Table of Contents

1: The Constitutional and Court Framework

1 The Constitutional Framework of Solomon Islands

- 1.1 The *Constitution* of Solomon Islands
- 1.2 The Branches of Government in Solomon Islands

2 The Solomon Islands' Court System

- 2.1 General Characteristics of the Court System
- 2.2 Jurisdiction
- 2.3 The Structure of the Solomon Islands Court System
- 2.4 A Brief Description of the Courts
- 2.5 Traditional Dispute Resolution

2: The Law

1 The Law

- 1.1 Sources of Law for Solomon Islands
- 1.2 The Constitution
- 1.3 Statute Law
- 1.4 Customary Law
- 1.5 Common Law

2 Criminal Law and Fundamental Human Rights

3: Judicial Conduct

1 Ethical Principles

- 1.1 "Well and Truly Serve"
- 1.2 "Do Right"
- 1.3 "All Manner of People"
- 1.4 "After the Laws and Usages of Solomon Islands"
- 1.5 "Without Fear or Favour, Affection or Ill Will"

2 Conduct in Court

- 2.1 Preparing for a Case
- 2.2 Principle that Affected Parties have the Right to be Heard
- 2.3 Courtroom Conduct
- 2.4 Maintaining the Dignity of the Court
- 2.5 Communication in Court

4: The Magistrates' Courts

- 1 Introduction
- 2 Governing Legislation
- 3 Composition of the Court
 - 3.1 Magistrates
 - 3.2 Clerk of the Court
 - 3.3 Other Officers of the Court
- 4 Jurisdiction
 - 4.1 Territorial Jurisdiction
 - 4.2 Criminal Jurisdiction
 - 4.3 Civil Jurisdiction
 - 4.4 No Jurisdiction
 - 4.5 General Powers

5: Criminal Jurisdiction

- 1 Introduction
- 2 Criminal Jurisdiction of the Magistrates' Courts
 - 2.1 Table of Criminal Jurisdiction under the *Penal Code*
 - 2.2 Table of Jurisdiction under the *Traffic Act*
 - 2.3 Table of Jurisdiction under the *Traffic Regulations*

6: Criminal Responsibility

- 1 Introduction
- 2 Rules Relating to the *Mens Rea* of an Offence and to Involuntary Acts
 - 2.1 Ignorance of the Law: *s7 Penal Code*
 - 2.2 Bona-fide Claim of Right: s8 Penal Code
 - 2.3 Intention, Involuntary Acts and Accident: s9 Penal Code
 - 2.4 Mistake of Fact: s10 Penal Code
 - 2.5 Insanity: s11 Penal Code
 - 2.6 Intoxication: s13 Penal Code
 - 2.7 Immature Age: s14 Penal Code
- 3 Rules Relating to Excuses or Special Circumstances
 - 3.1 Compulsion (or Duress): s16 Penal Code
 - 3.2 Defence of Person or Property: *s17 Penal Code*
- 4 Parties
 - 4.1 Principal Offenders and Accessories: s21 Penal Code
 - 4.2 Prosecution of a Common Purpose: *s22 Penal Code*
 - 4.3 Accessories After the Fact: ss386 387 Penal Code
 - 4.4 Conspiracy: ss383-385 Penal Code

7: Evidence

- 1 Introduction
- 2 Classification of Evidence
 - 2.1 Classification by Form
 - 2.2 Classification by Content
- 3 Documentary Evidence
- 4 Real Evidence
- 5 Exhibits
- 6 Oral Evidence
- 7 Evidentiary Issues Relating to Witness Testimony
 - 7.1 Competence and Compellability of Witnesses
 - 7.2 Examination of Witnesses
 - 7.3 Leading Questions
 - 7.4 Refreshing Memory
 - 7.5 Lies
 - 7.6 Corroboration
 - 7.7 Hostile Witnesses
 - 7.8 The Warning to a Witness against Self Incrimination
 - 7.9 Identification Evidence by Witnesses
- 8 Rules of Evidence
 - 8.1 Introduction
 - 8.2 Burden and Standard of Proof
 - 8.3 Judicial Notice
 - 8.4 Admissibility of Evidence
 - 8.5 Best Evidence Rule
 - 8.6 Hearsay Rule
 - 8.7 Opinion Evidence
 - 8.8 Character Evidence

8: Management of Proceedings

- 1 General Organisation for Court
- 2 Keeping the Court Record
- 3 Order of Calling Cases
- 4 Disclosure
- 5 Adjournments
- **6** The Mentally Ill Accused

7 Cultural Knowledge

- 8 Victims
 - 8.1 Checklist
 - 8.2 Judicial Language and Comment
 - 8.3 Victims of Sexual Offences
- 9 Child Witnesses
- 10 Unrepresented Accused
- 11 Disruption and Misbehaviour
- 12 Case Management

9: Pre-Trial Matters and First Appearance

- 1 The Criminal Process
- 2 How a Case Comes to the Magistrate's Court
- 3 Process up to First Appearance
 - 3.1 Personal Interest
 - 3.2 Validity of the Charge
 - 3.3 Joined Charges
 - 3.4 Joined Accused
 - 3.5 Summons for Attendance
 - 3.6 Transferring the Case

