

# REPRINT

## PROVINCIAL GOVERNMENT ACT 1997

**As in force at: 10 June 2015**

**STATUS: HISTORICAL**

This version is that in force at the date stated above. It does not include amendments made since that date.

For list of amendments see Endnotes

*NOTE: This Act has been commenced in parts – see Endnotes*

**AN ACT TO REPEAL THE PROVINCIAL GOVERNMENT ACT, 1996; TO RE-ENACT THE PROVINCIAL GOVERNMENT ACT, 1981, WITH ALL AMENDMENTS MADE THERETO UNTIL THE DATE OF ITS REPEAL, TOGETHER WITH MODIFICATIONS AND TRANSITIONAL PROVISIONS NECESSARY IN CONSEQUENCE OF THE REPEAL OF THE 1996 ACT; AND TO PROVIDE FOR OTHER PURPOSES CONNECTED THEREWITH OR INCIDENTAL THERETO.**

## PROVINCIAL GOVERNMENT ACT 1997

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# PROVINCIAL GOVERNMENT ACT 1997

As in force at: 10 June 2015

## PART I PRELIMINARY

### 1 Short title and commencement

- (1) This Act may be cited as the *Provincial Government Act, 1997*.
- (2) All the provisions of this Act shall come into force in the Western, Guadalcanal, Malaita, Makira Ulawa, Rennell and Bellona and Choiseul Provinces on the date of publication of this Act in the *Gazette*.
- (3) In the Temotu, Isabel and Central Provinces:
  - (a) this section, sections 2, 8, 18, 47 and 48 shall come into force on the date of publication of this Act in the *Gazette*; and
  - (b) the remaining sections of this Act shall come into force on such date as the Minister may appoint by notice published in the *Gazette*; and different dates may be appointed for different provinces, different provisions and for different purposes.

### 2 Interpretation

In this Act, unless the context otherwise requires:

**“absolute majority”** means at least one-half of all members plus one;

**“devolution order”** or **“devolved function”** means a devolution order or function devolved on a province by orders made under the repealed *Provincial Government Act, 1981* for the time being in force and having legal effect by virtue of the provisions of this Act, and includes an order under section 26 of this Act;

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

**“Minister”** means the Minister for the time being charged with responsibility of administering that part of this Act in which the expression occurs;

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

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

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

## **PART II                    PROVINCIAL GOVERNMENT**

### *Establishment of Provinces*

#### **3                    Establishment of provinces**

- (1) For the administration of provincial government, Solomon Islands (excluding Honiara) shall be divided into areas to be known as provinces.
- (2) The provinces shall be those named in column 1 of Schedule 1 and shall comprise the islands respectively mentioned in column 2.
- (3) Subject to subsection (4), the area of each province shall extend seaward for three nautical miles from the low-water line of each island comprised in the province and, if the island is situated on an atoll or has a fringing reef:
  - (a) shall include any area contained within the atoll or between the island and the reef; and
  - (b) shall extend seaward for three nautical miles from the low-water line of the atoll or reef.
- (4) The area of a province shall not extend beyond the boundary lines referred to in relation to that province in column 2 of Schedule 1.
- (5) The area of Guadalcanal Province shall not include such area of sea adjacent to Honiara as the Minister may by order specify, and an order under this subsection shall be subject to negative resolution.

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- (6) In this section “**island**” and “**low-water line**” have the meanings given in the *Delimitation of Marine Waters Act*.
- (7) Nothing in this section shall be construed as affecting traditional rights, privileges and usages in respect of land and fisheries in any part of Solomon Islands.

#### **4           Review of boundaries by Constituency Boundaries Commission**

- (1) Where it appears to the Minister that a review of the boundaries of a province or provinces is necessary, he shall require the Constituency Boundaries Commission (in this Part referred to as “the Boundaries Commission”) to make a review of the boundaries concerned and the boundaries of any other provinces, which in his opinion may be affected.
- (2) The Provincial Executives of two or more provinces may jointly make proposals to the Boundaries Commission on any matter about which the Commission has power to make recommendations on a review.
- (3) Subject to subsection (4), the Boundaries Commission shall consider any proposals made to it under subsection (2) and review the boundaries of the provinces concerned and any other province which, in the opinion of the Commission, may be affected by the proposals.
- (4) The Boundaries Commission is not required to conduct a review under subsection (3) if it is of the opinion that:
  - (a) the boundaries concerned have recently been reviewed or will be reviewed in the near future; and
  - (b) the proposals concerned do not require the immediate review of those boundaries.
- (5) Where the Minister is of the opinion that serious differences have arisen:
  - (a) between the Provincial Executives of two or more provinces; or
  - (b) between an Area Council or similar body of a province and the

Provincial Executive,

on any matter about which the Boundaries Commission has power to make recommendations on a review, and that the boundaries of the province or provinces concerned have not recently been reviewed, then the Minister may by order require the Boundaries Commission to review the boundaries concerned and the boundaries of any other province which, in his opinion, may be affected.

- (6) An order under subsection (5) shall be subject to affirmative resolution.

## **5 Powers of Boundaries Commission on a review**

- (1) On a review under section 4 of the boundaries of one or more provinces, the Boundaries Commission may make recommendations to the Minister for effecting changes appearing to the Commission desirable in the interests of effective and convenient provincial government.
- (2) The Boundaries Commission may recommend that the changes be made by one or more of the following steps:
  - (a) altering the boundaries of any province.
  - (b) establishing a new province by combining two or more existing provinces, or parts of them, or by separating any area from an existing province or provinces;
  - (c) altering any electoral arrangements.
- (3) The Boundaries Commission may not on a review under section 4 recommend any change in the boundaries of Honiara.

## **6 Implementation of Boundaries Commission's recommendations**

Where the Minister receives any recommendations under section 5, he may introduce a Bill in Parliament for the purpose of:

- (a) giving effect to those recommendations; and
- (b) making such other alterations in the law as may be necessary

or expedient in consequence of the implementation of those recommendations.

### *Establishment of Provincial Assemblies*

## **7 Constitution etc. of Provincial Assemblies**

- (1) There shall be a Provincial Assembly in each province.
- (2) The members of a Provincial Assembly shall be returned for the electoral wards for the time being in force and each ward shall subject to the provisions of any order that may be made under subsection (4), return one member.
- (3) All the electoral wards specified in the Orders made under section 8 of the *Provincial Government Act, 1981* in respect of a province and in force on the date of commencement of this Act shall have effect in relation to the respective province as if such orders had been made under this Act.
- (4) The Minister may with the consent of the Cabinet and in consultation with the Provincial Assembly concerned by an order under this subsection, amend, vary or alter any existing electoral wards order referred to in subsection (3), whenever it appears to him as necessary or expedient that the electoral arrangements in respect of a province need to be changed.

