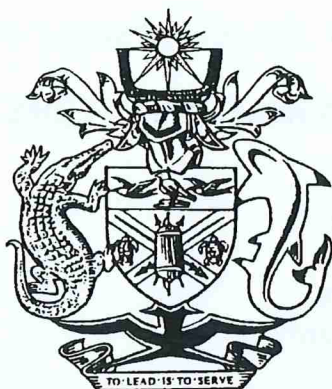


**CONSTITUENCY DEVELOPMENT FUNDS BILL
2023**

(NO. 17 OF 2023)



CONSTITUENCY DEVELOPMENT FUNDS BILL 2023

(NO. 17 OF 2023)

A

BILL

Entitled

AN ACT TO STRENGTHEN GOOD GOVERNANCE, AND TO PROVIDE FOR IMPROVED AND EFFECTIVE DELIVERY MECHANISMS OF THE CONSTITUENCY DEVELOPMENT FUNDS TO CONSTITUENCIES, AND RELATED MATTERS.

ENACTED BY THE NATIONAL PARLIAMENT OF SOLOMON ISLANDS.

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CONSTITUENCY DEVELOPMENT FUNDS BILL 2023

PART 1 PRELIMINARY MATTERS

1 Short title

This Act may be cited as the *Constituency Development Funds Act 2023*.

2 Commencement

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

3 Definitions

In this Act, unless the context otherwise requires:

“constituency” or **“constituencies”** are the constituencies referred to under section 54 of the Constitution of Solomon Islands;

“Constituency Accountant Officer” is the Constituency Accountant Officer appointed under section 12;

“Constituency Development Committee” is the Committee established under section 13;

“Constituency Development Funds” means the funds referred to under section 8;

“Constituency Development Officer” is the Constituency Development Officer appointed under section 10;

“Constituency Member of Parliament” means the Member of Parliament of a constituency;

“Constituency Project Officer” is the Constituency Project Officer appointed under section 11;

“direct employee” is a direct employee employed under section 17;

“line Ministries” means the Government Ministries;

“Minister” means the Government Minister responsible for the Constituency Development Funds;

“Ministry” means the ministry to which responsibility for the management of the Constituency Development Funds has been assigned;

“public officer” is as defined in section 144 of the Constitution of Solomon Islands.

4 Application of Act

- (1) This Act does not apply in relation to conduct that occurred before this Act commenced.
- (2) Without limiting subsection (1), investigations in section 34 do not apply in relation to conduct that occurred before this Act commenced.

5 Act binds the Crown

This Act binds the Crown.

PART 2 PURPOSE AND PRINCIPLES OF ACT

6 Purpose of the Act

The purposes of this Act are:

- (a) to strengthen good governance; and
- (b) to ensure improved and effective delivery mechanisms of the Constituency Development Funds; and
- (c) to promote equal and inclusive participation of all Solomon Islanders in development.

7 Principles of the Act

In achieving the purposes in section 6, the following principles apply:

- (a) The Ministry shall ensure that transparency, accountability, responsibility and respect for the rule of law and traditional values are maintained for the welfare of Solomon Islanders; and

- (b) The Members of Parliament, responsible officers and committees shall ensure that:
 - (i) the systems and procedures adopted in the administration, coordination and management of constituency development are responsive, disciplined, inclusive, non-corrupt and proactive in dealing with the people's welfare; and
 - (ii) public confidence is maintained.

PART 3 SOURCE OF FUNDS AND ADMINISTRATION OF THE CONTITUENCY ESTABLISHMENT

8 Source of funds

- (1) The Constituency Development Funds to be delivered by the Constituency Development Office for the purpose of achieving the development objectives set out in the constituency development plan in section 21 shall comprise of:
 - (a) the Constituency Development Funds appropriated by Parliament from the Consolidated Fund to the Ministry under the Appropriation Act; and
 - (b) the grants received from development partners and paid through the Ministry intended for constituency development.
- (2) For the avoidance of doubt all Constituency Development Funds intended for constituency development shall be administered by the respective line Ministries.
- (3) A bilateral partner, international intergovernmental agency, non-government organisation or a foreign independent nation which intends to support activities towards the development of a constituency, must provide in writing to the Constituency Development Committee, information on the nature and type of activities it intends to support.
- (4) The information required under subsection (3) include:
 - (a) the nature of the activities being supported; and

- (b) whether the activities align with the policy priorities of the Government of the day; and
- (c) how the support avoids the duplication of duties, responsibilities and activities to prevent wastage of funds in the name of development.

