

# REPRINT

## **SOLOMON ISLANDS TERTIARY EDUCATION AND SKILLS AUTHORITY ACT 2017**

**As in force at: 23 September 2019**

**STATUS: HISTORICAL**

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

**AN ACT TO PROVIDE FOR THE ESTABLISHMENT AND OPERATION OF  
THE SOLOMON ISLANDS TERTIARY EDUCATION AND SKILLS  
AUTHORITY AND FOR RELATED PURPOSES.**

# **SOLOMON ISLANDS TERTIARY EDUCATION AND SKILLS AUTHORITY ACT 2017**

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# SOLOMON ISLANDS TERTIARY EDUCATION AND SKILLS AUTHORITY ACT 2017

As in force at: 23 September 2019

## PART 1 PRELIMINARY MATTERS

### 1 Short title

This Act may be cited as the *Solomon Islands Tertiary Education and Skills Authority Act 2016*.

### 2 Commencement

This Act commences on the day appointed by the Minister by *Gazette* notice.

### 3 Interpretation

(1) In this Act:

**“*accredited tertiary course*”** means a tertiary course accredited under Part 3 Division 2;

**“*Authority*”** means the Solomon Islands Tertiary Education and Skills Authority established under Part 2 or the governing body of that Authority;

**“*Authority member*”** means a member of the governing body of the Authority;

**“*chairperson*”** means the chairperson of the Authority designated under section 10;

**“*chief executive*”** means the chief executive of the Authority appointed under section 14;

**“*deputy chairperson*”** means the deputy chairperson of the Authority designated under section 10;

**“*higher education*”** means tertiary education and skills

development comprised of:

- (a) education and training for a degree or a tertiary qualification that may only be awarded to a person with a degree; or
- (b) an accredited tertiary course for some other tertiary qualification classified under the Solomon Islands Qualifications Framework as higher education;

**“provisional condition of registration”**—see section 35(5);

**“Quality Standards”** means the standards adopted by the Authority under Part 3 Division 1;

**“registered provider”** means a person registered under Part 3 Division 3 as a provider of an accredited tertiary course;

*Note—Under section 16 of the Interpretation and General Provisions Act (Cap. 85) “person” includes any public body, company or association, and any body of persons corporate or unincorporate.*

**“registration”** as a provider includes registration as a provider subject to a provisional condition;

**“scope of provider’s registration”**—see section 35(2);

**“skills development”** means tertiary education and skills development comprised of:

- (a) education and training for a tertiary qualification (other than a degree or other tertiary qualification that may only be awarded to a person with a degree) principally for developing particular skills for work; and
- (b) an accredited tertiary course classified under the Solomon Islands Qualifications Framework as skills development;

**“Solomon Islands Qualifications Framework”** means the framework adopted by the Authority under Part 3 Division 1;

**“Solomon Islands Tertiary Education and Skills Plan”** means the plan prepared by the Authority and approved by the Minister under section 46;

**“tertiary course”** means all of the components of tertiary education and skills development that must be satisfactorily completed to obtain a particular tertiary qualification;

**“tertiary education and skills development”** means education and training that counts towards a tertiary qualification;

**“tertiary qualification”** means a certificate, diploma, degree, doctorate or other document that certifies satisfactory completion of a tertiary course to which the Solomon Islands Qualifications Framework could apply.

(2) Notes in this Act do not form part of the Act.

#### **4 Act binds Crown**

This Act binds the Crown.

#### **5 Objects of Act**

The objects of this Act are, through the establishment and operation of the Solomon Islands Tertiary Education and Skills Authority:

- (a) to recognise the importance of planning for tertiary education and skills development as part of national planning for the benefit of the economy and community of Solomon Islands; and
- (b) to improve the contribution made by tertiary education and skills development to meeting the needs of local, regional and international labour markets; and
- (c) to encourage investment in tertiary education and skills development by both the public and private sectors; and
- (d) to improve the provision of tertiary education and skills development; and
- (e) to improve the employment prospects of persons with tertiary qualifications obtained in Solomon Islands through recognition of those qualifications outside Solomon Islands; and
- (f) to improve participation in, and promote fair and equitable access to, tertiary education and skills development; and

- (g) to improve accountability for funding for scholarships for tertiary courses and for providing or improving tertiary education and skills development.

## **PART 2                    SOLOMON ISLANDS TERTIARY EDUCATION AND SKILLS AUTHORITY**

### **Division 1            Status and functions**

#### **6                    Establishment**

- (1) The Solomon Islands Tertiary Education and Skills Authority is established.
- (2) The Authority is a body corporate with perpetual succession.

*Note—See Part VII of the Interpretation and General Provisions Act (Cap. 85). Section 39 provides for a seal of the body corporate.*

#### **7                    Functions**

- (1) The Authority has the following functions:
  - (a) to identify priorities and plan for the role of tertiary education and skills development in:
    - (i) meeting current and future needs of local, regional and international labour markets in both the public and private sectors; and
    - (ii) contributing to national planning for the benefit of the economy and community of Solomon Islands; and
  - (b) to monitor and evaluate the contribution made by tertiary education and skills development to the economy and community of Solomon Islands; and
  - (c) to develop and implement strategies:
    - (i) to improve the resources available for tertiary education and skills development and the efficient use of those resources; and



- (ii) to increase participation in, and promote fair and equitable access to, tertiary education and skills development; and
- (d) to provide for quality assurance of tertiary education and skills development and the relationships between tertiary courses and tertiary qualifications by performing the functions assigned to it under Part 3 for:
  - (i) preparation and adoption of the Solomon Islands Qualifications Framework, Quality Standards and supporting policies; and
  - (ii) accreditation of tertiary courses; and
  - (iii) registration of providers of accredited tertiary courses; and
- (e) to promote recognition of tertiary qualifications obtained in Solomon Islands in the region and internationally; and
- (f) to perform the functions assigned to it under Part 4 for:
  - (i) preparation and annual review of the Solomon Islands Tertiary Education and Skills Plan; and
  - (ii) assessment of applications and proposals in accordance with that plan; and
  - (iii) monitoring the use of funding provided in accordance with that plan; and
- (g) to conduct research, and publish statistical or other information, about:
  - (i) the public and private enterprises involved in providing tertiary courses; or
  - (ii) the levels of participation in, and access to, tertiary courses; or
  - (iii) the achievements of participants in tertiary courses; or

- (iv) the relationships between different tertiary courses and the extent to which prior learning is or should be recognised; or
- (v) any other matter relating to tertiary education and skills development; and
- (h) to participate, at the request of the Minister, in the formulation of policy about apprenticeships; and
- (i) to provide advice to the Minister, at the request of the Minister or on the Authority's own initiative, on any matter relating to tertiary education and skills development; and
- (j) any other functions assigned to the Authority under this Act or the regulations or under any other Act.
- (2) In performing its functions, the Authority must have regard to the objects of this Act.