## **8 Transitional provisions for the continuance of existing Assemblies, Councils etc.**

- (1) For the purpose of ensuring the continuance of provincial government administration in a province, notwithstanding the repeal of the *Provincial Government Act, 1996* (hereinafter referred to as the “repealed Act”), the following provisions shall apply:
  - (a) the Area Assemblies and Provincial Councils of Temotu, Isabel and Central Provinces elected and constituted under the repealed Act shall continue in office and function until such time as a Provincial Executive is constituted under the provisions of this Act;
  - (b) the Provincial Assemblies, the Provincial Executives and the



Area Councils of the Rennell and Bellona, Malaita and Guadalcanal Provinces constituted under the repealed *Provincial Government Act 1981*, (hereinafter referred to as the “former Act”) shall, notwithstanding the lapse of their term of office under the former Act, continue in office and function until such time as elections are held under the provisions of this Act;

- (c) the Provincial Assemblies, Provincial Executives and Area Councils of the Makira Ulawa, Western and Choiseul Provinces constituted under the provisions of the former Act and continuing in office by virtue of the provisions of the repealed Act shall continue in office until their term of office ends, notwithstanding the repeal of the former Act.
- (2) For the purpose of electing the Provincial Assembly of a province under the provisions of this Act, the Minister shall by order published in the *Gazette* appoint a date after the commencement of this Act in that province.
- (3) When an order appointing a date for the purpose of electing the Provincial Assembly of a province is made under subsection (2), the Provincial Assembly or the Provincial Council and the Area Assemblies of the Province, as the case may be, continuing in office by virtue of the provisions of subsection (1) shall be dissolved as provided for in section 10(1).

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

- (1) Subject to subsection (2) an ordinary election of members of a Provincial Assembly shall:
  - (a) be held on the fourth anniversary of the date of the office of the previous election of members (whether it was an ordinary election or an election held under section 10(4)); or
  - (b) be held on any other date that the Minister may appoint by Order published in the *Gazette* if the Minister:
    - (i) is satisfied that such action is necessary and in the public interest;
    - (ii) has consulted with the Premier of the relevant province;

and

- (iii) the date of the election is not more than 60 days before or after the date that the election would otherwise be held under paragraph (a) of this subsection.
- (2) If the anniversary referred to in subsection (1) falls on an excluded day the election shall be held on the next subsequent day which is not an excluded day.
- (3) In this section “**excluded day**” in relation to an election, means Saturday, Sunday and any day which is a public holiday for the purposes of the *Public Holidays Act*, unless it is a day appointed under section 6 of that Act for the purposes of the election.
- (4) The term of office of any member of a Provincial Assembly (whether elected at an ordinary election or otherwise) shall begin on the day on which he is elected and end with the dissolution of the Assembly.

## **10 Dissolution of Assembly**

- (1) A Provincial Assembly is dissolved by virtue of this section on the eve of any ordinary election of members.
- (2) A Provincial Assembly shall be dissolved by direction of the Minister if:
  - (a) the Assembly resolves that it should be dissolved; and
  - (b) the resolution is supported by the votes of an absolute majority of the members of the Assembly.
- (3) A direction dissolving an Assembly shall take effect not later than three months after the date of the resolution in pursuance of which the direction is given.
- (4) A direction dissolving an Assembly shall require an election of members to be held on the day following the dissolution.

## **11 Qualifications etc. of voters**

- (1) A person may not vote in any electoral ward unless registered in the register of Provincial Assembly electors to be used at the election.

- (2) A person may not vote more than once at a Provincial Assembly election.
- (3) A person shall not be entitled to vote at a Provincial Assembly election if he is disqualified by virtue of section 55(3) of the *Constitution* (disqualification because of certain criminal convictions or insanity).

## **12 Conduct of elections**

- (1) The Minister may by regulations make provision:
  - (a) as to the conduct of elections of members of Provincial Assemblies; and
  - (b) as to the questioning of such an election and the consequences of irregularities;and the regulations may make different provisions for different provinces.
- (2) Regulations under this section:
  - (a) may apply (with such modifications or exceptions as may be specified in them) any provision of the *National Parliament Electoral Provisions Act* and may impose requirements for candidates in addition to those imposed by that Act; and
  - (b) may provide for the charging of any sum on the Provincial Fund of the province concerned.
- (3) Regulations under this section shall be subject to negative resolution.

## **13 By-elections**

- (1) Subject to subsection (3), where the seat of member of a Provincial Assembly is vacant an election shall be held to fill the vacancy.
- (2) The date of the election shall be fixed by the Minister, and shall not be later than three months after the vacancy has come to his notice.
- (3) The election may not be held if the last date for holding it would fall within the three months preceding the next election to be held under

sections 9 or 10.

**14 Qualification for membership of an Assembly**

Subject to the provisions of section 15, a person shall be qualified for membership of a Provincial Assembly if the person:

- (a) is a citizen of Solomon Islands;
- (b) has attained the age of twenty-one years; and
- (c) is registered in the register of Provincial Assembly electors for that province.

**15 Disqualification from membership of an Assembly**

- (1) A person shall be disqualified from membership of a Provincial Assembly if the person:
  - (a) is, by virtue of his own act, under any acknowledgment of allegiance, obedience or adherence to a foreign power or state;
  - (b) is an undischarged bankrupt under Solomon Islands law;
  - (c) is certified to be insane or otherwise adjudged to be of unsound mind under Solomon Islands law;
  - (d) is under sentence of death imposed by a court in any part of the world, 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 by such a court or substituted by a competent authority for some other sentence imposed by such a court;
  - (e) is disqualified from membership of Parliament or a Provincial Assembly or from registration as an elector or from voting at elections under Solomon Islands law relating to offences connected with elections;
  - (f) is a member of the National Parliament;
  - (g) holds, or is acting in, any public office or is a provincial government officer of any province;

- (h) is not a resident of the province;
  - (i) is the Speaker of the Assembly; or
  - (j) has not attended three Assembly Meetings within the lifetime of the Assembly without reasonable excuse in writing to the Speaker.
- (2) For the purpose of subsection (1)(d):
- (a) 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;
  - (b) a person is not disqualified by virtue of that subsection unless the time of appealing against the sentence or conviction has expired without an appeal being made or the appeal has been disposed of or abandoned;
  - (c) a person disqualified by virtue of that subsection due to a sentence imposed by a court outside Solomon Islands may petition the High Court for relief from such disqualification.
- (3) In subsection 1(j), the word “**attended**” means the presence and participation in the proceedings of any Assembly meeting.
- (4) A person who would otherwise be disqualified from membership of an Assembly on any of the grounds specified in subsection (1)(f) to (i), shall, if such disqualification is to be disregarded within thirty days after the election, have the ground of disqualification removed.

## **16 Effect of disqualification**

- (1) Where a member of a Provincial Assembly is disqualified under section 15, the Speaker shall by written notice declare the seat of the member as vacant, and his appointment shall thereupon cease.
- (2) A member whose seat has been declared vacant may, within thirty days, petition the High Court for relief from the declaration, and the decision of the High Court on such petition shall be final.
- (3) A seat declared vacant under subsection (1) shall remain vacant until the time of filing a petition for relief has expired without a petition

being filed, or the petition has been disposed of, or abandoned.

- (4) The validity of any proceedings of a Provincial Assembly shall not be affected by the disqualification of any person from membership of the Assembly.

## **17        Resignation**

- (1) Subject to subsection (2) a member of a Provincial Assembly may at any time resign by giving notice in writing to the Speaker.
- (2) A member who resigns from a Provincial Assembly shall be disqualified from standing in a by-election held to fill the vacancy caused by his resignation.

## **18        Transitional provisions regarding expenditure etc.**

- (1) For the avoidance of doubt it is hereby declared that from the date of the repeal of the former Act and the coming into force of this Act:
  - (a) the holding and continuing in office of any member in the offices referred to in section 8(1) shall not be deemed to be illegal or without due authority; or
  - (b) any expenditure of any funds by any body referred to in section 8(1) or by any officer in the discharge of the functions of such body shall not be deemed to have been incurred by way of illegal payment, or without due authority, or otherwise unlawfully or improperly, for the reason only that such funds were expended without compliance with the requirements of the respective Provincial Government Acts or any other requirement of the law.
- (2) Any person liable to be legally proceeded against on the ground that any such expenditure referred to in subsection (1)(b) was unauthorised, or unlawfully incurred or otherwise illegal or improper, is hereby indemnified as against all persons from such liability.

