

# REPRINT

## PROVINCIAL GOVERNMENT ACT (CAP. 118)

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

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**AN ACT TO PROVIDE FOR PROVINCIAL GOVERNMENT IN SOLOMON ISLANDS**



## **PROVINCIAL GOVERNMENT ACT (CAP. 118)**

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# PROVINCIAL GOVERNMENT ACT (Cap. 118)

As in force at: 1 March 1996

## PART I PRELIMINARY

### 1 Short title and commencement

- (1) This Act may be cited as the *Provincial Government Act*.
- (2) This Part and sections 47 (2) and 48 shall come into force on the day on which this Act is published in the *Gazette*.
- (3) Subject to section 28(5):
  - (a) Parts II and III shall come into force throughout Solomon Islands on such day as the Minister may by order under this section appoint (in this Act referred to as “the first appointed day”); and
  - (b) the remaining provisions shall come into force in a province on such day as may be appointed under section 28(2) (in this Act referred to, in relation to a province, as “the second appointed day”).

### 2 Interpretation

Schedule 9 contains a glossary of terms; and in this Act unless the context otherwise requires any expression for which there is an entry in the first column of the Schedule:

- (a) has the meaning given against it in the second column; or
- (b) is to be construed in accordance with directions given against it in the second column.

## PART II PROVINCIAL GOVERNMENT

### *Establishment of Provinces*

### **3 Establishment of Provinces**

- (1) For the administration of provincial government on and after the first appointed day, 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 the Schedule.
- (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.
- (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 parts 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 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 (as defined in section 8(5)).
- (3) The Boundaries Commission may not on a review under section 4 recommend any change in the boundaries of Honiara.

## **6 Implementation of 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 New Provincial Assemblies*

## **7 Provincial Assemblies**

- (1) There shall be a Provincial Assembly in each province.
- (2) Subject to subsections (3) and (4), the elected members of a Provincial Assembly shall be returned for the electoral wards for the time being specified in an order made under section 8, and each ward shall (subject to the provisions of the order) return one member.
- (3) For the purposes of any election held in a province before an order is made for the province under section 8, the elected members shall be returned for the electoral wards which, on the first appointed day,

are electoral wards for the purposes of the *Local Government Act*, and each ward shall return one member.

- (4) Part I of Schedule 2 shall have effect to determine the persons who shall be the initial elected members of a Provincial Assembly, and to make transitional modifications of the *Local Government Act*.

## **8 Review of electoral arrangements**

- (1) As soon as practicable after the first appointed day the Boundaries Commission shall review the electoral arrangements for each province as a whole, and submit proposals for those arrangements to the Minister.
- (2) Where the Boundaries Commission have conducted an initial review of the electoral arrangements for a province, they may from time to time conduct further reviews of those arrangements or any part of them, and submit proposals to the Minister accordingly.
- (3) Where proposals are submitted to the Minister under this section he shall make an order giving effect to the proposals.
- (4) An order under this section shall be subject to negative resolution.
- (5) In this Part of this Act, “**electoral arrangements**” means, in relation to a province:
  - (a) the number of elected members of the Provincial Assembly;
  - (b) the number and boundaries of the electoral wards into which the province is divided for the purpose of the election of members of the Provincial Assembly;
  - (c) the number of members to be returned for any electoral ward; and
  - (d) the name of any electoral ward.

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

- (1) Subject to subsection (3), the first ordinary election of members of a Provincial Assembly shall, unless an election is held sooner under section 10(4), be held on the fourth anniversary of the date of the

last general election for the existing Provincial Assembly.

- (2) Subject to subsection (3), an ordinary election of members of a Provincial Assembly shall be held on the fourth anniversary of the date of the previous election of members (whether it was an ordinary election or an election under section 10(4)).
- (3) If the anniversary referred to in subsections (1) or (2) falls on an excluded day the election shall be held on the next subsequent day which is not an excluded day.
- (4) 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.
- (5) The term of office of any elected 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:
  - (a) shall not dissolve it earlier than three months after the second appointed day or on a Friday or Saturday but, subject to that,
  - (b) shall dissolve it 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 Provincial franchise**

- (1) Subject to the following provisions of this section, the persons entitled to vote at a Provincial Assembly election in any electoral ward are those who:
  - (a) are citizens of Solomon Islands;
  - (b) have attained the age of eighteen years;
  - (c) are ordinarily resident in the province; and
  - (d) are not disqualified from voting at the election under this or any other Act.
- (2) A person may not vote in any electoral ward unless registered in the register of Provincial Assembly electors to be used at the election.
- (3) A person may not vote more than once at a Provincial Assembly election.
- (4) A person is disqualified from voting at a Provincial Assembly election if he is not entitled to be registered as an elector for Parliament 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 provision 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.
- (4) Part II of Schedule 2 shall have effect in relation to a Provincial Assembly election held (whether under sections 9, 10 or 13 or paragraph 2 of the Schedule) before regulations are made for the province under this section.

