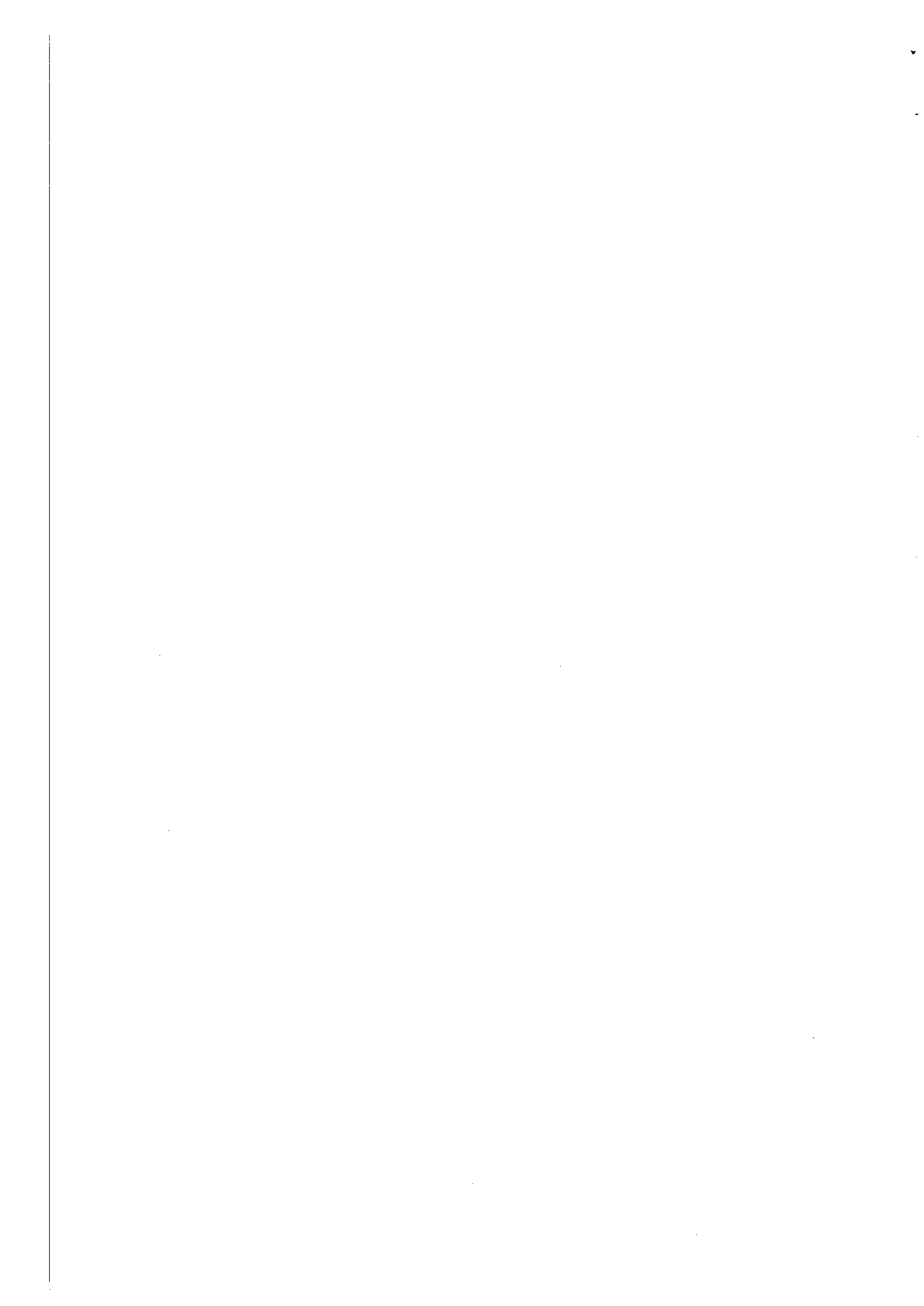




**CONSTITUTION (AMENDMENT AND
VALIDATION) BILL 2023**

(NO. 11 OF 2023)





CONSTITUTION (AMENDMENT AND VALIDATION) BILL 2023

(NO. 11 OF 2023)

A

BILL

Entitled

**AN ACT TO ALTER AND VALIDATE THE CONSTITUTION TO PERFECT IT
AND OTHER LEGISLATION FOR PUBLISHING AS A REPRINT, AND FOR
RELATED PURPOSES.**

ENACTED BY THE NATIONAL PARLIAMENT OF SOLOMON ISLANDS.