4 First Appearance

- 4.1 General
- 4.2 Non-Appearance by the Accused
- 4.3 Indictable Offences
- 4.4 Summary Offences
- 4.5 Reconciliation
- 4.6 Unrepresented Accused
- 4.7 Arraignment
- 4.8 Plea
- 4.9 Guilty Plea Next Steps
- 4.10 Not Guilty Plea Next Steps
- 4.11 Adjournments
- 4.12 Accused is a Corporation

10: Bail

- 1 Jurisdiction
- 2 Relevant Factors
- 3 Information to Support Bail Grounds
- 4 Bail Procedure
- 5 Conditions
- **6 Young Persons**
- 7 Bail Judgment
- 8 Bail Remarks

11: Defended Hearings

- 1 Introduction
 - 1.1 Role of Prosecution
 - 1.2 Defence Counsel
- 2 Proving an Offence
 - 2.1 Innocent until Proved Guilty
 - 2.2 Burden and Standard of Proof
- 3 Defended Hearing Procedure
- 4 Minor Offences Procedure
- 5 Non-Appearance
 - 5.1 Accused Does Not Appear
 - 5.2 Prosecution Does Not Appear
 - 5.3 Witness Does Not Appear
- **6** Amending the Charge
- 7 Withdrawal of Complaint
- 8 Adjournments

12: Judgment

- 1 A Structured Approach to Defended Criminal Cases
- 2 Note Taking
- 3 Delivering your Judgment
 - 3.1 Judgment Format

13: Sentencing

- 1 Introduction
- 2 Jurisdiction
- 3 Sentencing Principles
- 4 Sentencing Discretion
- 5 A Structured Approach to Sentencing
 - 5.1 The Tariff
 - 5.2 The Starting Point
 - 5.3 Aggravating and Mitigating Factors
 - 5.4 Scaling to the Appropriate Sentence
 - 5.5 Totality Principle
- **6 Sentencing Checklist**
- 7 Sentencing Format
- **8** Types of Sentence
 - 8.1 Imprisonment
 - 8.2 Fines
 - 8.3 Compensation
 - 8.4 Suspended Sentences
 - 8.5 Suspended Sentence Supervision Order
 - 8.6 Security for Keeping the Peace
 - 8.7 Absolute and Condition Discharges
 - 8.8 Police Supervision
 - 8.9 General Punishment for Misdemeanours
 - 8.10 Obligation to Inform of Right of Appeal
 - 8.11 Further Sentencing Information

14: Appeals and Revisions

- 1 Appeals from the Magistrate's Court
 - 1.1 Introduction
 - 1.2 Appeals by Petition: *s283 CPC*
 - 1.3 Procedure for Appeal by Petition
 - 1.4 Appeals by Cases Stated
- 2 Appeals to the Magistrate's Court
- 3 Revision by the High Court
 - 3.1 Monthly List of Criminal Cases
 - 3.2 Action to be Taken by a Judge
 - 3.3 Limits to Revision
- 4 Revision by the Magistrate's Court

15: Preliminary Inquiries

- 1 Introduction
- 2 Role of the Magistrate
- 3 Forms of Preliminary Inquiry
 - 3.1 The Short Form Preliminary Inquiry Process: ss211, 215, 216 CPC
 - 3.2 The Long Form Preliminary Inquiry Process: ss212, 215, 216 CPC
- 4 Whether or Not There is a Case to Answer
- 5 The Form of the Decision
 - 5.1 Discharging the Defendant: *s217 CPC*
 - 5.2 Committing the Defendant for Trial
 - 5.3 Summary Adjudication
- 6 Adjournments
- 7 Taking Depositions of Dangerously Ill Persons

16: Juvenile Offenders

- 1 Introduction
- 2 Who is a Juvenile?
- 3 A Separate Court
 - 3.1 The Media
- 4 Pre-Trial Matters
 - 4.1 Recognisance
 - 4.2 Committing for Trial
- 5 Procedure in Juvenile Courts
 - 5.1 Accepting a Plea
 - 5.2 Defended Hearing
- 6 Sentencing of Juvenile Offenders
 - 6.1 Pre-sentencing Matters
 - 6.2 Sentencing Options
 - 6.3 Diversion
 - 6.4 Restorative Justice
 - 6.5 Payment of Fines by Parents or Guardians
 - 6.6 Special Considerations Regarding Detention of Juveniles
 - 6.7 Grave Crimes
 - 6.8 Selecting a Place of Detention

17: Offences

Unlawful Assembly – *s73 Penal Code*

Going Armed in Public – s83 Penal Code

Advertisements for Stolen Property – s119 Penal Code

Bribe or Attempt to Bribe – s122 Penal Code

Resisting Arrest and Escape – s125 Penal Code

Indecently Assaulting or Annoying a Female – s141(3) Penal Code

Criminal Trespass – s189(1) Penal Code

Drunk and Incapable – s197 Penal Code

Causing Death by Reckless or Dangerous Driving – s238(1) Penal Code

Common Assault – s244 Penal Code

Simple Larceny (theft) – s261 Penal Code

Conversion - s278(1)(a) Penal Code

Conversion - s278(1)(c) Penal Code

Miner's Removing Minerals – s287 Penal Code

False Pretences - s308(a) Penal Code

False Pretences - s308(b) Penal Code

False Declaration on Passport – s312 Penal Code

Removing Boundary Marks – s329 Penal Code