### *The Provincial Executive*

## **19        The Provincial Executive**

- (1) Each province shall have a Provincial Executive which shall consist

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of:

- (a) a Premier elected in accordance with section 20(2);
  - (b) a Deputy Premier appointed in accordance with section 20(4);  
and
  - (c) such number of Provincial Ministers appointed by the Minister in accordance with the provisions of section 20(4), so however, that the total number, inclusive of the Premier and the Deputy Premier shall not exceed one-half of the total number of the members of the Assembly.
- (2) References in this Act and any other enactment to a Provincial Executive, in relation to the exercise by the Executive of any functions, includes a reference to a Provincial Minister or Ministers of the Provincial Executive acting on behalf of the Executive as a whole.
- (3) The Provincial Executive may appoint such officers and servants as may be required for the exercise of the functions of the Executive.
- (4) After every ordinary election of members of a Provincial Assembly, and every election under section 10(4), a new Provincial Executive shall be formed.
- (5) A new Provincial Executive shall be formed if:
- (a) the Provincial Assembly passes a motion of no confidence in the Premier, so however, that a motion of no confidence shall not be moved until the expiry of a period of twelve months from the date of a Premier being elected to office and any notice of a motion of no confidence given thereafter shall not be entertained by the Speaker unless a period of twelve months has lapsed since the last motion of no confidence was determined; and
  - (b) the motion is supported by an absolute majority of the members of the Assembly.
- (6) The Deputy Premier appointed pursuant to subsection (4) of section 20 shall preside at meetings of the Provincial Executive in the

absence of the Premier or pending the election of a new Premier, or where the Premier has died, resigned, or has been disqualified.

## **20 Choice of Provincial Ministers**

- (1) The Provincial Ministers shall be chosen from among the members of the Provincial Assembly.
- (2) The Premier shall be elected, by secret ballot, by an absolute majority of the members of the Provincial Assembly.
- (3) The results of the election of the Premier shall be published in the *Gazette*.
- (4) The Deputy Premier and the Provincial Ministers shall be appointed by the Minister acting in accordance with the advice of the Premier.
- (5) Where a new Provincial Executive is being formed, the term of office of each Provincial Minister shall begin as soon as he is chosen.

## **21 Termination of term of office of Provincial Ministers**

- (1) On the election of a new Premier, the term of office of the Provincial Ministers of the existing Executive shall come to an end.
- (2) A Provincial Minister may at any time resign.
- (3) A Provincial Minister shall cease to hold office as a Provincial Minister if:
  - (a) he is disqualified for membership of the Provincial Assembly;  
or
  - (b) he resigns his seat,but shall not cease to be a Provincial Minister by reason only of the dissolution of the Assembly.
- (4) The Premier may remove from office any other Provincial Minister.

*Speaker, Deputy Speaker and Officers of Assembly*



**22            Speaker, Deputy Speaker, Clerk and other officers and servants**

- (1) Each Provincial Assembly shall elect:
  - (a) a Speaker to be the presiding officer, and
  - (b) a Deputy Speaker to act in the absence of the Speaker or when the office of Speaker is vacant.
- (2) The Speaker may, with the consent of the Assembly as to numbers, appoint a Clerk and such other persons as may be required to act as officers and servants of the Assembly.
- (3) The pay and conditions of service of any person appointed under this section shall be such as the Assembly may from time to time determine.
- (4) Any expenses incurred under this section shall be payable out of the Provincial Fund.

*Conduct of Business*

**23            Standing Orders**

- (1) A Provincial Assembly shall make Standing Orders for regulating its procedure.
- (2) The Standing Orders shall make provision for the matters referred to in Schedule 2 and shall do so in accordance with the requirements of that Schedule.
- (3) The Minister may give directions for regulating the procedure of a Provincial Assembly pending the making of Standing Orders.

**24            Governing rules**

- (1) Each Provincial Assembly shall make rules (in this Act referred to as "Governing rules") governing the discharge by the Provincial Executive of the functions conferred on the Provincial Executive under this Act or any other law.
- (2) Subject to the provisions of this Act, any other enactment and any

rule of law, a Provincial Executive shall discharge its functions in accordance with the Governing rules.

- (3) Governing rules under this section may require a Provincial Minister who is not disqualified for membership of the Provincial Assembly not to discharge any of his functions:
  - (a) while he stands charged with an offence if, on conviction, he would be liable to a term of imprisonment of six months or more; or
  - (b) if he is liable to be detained as a patient in a mental hospital under the *Mental Treatment Act*.
- (4) Governing rules shall provide that where the Provincial Executive makes any orders, rules or regulations (in this subsection referred to as “subsidiary legislation”), such subsidiary legislation:
  - (a) shall be laid before the Provincial Assembly;
  - (b) shall not come into force until approved by the Provincial Assembly or, as the case may be, shall be subject to annulment by the Provincial Assembly after having been made; and
  - (c) shall be published in accordance with the Governing rules.
- (5) Governing rules under this section may make provision for matters other than those referred to in subsections (3) and (4).

*Salaries and Allowances of Members of Assembly and Executive*

**25        Salaries and allowances**

- (1) Power to determine salaries and allowances of members of the Provincial Assemblies and Provincial Executives and to review such determinations annually shall vest in the Members of Parliament (Entitlements) Commission.
- (2) Subject to subsection (3), no salary or allowance may be paid in right of membership of a Provincial Assembly or Provincial Executive unless payment is in accordance with the determination made by the Members of Parliament (Entitlements) Commission.

- (3) In determining the salaries and allowances of the members of the Provincial Assemblies or the Provincial Executives and in a review of such determination, the Members of Parliament (Entitlements) Commission shall do so in consultation with the Minister.
- (4) Different provisions may be made under this section for different cases or provinces.
- (5) Salaries and allowances of members of the Provincial Assemblies and Provincial Executives determined by the Members of Parliament (Entitlements) Commission under the provisions of the former Act shall have effect until varied by the Commission under the provisions of this section.
- (6) Payments by virtue of this section shall be made out of the Consolidated Fund.
- (7) In this section “**salary**” includes any benefit payable in right of membership of a Provincial Assembly or Provincial Executive but does not include an “allowance”.

## **PART III                      TRANSFER OF FUNCTIONS**

### *Devolution of Functions etc.*

#### **26                      Functions**

- (1) A Provincial Assembly shall exercise as regards the province, the functions specified in Schedules 3 and 4.
- (2) The Minister may with the consent of the Cabinet and in consultation with the Provincial Assembly by order amend Schedule 3 or Schedule 4 and include any further matter within the legislative competence of the Provincial Assembly.
- (3) From and after the commencement of this Act all devolution orders made in respect of any province under the former Act shall notwithstanding its repeal have effect in relation to the respective province, as if such orders had been made under this Act.
- (4) The Minister may by order make such adaptations or modifications in any devolution order referred to in subsection (3) as appear to him

necessary or expedient in consequence of the coming into operation of this Act.