### **13 By-elections**

- (1) Subject to subsection (3), where the seat of an elected 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 Appointed members**

- (1) A Provincial Assembly may by resolution appoint persons to membership of the Assembly, and the terms and conditions of their membership shall be such as may be specified in the resolution.
- (2) A person appointed under this section is referred to in this Act as an “appointed member”.
- (3) An appointment as member of a Provincial Assembly shall come to an end with the dissolution of the Assembly.

### **15 Qualification for membership of an Assembly**

Subject to the provisions of section 16, 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 ordinarily resident in the province.

**16 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 an 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 or appointment have the ground of disqualification removed.

## **17 Effect of disqualification**

- (1) Where a member of a Provincial Assembly is disqualified under section 16, 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.

## **18 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.

## **19 Subsidiary powers of Assemblies**

- (1) Subject to the provisions of this Act, a Provincial Assembly 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 discharge of any of its functions.
- (2) Any expenses incurred under this section shall be payable out of the Provincial Fund.

## **20 Transitional**

Part III of Schedule 2 (which contains transitional provisions) shall have effect.

## **21 The Provincial Executive**

- (1) Each Province shall have a Provincial Executive which shall consist of:
  - (a) a Premier elected in accordance with section 22(2);
  - (b) a Deputy Premier appointed in accordance with section 22(4); and
  - (c) such number of Provincial Ministers appointed by the Minister in accordance with the provisions of section 22(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 elected 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) where the motion is supported by an absolute majority of the members of the Assembly.
- (6) The Deputy Premier appointed pursuant to subsection (4) 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.

## **22 Choice of Provincial Ministers**

- (1) The Provincial Ministers shall be chosen from among the elected members of the Provincial Assembly.
- (2) The Premier shall be elected, by secret ballot, by an absolute majority of the elected 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.

**23 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 and Officers of Assembly*

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

- (1) Each Provincial Assembly shall elect:
  - (a) a Speaker to be 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*

## **25 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 3 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.

## **26 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*

**27        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) There may be paid to or in respect of the appointed members of a Provincial Assembly such travelling allowances or other allowances (including compensation for loss of remuneration time) as the Members of Parliament (Entitlements) Commission may determine.
- (5) Different provisions may be made under this section for different cases or provinces.
- (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 Orders*

#### **28            Devolution orders**

- (1) In respect of any province the Minister may, with the consent of the Provincial Executive, and after consultation with any other Minister having responsibility for a matter which is the subject of an order, make orders under this section (in this Act referred to as “devolution orders”).
- (2) The first devolution order in respect of each province shall:
- (a) appoint a day for the commencement of Parts IV and V and sections 44, 45, 47(1) and 49 in the province; and
  - (b) provide for the dissolution of the existing Provincial Assembly.
- (3) A devolution order in respect of a province may declare which of the matters included in Schedule 4 shall be within the legislative competence of the Provincial Assembly for the purposes of this Act.
- (4) A devolution order may bring into force in respect of a province any of the provisions of Schedule 5 (statutory functions).
- (5) The amendments specified in Part I of Schedule 8 shall have effect in a province on such day as may be appointed by devolution order; and different days may be appointed for different provisions.
- (6) A devolution order shall be subject to affirmative resolution.

#### **29            Transfer of property**

- (1) A devolution order may 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 in a province of devolved functions,

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

- (2) To the extent that a devolution order so provides, it 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.
- (3) 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.
- (4) 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.