## **8 Directions by Minister**

- (1) The Authority is subject to the directions of the Minister.
- (2) However, the Minister:
  - (a) may not give a direction about:
    - (i) the adoption of the Solomon Islands Qualifications Framework, Quality Standards or supporting policies; or
    - (ii) the accreditation of a particular tertiary course or the registration of a particular provider; or
    - (iii) the assessment of an application or proposal for funding in accordance with the Solomon Islands Tertiary Education and Skills Plan; or
    - (iv) any advice or report that the Authority is to give to the Minister; and
  - (b) must consult with the Authority before giving it a direction; and

- (c) must, within 12 sitting days after giving a direction, cause a copy of the direction to be tabled before Parliament.

## **Division 2      Governing body**

### **9      Members**

- (1) The governing body of the Authority is to consist of not less than 9 and not more than 11 members appointed by the Governor-General by *Gazette* notice.
- (2) The members must include at least:
  - (a) 1 person selected by the Minister from a panel of persons nominated by the Solomon Islands Chamber of Commerce and Industry; and
  - (b) 2 persons involved in commercial enterprise in the private sector for which skills development is important; and
  - (c) 1 person involved in the governance or management of an association that represents the interests of a profession; and
  - (d) 1 person with knowledge or experience of the provision of higher education; and
  - (e) 1 person with knowledge or experience of the provision of skills development; and
  - (f) 1 person selected by the Minister from a panel of persons nominated by the Permanent Secretary of the Ministry responsible for education; and
  - (g) 1 person selected by the Minister from a panel of persons nominated by the Permanent Secretary of the Ministry responsible for aid coordination and planning; and
  - (h) 1 person selected by the Minister from a panel of persons nominated by the Permanent Secretary of the Ministry responsible for labour matters.
- (3) However, a person is not eligible to be a member of the governing body of the Authority if the person is:

- (a) a member of Parliament or a Provincial Assembly; or
  - (b) a member of a local government council established under section 3 of the *Local Government Act* (Cap. 117) or the Honiara City Council established by section 4 of the *Honiara City Act 1999*; or
  - (c) a member of the executive of a political party registered under section 25 of the *Political Parties Integrity Act 2014*; or
  - (d) a person who has been convicted:
    - (i) in Solomon Islands, of an offence carrying a potential penalty of at least 6 months imprisonment; or
    - (ii) outside Solomon Islands, of an offence that would be an offence carrying a potential penalty of at least 6 months imprisonment if committed in Solomon Islands; or
  - (e) a person who the Leadership Code Commission has determined has engaged in misconduct in office in relation to conduct engaged in within the previous 5 years.
- (4) At least 1 member nominated to a panel must be a woman and 1 a man.
  - (5) At least 3 members of the governing body of the Authority must be women and 3 men.
  - (6) The Governor-General may appoint a person to be a deputy of a member and a person so appointed may act as a member of the Authority in the absence of the member.
  - (7) The requirements of qualification and nomination for the appointment of a member extend to the appointment of a deputy of that member.
  - (8) If a person or body fails to make a nomination within a period specified by the Minister, the Governor-General may appoint a person nominated by the Minister and the person so appointed will be taken to have been appointed after due nomination under this section.

## **10 Chairperson and deputy chairperson**

- (1) The Governor-General must designate 1 of the members appointed under section 9(2)(a), (b) or (c) to be the chairperson of the Authority and 1 of those members to be the deputy chairperson.
- (2) The deputy chairperson has all the functions and powers of the chairperson at any time the chairperson is unable to perform those functions or exercise those powers.

## **11 Duration of appointment**

- (1) Subject to this Act, an Authority member holds office for 2 years or a shorter period specified in the instrument of appointment.
- (2) An Authority member may be reappointed on the expiration of a term of office.
- (3) When the Authority is first established under this Act, the Governor-General is to appoint the chairperson and up to 5 other Authority members for a first term of appointment of 3 years.

## **12 Vacation of office**

- (1) A person ceases to be an Authority member if the person:
  - (a) dies; or
  - (b) resigns by written notice to the Governor-General as provided for by section 41(2) of the *Interpretation and General Provisions Act* (Cap. 85); or
  - (c) ceases to be eligible to be an Authority member (see section 9(3)); or
  - (d) is removed from office by the Governor-General under subsection (2).
- (2) The Governor-General may remove an Authority member from office by *Gazette* notice:
  - (a) on the ground of physical or mental inability to satisfactorily perform the duties of the office; or

- (b) if the Governor-General is satisfied the member has failed to comply with section 22 or has engaged in serious misconduct while in office; or
  - (c) at the request of the Authority on the grounds that the member has been absent, without leave of the Authority, from 3 or more consecutive meetings (the first of which was held 3 months or more before the last).
- (3) A person appointed to fill a casual vacancy holds office for the balance of the term of office of that person's predecessor.

*Note—Under section 40 of the Interpretation and General Provisions Act (Cap. 85), an act or decision of the Authority is not invalid by reason only of a vacancy or vacancies in the membership of the body, or a defect or irregularity in connection with the appointment of one, or more than one, member of the body, or an irregularity in the convening of a meeting of the body.*

### **13 Allowances and reimbursement of expenses**

An Authority member is not entitled to remuneration but may receive an allowance for attending meetings, or a travelling or subsistence allowance, or be reimbursed expenses, on a basis determined by the Minister.