**27      Transfer of property**

The Minister may by order provide that any property which:

- (a) is held by or on behalf of the Government; and
- (b) appears to the Minister to be property used or to be used solely or mainly for a Provincial Assembly or for or in connection with the exercise of all or any of the functions of the Assembly,

shall be held by or on behalf of the Provincial Assembly or, as the case may be, the Premier of the province.

**28      Additional provisions in respect of property**

- (1) An order made under section 27 may:
  - (a) be made subject to any exceptions or reservations specified in or determined under the order; and
  - (b) contain such consequential, incidental or supplementary provisions (including provisions for the transfer of liabilities connected with the property concerned) as appear to the Minister to be necessary or expedient.
- (2) Any property which is to be held by or on behalf of a Premier of a province shall be deemed to be held by or on behalf of the person for the time being holding that office.
- (3) No stamp duty shall be payable on any instrument made by, to or with, a Provincial Assembly or the Premier of a province and no fee shall be payable in respect of the registration of any such instrument.

*Agency Agreements*

**29      Agency agreements**

- (1) Arrangements may be made between the Premier of a province and any public authority for any functions of one of them to be discharged by, or by officers of, the other, and for the provision by one of them

for the other of administrative, professional or technical services.

- (2) No such arrangements for the discharge of any functions shall affect the responsibility of the authority on whose behalf the functions are discharged.
- (3) In this section “**public authority**” means:
  - (a) any department of the Government;
  - (b) any Provincial Executive;
  - (c) any Area Council or similar body;
  - (d) any body corporate established by an enactment; and
  - (e) any company (within the meaning of the *Companies Act*) of which a public authority is a member.

## **PART IV            EXERCISE OF FUNCTIONS**

### *Legislation*

#### **30            Provincial Ordinances**

- (1) Subject to section 31, laws may be made for a province by Ordinance of the Provincial Assembly.
- (2) An Ordinance shall be enacted by being passed by the Assembly and assented to by the Minister, but the Minister may not withhold his assent from any proposed Ordinance except in accordance with section 32.
- (3) Subject to section 31 an Ordinance may amend or repeal any provision made by or under an enactment or by an imperial enactment.
- (4) The validity of any proceedings leading to the enactment of an Ordinance shall not be called in question in any legal proceedings.
- (5) Ordinances shall be judicially noticed.
- (6) It is hereby declared that this Act does not affect the power of

Parliament to make laws for any province.

(7) In the *Interpretation and General Provisions Act*, references to an Act in the following provisions, that is:

- (a) sections 5 to 30, but excluding the definition of financial year in section 16(1);
- (b) sections 33 to 54; and
- (c) sections 57 to 62,

include a reference to an Ordinance of a Provincial Assembly.

(8) Sections 55(1) and 56 of the *Interpretation and General Provisions Act* (subsidiary legislation) do not apply to subsidiary legislation made by a Provincial Executive or under an Ordinance of a Provincial Assembly.

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

(1) A Provincial Assembly has power to make laws only if and to the extent that:

- (a) they relate to matters within the legislative competence of the Assembly; or
- (b) they are merely incidental to or consequential on other provisions, and those provisions relate to matters within the legislative competence of the Assembly.

(2) A Provincial Assembly has no power to make laws extending to any part of Solomon Islands other than the province.

(3) A Provincial Assembly has no power to make laws which would have the effect of amending any provision of this Act; but this subsection does not prevent the amendment by Ordinance of any enactment mentioned in Schedule 4.

(4) A Provincial Assembly has no power to make laws affecting the international obligations of Solomon Islands, including trade and commerce with countries outside Solomon Islands.

- (5) A Provincial Assembly has no power to make laws imposing, altering or abolishing any tax, except where power to do so is expressly conferred on the Provincial Assembly by or under this Act.

## **32 Withholding assent from Ordinances**

- (1) Subsection (2) applies where the Minister is of the opinion that any provision of a proposed Ordinance of the Provincial Assembly:
- (a) relates to matters within the legislative competence of the Assembly; but
  - (b) would, if the Ordinance were enacted, conflict with Government policy for Solomon Islands as a whole.

- (2) Where subsection (1) applies the Minister shall:

- (a) lay a copy of the proposed Ordinance before Parliament together with a statement of the policy with which in his opinion it conflicts, and
- (b) move a motion in Parliament that the proposed Ordinance be disallowed,

and shall then withhold his assent if the motion is carried but otherwise shall give his assent.

- (3) Where the Minister is of the opinion that a proposed Ordinance of a Provincial Assembly contains any provision as to which the Assembly has no power to make laws, he shall refer the question whether the provision is one as to which the Assembly has power to make laws to the High Court for decision; and he may do so if he is of the opinion that there is sufficient doubt about it to justify the reference.

- (4) On a reference of any provision under subsection (3):

- (a) if the High Court decides that the Assembly has power to make laws as to that provision and any other provision involved in the reference, the Minister shall give his assent and the decision of the Court shall be binding in all legal proceedings; but
- (b) if the High Court decides that the provision is not one as to

which the Assembly has power to make laws, the Minister shall withhold his assent.

### *Executive Functions*

#### **33      Extent of executive functions**

- (1) The Provincial Executive shall exercise as regards the province the functions which are functions of the Executive by virtue of any devolution order made under the former Act or any order under section 26.
- (2) Where a function of a Provincial Executive is included in Part II of Schedule 4, it shall continue to be exercisable by the person to whom it is given as well as by the Provincial Executive.
- (3) Subject to the provisions of any enactment (wherever made or passed), a Provincial Executive:
  - (a) may provide services for the province in respect of any of the matters mentioned in Schedule 5; and
  - (b) may do anything (whether or not involving the acquisition or disposal of any property) which is calculated to facilitate or is conducive or incidental to the provision of such a service for the province.
- (4) A Provincial Executive shall not, in the exercise of its functions:
  - (a) establish or conduct any relations of a diplomatic nature with any foreign country;
  - (b) conduct or establish any relations of a business or economic nature with any foreign country without having first obtained the approval of the Minister, which may be given in consultation with the Cabinet; or
  - (c) seek to obtain, or accept, any financial assistance from funds outside Solomon Islands, except in accordance with the provisions of section 30B of the *Central Bank of Solomon Islands Act*.



## **PART V            FINANCE**

### *Establishment and Management of Funds*

#### **34            Provincial Fund**

- (1) For each province there shall be a Provincial Fund.
- (2) A Provincial Assembly has no power to appropriate any sums forming part of the Provincial Fund except by Ordinance (in this Act referred to as an “Appropriation Ordinance”); and an Appropriation Ordinance may only appropriate sums:
  - (a) for the purposes of devolved functions; or
  - (b) for a purpose for which they are payable out of the Provincial Fund under this or any other Act.
- (3) An Appropriation Ordinance may provisionally authorise the payment out of the Provincial Fund in advance of appropriation of sums not exceeding in the aggregate such amount as may be specified in the Ordinance.
- (4) An Appropriation Ordinance shall not have effect at any time unless, at that time, there is in force in the province an Ordinance (in this Act referred to as a “Financial Management Ordinance”) dealing with each of the matters mentioned in Schedule 6.

#### **35            Power of Minister to limit, cancel or suspend**

- (1) Each province shall on passing an Appropriation Ordinance forward a copy of such Ordinance to the Minister.
- (2) Notwithstanding the passing of the Appropriation Ordinance, the Minister may limit, suspend or cancel any expenditure, if in his opinion financial exigencies or the public interest so require.
- (3) No action shall be taken by the Minister under subsection (2), unless he notifies the Provincial Executive and affords the Provincial Executive an opportunity to show cause why the expenditure should not be limited, suspended or cancelled.