### **30 Devolution orders: additional provisions**

A devolution order in respect of a province may include provision:

- (a) for any provision of the *Local Government Act* to cease to have effect in the province subject to such savings as may be specified in the order, and for the provisions so saved to have effect with such adaptations and modifications as may be required to bring them into conformity with the provisions of this Act;
- (b) for any function given to an existing Provincial Assembly to make by-laws to cease to have effect in the province, subject to such savings as may be specified in the order;
- (c) relating to the transfer of any property, rights, obligations or liabilities of the existing Provincial Assembly;
- (d) relating to the revenue and expenditure of the Provincial

Executive for the period beginning with the second appointed day and ending with the beginning of the financial year next following, including provision modifying the operation of Part V;

- (e) for treating anything done before the date on which the order comes into force by any authority in the exercise of functions which, on and after that date, become functions of some other authority as having from that date been duly done by that other authority;
- (f) relating to the transfer of the employment of any person employed by an existing Provincial Assembly (in this subsection referred to as “the old employer”) to the employment of the Provincial Assembly established by this Act or the Provincial Executive (in this paragraph referred to as “the new employer”), including provision for treating the period of employment with the old employer, and any period of employment with the new employer, as being, for the purposes of any enactment specified in the order, a continuous period of employment with the new employer, and otherwise for protecting the interests of persons whose employments are so transferred;
- (g) making such other consequential or supplementary provisions (including the amendment of any enactment passed or made before the passing of this Act) as appear to the Minister necessary or expedient in consequence of this Act or any devolution order.

#### *Agency Agreements*

### **31 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*

#### **32            Provincial Ordinances**

- (1) Subject to section 33, 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 34.
- (3) Subject to section 33 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 33, but excluding the definition of financial year in section 16(1);



(b) sections 39 to 60; and

(c) sections 63 to 68,

include a reference to an Ordinance of a Provincial Assembly.

- (8) Sections 61(1) and 62 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.

### **33      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 Schedules 5 or 8.
- (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.

### **34      Withholding assent from Ordinances**

- (1) Subsection (2) applies where the Minister is of the opinion that any provision of a proposed Ordinance of a 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*

## **35      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.

- (2) Where a function of a Provincial Executive is included in Part II of Schedule 5, it shall continue to be exercisable by the person to whom it is given as well as by the Provincial Executive.
- (3) The functions which, immediately before the second appointed day, are given to an existing Provincial Assembly, or the Clerk to the Assembly, by or under any enactment shall be exercisable by the Provincial Executive for the corresponding province established by this Act.
- (4) Subsection (3) does not apply to any function given by or under the *Local Government Act*.
- (5) 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 6; 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.
- (6) 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 39 of the *Central Bank of Solomon Islands Act*.

## **PART V            FINANCE**

### *Establishment and Management of Funds*

#### **36            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 7.

#### **37            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.

### **38 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 36(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 36(2).

### **39 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 31, 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 provision 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 considerations taken into account in preparing the order.

*Accounts and audit*

**40        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.

**41        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*

**42        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 purposes 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.

#### **43        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*

#### **44        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 Schedules 5 and 8 and the mention in Schedule 4 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.

#### **45 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.

#### **46 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 interests 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*

### **47 Amendments of enactments**

- (1) The enactments mentioned in Part II of Schedule 8 shall have effect subject to the amendments there specified.
- (2) The Minister may by order subject to affirmative resolution make such amendments in any enactment passed or made before the passing of this Act as appear to him necessary or expedient in consequence of this Act or any devolution order.

### **48 Subsidiary legislation**

- (1) This section (and not sections 61(1), 62 and 65(2) of the *Interpretation and General Provisions Act*) applies where, by any provision of this Act, power is conferred on the Minister to make any order or 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*.

#### **49 No crown immunity**

The functions of a Provincial Assembly, Provincial Executive or Premier of a province are not to be regarded as performed on behalf of the Crown.

## SCHEDULE 1

### PROVINCIAL BOUNDARIES

(Section 3)

<i>Province</i>	<i>Area</i>	<i>Existing Authority</i>
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 to the point Latitude 7° 43' 00"	Western Provincial Assembly

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 a point in Latitude 8° 20' 00" South thence by a line bearing due East to a point in Longitude 159° East thence by a 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 to the point of commencement.

Isabel

The islands comprised in the area bounded by a line commencing at a 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

Santa Isabel  
Provincial  
Assembly

direction to a point in Latitude 7° South and thence to the point of commencement.

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 in Latitude 10° 30' South thence along the common boundary with Central Province to a point in Longitude 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.	Guadalcanal Provincial Assembly
Malaita	The islands comprised in the area bounded by a	Malaita Provincial

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 a point in approximate Longitude 159° East and thence generally along that boundary to the point of commencement.