## **Division 3 Staff**

### **14 Chief executive**

- (1) The Public Service Commission must appoint a person to be chief executive of the Authority.
- (2) The Public Service Commission must obtain the concurrence of the Minister before making the appointment.
- (3) The chief executive:
  - (a) must be a person who has sufficient experience in management to manage the operations of the Authority effectively; and
  - (b) is a public officer subject to the directions of the Authority.
- (4) The chief executive has the following functions:

- (a) to manage the day to day operations of the Authority, including:
    - (i) managing its staff members; and
    - (ii) managing its accounts and financial records; and
    - (iii) organising meetings of the Authority; and
    - (iv) ensuring proper records are kept of the operations of the Authority; and
  - (b) to perform other functions assigned to the chief executive under this Act or the regulations or any other Act.
- (5) The chief executive may delegate to a staff member of the Authority (including a person for the time being performing particular duties or holding or acting in a particular position) a function or power under this or any other Act (except a function or power specified in the regulations).
- (6) A delegation:
- (a) must be by instrument in writing; and
  - (b) may be absolute or conditional; and
  - (c) does not derogate from the power of the chief executive to act in a matter; and
  - (d) is revocable at will.
- (7) A delegated function or power may not be further delegated.

## **15 Staff**

- (1) The Minister and the Public Service Commission must ensure the Authority is provided with the staff necessary to enable it to properly perform its functions.
- (2) The staff members of the Authority are public officers subject to the directions of the chief executive in the performance of their functions.
- (3) An Authority member has no direct authority over a member of the

staff of the Authority with respect to the way in which the staff member performs official functions.

*Note—However, the chief executive is responsible to the Authority for the performance of the chief executive's functions and other staff are responsible, through the chief executive, to the Authority for the performance of their functions.*

## **Division 4        Procedures**

### **16        General rule**

Subject to this Act, the Authority may determine its own procedures.

### **17        Meetings**

The chairperson may convene a meeting of the Authority at any time, but must convene a meeting at least once each month.

### **18        Quorum at meetings**

A quorum for a meeting of the Authority is:

- (a)  $\frac{1}{2}$  of the total number of Authority members (ignoring any fraction resulting from the division) plus 1; or
- (b) if some other number of members is specified as a quorum in the regulations—that number of members.

### **19        Presiding member at meetings**

A meeting of the Authority must be presided over by:

- (a) the chairperson; or
- (b) in the absence of the chairperson—the deputy chairperson; or
- (c) in the absence of the chairperson and the deputy chairperson—another member elected by the members present.

### **20        Decisions at meetings**

- (1) Subject to subsection (2), a question arising for decision at a meeting of the Authority is to be decided by consensus, with the person

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presiding at the meeting announcing the decision at the time.

- (2) A question is to be decided by a majority of the votes cast in a secret ballot (or, if the regulations so allow, by some other means such as a show of hands) by the members present at the meeting and entitled to vote on the question if:
  - (a) members at a meeting decide to put a question to a vote; or
  - (b) at least 2 members present at a meeting do not agree that the decision announced was the decision of the meeting and immediately ask that the question be put to a vote.
- (3) If a question is put to a vote:
  - (a) each member present at the meeting has 1 vote; and
  - (b) the person presiding at the meeting has a deliberative vote on the question and, in the event of an equality of votes, has a casting vote.

## **21 Minutes of meetings**

The Authority must keep accurate and detailed minutes of its meetings, including a record of all its decisions.

## **22 Disclosure of interests generally**

- (1) Each Authority member must give the chairperson and the chief executive a copy of all disclosures made to the Leadership Code Commission under Part II of the *Leadership Code (Further Provisions) Act 1999*.
- (2) The chief executive must keep a register of all disclosures by Authority members under this section.

## **23 Disclosure of interest in matter being considered**

- (1) This section applies if an Authority member has a personal interest in a matter being considered, or about to be considered, by the Authority.
- (2) The member must disclose the following to the other members as

soon as practicable after the relevant facts come to the member's knowledge:

- (a) the nature and extent of the interest;
  - (b) how the interest relates to the matter being considered, or about to be considered, by the Authority.
- (3) If the relevant facts come to the member's knowledge at a time when the Authority is not meeting, the member must:
- (a) make the disclosure mentioned in subsection (2) by written notice to each other member; and
  - (b) table a copy of the notice at the next meeting of the Authority.
- (4) The disclosure must be recorded in the minutes of the meeting at which, or before which, the disclosure is made.
- (5) The member need not disclose an interest if the interest is an interest shared with the public generally or a substantial section of the public or with persons or bodies of the kind by reason of which the member was nominated or selected for appointment.
- (6) For this section, a member has a personal interest in a matter if the member:
- (a) has a direct or indirect financial interest in the matter; or
  - (b) has a personal, professional, commercial or other relationship with a person and the nature of the relationship is likely to, or may reasonably be regarded as likely to, inhibit or prevent the member from exercising independent judgment about the matter.

## **24 Effect of personal interest**

- (1) If an Authority member has a personal interest in a matter that is required to be disclosed under section 23:
- (a) the member must not take part in any deliberation or decision of the Authority about the matter; and

- (b) the member must, unless the regulations provide otherwise, be disregarded for the purpose of constituting the quorum of the Authority for the deliberation or decision.
- (2) However, a failure by the member to disclose the interest in the matter does not, on its own, invalidate any decision of the Authority about the matter.

## **25 Higher education, skills development and other committees**

- (1) The Authority must establish a higher education committee to provide advice and make recommendations to the Authority about:
  - (a) accreditation of tertiary courses of higher education; and
  - (b) registration of providers of tertiary courses of higher education.
- (2) The Authority must establish a skills development committee to provide advice and make recommendations to the Authority about:
  - (a) accreditation of tertiary courses of skills development; and
  - (b) registration of providers of tertiary courses of skills development.
- (3) The Authority may:
  - (a) assign other functions to the higher education committee or skills development committee; and
  - (b) delegate functions or powers to the higher education committee or skills development committee.
- (4) The Authority may establish other committees:
  - (a) to inquire into and report on matters within the ambit of the functions of the Authority; or
  - (b) to provide advice to the Authority; or
  - (c) to otherwise assist the Authority in the performance of its functions; or

- (d) to perform functions or exercise powers delegated by the Authority.
- (5) The membership of a committee is to be determined by the Authority.
- (6) A committee may include persons who are not members of the Authority except if it is to perform functions or exercise powers delegated to it by the Authority.
- (7) A delegation by the Authority to a committee:
  - (a) must be by instrument in writing; and
  - (b) may be absolute or conditional; and
  - (c) does not derogate from the power of the Authority to act in a matter; and
  - (d) is revocable at will.
- (8) A delegated function or power may not be further delegated.
- (9) The Authority must appoint a person as the presiding member of a committee, or make provision for the appointment of a presiding member by the committee.
- (10) The Authority may remove a member from a committee, or alter the membership of a committee, as it considers appropriate.
- (11) The Authority must, when establishing a committee, determine the reporting and other accountability requirements that are to apply in relation to the committee.
- (12) Sections 23 and 24 apply to committee members in the same way as they apply to Authority members as if the committee were the Authority and any committee members who are not Authority members were Authority members.
- (13) Subject to this Act and any directions of the Authority, a committee may determine its own procedures.