CONSTITUTION (AMENDMENT AND VALIDATION) BILL 2023

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CONSTITUTION (AMENDMENT AND VALIDATION) BILL 2023

PART 1 PRELIMINARY MATTERS

1 Short title

This Act may be cited as the *Constitution (Amendment and Validation) Act 2023*.

2 Commencement

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

3 Interpretation

(1) In this Act, unless the context otherwise requires:

“***the commencement***” means the commencement of this Act.

(2) A note to a provision of this Act:

(a) is set out at the foot of the provision to which it relates; and

(b) is explanatory in nature; and

(c) does not form part of the Act.

PART 2 ALTERATIONS

4 Section 59(3) of Constitution

(1) Section 59(3) of the Constitution does not apply to the following:

(a) the *Constitution (Amendment) (Dual Citizenship) Act 2018* (No. 16 of 2018);

(b) the *Amnesty Act 2000* (No. 8. of 2000);

(c) the *Civil Aviation (Amendment) Act 2009* (No. 5 of 2009);

- (d) the *Customs and Excise (Amendment) Act 2002* (No. 1 of 2002);
- (e) the *Financial Institutions Act 1998* (No. 3 of 1998);
- (f) the *Financial Institutions (Amendment) Act 2013* (No. 6 of 2013);
- (g) the *Firearms and Ammunition (Amendment) Act 2000* (No. 2 of 2000);
- (h) the *Fisheries Management Act 2015* (No. 2 of 2015);
- (i) the *Forest Resources and Timber Utilisation (Amendment) Act 2000* (No. 6 of 2000);
- (j) the *Gaming and Lotteries (Amendment) Act 2004* (No. 9 of 2004);
- (k) the *Income Tax (Amendment) Act 2011* (No. 4 of 2011);
- (l) the *Land and Titles (Amendment) Act 2014* (No. 11 of 2014);
- (m) the *Maritime Safety Administration Act 2009* (No. 8 of 2009);
- (n) the *National Transport Fund Act 2009* (No. 3 of 2009);
- (o) the *Nursing Council (Amendment) Act 1997* (No. 6 of 1997);
- (p) the *Pharmacy Practitioners Act 1997* (No. 5 of 1997);
- (q) the *Political Parties Integrity Act 2014* (No. 9 of 2014);
- (s) the *Prescription of Ministers (Amendment) Act 2000* (No. 1 of 2000);
- (t) the *Provincial Government (Special Provisions) Act 2002* (No. 2 of 2002);
- (u) the *Pure Food Act 1996* (No. 4 of 1996);
- (v) the *Sales Tax (Amendment) Act 2014* (No. 10 of 2014);

- (w) the *Solomon Islands Postal Corporation Act 1996* (No. 2 of 1996);
 - (x) the *Solomon Islands Visitors Bureau Act 1996* (No. 1 of 1996);
 - (y) the *Valuers Act 2009* (No. 4 of 2009).
- (2) The alteration of the operation of section 59(3) of the Constitution by subsection (1) has the effect that each Act specified in that subsection is not required to be published in the *Gazette* in accordance with that provision to come into operation.
- (3) All actions taken under an Act specified in subsection (1) until the commencement, and the consequences of those actions, are not and have never been invalid, unlawful or ineffectual by reason only of the ground of invalidity and unlawfulness arising from the requirement that it be published in the *Gazette* in accordance with section 59(3) of the Constitution.
- (4) Matters and consequences arising from an Act specified in subsection (1) until the commencement must not be the subject of legal proceedings, whether commenced before or after the commencement, and the Government must not incur any accountability or liability, by reason only of the ground of invalidity and unlawfulness arising from the requirement that it be published in the *Gazette* in accordance with section 59(3) of the Constitution.

Note to section 4.

Section 20(1) of the Interpretation and General Provisions Act (Cap. 85) also requires that an Act be published in the Gazette. The Legislation (Amendment, Repeal and Validation) Act 2023 provides for publication in accordance with section 20(1) of the Acts specified in section 4(1) in the Gazette.