Assembly

Makira

The islands comprised in the area bounded by a line

Makira Ulawa Provincial

Ulawa	commencing at a point in Latitude 9° South Longitude 161° 50' East thence by a line bearing due East to a point in 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.	Assembly
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 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 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 to the point of commencement.	Choiseul Provincial Assembly
Rennell and Bellona	The islands comprised in the area bounded by longitude 159° East and	Rennell and Bellona Provincial

161° East and latitudes      Assembly  
10° 30' South and 13° 06'  
South.

## SCHEDULE 2

Section 7(4), 12(4) and 20

### TEMPORARY ARRANGEMENTS

#### PART I

*Initial Members of new Assemblies and  
modification of Local Government Act*

1. A person who on the first appointed day is:
  - (a) a member of an existing Provincial Assembly for any electoral ward, and
  - (b) is not disqualified for membership of the corresponding Provincial Assembly established by this Act (in this Part of this Schedule referred to as “the new Assembly”),shall be the elected member of the new Assembly for that ward, and his term of office shall begin on the first appointed day.
2. If, on the first appointed day, a member of an existing Provincial Assembly for any ward is disqualified for membership of the new Assembly, an election shall be held to fill the vacancy in that ward.
3. Notwithstanding anything in section 13, the date of an election under paragraph 2 shall be fixed by the Minister, and it shall not be later than three months after the disqualification has come to his notice.
4. Where, before the second appointed day, a person is returned as an elected member of a new Assembly for any ward

(whether under paragraph 2 or section 13) he shall, as from the day of his election and for all the purposes, take the seat in the existing Provincial Assembly of the member for that ward.

5. Where, before the second appointed day, a Provincial Executive has been formed in a province:
  - (a) the Premier shall discharge also the functions of the President of the existing Provincial Assembly; and
  - (b) a member of the Provincial Executive nominated by the Premier in that behalf shall discharge also the functions of the Vice-President of the existing Provincial Assembly; and
  - (c) the Provincial Executive shall discharge also the functions of the Executive Committee of the existing Provincial Assembly.
6. On the first appointed day, Part III of the *Local Government Act* (composition of Assemblies and elections) shall cease to have effect in relation to existing Provincial Assemblies.

## PART II

### *Transitional arrangements for Provincial Assembly elections*

7. The regulations made under the *Local Government Act* specified in paragraph 8 shall (notwithstanding anything in paragraph 6) apply in relation to a Provincial Assembly election as if they had been made under section 12 of this Act.
8. Those regulations are:
  - (a) in the Local Government (Elections) Regulations, regulations 6(b) and (c), 7, 8 (including the Schedule), 9 to 44, 46 to 63, 64 (including the Local Government (Election Petition) Rules made under it), 65 and, so far as relating to those regulations, regulation 2; and
  - (b) the Local Government (Registration of Voters) Regulations.
9. Those regulations shall apply in relation to a Provincial

Assembly election with such adaptations and modifications as may be required to bring the regulations into conformity with the provisions of this Act and, in particular:

- (a) references to existing Provincial Assemblies and their areas shall be construed as references to the Provincial Assemblies and the provinces established under this Act;
  - (b) references to the general revenue of an existing Provincial Assembly shall be construed, on and after the second appointed day, as references to the Provincial Fund of the corresponding province established under this Act; and
  - (c) references to any provision of the *Local Government Act* shall be construed as references to the corresponding provision of this Act.
10. The Minister may by order make such amendments of those regulations as are necessary or expedient in consequence of the preceding provisions of this Schedule and, in addition, the order may:
- (a) provide that the functions formerly conferred by the regulations on the High Commissioner shall be exercisable by the Minister;
  - (b) with the consent of the Provincial Executive, require candidates for election to deposit, in accordance with the provisions of the order, a sum of money of an amount specified in the order; and
  - (c) specify the latest time at which candidature for election may be withdrawn.
11. For the purposes of section 11(2) of this Act, the register of voters for the time being kept under the Local Government (Registration of Voters) Regulations in respect of a province shall be treated as the register of Provincial Assembly electors to be used at any Provincial Assembly election in the province.

### PART III

#### *Other Transitional Provisions*

12. Any expenses incurred by a Provincial Assembly or Provincial Executive before the second appointed day shall, notwithstanding anything in the *Local Government Act* or this Act, be paid out of the general fund of the existing Provincial Assembly.
13. (1) The first meeting of a Provincial Assembly shall be held on such day and at such time and place as may be determined by the existing Provincial Assembly.  
  