*Note—Under section 40 of the Interpretation and General Provisions Act (Cap. 85), an act or decision of a committee is not invalid by reason only of a vacancy or*

*vacancies in the membership of the committee, or a defect or irregularity in connection with the appointment of one, or more than one, member of the committee, or an irregularity in the convening of a meeting of the committee.*

## **26        Delegation by Authority to chief executive**

- (1) The Authority may delegate functions or powers to the chief executive (except a function or power specified in the regulations).
- (2) A delegation by the Authority to the chief executive:
  - (a) must be by instrument in writing; and
  - (b) may be absolute or conditional; and
  - (c) does not derogate from the power of the Authority to act in a matter; and
  - (d) is revocable at will.
- (3) A delegated function or power may not be further delegated, except as allowed in the instrument of delegation.

## **Division 5        Business plans and reports**

### **27        Annual business plan and budget**

- (1) The Authority must, on or before 30 September in each year, submit to the Minister for approval a business plan and budget for the next financial year.
- (2) The business plan must include:
  - (a) a statement of the objectives of the Authority, and the principal activities that the Authority intends to undertake to achieve its objectives during the financial year; and
  - (b) an assessment of the financial requirements of the Authority for the financial year and a summary of its proposed operating expenditure, capital expenditure and sources of revenue having regard to those requirements; and
  - (c) any other matter required by the Minister or by regulation.

- (3) The budget must:
  - (a) be prepared in accordance with any requirements of the Minister responsible for finance; and
  - (b) be submitted to the Minister for approval in conjunction with the Authority's annual plan; and
  - (c) be approved after the annual plan is approved.
- (4) The Minister may approve an annual business plan and budget submitted under this section with or without modification.
- (5) If an annual business plan is not approved by the Minister (with or without modification) before the commencement of the financial year to which it relates, the Authority may proceed as if it were approved (but is bound by any modifications subsequently required by the Minister).
- (6) The Authority must not, without the consent of the Minister, make any expenditure that is not authorised by an approved budget.
- (7) The Authority may, at any time, and must, if the regulations so require, submit a variation of its annual business plan or budget to the Minister for the Minister's approval (and the variation may be approved with or without modification).

## **28 Annual report**

- (1) The Authority must, before 31 March in each year, prepare and give to the Minister a report on the performance of the Authority's functions during the preceding financial year.
- (2) The report must include:
  - (a) a report on the operations of the Authority during the financial year, including:
    - (i) details of the performance of its functions under Part 3, including:
      - (A) the accreditation of tertiary courses during the year; and

- (B) the cancellation of the accreditation of tertiary courses during the year; and
  - (C) the registration of providers during the year; and
  - (D) the suspension or cancellation of the registration of providers during the year; and
- (ii) details of the performance of its functions under Part 4, including:
  - (A) the assessment of applications and proposals for scholarships and funding during the year; and
  - (B) any action taken for the termination of funding during the year; and
- (iii) details of research conducted, material published, advice provided or other activities undertaken in the performance of its other functions during the year; and
- (b) the Authority's accounts for the financial year, as prepared in accordance with the requirements of the *Public Financial Management Act 2013*.
- (3) The Minister must table a copy of the report in Parliament within 12 sitting days after the Minister receives it.

## **PART 3                    TERTIARY EDUCATION AND SKILLS DEVELOPMENT**

### **Division 1            Quality assurance framework**

#### **29                    Adoption of framework, standards and policies**

- (1) The Authority must prepare and adopt:
  - (a) a Solomon Islands Qualifications Framework that sets out criteria for:
    - (i) classification of the level of an accredited tertiary course; and

- (ii) the tertiary qualification that may be awarded for an accredited tertiary course of a specified level; and
  - (iii) the relationships between the various levels of tertiary courses and tertiary qualifications; and
- (b) Quality Standards that set out the requirements that must be met by:
  - (i) accredited tertiary courses; and
  - (ii) registered providers of accredited tertiary courses.
- (2) The Authority may prepare and adopt policies that support the application of the framework and standards.
 

*Note—For example, supporting policies may be adopted governing:*

  - *recognition of prior learning;*
  - *the names of accredited tertiary courses and their tertiary qualifications;*
  - *the form of the award of a tertiary qualification for an accredited tertiary course.*
- (3) The Authority must cause a *Gazette* notice to be published specifying:
  - (a) the date of adoption of the framework and standards (which must not be earlier than the date of publication of the notice); and
  - (b) how a copy of the framework, standards and any supporting policies may be inspected or obtained.

### **30 Contents of framework, standards and policies**

- (1) The Solomon Islands Qualifications Framework, Quality Standards and any supporting policies must be designed with the object of aligning tertiary qualifications obtained in Solomon Islands with comparable regional and international qualifications, as far as is reasonably practicable.
- (2) Without limiting the matters that may be included in the Quality Standards:
  - (a) the requirements for accreditation of a tertiary course may



include requirements relating to:

- (i) identifying the purpose of the course and its intended outcomes in terms of knowledge, skills and competencies; and
  - (ii) consultation with interested private and public sector enterprises about the course; and
  - (iii) the acceptance of the course by any relevant licensing, regulatory, professional, industry or other body; and
  - (iv) identifying the appropriate level of the course and the appropriate tertiary qualification for the course; and
  - (v) the form of the award of the tertiary qualification for satisfactory completion of the course; and
  - (vi) identifying requirements and professional standards for a person engaged to deliver the course or the facilities, equipment or materials used in the delivery of the course; and
  - (vii) ensuring that entry requirements for the course are inclusive and reasonable for the complexity of the course; and
  - (viii) identifying any requirements for work place experience during the course and ensuring the health and safety of participants; and
  - (ix) identifying appropriate assessment and reporting procedures for the course; and
  - (x) identifying how the course relates to other courses and the relative value of the course, or components of the course, as recognised prior learning; and
  - (xi) monitoring and evaluating the course; and
- (b) the requirements for registration of a provider of an accredited tertiary course may include requirements relating to:

- (i) the governance structure of the provider; and
  - (ii) the financial and organisational capacity of the provider; and
  - (iii) planning, delivery and review of tertiary courses; and
  - (iv) persons who are engaged to deliver tertiary courses; and
  - (v) facilities, equipment or materials available for the delivery of tertiary courses; and
  - (vi) services available to persons undertaking tertiary courses; and
  - (vii) assessment and moderation procedures; and
  - (viii) reporting procedures.
- (3) The requirements for accreditation of a tertiary course may differ according to the level of the course, whether it is a course of higher education or skills development or any other factor.
  - (4) The requirements for registration of a provider may differ according to the level of the accredited tertiary courses the provider offers, whether the provider offers accredited tertiary courses of higher education or skills development or any other factor.