### **36            Payments out of the Provincial Fund**

- (1) No payment shall be made out of a Provincial Fund except under the authority of a warrant given by the Premier or the member of the Provincial Executive responsible for Finance.
- (2) The Premier or the member of the Provincial Executive responsible for Finance shall not give a warrant authorising the payment of any sum unless:
  - (a) the sum is part of the sums appropriated for any purpose by the Assembly; or
  - (b) payment of the sum has been provisionally authorised under section 34(3); or
  - (c) the sum has been charged on the Fund by or under any Act.
- (3) A sum issued out of the Provincial Fund may not be applied for any purpose other than:
  - (a) the purpose for which it was appropriated or charged; or
  - (b) the purpose to which it is allocated in accordance with the Financial Management Ordinance, being a purpose falling within section 34(2).

### **37            Payments into the Provincial Fund**

- (1) Any sums forming part of the receipts of the Provincial Executive shall, so far as they are not disposed of or accounted for in accordance with any other enactment or an arrangement under section 29, be paid into the Provincial Fund.
- (2) The Minister shall, in respect of each financial year, make payments into each Provincial Fund; and the amount of the payment into each Fund, and the timing and amount of any instalments by which the payment is to be made, shall be such as may be specified by the Minister by order.
- (3) An order under subsection (2) may make different provisions for different provinces.

- (4) An order under subsection (2) shall be subject to affirmative resolution; and when the draft of the order is laid before Parliament the Minister shall also lay a statement of the consideration taken into account in preparing the order.

#### *Accounts and Audit*

### **38 Estimates**

- (1) The Provincial Executive shall lay before the Assembly, before the commencement of each financial year, estimates of the revenue and expenditure of the province for that year.
- (2) The estimates shall show the sources of revenue and the purpose and scope of each head of expenditure.

### **39 Payments into the Provincial Fund**

- (1) For each financial year, the Provincial Executive shall prepare the following accounts:
  - (a) accounts of sums paid and received by the Executive;
  - (b) an account of payments into and out of the Provincial Fund; and
  - (c) a balance sheet of the assets and liabilities of the Executive.
- (2) The accounts shall be sent to the Auditor-General as soon as practicable after the end of the financial year to which they relate but, in any event, not later than nine months after the end of that year.
- (3) The Auditor-General shall, after auditing the accounts pursuant to subsection (3) of section 108 of the *Constitution* (audit of public accounts) lay copies of them, together with his report under that subsection, before the Assembly.
- (4) The Assembly shall publish:
  - (a) the accounts and reports received by it under subsection (3); and
  - (b) the reports of the Accounting Committee.

- (5) The Provincial Executive shall pay in respect of any audit under section 108(3) of the *Constitution* such amount as the Auditor-General may direct; and any sum payable under this subsection:
  - (a) shall be paid in accordance with the direction; and
  - (b) shall be charged on the Provincial Fund.

### *Borrowing and Lending*

## **40        Borrowing**

- (1) A Provincial Executive shall not borrow money except in accordance with this section.
- (2) A Provincial Executive may borrow temporarily (either by way of overdraft or otherwise) from a Government lender or an authorised lender such sums as may appear to the Executive to be required:
  - (a) for the purpose of meeting a temporary excess of sums paid out of the Provincial Fund over sums paid into the Fund; or
  - (b) for the purpose of providing a working balance in the Fund.
- (3) In addition to the purposes stated in subsection (2), a Provincial Executive may borrow for the purposes of devolved functions:
  - (a) if the borrowing is in respect of recurrent expenditure, from a Government lender;
  - (b) in any other case, from a Government lender or an authorised lender.
- (4) The aggregate outstanding in respect of the principal of sums borrowed by a Provincial Executive shall not exceed such sum as may from time to time be fixed for that Executive by order of the Minister.
- (5) Unless an order of the Minister directs otherwise, sums required for the repayment of, or the payment of interest on, sums borrowed under this section shall be charged on the Provincial Fund.
- (6) In this section:

**“Government lender”** means the Minister and any Government fund the purpose of which include the lending of money to Provincial Executives; and **“authorised lender”** means any person authorised by the Minister for the purposes of this section.

#### **41 Lending**

- (1) A Provincial Executive may lend money, or give a guarantee in respect of the repayment of any money, if, and only if, it does so for the purposes of devolved functions.
- (2) The aggregate of:
  - (a) the amounts outstanding in respect of the principal of any sum lent by a Provincial Executive; and
  - (b) sums the repayment of which have been guaranteed by the Provincial Executive,

shall not exceed such sum as may from time to time be fixed for that Executive by order of the Minister.

### **PART VI GENERAL AND SUPPLEMENTARY**

#### *Relations with Central Government*

#### **42 Notice of Bills**

- (1) Parliament shall by Standing Orders make provision for ensuring that a Bill for an Act the purposes of which include the amendment of any of the provisions of Parts II to IV of this Act (except Schedule 4 and the mention in Schedule 3 of any enactment) shall not be read a second time unless both the following requirements are satisfied, that:
  - (a) the long title shows that it is proposed to amend such a provision; and
  - (b) notice of the Bill has been given to the Speaker of Parliament within reasonable time.
- (2) Parliament shall by Standing Orders make provision for ensuring that a Bill for an Act which includes any provision:

(a) relating to a matter that is within the legislative competence of a Provincial Assembly; or

(b) affecting the functions of a Provincial Executive,

shall not be read a second time unless the Speaker of Parliament is satisfied that adequate notice of the provision has been given to the Provincial Assembly or Provincial Executive

#### **43 Provision of information**

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

(2) Where it appears to the Minister that any information relating to the exercise of functions by a Provincial Executive is required for the exercise of functions by any Minister he may request the Executive to supply the information to the Minister concerned and the Executive shall comply with the request.

#### **44 Power to suspend Provincial Government**

(1) Where the Minister is satisfied that any Provincial Government has:

(a) in the performance of any function acted in a manner prejudicial to the public interest or national interest of Solomon Islands; or

(b) made default or mismanaged any aspect of its financial affairs,

he may, after having given the Provincial Government reasonable notice of his intention to do so, and having considered the representation, if any, of the Provincial Government thereon, in consultation and with the concurrence of the Cabinet, by order suspend the Provincial Government for such time as he may think fit from the performance of any such function or management to the extent of such breach, as may be specified in such order.

(2) For the purpose of determining default or mismanagement of the financial affairs as set out in paragraph (b) of subsection (1), the

Minister may authorise the Auditor-General to prepare and transmit to him a report relating to the financial affairs of the Provincial Government.

- (3) Where an order has been made under subsection (1), the Minister may, for the purposes of discharging the functions of the Provincial Government suspended under that order, appoint any person or body as he may think fit.
- (4) Where any person or body is appointed under subsection (3) to discharge the functions of any Provincial Government, the expenses incurred by such person or body in discharging those functions shall be a debt due from the Provincial Government to such person or body, as the case may be.

#### *Miscellaneous*

#### **45 Amendments of enactments**

The Minister may by order subject to affirmative resolution make such amendments in any Act passed or made before the passing of this Act as appear to him necessary or expedient in consequence of this Act or any order.