5 Section 120(5) of Constitution

Section 120(5) of the Constitution is amended by omitting “be” and substituting “by”.

6 Section 2 of Constitution (Amendment) (Electoral Reform) Act 2018

Section 2 of the *Constitution (Amendment) (Electoral Reform) Act 2018* (No. 5 of 2018) is amended by omitting “in subsection (1)”.

PART 3 VALIDATION

7 Constitution (Status of Magistrates) (Amendment) Act 2014

- (1) The *Constitution (Status of Magistrates) (Amendment) Act 2014* (Act No. 5 of 2014) (“**amendment Act**”) is taken to have commenced on 20 May 2014.
- (2) The amendment Act is declared:
 - (a) to have lawfully commenced on 20 May 2014; and
 - (b) to be and to always have been as valid, lawful and effectual as if it had commenced on 20 May 2014.

8 Constitution (Amendment) (Dual Citizenship) Act 2018

- (1) The *Constitution (Amendment) (Dual Citizenship) Act 2018* (Act No. 16 of 2018) (“**amendment Act**”) is taken:
 - (a) for section 20(1) of the *Interpretation and General Provisions Act* (Cap. 85), to have been published in the *Gazette* on 10 January 2019; and
 - (b) to have commenced on 10 January 2019.
- (2) The amendment Act is declared:
 - (a) to have been lawfully published and commenced on 10 January 2019; and
 - (c) to be and to always have been as valid, lawful and effectual as if it had been published in the *Gazette* and had commenced on 10 January 2019.

Note to section 8.

Section 4(1)(a) of this Act provides that of the Constitution (Amendment) (Dual Citizenship) Act 2018 is not required to comply with the requirement to be

published in the Gazette under section 59(3) of the Constitution and validates its coming into operation despite that non-compliance.

However, section 20(1) of the Interpretation and General Provisions Act (Cap. 85) requires that every Act made after that Act commenced must be published in the Gazette. The validation of the publication of the Constitution (Amendment) (Dual Citizenship) Act 2018 is to provide for compliance with that requirement.

9 Operation of Constitution

(1) In this section:

“date of publication” means date of publication in the Gazette:

- (a) under section 59(3) of the Constitution; or
- (b) under section 20(1) of the *Interpretation and General Provisions Act* (Cap. 85).

(2) All actions taken under the Constitution or any other law before the commencement, and the consequences of those actions, are not and have never been invalid, unlawful or ineffectual by reason only of the ground of invalidity and unlawfulness arising from:

- (a) the date of commencement of the *Constitution (Status of Magistrates) (Amendment) Act 2014* (Act No. 5 of 2014); or
- (b) the date of publication or the date of commencement of the *Constitution (Amendment) (Dual Citizenship) Act 2018* (Act No. 16 of 2018).

(3) Matters and consequences arising from the Constitution or any other law before the commencement must not be the subject of legal proceedings, whether commenced before or after the commencement, and the Government must not incur any accountability or liability, by reason only of the ground of invalidity and unlawfulness arising from:

- (a) the date of commencement of the *Constitution (Status of Magistrates) (Amendment) Act 2014* (Act No. 5 of 2014); or
- (b) the date of publication or the date of commencement of the *Constitution (Amendment) (Dual Citizenship) Act 2018* (Act No. 16 of 2018).

CONSTITUTION (AMENDMENT AND VALIDATION) BILL 2023

EXPLANATORY MEMORANDUM

OBJECT

The object of the *Constitution (Amendment and Validation) Bill 2023* is to provide for corrections and validations of the Constitution and other Acts to perfect them for publishing as reprints under the *Legislation Act 2023*.

CONTENT

Part 1 Preliminary matters

Clause 1 specifies the short title of the Act.

Clause 2 provides for the commencement of the Act by enabling the Minister to appoint the date for the Act to commence by notice published in the Gazette.

Clause 3 defines an expression used in the Act, and provides for notes to be included in the Bill.