(2) That day shall fall within the period of one month beginning with the first appointed day.
14. No salary or allowance shall be payable to any person in respect of his membership of a Provincial Assembly or Provincial Executive for any period expiring on or before the second appointed day; and in this paragraph “**salary**” has the same meaning as in section 27.

### **SCHEDULE 3**

(Section 25)

#### **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 elected members may vote at any meeting of the Assembly or its committees.

#### *Quorum*

- 5. Quorum of 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. Provisions for proceedings of the Assembly and of any of its committees to be held in public, subject to any exceptions made by standing orders.

#### *Members 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 section 10(2) or 21(4), provision ensuring that adequate notice of the motion (not being less than one week) is given to members of the Assembly.

## **SCHEDULE 4**

(Section 28(3))

### **LEGISLATIVE MATTERS**

*Trade and Industry*

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

### *Cultural and Environmental Matters*

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

### *Transport*

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

### *Finance*

4. Raising revenue by:
  - (a) head tax;
  - (b) property tax;
  - (c) 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
  - (d) 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. Protection, improvement and maintenance of fresh-water and reef fisheries.

### *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 (development areas).

#### *Local Matters*

7. Fire services and fire protection. Waste disposal and cleansing services. Rest houses, 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 5**

Section 28(4)

### **STATUTORY FUNCTIONS**

#### **PART I**

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

*Cultural and Environmental Matters*

<i>The Cinematograph Act</i> (Cap. 137)	The functions given to the Licensing Authority under that Act.
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The functions given to the Minister under section 14 (making rules) except paragraph (f) (Board of Censors).

<i>The Wild Birds Protection Act</i> (Cap. 45)	The functions given to the Minister under section 14 (Sanctuaries).
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### *Transport*

- The Roads Act* (Cap. 129) 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. 131) The functions given to the highway authority under section 69 and 70 of that Act (closure of roads and injury to bridges).
- The Light Dues and Harbours Act* (Cap. 159) 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* (Cap. 36) 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 a 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, 1969 Revised Edition)

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

#### *Land and Land Use*

*The Land and Titles Act* (Cap. 133)

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. 135)

The functions given to the Minister under that Act.

#### *Forestry*

*The Forest Resources and Timber Utilisation Act* (Cap. 40)

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

The functions given to the Minister under Part IV (licensing of mills).

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

The functions given to the Minister under section 44 (regulations) so far as relating to Parts III, IV and VII

#### *Public Holidays*

*The Public Holidays Act*  
(Cap. 151)

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

*Liquor*

*The Liquor Act* (Cap. 144)

The functions given to the Minister under section 17 of that Act (appointment of Liquor Licensing Board).

The functions given to the Minister under section 82 (closure of bars).

The functions given to the Minister under section 94 (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 6

(Section 35(5))

### 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 4. 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 4.

## **SCHEDULE 7**

(Section 36(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.

## **SCHEDULE 8**

(Sections 28(5) & 47(1))

### **AMENDMENTS OF ENACTMENTS**

#### **PART I**

#### **AMENDMENTS TO BE BROUGHT INTO FORCE BY DEVOLUTION ORDER**

##### *Transport*

1. At the end of section 5 of the *Ports Act* (power to appoint ports) insert:  
  
“(3) No order may be made under this section without the consent of the Provincial Executive for the province in which the place concerned is situated.”
2.
  - (1) In section 2 of the *Roads Act*, at the end of the definition of “Director” insert “and includes, in relation to any area of a province, any person to whom the Provincial Executive has assigned the functions conferred by this Act on the Director.”

- (2) Section 4 of that Act (power to vest control of roads in local authority) is repealed.
- (3) In section 5 of that Act (power to close roads, etc.), after “Government” insert “or, as the case may be, the Provincial Executive”.
- (4) In section 16(1) of that Act, leave out “at Honiara”.
- (5) In section 28(1) of that Act (no liability for condition of road), after “Government” insert “or a Provincial Executive” and for “either” substitute “any of them”.

### *Agriculture and Fishing*

- 3. In section 2 of the *Fisheries Act* in the definition of “**authorised officer**”, after “vessel” insert “any provincial government officer declared by the Provincial Executive to be an authorised officer for the purposes of this Act”.