### **31 Review and modification of framework, standards and policies**

- (1) The Authority may review and modify the Solomon Islands Qualifications Framework, Quality Standards and supporting policies as the Authority considers appropriate.
- (2) If the framework or a standard is modified, the Authority must cause a *Gazette* notice to be published specifying:
  - (a) the date of the modification of the framework or standard (which must not be earlier than the date of publication of the notice); and
  - (b) how a copy of the framework or standard, and any relevant supporting policy, as in force following the modification may be

inspected or obtained.

- (3) If the framework, a standard or a supporting policy is modified, the Authority must ensure that a version of the framework, standard or policy as in force before the modification is kept in a safe place for future reference in proceedings if required.

## **Division 2            Accreditation of tertiary courses**

### **32            Accreditation of tertiary courses**

- (1) The Authority may, on application or on its own initiative, accredit a tertiary course, or renew the accreditation of a tertiary course.

*Note—The applicant may, for example, be an industry body, a registered provider, an applicant for registration as a provider, or a public sector body.*

- (2) Accreditation of a tertiary course must:
  - (a) specify the level of the course; and
  - (b) specify the qualification for the course; and
  - (c) specify the purpose of the course; and
  - (d) describe the components of the course on the basis of which it is accredited; and
  - (e) comply with any other requirements of the regulations.
- (3) In determining whether to accredit or renew the accreditation of a tertiary course and in determining the terms of accreditation, the Authority:
  - (a) must apply the Solomon Islands Qualifications Framework and Quality Standards, taking into account any supporting policies; and
  - (b) may take into account accreditation or recognition of the course or a similar course in a place outside Solomon Islands.
- (4) The Authority must give a person who makes an application under this section written notice of its decision on the application and the applicant's right to seek review of the decision under this Act.

- (5) No applications for accreditation may be made until after the date of adoption of the Solomon Islands Qualifications Framework and Quality Standards.

### **33 Duration and renewal of accreditation**

- (1) Subject to this Act, accreditation of a tertiary course remains in force for the period specified in the accreditation on its grant or renewal.
- (2) The period must not exceed 5 years (or, if some other period is specified in the regulations, that period).
- (3) The Authority may, if the Authority thinks fit and on payment of a late application fee fixed by the regulations, renew an accreditation despite the fact that application for renewal of the accreditation was made after the end of the previous term of the accreditation.
- (4) Accreditation has effect, on grant or renewal, from the date specified in the accreditation for that purpose, which may be earlier than the date of application for the grant or renewal of the accreditation.

### **34 Variation or cancellation of accreditation**

- (1) The Authority may, on application by a registered provider of an accredited tertiary course, vary the terms of the accreditation of the tertiary course, or cancel the accreditation of the tertiary course.
- (2) The Authority must give a person who makes an application under this section written notice of its decision on the application and the applicant's right to seek review of the decision under this Act.
- (3) The Authority may, on its own initiative, make an order varying the terms of the accreditation of a tertiary course if satisfied that it is necessary or desirable to do so to ensure the course and its tertiary qualification is classified in accordance with the Solomon Islands Qualifications Framework, meets the requirements set out in the Quality Standards (taking into account any supporting policies) and continues to suit its purpose.
- (4) The Authority may, on its own initiative, make an order cancelling the accreditation of a tertiary course if satisfied that:

- (a) there are no registered providers of the course and it is unlikely that there will be a registered provider of the course in the foreseeable future; or
  - (b) the classification of the course or its tertiary qualification is not in accordance with the Solomon Islands Qualifications Framework or the course does not meet the requirements set out in the Quality Standards (taking into account any supporting policies); or
  - (c) the course no longer suits its purpose.
- (5) Before making an order under this section (other than at the request or with the consent of the only registered provider of the tertiary course), the Authority must give each registered provider of the accredited tertiary course written notice:
- (a) setting out the proposed action and the reasons for it; and
  - (b) inviting the provider to provide a written response before a specified date.
- (6) An order may be expressed not to have effect until a specified future time, or to have effect at a specified future time unless a specified condition is fulfilled.
- (7) The Authority must give written notice of the making of an order under this section to each registered provider of the accredited tertiary course to which the order relates, setting out the right of the registered provider to seek review of the decision to make the order.

### **Division 3            Registration of providers of accredited tertiary courses**

#### **35            Registration of providers (including on provisional condition)**

- (1) The Authority may, on application, register, or renew the registration of, a person as a provider of an accredited tertiary course.
- (2) Registration must specify the accredited tertiary courses for which the provider is registered (the ***“scope of the provider’s registration”***).

- (3) In determining whether to register or renew the registration of a person as a provider of an accredited tertiary course and the scope of the provider's registration, the Authority:
  - (a) must apply the Solomon Islands Qualifications Framework and Quality Standards, taking into account any supporting policies; and
  - (b) may take into account registration or recognition of the person as a provider of tertiary education and skills development in a place outside Solomon Islands.
- (4) However, the Authority may register or renew the registration of a person as a provider with a specified scope of registration on a provisional basis, if the Authority:
  - (a) is not satisfied that the applicant meets the Quality Standards for registration as a provider, taking into account the proposed scope of registration of the provider and any supporting policies; but
  - (b) is satisfied that the applicant is committed to meeting those standards within a reasonable period and has made, or will make, arrangements to that end.
- (5) Registration on a provisional basis means that the registration is subject to a condition (a **"provisional condition"**) that the registered provider must use its best endeavours to ensure that the provider meets the Quality Standards for registration as a provider within a reasonable period.
- (6) The Authority must give a person who makes an application under this section written notice of its decision on the application and the applicant's right to seek review of the decision under this Act
- (7) No applications for registration may be made until after the date of adoption of the Solomon Islands Qualifications Framework and Quality Standards.