#### **46 Subsidiary legislation**

- (1) This section (and not sections 55(1), 56 and 59(2) of the *Interpretation and General Provisions Act*) applies where, by any provision of this Act, power is conferred on the Minister to make any order or regulations (in this section referred to as “subsidiary legislation”).
- (2) There is implied in the provision concerned a power exercisable in the same manner, and subject to the same conditions or limitations, to revoke, amend or re-enact any subsidiary legislation made in exercise of the power.
- (3) If the subsidiary legislation is expressed to be subject to negative resolution:
  - (a) a copy of the subsidiary legislation shall be laid before Parliament; and

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

#### **47 Power to remove difficulties**

- (1) Notwithstanding the provisions of this Act or any other law, the Minister may by order published in the *Gazette*, make such provisions as appear to him necessary or expedient for the purposes of:
  - (a) providing for any unforeseen or special circumstances; or
  - (b) resolving, determining or adjusting any doubt, question or matter,which may arise in relation to the application or implementation of this Act or in respect of which no provision or effective provision has been made in or under this Act.
- (2) An order made under subsection (1) shall be subject to negative resolution.



## 48      **Repeal and savings**

- (1) The *Provincial Government Act, 1996* is hereby repealed.
- (2) Notwithstanding the repeal of the former Act by the *Provincial Government Act, 1996* (repealed Act) from and after the commencement of this Act:
  - (a) all Ordinances, Standing Orders and subsidiary legislation made for a province by a Provincial Assembly of that province in force immediately before the repeal of the former Act shall be deemed to be Ordinances, Standing Orders and subsidiary legislation made under this Act and shall continue in force and have effect after the commencement of this Act until repealed, amended or revoked by the new Provincial Assembly;
  - (b) all provincial statutory bodies established under any Ordinance shall continue in operation after the commencement of this Act;
  - (c) any transaction or agreement entered into by any former Provincial Assembly or Area Council of a province prior to or after the repeal of the former Act and any transaction or agreement lawfully entered into thereafter by a Provincial Council or Area Assembly, as the case may be, prior to the commencement of this Act shall continue in force until the completion of such transaction or agreement;
  - (d) any person employed at the date of coming into operation of this Act by a Provincial Assembly or Provincial Council or Area Assembly, as the case may be, shall continue in office for the period for which they were appointed.
- (3) For the avoidance of doubt, it is hereby declared that the repeal of the *Provincial Government Act, 1996* shall not entitle any person elected or holding office at the commencement of this Act, to institute or maintain any civil suit or action against the Government for loss of office, emoluments or other benefits whatsoever that such person would have been entitled to if the Act had not been repealed.
- (4) Notwithstanding the repeal of the former Act, and the repeal of the *Provincial Government Act, 1996* by this Act, all subsidiary legislation made by the Minister under the respective Acts shall continue in force

and have effect after the commencement of this Act until such time as such subsidiary legislation is repealed, amended or revoked by the Minister under this Act.

## SCHEDULE 1

### PROVINCIAL BOUNDARIES

(Section 3)

| Province | Area                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | Existing Authority          |
|----------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------|
| Western  | The islands comprised in the area bounded by a line commencing at a point on the boundary between Solomon Islands and Papua New Guinea in Longitude 156° 13' 30" East thence by a line due south to Latitude 6° 45' 00" South thence in an easterly direction to the point Latitude 6° 45' 45" South Longitude 156° 18' 45" East thence in a southerly direction to the point Latitude 6° 57' 30" South Longitude 156° 22' 00" East thence in the same direction to the point Latitude 7° 13' 15" South Longitude 156° 23' 45" East thence by a line in an easterly direction to the point Latitude 7° 13' 15" South Longitude 156° 23' 45" East thence by a line in an easterly direction to the point Latitude 7° 35' 30" South Longitude 157° 00' 00" East thence in the same general direction of the point Latitude 7° 43' 00" South Longitude 157° 30' 00" East thence by a line in the same general direction to the point Latitude 7° 55' 00" South Longitude 150° 55' 00" East thence by a line due south to the point in Latitude 8° 20' 00" South thence by a line bearing due East to a point in Longitude 159° East thence by a | Western Provincial Assembly |

line bearing due south to a point in Latitude 9' 20' 00" south thence by a line bearing due West to a point in Longitude 155' 20' East thence by a line bearing due North to intercept the boundary between Solomon Islands and Papua New Guinea and thence along that boundary of the point of commencement

|             |                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                     |
|-------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------|
| Isabel      | The islands comprised in the area bounded by a line commencing at point in Latitude 7' South Longitude 160' 30' East thence by a line bearing due South to a point in Latitude 8' 45' South thence by a line bearing due West to a point in Longitude 159' East and thence along the common boundary with Western Province in a northerly direction to a point in Latitude 7' South and thence to the point of commencement.    | Santa Isabel Provincial Assembly    |
| Central     | The islands comprised in the area bounded by longitude 159' East and 160, 30' East and latitudes 8' 45 South and 9' 13' South.                                                                                                                                                                                                                                                                                                  | Central Islands Provincial Assembly |
| Guadalcanal | Excluding Honiara, the islands comprised in the area bounded by a line commencing at a point in Latitude 9' 13' South Longitude 160' 30' East and bearing due South to a point in Latitude 9' 20' South thence by a line bearing due East to a point in longitude 161' East thence by a line bearing due South to a point Latitude 10' 30' South thence along the common boundary with Central Province to a point in Longitude | Guadalcanal Provincial Assembly     |

159' East thence by a line bearing due North to a point in Latitude 9'13' South and thence along the common boundary with Central Province to the point of commencement.

|              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                  |
|--------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------|
| Malaita      | The islands comprised in the area bounded by a line commencing at a point on the boundary of Solomon Islands and Papua New Guinea in approximate Latitude 4' 52' South Longitude 160' East thence by a line bearing due East to a point in Longitude 163' East thence by a line bearing due South to a point in Latitude 9' South thence by a line bearing due West to a point in Longitude 161' 50' East thence by a line bearing due South to a point in Latitude 10' South thence by a line bearing due West to a point in Longitude 161' East thence in a northerly direction along the common boundary with Guadalcanal, Central, Isabel and Western Provinces to a point intersecting the boundary of Solomon Islands and Papua New Guinea thence generally North Easterly along that boundary to point in approximate Longitude 159' East and thence generally along that boundary to the point of commencement. | Malaita Provincial Assembly      |
| Makira Ulawa | The islands comprised in the area bounded by a line commencing at a point in Latitude 9' South Longitude 161' 50' East thence by a line bearing due East to a point in                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Makira Ulawa Provincial Assembly |

Longitude 164' East thence by a line bearing due South to a point in Latitude 12' 30' South thence by a line bearing due West to a point in Longitude 161' East and thence in a generally Northerly direction along the common boundary with Central, Guadalcanal and Malaita Provinces to the point of commencement.

|          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                        |
|----------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------|
| Temotu   | The islands comprised in the area bounded by a line commencing at a point in Latitude 9' South Longitude 164' East thence by a line bearing due East to a point in Longitude 170' 20' East thence by a line bearing due South to a point in Latitude 12' 30' South thence by a line bearing due West to a point in Longitude 164' East and thence North along the common boundary with Makira Ulawa Province to the point of commencement.                                                                                                                                        | Eastern Islands<br>Provincial Assembly |
| Choiseul | The islands comprised in the area bounded by a line commencing at a point on the boundary between Solomon Islands and Papua New Guinea in Longitude 156' 13' 30" East thence in an Easterly direction along that boundary to the intersection of that boundary Longitude 157' 55' East thence due South to Latitude 7' 55' South thence by a straight line in a Westerly direction to the point Latitude 7' 43' 00" South Longitude 157' 30' 00" East thence in the same general direction to the point Latitude 7' 13' 15" South Longitude 156' 23' 45" East thence to the point | Choiseul Provincial<br>Assembly        |