Part 2 Alterations

Clause 4 alters the operation of section 59(3) of the Constitution so it does not apply to the Acts specified in subclause (1)(a) to (y), which are Acts that have not been published in the Gazette before coming into operation. As specified in subclause (2) those Acts are no longer required to have been published in the Gazette under section 59(3) before coming into operation.

Subclauses (3) and (4) validate actions taken under each of the Acts, and their consequences, so they are lawful and may not be the subject of legal proceedings on the ground of invalidity or unlawfulness arising from the contravention of section 59(3) of the Constitution.

The Table at the foot of this explanatory memorandum sets out the reasons why each of the Acts are specified in clause 4(1) of the Bill.

Clauses 5 and 6 correct minor errors to sections 120(5) of the Constitution and section 2 of the *Constitution (Amendment) (Electoral Reform) Act 2018*.

Part 3 Validation

Clause 7 provides that the *Constitution (Status of Magistrates) (Amendment) Act 2014* is to have effect as if it had been lawfully commenced on 20 May 2014. The Act was assented to on 14 May 2014 and published in the Gazette on 20 May 2014, but no notice of commencement has been found for the Act.

Clause 8 provides that the *Constitution (Amendment) (Dual Citizenship) Act 2018* is to have effect as if it had been lawfully published in the Gazette and commenced on 10 January 2019. The Act was assented to on 24 December 2018, published in the Gazette on 21 December 2018 and 30 January 2019, and commenced by notice in the Gazette on 10 January 2019. Its publication on 21 December 2018 is before it was assented to, and its publication on 30 January is after its purported commencement on 10 January 2019.

As this amendment was given effect on and from 10 January 2019, clause 4(1)(a) of the Bill provides that section 59(3) does not apply to the Act and its publication in the Gazette for the purposes of section 20(1) of the *Interpretation and General Provisions Act* (Cap. 85), and its commencement, is validated by clause 8.

Clause 9 validates actions taken under the Constitution, and their consequences, so they are lawful and may not be the subject of legal proceedings on the ground of invalidity or unlawfulness arising from the date of commencement of the *Constitution (Status of Magistrates) (Amendment) Act 2014* and date of publication in the *Gazette* or commencement of the *Constitution (Amendment) (Dual Citizenship) Act 2018*.

TABLE

Acts listed in Part 2 Alterations of the Constitution (Amendment and Validation) Bill 2023	
Title of Act	Reason
<i>Constitution (Amendment) (Dual Citizenship) Act 2018</i> (No. 16 of 2018)	Date of Assent: 24 December 2018 First published in Gazette: 21 December 2018 (predates Assent) Second Publication in Gazette: 30 January 2019 (but this was after date of Commencement of 10 January 2019 as per LN 6 of 2019)

<p><i>Amnesty Act 2000</i> (No. 8. of 2000)</p>	<p>Assent: 19 Feb 2001 Commenced LN 123/01 – 23 July 2001 Gazetted: 13 August 2001 (3 weeks after commencement date)</p>
<p><i>Civil Aviation (Amendment) Act 2009</i> (No. 5 of 2009)</p>	<p>Assent: 8 May 2009 Published in Gazette: 9 April 2009 (one month prior to assent) Commencement: to commence on same date as <i>Civil Aviation Act 2008</i></p>
<p><i>Customs and Excise (Amendment) Act 2002</i> (No. 1 of 2002)</p>	<p>Assent: 3 May 2002 Published in Gazette: No record of publication found Commencement: Date of publication in Gazette (so not yet commenced either)</p>
<p><i>Financial Institutions Act 1998</i> (No. 3 of 1998)</p>	<p>Assent: 25 June 1998 Published in the Gazette: 13 October 1998 (2 months after Commencement) Commenced: LN 88/98 – 3 August 1998</p>
<p><i>Financial Institutions (Amendment) Act 2013</i> (No. 6 of 2013)</p>	<p>Assent: 10 August 2013 Published in the Gazette: 1 November 2013 (nearly 2 ½ months after commencement) Commenced: LN 62/13 – 14 August 2013</p>
<p><i>Firearms and Ammunition (Amendment) Act 2000</i> (No. 2 of 2000)</p>	<p>Assent: 18 January 2001 Published in the Gazette: No record of publication found Commenced: no commencement notice located</p>
<p><i>Fisheries Management Act 2015</i> (No. 2 of 2015)</p>	<p>Assent: 18 January 2001 Published in the Gazette: No record of publication found Commenced: no commencement notice located</p>