## **36 Duration and renewal of registration**

- (1) Subject to this Act, registration of a provider remains in force for the

period specified in the registration on its grant or renewal.

- (2) The period must not exceed 5 years (or, if some other period is specified in the regulations, that period).
- (3) The Authority may, if the Authority thinks fit and on payment of a late application fee fixed by the regulations, renew a registration despite the fact that application for renewal of the registration was made after the end of the previous term of the registration.
- (4) Registration has effect, on grant or renewal, from the date specified in the registration for that purpose, which may be earlier than the date of application for the grant or renewal of the registration.

### **37 Annual registration fee and return**

- (1) Before registration is granted to an applicant, the applicant must pay to the Authority the registration fee fixed by the regulations, being a fee payable in advance for the period from the grant of the registration until the date on which an annual fee first becomes payable under this section.
- (2) A registered provider must:
  - (a) lodge with the Authority, before 1 February (or, if another date is specified in the regulations, that date) in each year, a return containing the information required by the Authority by written notice; and
  - (b) pay to the Authority, before 1 February (or, if another date is specified in the regulations, that date) in each year, the annual fee fixed by the regulations.
- (3) If a registered provider fails to lodge a return or pay an annual fee in accordance with this section, the Authority may, by written notice, require the provider to make good the default and, in addition, to pay to the Authority the amount fixed by the regulations as a penalty for default.
- (4) An annual fee (including a penalty for default) payable under this section is recoverable by the Authority as a debt due to the Authority.

### **38 Auditing of registered providers**

- (1) The Authority may conduct an audit of the operations of a registered provider, including the provision of accredited tertiary courses by the provider, against the relevant requirements set out in the Solomon Islands Qualifications Framework and Quality Standards, taking into account any supporting policies.
- (2) A registered provider must provide information and assistance to the Authority as reasonably required for the conduct of an audit.
- (3) The Authority may require a registered provider to pay an amount for an audit of the provider's operations fixed by, or calculated as set out in, the regulations.
- (4) An amount payable under this section is recoverable by the Authority as a debt due to the Authority.

### **39 Variation, suspension or cancellation of registration**

- (1) The Authority may, on application by the registered provider or on its own initiative, vary the scope of a provider's registration to accurately reflect the accredited tertiary courses offered by the provider.
- (2) The Authority may, on application by a registered provider whose registration is subject to a provisional condition or on its own initiative, remove the provisional condition if satisfied that the provider meets the Quality Standards, taking into account the provider's scope of registration and any supporting policies.
- (3) The Authority may, on its own initiative, impose a provisional condition on the registration of a provider if satisfied that:
  - (a) the provider no longer meets the Quality Standards, taking into account the provider's scope of registration and any supporting policies; but
  - (b) the person is committed to meeting those standards within a reasonable period and has made, or will make, arrangements to that end.
- (4) The Authority may, on application by a registered provider, cancel



the registration of the provider.

- (5) The Authority may, on its own initiative, suspend or cancel the registration of a registered provider if satisfied that the provider:
  - (a) has ceased to provide any accredited tertiary course; or
  - (b) has acted outside the scope of the provider's registration; or
  - (c) does not meet the Quality Standards, taking into account the provider's scope of registration and any supporting policies, and is not committed to meeting those standards within a reasonable period or has not and is unlikely to make arrangements to do so; or
  - (d) has not paid fees or charges as required by this Act; or
  - (e) has hindered or obstructed the conduct of an audit of its operations under this Act.
- (6) The imposition of a provisional condition on a provider's registration, or the suspension or cancellation of a provider's registration may be expressed not to have effect until a specified future time, or to have effect at a specified future time unless a specified condition is fulfilled.
- (7) A period of suspension may not exceed 1 year.
- (8) Before taking action against a registered provider under this section on its own initiative, the Authority must give the provider written notice:
  - (a) setting out the proposed action and the reasons for it; and
  - (b) inviting the provider to provide a written response before a specified date.
- (9) The Authority must give a person who makes an application under this section written notice of its decision on the application and the applicant's right to seek review of the decision under this Act.
- (10) The Authority must give a person against whom a decision is made under this section written notice of the decision and the person's right to seek review of the decision under this Act.

## **Division 4            Review**

### **40            Internal review**

- (1) The following applications may be made to the Authority for a review of a decision under this Act:
  - (a) an applicant for accreditation or renewal of accreditation of a tertiary course may apply for review of a decision of the Authority refusing to grant or renew the accreditation or as to the terms of the accreditation;
  - (b) a registered provider of an accredited tertiary course may apply for review of a decision of the Authority affecting the terms of the accreditation of the tertiary course or cancelling the accreditation of the tertiary course;
  - (c) an applicant for registration or renewal of registration as a provider may apply for review of a decision of the Authority refusing to grant or renew the registration or as to the imposition of a provisional condition of registration;
  - (d) a registered provider may apply for review of a decision of the Authority affecting the provider's scope of registration or suspending or cancelling the provider's registration or refusing to remove or imposing a provisional condition of registration.
- (2) An application for review must be made within 14 days after service of notice of the decision on the person or such longer period as the Authority allows.
- (3) An application for review does not affect the operation of the decision to which the application relates unless the Authority makes an order staying or otherwise affecting the operation of the decision.
- (4) The Authority must consider any relevant information submitted by the applicant for review.
- (5) The Authority may, on a review of a decision:
  - (a) affirm the decision; or
  - (b) rescind the decision; or

- (c) substitute the decision with a decision that the Authority considers appropriate.
- (6) The Authority must give the applicant written notice of the decision on the review and the reasons for the decision.

