officer or employee of a Council or other person whomsoever acting under the direction of a Council shall, if the matter or thing was done or the contract was entered into *bona fide* for the purposes of this Act, subject any member, officer or employee of the Council or any person acting under the direction of the Council personally to any action, liability, claim or demand whatsoever.

**PART X              LEGAL PROVISIONS**

**106      Notice of suit to be given by plaintiff**

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

**107      Limitations of suits against Councils**

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

**108      Appearance of Council in legal proceedings**

In any prosecution by or on behalf of a Council and in any civil cause or matter in which a Council is a party the Council may be represented by any member, officer or employee duly authorised in that behalf by the Council.

**109      Mode of service on Council**

The notice referred to in section 106 and any summons, notice or other document authorised to be served on a Council in connection with any suit by or against such Council shall be served by delivering the same to or by sending it by registered post addressed to the President at the principal office of the Council:

Provided that the court may with regard to any particular suit or document order service on the Council to be effected otherwise and in that case service shall be effected in accordance with the terms of such order.

**110      Description of property**

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

**111      Name of Council, etc. need not be proved**

In any proceedings instituted by or against a Council it shall not be necessary to prove the corporate name of the Council or the



constitution and limits of its area.

**112 Onus of proof in certain cases**

Where in any proceedings under this Act any person is summoned or otherwise dealt with as the occupier of any premises and such person shall allege that he is not the occupier, the proof of such allegation shall be upon such person.

**113 Powers of entry**

Subject to the provisions of this or any other Act, any member, officer or servant of a Council duly authorised in writing for the purpose by the Council may, at all reasonable times and, if required, upon production of his authority, enter into or upon any land, buildings or premises within the area in which such Council is established for the purpose of carrying out any inspection, inquiry or the execution of works under the provisions of this Act or of any regulation, by-law or order made under the provisions of this Act.

**114 Publication of notices**

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

**115 Service of notice by the Council**

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

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

of any premises, the Council may by notice in writing require the occupier of the premises to state the name and address of the owner thereof; and if the occupier refuses or wilfully neglects to do so or wilfully mis-states the name and address of the owner he shall, unless in the case of a refusal he shows cause to the satisfaction of the court for his refusal, be guilty of an offence and shall be liable in respect of each offence to a fine of twenty dollars or, in default of payment, to imprisonment for six weeks.

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

## **116 Authentication and execution of documents**

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

## **PART XI MISCELLANEOUS**

### **117 Powers of a public officer**

- (1) The Minister may by order confer on a public officer in any area in which there is no Council, either because no Council has been established under this Act, or for any other reason, power to perform all or any of the functions listed in the Schedule and to give any necessary orders for the purpose of carrying into effect any such function. Any person failing to comply with any order of a public officer made in exercise of the power conferred upon him by this

section shall be liable to a fine of twenty dollars or, in default of payment, to imprisonment for six weeks and, in the case of a continuing offence, a further penalty not exceeding two dollars for each day on which the offence is continued after written notice of the offence has been served on the offender.

- (2) Notwithstanding the other provisions of this Act, where the warrant establishing a Council is cancelled under the provisions of section 3, the moneys in the general fund of such Council shall thereupon vest in the Minister and may be expended by him for any purpose which could have been approved by such Council had its warrant not been cancelled.

#### **118      Transfer of powers of public officers to Councils**

A Council may exercise any powers and may perform any duties, for the time being vested in or imposed upon any public officer, which the Minister may by order declare to be exercisable by such Council; and such Council may thereupon authorise any officer or servant in its employ to exercise such powers.

#### **119      Determination of age**

- (1) Where for the purposes of the registration of voters under Part III or the imposition or collection of rates under Part VIII any question shall arise as to the age of any person the apparent age of such person shall be determined in so far as the registration of voters is concerned, by the officer appointed to compile or revise the register of voters concerned and, in so far as the imposition or collection of rates is concerned, by the rate collector concerned.
- (2) Any question as to the age of any person arising in the application of any regulations, by-laws or orders made under the provisions of this Act shall be determined by such person as may be authorised in that behalf by such regulations, by-laws or orders.
- (3) Any person who is aggrieved by a determination made under subsections (1) or (2) may appeal to the a Magistrate's Court having jurisdiction in the district in which the Council concerned is situated whose decision shall be final.

**120      Obstruction of officers, etc.**

Any person who:

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

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

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

(1) Any person who:

- (a) having been elected as a member of a Council but not having been, at the time when he was elected, qualified to be so elected, sits or votes in the Council; or
- (b) sits or votes in a Council after his seat therein has become vacant or he has become disqualified from sitting or voting therein,

knowing, or having reasonable grounds for knowing, that he was so disqualified or that his seat had become vacant, as the case may be, shall be liable to a penalty not exceeding two dollars for every day upon which he so sits or votes.