Latitude 6' 57' 30" South Longitude  
 156' 22' 00" East thence in a  
 northerly direction to the point  
 Latitude 6' 45' 45" South Latitude  
 156' 18' 45" East thence in a  
 northerly direction to the point  
 Latitude 6' 45' 00" South Longitude  
 156' 13' 30" East thence due north  
 of the point of commencement

|                        |                                                                                                                                       |                                            |
|------------------------|---------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------|
| Rennell and<br>Bellona | The islands comprised in the area<br>bounded by longitude 159' East and<br>161' East and latitudes 10' 30'<br>South and 13' 06' South | Rennell and Bellona<br>Provincial Assembly |
|------------------------|---------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------|

## SCHEDULE 2

(Section 23)

### MATTERS TO BE PROVIDED FOR IN STANDING ORDERS

#### *Speaker and Deputy Speaker*

1.
  - (1) The manner of electing the Speaker, Deputy Speaker and for the appointment of any other person to preside in the absence of the Speaker or Deputy Speaker.
  - (2) Provision that the Deputy Speaker shall be a member of the Assembly.

#### *Meetings*

2.
  - (1) Summoning of meetings of the Assembly by the Speaker.
  - (2) Standing Orders made in pursuance of this paragraph shall provide:
    - (a) for the Assembly to meet at least twice in any period of twelve months, and
    - (b) for the summoning of the next meeting within a period of one

month from the date of defeat of an Appropriation Ordinance presented at a meeting.

(3) The period of twelve months in sub-paragraph (2)(a) shall be construed to mean twelve months in a Provincial Financial year.

#### *Oaths*

3.

(1) Provision for ensuring that no member of the Assembly takes part in any of its proceedings or the proceedings of any of its committees until he has made an oath or affirmation of allegiance in the form set out in Schedule 1 to the *Constitution*.

(2) Provision for ensuring that no member of the Provincial Executive takes part in the proceedings of the Executive until the member has made an Oath or affirmation for the due execution of the office of Executive member in a form similar to the form set out in paragraph 3 of Schedule 1 to the *Constitution*.

#### *Right to vote*

4. Provision that only members may vote at any meeting of the Assembly is committees.

#### *Quorum*

5. Quorum to the Assembly and of any of its committees.

#### *Order*

6.

(1) Preservation of order in the proceedings of the Assembly and its committees.

(2) Standing Orders made in pursuance of this paragraph may include provision for excluding a member from the proceedings.

#### *Passing Legislation*

7.

(1) Provision:

(a) for general debate of a proposed Ordinance with an opportunity for members to vote on its general principles;

(b) for the consideration of, and an opportunity for members to vote



on, the details of a proposed Ordinance; and

- (c) for final stage at which a proposed Ordinance can be passed or rejected but not amended.

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

#### *Financial Control*

8.

(1) Ensuring that the Assembly does not proceed with any proposed Ordinance to appropriate any sum out of the Provincial Fund unless either:

- (a) there has been laid before the Assembly the estimates of expenditure on which the proposed Ordinance is based; or
- (b) the proposed Ordinance would have effect only in relation to the first four months of a financial year and would appropriate a sum sufficient only to maintain existing services.

(2) Ensuring that the Assembly does not pass such an Ordinance except in pursuance of a recommendation of the Provincial Executive.

9.

(1) The appointment of an Accounts Committee.

(2) Ensuring that the majority of members of the Committee are not members of the Provincial Executive.

(3) Provision requiring the Committee to examine and report to the Assembly on the accounts and reports laid before the Assembly by the Auditor-General.

#### *Proceedings in public*

10. Proceedings of the Assembly and of any of its committees to be held in public, subject to any exceptions made by Standing Orders.

#### *Member's interests*

11.

(1) Ensuring that a member with an interest in any matter (whether it is a financial interest or some other kind of interest which is specified in the Standing Orders) discloses the interest before taking part in any proceedings dealing with that matter.

(2) Standing Orders made in pursuance of this paragraph may include provision:

- (a) for preventing or restricting participating of such members in such proceedings; and
- (b) for excluding members contravening them from those proceedings.

#### *Relations with Central Government*

12. The admission to meetings of the Assembly or its committees of any member of Parliament whose constituency includes any part of the province.

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

14. Securing that no draft Ordinance is debated in the Assembly unless the Speaker is satisfied that the draft has been brought to the attention of the Minister.

#### *Resolution to dissolve or motion of no confidence*

15. Where a motion is to be moved under sections 10(2) or 19(4), provision ensuring that adequate notice of the motion (not being less than one week) is given to members of the Assembly.

## **SCHEDULE 3**

(Section 26 (3))

### **LEGISLATIVE MATTERS**

#### *Trade and Industry*

1.

- (1) Local licensing of professions, trades and business, Local marketing.
- (2) The *Weights and Measures Act* is not included.

#### *Cultural and Environment Matters*

2. Local crafts. Historical remains. Protection of wild creatures.

3. Coastal and lagoon shipping. Provision, maintenance and improvement of harbours, roads and bridges.

## *Finance*

### 4. Raising revenue by:

- (a) property tax;
- (b) fees for services performed or licences issued by or on behalf of the Provincial Executive (other than services performed or licences issued by them as agent of another); and
- (c) such other means as may be approved for the purposes of this paragraph by the Minister by order.

## *Agriculture and Fishing*

### 5. Animal husbandry. Management of agricultural land. Grants, loans and subsidies in respect of agricultural production.

5(a) Protection, improvement and maintenance of fresh-water and reef fisheries.

5(b) Regulation to provide for the management, development and sustainable use of fisheries in provincial waters, including:

- (i) the closure of areas for fishing;
- (ii) prohibiting fishing methods harmful to the fisheries, humans and the environment;
- (iii) regulating marine protected areas and marine managed areas, as defined in the *Fisheries Management Act 2015*;
- (iv) regulating the use of fisheries habitats, and ecosystems, including mangroves;
- (v) regulating the use of specified customary natural poisons indigenous to Solomon Islands for fishing in a specified area or areas of provincial waters, where it will not significantly impair the ecosystem of the area;
- (vi) regulating aquaculture activities as defined in the *Fisheries Management Act 2015*; and
- (vii) notwithstanding any other Act, prescribing penalties for offences against any Ordinance made under this Act or a regulation made under such Ordinance, not exceeding

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10,000 penalty units for an offence against a regulation or 50,000 penalty units for an offence against an Ordinance.

#### *Land and Land Use*

6. Codification and amendment of existing customary law about land. Registration of customary rights in respect of land including customary fishing rights. Physical planning except within a local planning area (within the meaning of the *Town and Country Planning Act* or an area to which Part IV of that Act has been applied.

#### *Local Matters*

7. Fire services and fire protection. Waste disposal and cleansing services. Resthouses, eating houses and similar places. Public conveniences. Vagrancy, Public nuisances. Cemeteries. Parks and recreation grounds. Markets. Keeping of domestic animals. Building Standards.

#### *Local Government*

8.