#### **41 Review by Minister**

- (1) An applicant for review of a decision of the Authority under section 40 may apply to the Minister for a review of the decision of the Authority on the review.
- (2) An application for review must be made within 14 days after service of notice of the decision on the person or such longer period as the Minister allows.
- (3) An application for review does not affect the operation of the decision to which the application relates unless the Minister makes an order staying or otherwise affecting the operation of the decision.
- (4) The Minister may establish a committee to make a recommendation to the Minister on a review.
- (5) The Minister, or, if a committee is established to make a recommendation, the committee, must consider any submissions of the applicant and the Authority before making a decision on a review.
- (6) The Minister may, on a review of a decision of the Authority:
  - (a) affirm the decision; or
  - (b) rescind the decision; or
  - (c) substitute the decision with a decision that the Minister considers appropriate.
- (7) The Minister must give the applicant written notice of the decision on the review.

## **Division 5        Offences**

### **42        Person other than registered provider providing accredited tertiary course**

A person commits an offence if the person:

- (a) provides, or purports or offers to provide, an accredited tertiary course or a component of an accredited tertiary course or awards, or purports or offers to award, a tertiary qualification for an accredited tertiary course; and
- (b) the person is not a registered provider or the tertiary course is not within the scope of the provider's registration.

Maximum penalty:

- (a) for a body corporate—250,000 penalty units;
- (b) for an individual—50,000 penalty units.

### **43        Holding out as registered provider**

- (1) A person commits an offence if the person:

- (a) purports to be a registered provider; and
- (b) the person is not registered under this Act as a provider of an accredited course.

Maximum penalty:

- (a) for a body corporate—250,000 penalty units;
- (b) for an individual—50,000 penalty units.

- (2) A registered provider whose registration is subject to a provisional condition commits an offence if the provider purports to be a registered provider whose registration is not subject to a provisional condition.

Maximum penalty:

- (a) for a body corporate—250,000 penalty units;
- (b) for an individual—50,000 penalty units.

## **Division 6          General provisions**

### **44          Applications**

- (1) An application under this Part must:
  - (a) conform to the requirements of the Authority about its form, contents, material that must accompany it and the manner in which it is made; and
  - (b) be accompanied by the fee (if any) fixed by the regulations.
- (2) An applicant must provide the Authority with any information or evidence reasonably required for the determination of the application.
- (3) The Authority may refuse to determine an application if the information or evidence is not provided.

### **45          Public list of accredited tertiary courses and registered providers**

- (1) The Authority must keep a list of:
  - (a) accredited tertiary courses; and
  - (b) registered providers.
- (2) The list must contain the following details:
  - (a) for each accredited tertiary course:
    - (i) the classification under the Solomon Islands Qualifications Framework of the level of the course and the tertiary qualification for the course; and
    - (ii) the purpose of the course; and
    - (iii) the components of the course on the basis of which it is

- accredited; and
  - (iv) the period of accreditation; and
  - (v) if the accreditation is cancelled—a statement of that fact and the reasons for the cancellation;
- (b) for each registered provider:
- (i) the provider's name; and
  - (ii) the scope of the provider's registration; and
  - (iii) the period of registration; and
  - (iv) whether or not the registration is subject to a provisional condition; and
  - (v) if the registration is suspended or cancelled—a statement of that fact and the reasons for the suspension or cancellation.
- (3) The Authority:
- (a) may include other information in the list as it considers appropriate; and
  - (b) must keep the list up to date; and
  - (c) must ensure that the list is available for inspection free of charge at the office of the Authority during normal business hours; and
  - (d) may publish the list as it considers appropriate, including by publishing it on a website of the Authority.

## **PART 4                    SCHOLARSHIPS AND FUNDING**

### **46                    Solomon Islands Tertiary Education and Skills Plan**

- (1) The Authority must prepare a plan setting out principles and procedures for the allocation of government and other funds for:

- (a) scholarships for tertiary courses undertaken in or outside Solomon Islands; and
  - (b) providing or improving tertiary education and skills development in Solomon Islands.
- (2) Funding for the provision or improvement of tertiary education and skills development in Solomon Islands may include funding for any of the following purposes:
  - (a) to establish a body to provide tertiary education and skills development;
  - (b) to establish a tertiary course;
  - (c) to pay a person to deliver a tertiary course;
  - (d) to develop, provide or improve a course of professional development for persons who deliver tertiary education and skills development;
  - (e) to develop, provide or improve facilities, equipment or materials for the delivery of tertiary education and skills development;
  - (f) to conduct research about tertiary education and skills development.
- (3) The plan must be reviewed annually, in particular:
  - (a) to take account of the amount allocated by the Government for the next financial year; and
  - (b) to set priorities for the next financial year.
- (4) The priorities for scholarships must be set by specifying the total places available for scholarships by country, course, duration of study and qualification level.
- (5) The plan:
  - (a) must be prepared and reviewed taking into account relevant government policy; and

- (b) must, following its preparation and each review, be submitted to the Minister for approval.
- (6) The Minister may approve the plan, or the plan as reviewed, with or without modifications.
- (7) For scholarships for tertiary courses undertaken in or outside Solomon Islands, the plan must:
  - (a) set out a process for the making of applications for scholarships; and
  - (b) set out objective criteria for the assessment of applications, which may, without limitation, include criteria relating to:
    - (i) the provider of the tertiary course; and
    - (ii) the tertiary course; and
    - (iii) the extent to which the tertiary course addresses the needs of local, regional or international labour markets; and
    - (iv) work placements that may be available to the recipient in conjunction with the tertiary course; and
    - (v) the merits of the proposed recipient; and
  - (c) set out any conditions for the provision or continuation of a scholarship, which may, without limitation, include conditions requiring the recipient:
    - (i) to make satisfactory progress in the tertiary course; and
    - (ii) to enter a bond or contract to work for a specified period for a specified person on completion of the tertiary course; and
    - (iii) to repay amounts paid for a tertiary course undertaken outside Solomon Islands if the recipient fails to return to Solomon Islands on completion of the course for a specified period; and



- (d) establish a complaints and review process for persons whose scholarships are proposed to be terminated or against whom adverse findings have been made that may lead to termination of a scholarship or a requirement to repay an amount.
- (8) For funding for the provision or improvement of tertiary education and skills development in Solomon Islands, the plan must:
- (a) establish a process for the making of proposals for funding; and
  - (b) set out objective criteria for the assessment of proposals for funding, which may, without limitation, include criteria relating to:
    - (i) the extent to which the proposal for funding is designed:
      - (A) to improve the contribution made by tertiary education and skills development to meeting the needs of local, regional and international labour markets; and
      - (B) to improve the provision of tertiary education and skills development; and
      - (C) to improve participation in, and promote fair and equitable access to, tertiary education and skills development; and
    - (ii) the past performance of a person proposed to be a recipient of funding in relation to providing or improving tertiary education and skills development; and
  - (c) set out any conditions for the provision or continuation of funding, which may, without limitation, include conditions requiring the recipient:
    - (i) to monitor and evaluate the way in which funds are used; and
    - (ii) to keep records; and
    - (iii) to make regular reports to the Authority or a nominated person; and

- (iv) to enter into an agreement with the Authority or the Minister.