- (2) Such penalty shall be recoverable by action at the suit of the Council concerned.

**122      Supply of information**

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

**123      General penalty**

- (1) Any person who is convicted of an offence under the provisions of this Act for which no other penalty is expressly provided shall be

liable to a fine of twenty dollars or, in default of payment, to imprisonment for six weeks, and, in the case of a continuing offence, a further penalty not exceeding two dollars for each day on which the offence is continued after written notice of the offence has been served on the offender.

- (2) In addition to any penalty imposed under subsection (1) any expense incurred by a Council in consequence of the commission of an offence under this Act shall be paid by the person committing such offence and shall be recoverable as a civil debt by the Council.

**124 Minister's powers to make regulations**

Notwithstanding the other provisions of this Act, the Minister may make regulations for the better carrying into effect of the provisions of this Act.

**125 Minister's power not to apply and to suspend or restrict the operations of any provisions of Act**

- (1) The Minister may by order declare that any or any part of the provisions of this Act shall not apply to any or to any part of the area of authority of any Council established under section 3.
- (2) The Minister may, on being satisfied that it is necessary to do so, by order, suspend or restrict the operation of any or any part of the provisions of this Act in respect of any or any part of the area of authority of any Council established under section 3 for such period as may be specified in such order.

**126 Crown rights**

Save as is otherwise expressly provided, nothing in this Act shall affect prejudicially any estate, right, privilege or exemption of the Crown.

**SCHEDULE**

(Section 45)

**FUNCTIONS OF COUNCILS**

1. Planning, control and promotion of development:
  - (a) to make, finance and implement plans for the provision of social, administrative and economic services;
  - (b) to organise and promote the devolution of responsibility for services and development to committees and community organisations.
2. Custom, tradition and social change:
  - (a) to define and regulate such customs as are not contrary to law and which the Council considers should be so recognised;
  - (b) to devise and implement ways of according respect and positions of influence to traditional leaders;
  - (c) to plan and implement schemes for the preservation and development of traditional skills and knowledge, and to foster these among young person and others.
3. Employment:
  - (a) to provide employment guidance and placement services;
  - (b) to provide advisory and conciliation services to employers and employees.
4. Land:
  - (a) to manage, develop and deal in land held by the Council;
  - (b) to manage such areas of land owned by the Government as the Government may direct, on behalf of the Government and subject to such conditions as the Government may impose;
  - (c) to make, revise and implement plans to promote and control the design, construction, alteration and removal of buildings;
  - (d) to provide for the demolition of dangerous buildings and for the recovery of any expenses incurred in connection therewith.
5. Agriculture:

- (a) to provide extension services for the promotion of agriculture and livestock husbandry for cash and subsistence;
  - (b) to promote the control of plant and animal diseases;
  - (c) to promote land conservation.
6. Fisheries:
- (a) to provide extension services for the improvement of fish production and marketing;
  - (b) to protect and conserve local fisheries.
7. Forestry:
- (a) to provide extension services to promote local timber production;
  - (b) to conserve forest for protection of the environment, water catchment, firewood and building materials;
  - (c) to undertake timber production and processing alone or in association with others.
8. Manufacturing:
- (a) to promote development of manufacturing particularly by Islanders processing local materials.
9. Tourism:
- (a) to provide facilities and services for tourists;
  - (b) to promote the orderly and controlled development of tourism.
10. Trade and marketing:
- (a) to provide storage and transport services;
  - (b) to license trades, businesses and other occupations;
  - (c) to provide and regulate market facilities;



- (d) to generally plan and promote the development of trade and marketing alone and in collaboration with other Councils and the Government.

11. Roads and road transport:

- (a) to plan, construct, maintain and control roads, bridges and associated facilities and works;
- (b) to license and control motor and other vehicles, traffic and services;
- (c) to promote and operate freight and passenger services;
- (d) to promote road safety;

12. Ports and wharves:

- (a) to plan, construct, operate and maintain wharves, port and harbour facilities.

13. Shipping:

- (a) to operate shipping and ferry services;
- (b) to license the operation of coastal and lagoon services;
- (c) to provide and maintain navigational aids.

14. Air Transport:

- (a) to construct and maintain licensed aerodromes;
- (b) to provide services and act as agents at licensed aerodromes.

15. Posts and telecommunications:

- (a) to operate postal, wireless and telegraphic agencies.