- (1) The constitution, area and general powers and duties of Area Councils and similar bodies, their revenue and expenditure.
- (2) The making of by-laws by such bodies, that is, laws:
  - (a) affecting only the area of responsibility of the body;
  - (b) not having effect until confirmed by the Provincial Executive; and
  - (c) not made for a purpose for which provision is made by, or is or may be made under, any other enactment.
- (3) To determine by resolution of the Provincial Assembly the salaries and allowances to be paid in respect of area councillors.

#### *Housing*

9. Housing. Regulation of rents.

#### *Rivers and Water*

10. Control and use of river waters, Pollution of water, Provision of water supplies (other than urban water supply in areas, prescribed by the Minister under the *Solomon Islands Water Authority Act*).

## *Liquor*

11. Liquor licensing.

### *Corporate or Statutory Bodies*

12. Establishment of corporate or statutory bodies for the providing of provincial services including economic activity.

*NOTE* References in this Schedule to any enactment include a reference to any order, rules or regulations made under it.

## **SCHEDULE 4**

Section 26(4)

### **STATUTORY FUNCTIONS**

#### **PART 1**

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

##### *Cultural and Environmental Matters*

*The Cinematograph Act*  
(Cap. 30)

The functions given to the Licensing Authority under that Act.

The functions given to the Minister under section 14 (making rules) except paragraph (f) (Board of Censors).

*The Wild Birds Protection Act* (Cap 89)

The functions given to the Minister under section 14 (Sanctuaries).

##### *Transport*

*Roads Act* (Cap. 17)

The functions given to the Minister under sections 3, 5, 27 and 29(b) to (f) and (so far as relating to those paragraphs) (g) of that Act.

*The Traffic Act* (Cap. 19)

The functions given to the highway authority under sections 68 and 69 of that Act (closure of roads and injury to bridges).

*The Light Dues and Harbours Act.*  
(Cap. 100)

The functions given to the Chief Marine Officer under section 5 of that Act (obstructions in harbours).

#### *Agricultural and Fishing*

*The Commodities Export Marketing Authority Act* (Act No. 5 of 1984)

The functions and powers conferred on the Authority under sections 11, 12, and 13 (relating to issue, renewal, revocation, and variation of the conditions of a licence to carry on any prescribed activity in a commodity other than export, including power to receive applications for issue, renewal, revocation and variation of the conditions of such licence, or to make any variation in those conditions, or to register such licence, or to permit temporary carrying on prescribed activity covered by a licence:

Provided that no function or power conferred under those sections shall be exercised except after consultation with the Authority. The function conferred on the Minister under section 32, to exempt a person or a class of persons from the provisions of section 11(1)(b); provided that no such function can be performed except after consultation with the Authority.

*The Trespass and Branding Act.*  
(Cap. 88)

The functions given to the Minister or the Under Secretary/Agriculture under that Act.

#### *Land and Land Use*

*The Land and Titles Act*  
(Cap. 93)

The functions given to the Minister under Division 2 of Part V of that Act

(compulsory acquisition of land) in relation to land required for the purposes of devolved functions.

#### *Rivers and Water*

*The River Waters Act*  
(Cap. 96)

The functions given to the Minister under that Act.

#### *Forestry*

*The Forest Resources and Timber Utilisation Act* (Cap 90)

The functions given to the Minister under Part IIA of the Act (approved timber agreements affecting customary land).

The functions given to the Minister and Part III (licensing of mills).

The functions given to the Minister under Part VI (control of forests to conserve water resources).

The functions given to the Minister under section 33 (regulations) so far as relating to Parts IIA, III and VI

#### *Public Holidays*

*The Public Holidays Act*  
(Cap. 35)

The functions given to the Governor-General under section 6 of that Act (appointment of special public holidays).

#### *Liquor*

*The Liquor Act*  
(Cap. 33)

The functions given to the Minister under section 16 of that Act (appointment of Liquor Licensing Board).

The functions given to the Minister under section 84 (closure of bars).

The functions given to the Minister under section 96 (power to alter fees and forms).

## **PART II**

### **CONCURRENT FUNCTIONS**

The functions included in Part I in respect of the following Acts:

*The Roads Act*

*The Traffic Act*

*The Public Holidays Act*

## **SCHEDULE 5**

(Section 33(3))

### **PROVINCIAL SERVICES**

#### *Trade and Industry*

Employment. Co-operatives. Local trades and industries.

#### *Cultural and Environmental Matters*

Museums, libraries, local languages, arts and crafts, sports and other cultural and recreative activities. Historical remains. Conservation of the environment.

#### *Transport*

Shipping and harbours. Road transport. Aerodromes.

#### *Agriculture and Fishing*

Agriculture. Fishing.

#### *Health*

Medical services. Public Health.

#### *Local Matters*

Matters included in paragraph 7 of Schedule 3. Welfare and other social services.

#### *Housing*



Housing

*Information*

Newspapers and other information services. Statistics.

*Forestry*

Forestry.

*Education*

Kindergartens, primary schools, provincial secondary schools and community education.

*Electricity*

Supply of electricity outside supply areas (within the meaning of the *Electricity Act*).

*Tourism*

Tourism

*Corporate or Statutory Bodies*

Matters included in paragraph 12 of Schedule 3.

## **SCHEDULE 6**

(Section 34(4))

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

The form of the annual estimates.

The method of authorising and making issues from the Provincial Fund.

The management and reallocation of funds within the amounts appropriated.

The provision of funds in advance of appropriation.

The use of bank accounts and the investment of moneys forming part of the Provincial Fund.

The making of advances.

The acceptance of deposits.

The creation and control of special funds.

The appointment and responsibilities of staff charged with accounting tasks.

The making of rules and regulations relating to financial management and to the procurement, safekeeping, accounting for and disposal of stores.



## ENDNOTES

### 1

#### KEY

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

### 2

#### LIST OF LEGISLATION

##### ***Provincial Government Act 1997 (No. 7 of 1997)***

|             |                                                                                                                                                                                                                                           |
|-------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Assent date | 19 December 1997                                                                                                                                                                                                                          |
| Gazetted    | 31 December 1997                                                                                                                                                                                                                          |
| Commenced   | Full Act – for Western, Choiseul, Guadalcanal, Makira, Malaita and Rennell Bellona: 31 December 1997; ss 2, 8, 18, 47 and 48 for Central, Isabel and Temotu on 31 December 1997; Rem for Central, Isabel and Temotu – on 10 January 1998* |

*[\*Note: The commencement date of 10 January 1998 for Central, Isabel and Temotu in respect of sections 2, 8, 18, 47 and 48, is validated by s71 of the Legislation Amendment, Repeal and Validation Act 2023]*

##### ***Provincial Government (Amendment) Act 2014 (No. 12 of 2014)***

|             |                   |
|-------------|-------------------|
| Assent date | 22 September 2014 |
| Gazetted    | 22 September 2014 |
| Commenced   | 22 September 2014 |

##### ***Fisheries Management Act 2015 (No. 2 of 2015)***

|           |             |
|-----------|-------------|
| Assent    | 8 May 2015  |
| Gazetted  | 8 May 2015* |
| Commenced | 8 May 2015* |

*[\*Note: the date of publication in the Gazette and the commencement date are validated by s4 of the Constitution (Amendment and Validation) Act 2023 and s31 of the Legislation Amendment, Repeal and Validation Act 2023]*

### **3**

### **LIST OF AMENDMENTS**

|       |                           |
|-------|---------------------------|
| s 9   | amd by Act No. 12 of 2014 |
| Sch 3 | amd by Act No. 2 of 2015  |