(9) A reference in this section to a tertiary course includes:

- (a) a reference to a course designed to prepare a person to undertake a tertiary course (commonly referred to as a bridging or foundation course); and
- (b) a tertiary course undertaken outside Solomon Islands.

## **47 Implementation of plan**

(1) The Authority has the following functions:

- (a) to receive and assess applications and proposals for scholarships and funding in accordance with the Solomon Islands Tertiary Education and Skills Plan; and
- (b) to monitor the progress of recipients of scholarships for tertiary courses and assess whether termination of a scholarship may be appropriate; and
- (c) to monitor the use of funds by recipients for providing or improving tertiary education and skills development and assess whether termination of funding may be appropriate.

(2) The Authority must, as required by the Minister, make regular reports to the Minister or the Minister responsible for finance about the performance of its functions under this section.

## **PART 5 MISCELLANEOUS POWERS OF AUTHORITY**

### **48 Information gathering powers**

- (1) The Authority may, by written notice, require a registered provider to record and provide information to the Authority about:
- (a) the provider; or
  - (b) the tertiary courses offered by the provider; or
  - (c) the persons who deliver tertiary courses for the provider; or

- (d) the facilities, equipment and materials used to deliver tertiary courses for the provider; or
  - (e) the participants in tertiary courses or components of tertiary courses provided by the provider and their results; or
  - (f) the tertiary qualifications awarded by the provider; or
  - (g) other matters as reasonably required for the administration of this Act.
- (2) Information required under a notice must be recorded and provided in the manner and form, and within the period, specified in the notice.
- (3) A person commits an offence if:
- (a) a notice is given to the person under this section and the notice warns the person that refusal or failure to comply with the notice may be an offence; and
  - (b) the person, without reasonable excuse, refuses or fails to comply with the notice.

Maximum penalty:

- (a) for a body corporate—150,000 penalty units;
- (b) for an individual—30,000 penalty units.

#### **49 Authority may issue public warnings**

- (1) The Authority may, if satisfied that it is in the public interest to do so, make a public statement identifying and giving warnings or information about:
- (a) tertiary education and skills development that, in the opinion of the Authority, is being delivered or offered in a manner that is unsatisfactory and persons who provide or offer to provide such tertiary education and skills development; or
  - (b) any other matter that adversely affects or may adversely affect the interests of persons in connection with tertiary education and skills development.

- (2) The statement may identify particular tertiary education and skills development and particular providers of tertiary education and skills development.
- (3) Neither the Authority nor the Crown incurs liability for a statement made by the Authority in good faith in the exercise or purported exercise of powers under this section.
- (4) A person incurs no liability for publishing in good faith a statement made by the Authority under this section or a fair report or summary of such a statement.

## **PART 6 MISCELLANEOUS MATTERS**

### **50 Offence—false or misleading statements**

A person commits an offence if the person makes a statement that is false or misleading in a material particular (whether by reason of the inclusion or omission of a particular) in information provided, or records kept, under this Act or the regulations.

Maximum penalty:

- (a) if the person makes the statement knowing it to be false or misleading:
  - (i) for a body corporate—250,000 penalty units;
  - (ii) for an individual—50,000 penalty units or imprisonment for 6 months, or both.
- (b) in any other case:
  - (i) for a body corporate—150,000 penalty units;
  - (ii) for an individual—30,000 penalty units.

### **51 Offence—confidentiality of information**

- (1) A person commits an offence if the person:
  - (a) obtains personal, financial or commercially sensitive information while performing a function or exercising a power

as any of the following:

- (i) an Authority member;
  - (ii) a member of a committee of the Authority;
  - (iii) the chief executive of the Authority;
  - (iv) a staff member of the Authority; and
- (b) engages in conduct that results in the disclosure of the information.

Maximum penalty: 30,000 penalty units.

- (2) Subsection (1) does not apply if the person discloses the information:
- (a) for the performance of the person's functions or the exercise of the person's powers; or
  - (b) for the administration of this Act; or
  - (c) with the consent of the person to whom the information relates; or
  - (d) for legal proceedings arising out of the operation of this Act.

## **52 Evidentiary certificate**

In proceedings, a certificate signed by the chairperson or chief executive of the Authority certifying as to a matter relating to any of the following constitutes proof, in the absence of proof to the contrary, of the matter so certified:

- (a) the Solomon Islands Qualifications Framework, Quality Standards, or supporting policies, as adopted by the Authority;
- (b) the terms of accreditation of a tertiary course;
- (c) whether a person is registered as a provider;
- (d) whether a provider's registration is subject to a provisional condition;

- (e) the scope of registration of a registered provider;
- (f) the Solomon Islands Tertiary Education and Skills Plan, as approved by the Minister;
- (g) a decision of the Authority under this Act;
- (h) the giving of a notice by the Authority under this Act;
- (i) whether information has or has not been received by the Authority under this Act.

### **53 Protection from liability**

A person is not civilly or criminally liable for an act done or omitted to be done by the person in good faith in the performance of a function or exercise of a power as:

- (a) an Authority member; or
- (b) a member of a committee of the Authority; or
- (c) the chief executive of the Authority; or
- (d) a staff member of the Authority.

### **54 Exclusion of tertiary education and skills development from Education Act**

The *Education Act* (Cap. 69) does not apply to tertiary education and skills development and for the purposes of that Act:

- (a) a place is not a school by reason only of the fact that tertiary education and skills development is provided at the place; and
- (b) a person is not a teacher by reason only of the fact that the person is a teacher of tertiary education and skills development.

### **55 Regulations**

The Minister may make regulations under this Act.

## 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	

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### LIST OF LEGISLATION

***Solomon Islands Tertiary Education and Skills Authority Act 2017 (No. 7 of 2017)***

Assent date	17 March 2017
Gazetted	24 March 2017
Commenced	23 September 2019

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### LIST OF AMENDMENTS