16. Water supplies:

- (a) to encourage and assist the provision of clean water supplies in rural areas;

- (b) to plan, construct and maintain water supplies in urban areas;
  - (c) to establish, maintain and control public wells, springs, drinking fountains and bathing places and pools.
17. Electricity supplies:
- (a) to plan, construct and maintain electricity supplies in rural areas.
18. Waste disposal and cleansing:
- (a) to operate waste disposal and cleansing services in urban areas;
  - (b) to plan, construct and maintain waste disposal facilities;
  - (c) to promote suitable waste disposal and cleansing arrangements for rural areas.
19. Construction and engineering:
- (a) to plan, construct and maintain such buildings and other works as may be required for the discharge of the functions of the Council;
  - (b) to execute works for the Government as an agent;
  - (c) to contract for the execution of works;
  - (d) to employ such staff, operate such equipment, and purchase and stock such materials as may be necessary for the proper and economic execution of these functions.
20. Housing:
- (a) to plan, construct and maintain houses for Council staff;
  - (b) to encourage and promote the construction of houses and home ownership;
  - (c) to promote the production and supply of materials and technical assistance for the building of houses;

- (d) to act as agent for the British Solomon Islands Housing Authority.

21. Education:

- (a) to provide education services, boards, committees, schools and institutions in accordance with the *Education Act*, and also scholarships and bursaries.

22. Health:

- (a) to safeguard and promote public health, including the prevention of and the dealing with any outbreak or the prevalence of any disease;
- (b) to provide health and medical services;
- (c) to operate clinics, aid posts, dressing stations and health centres;
- (d) to operate hospitals and referral centres;
- (e) to establish, maintain and control cemeteries or burial grounds.

23. Cultural affairs:

- (a) to promote cultural activities;
- (b) to provide reference and lending libraries;
- (c) to provide museums and public monuments, and identify and preserve antique artifacts and sites of historical and cultural interest;
- (d) to promote the orderly pursuit of sociological and other research.

24. Social development:

- (a) to promote and assist the development of women's clubs and the fuller involvement of women in social development;
- (b) to provide welfare, probation and prison after-care services;

- (c) to promote and co-ordinate the development of sports and other voluntary organisations;
- (d) to provide and maintain community centres, sports and recreational facilities;
- (e) to provide relief and assistance to children, young persons, the aged, destitute and infirm.

25. Information:

- (a) to provide information services.

26. Administration and legal:

- (a) to provide management, accounting and executive services for the proper, orderly, economic and accountable discharge of the functions of the Council;
- (b) to promote the fuller understanding and participation of the public in the operation of local and central government;
- (c) to provide services for the registration of births, marriages and deaths.

27. Miscellaneous:

- (a) to promote conservation of the environment including flora and fauna;
- (b) to perform any function delegated to it in pursuance of any Act;
- (c) to provide, after consultation with the members of a community or their direct representatives, for the performance by the members of such community, without payment, of minor communal services of a kind which are in the direct interest of such community as being intended directly to improve the social conditions of such community;
- (d) to prohibit cruelty to animals and any specified acts of cruelty to animals;
- (e) to prohibit, restrict or regulate the hunting, capture, killing or

sale of animals, reptiles, birds or fish or any specified kind of animal, reptile, bird or fish;

- (f) to build, equip, maintain and operate communal feeding centres, restaurants and rest houses;
- (g) to prohibit, regulate or restrict the carrying or possession of weapons;
- (h) to prevent, abate and control fires;
- (i) to prohibit, control and restrict the storage of inflammable or offensive materials in any specified area;
- (j) to prevent and remove public nuisances;
- (k) to control the movement of beggars and vagrants in public places;
- (l) to regulate and control public collections in public places;
- (m) to provide or arrange for lighting in streets and other public places;
- (n) to allocate names to roads, streets and other public places, erect signs and directions, and allocate numbers to houses and other premises;
- (o) to establish, erect and maintain public lavatories, closets and urinals in any public place.

## 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 117 of the Revised Edition of the Laws of Solomon Islands.

### 2

#### LIST OF LEGISLATION

##### **Local Government Act (Cap. 117)**

<i>Constituent legislation:</i>	16 of 1963 (Commenced 1 January 1964)
	16 of 1968
	3 of 1969
	11 of 1970
	12 of 1970
	7 of 1971
	8 of 1974
	11 of 1974
	2 of 1975
	7 of 1977
	5 of 1978
	28 of 1978
	15 of 1982
	10 of 1988
	8 of 1989

### 3

#### LIST OF AMENDMENTS