<p><i>Forest Resources and Timber Utilisation (Amendment) Act 2000</i> (No. 6 of 2000)</p>	<p>Assent: 18 January 2001 Published in the Gazette: No record found Commenced: No record found</p>
<p><i>Gaming and Lotteries (Amendment) Act 2004</i> (No. 9 of 2004)</p>	<p>Assent 12 January 2005 Published in the Gazette: No record found Commenced: LN 20/05 – 7 February 2005</p>
<p><i>Income Tax (Amendment) Act 2011</i> (No. 4 of 2011)</p>	<p>Assent: 16 December 2011 Published in the Gazette: No record found Commenced: as per s1 – 1 January 2012</p>
<p><i>Land and Titles (Amendment) Act 2014</i> (No. 11 of 2014)</p>	<p>Assent: 12 June 2014 Published in the Gazette: No record found Commenced: LN 67/14 – 1 December 2014</p>
<p><i>Maritime Safety Administration Act 2009</i> (No. 8 of 2009)</p>	<p>Assent: 8 May 2009 Published in the Gazette: 9 April 2009 (one month prior to Assent) Commenced: No record found</p>
<p><i>National Transport Fund Act 2009</i> (No. 3 of 2009)</p>	<p>Assent: 8 May 2009 Published in the Gazette: 9 April 2009 (one month prior to Assent) Commenced: GN [166]/10 – 4 June 2010</p>
<p><i>Nursing Council (Amendment) Act 1997</i> (No. 6 of 1997)</p>	<p>Assent: 10 July 1997 Published in the Gazette: No record found Commenced: LN 107/98 – 25 May 1998</p>

<p><i>Pharmacy Practitioners Act 1997</i> (No. 5 of 1997)</p>	<p>Assent: 10 July 1997 Published in the Gazette: No record found Commenced: LN 29/00 – 15 March 2000 (notice dated 6 March but not published in Gazette until 21 March 2000 so retrospective)</p>
<p><i>Political Parties Integrity Act 2014</i> (No. 9 of 2014)</p>	<p>Assent: 12 June 2014 Published in the Gazette: No record found Commenced: LN 51/14 – 30 June 2014</p>
<p><i>Prescription of Ministers (Amendment) Act 2000</i> (No. 1 of 2000)</p>	<p>Assent: 18 January 2001 Published in the Gazette: No record found Commenced: Date of Gazettal</p>
<p><i>Provincial Government (Special Provisions) Act 2002</i> (No. 2 of 2002)</p>	<p>Assent: 3 May 2002 Published in the Gazette: No record found Commenced: On date of Gazettal</p>
<p><i>Pure Food Act 1996</i> (No. 4 of 1996)</p>	<p>Assent: 3 October 1996 Published in the Gazette: No record found Commenced: (i) LN 10/97 – 15 November 1996 (notice dated 9 Jan 1997 and published 17 January 1997 – so retrospective) LN 88/03 – 1 January 2003 (notice dated 19 Sept 2003 and published on 26 September 2003 – so also retrospective)</p>
<p><i>Sales Tax (Amendment) Act 2014</i> (No. 10 of 2014)</p>	<p>Assent date: 12 June 2014 Published in the Gazette: No record found Commenced: LN 50/14 – 1 July 2014</p>

<p><i>Solomon Islands Postal Corporation Act 1996</i> (No. 2 of 1996)</p>	<p>Assent: 3 October 1996 Published in the Gazette: No record found Commenced: LN 129/96 – 1 December 1996</p>
<p><i>Solomon Islands Visitors Bureau Act 1996</i> (No. 1 of 1996)</p>	<p>Assent: 3 October 1996 Date of publication in the Gazette: No record found Commenced: LN 132/96 – 3 December 1996</p>
<p><i>Valuers Act 2009</i> (No. 4 of 2009)</p>	<p>Assent: 8 May 2009 Published in the Gazette: 9 April 2009 (prior to date of Assent) Commenced: LN 112/12 27 September 2012</p>

HON. MANASSEH DAMUKANA SOGAVARE
PRIME MINISTER

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