### *Land and Land Use*

- 4. In section 13 of the *Town and Country Planning Act* (orders controlling development), in subsection (2), omit “either” and, in paragraph (b), for “or” substitute “and”
- 5.
  - (1) In section 75 of the *Land and Titles Act* (effect of declaration that land is required for public purpose) after “Government” insert “or, in the case of a declaration by a Provincial Executive, for and on behalf of the Provincial Executive”.
  - (2) In section 78 of that Act (alteration of register) after “Government” in paragraphs (a) and (b) insert “or, as the case may be, the Provincial Executive”.
  - (3) In section 82 of that Act (temporary occupation of land) for “benefit of the people of Solomon Islands” substitute “public benefit”

- (4) At the end of Part V of that Act insert:

“Expenses incurred by  
Commissioner on behalf  
of Provincial Executive

85A. Any expenses incurred by  
the Commissioner under this  
Part in respect of land acquired,  
or occupied and used, for  
devolved functions (within the  
meaning of the *Provincial  
Government Act*) shall be  
charged on the Provincial  
Fund.”.

### *Rivers and Water*

6.

- (1) In section 3 of the *River Waters Act* (appointment and powers of inspectors) for subsection (1) substitute:

“(1) A Provincial Executive may, in respect of their province, appoint any person to be an inspector for the purposes of this Act.”

- (2) In that Act, for “Government” (whether it appears) substitute “Provincial Executive” and, in section 17(5), for “Consolidated Fund” substitute “Provincial Fund”.

### PART II\*

\* Omitted as the amendments and modifications set out in this Part have been embodied in the relevant enactments.

### GENERAL AMENDMENTS

## SCHEDULE 9

(Section 2)

## GLOSSARY

<i>Expression</i>	<i>Meaning</i>
Accounts Committee	See paragraph 9 of Schedule 3.
Affirmative Resolution	See section 48(5).
Appointed Member	See section 14(3).
Appropriation Ordinance	See section 36(2).
Devolution order	See section 28.
Devolved function	In relation to a province means:  (a) a matter which is within the legislative competence of a Provincial Assembly; and  (b) a function which, by or under this or any other enactment, is a function of the Provincial Executive.
Existing Provincial Assembly	A Provincial Assembly established under the <i>Local Government Act</i> , except Honiara.
Financial Management Ordinance	See section 36(4).
Financial year	The twelve months ending with 31 March.
First appointed day	See section 1(3)(a).
Honiara	The area known as Honiara the boundaries of which are delineated on plan 1981 deposited in the office of the

	Surveyor General.
Legislative competence	See section 28(3).
Minister	When used anywhere in the Act means the Minister given the responsibility of administering that part of the Act in which the expression occurs.
Negative resolution	See section 48(3)
Ordinance	See section 32.
Ordinary election	An election held under section 9(1) or (2).
Premier	See section 21(1).
Province	See section 3.
Provincial Assembly	See section 7(1).
Provincial Executive	See section 21.
Provincial Fund	See section 36(1).
Provincial government officer	Has the same meaning as in the <i>Constitution</i> .
Public officer	Has the same meaning as in the <i>Constitution</i> .
Second appointed day	See section 1(3)(b).
Speaker	See section 24(1).

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

### 2

#### LIST OF LEGISLATION

##### ***Provincial Government Act (Cap. 118)***

<i>Constituent legislation:</i>	7 of 1981 (Part 1: 29 January 1982 (ss 47(2) and 48); Parts II and III: 1 February 1982 (First Appointed Day*); rem: on different days in respect of each province) *Vide LN 7/1982
	5 of 1984
	5 of 1986
	3 of 1991
	4 of 1991
	9 of 1991
	2 of 1992
	8 of 1992
	16 of 1992
	3 of 1995
	6 of 1995

##### ***Repealed by Provincial Government Act 1996 (No. 3 of 1996)***

Assent date	11 September 1996
Gazetted	Unknown
Commenced	16 September 1996 (LN 93/96) – s. 68; 20 September 1996 (LN 96/96) – Pts I, II, III & IV & ss 60 and 66 in respect of Central, Isabel and Temotu Provinces;

30 December 1996 (LN 1/97) – Pts I, II, III, V & ss 66 & 68  
in respect of Choiseul, Guadalcanal, Makira Ulawa, Malaita,  
Rennell and Bellona; and Western Provinces;

30 December 1996 (LN 2/97) – Pts IV, VI, VII and VIII for  
Central, Isabel and Temotu Provinces;

27 Jan 1997 (LN 13/97) – entire Act

### **3**

## **LIST OF AMENDMENTS**