9 Constituency Development Office

- (1) There shall be Constituency Development Offices established for all constituencies.
- (2) A Constituency Development Office:
 - (a) shall be located in the Constituency Development Growth Centres of a constituency; and
 - (b) a constituency without a Constituency Development Growth Centre shall have its Constituency Development Office located where appropriate.
- (3) The establishment of the Constituency Development Office is the responsibility of each constituency through the appropriated funds under the Constituency Development Funds.
- (4) A Constituency Development Office is responsible for:
 - (a) managing the Constituency Development Office; and
 - (b) the coordination, administration and the day to day management of the constituency development programs.
- (5) An appointment to administer the office in the constituency establishment under this Act other than by public officers, shall be made as and when the constituency is financially capable of sustaining the office and the office holder.
- (6) Notwithstanding other sections of this Act, a constituency is only eligible to receive funding if it has at least a Constituency Development Officer (section 10) and a Constituency Accountant Officer (section 12) and a Constituency Development Committee (section 13).

10 Constituency Development Officer

- (1) The Public Service Commission, in consultation with the Constituency Member of Parliament and the Accountant General, shall appoint a Constituency Development Officer on merit basis.
- (2) A Constituency Development Officer shall be a contracted public officer.
- (3) The Constituency Development Officer shall:
 - (a) act in accordance with directions issued by the Ministry; and
 - (b) assist in the implementation of the policies and programmes of the Government with respect to the usage and disbursement of funds; and
 - (c) enter into agreements with potential recipients of the funds that promote the purposes of the fund in Part 2 of this Act and in compliance with sections 78 and 79 of the *Public Finance Management Act 2013*; and
 - (d) maintain proper registers, accounts and other documentation as required by the Ministry; and
 - (e) ensure that the accounting procedures as prescribed by the Permanent Secretary, Ministry of Finance and Treasury are adhered to; and
 - (f) do all such other acts as may be necessary for the due exercise, discharge and performance of the functions of Constituency Development Officer; and
 - (g) exercise delegated powers of the Permanent Secretary of the Ministry in all matters of financial management, good governance and prudential discharge of the management responsibilities required under the *Public Financial Management Act 2013* and this Act; and
 - (h) compile a constituency development plan and profile performance report for submission to the office of the Constituency Member of Parliament; and

- (i) abide by the *Leadership Code Act (Further Provisions) Act 1999* and its Regulations.
- (4) In addition to the roles and functions outlined in subsection (3), the Constituency Development Officer:
- (a) is the principal advisor of the Constituency Member of Parliament in the constituency and coordinates the implementation of projects and programs under the constituency development plan; and
 - (b) in cooperation with the Constituency Member of Parliament be responsible for supervising the implementation of the constituency development plan at the project level by providing an ongoing analysis as to the appropriateness of development activities undertaken and realigning them with the development plan; and
 - (c) in consultation with the Constituency Member of Parliament be responsible for translating the constituency development plan into implementable tasks and projects and in consultation with the people of the constituency make recommendations to the Constituency Development Committee.
- (5) The Constituency Development Officer shall exercise delegated powers and functions, and provide financial and other information in matters that the Permanent Secretary of the Ministry is required to do or report on.

11 Constituency Project Officer

- (1) The Public Service Commission, in consultation with the Constituency Member of Parliament shall appoint a Constituency Project Officer on merit basis.
- (2) The Constituency Project Officer shall be a contracted public officer.
- (3) To ensure that the development needs of the constituency are properly heard on funding purposes under the Constituency Development Funds, the Project Officer must:
 - (a) in consultation with the Constituency Development Officer:

- (i) be responsible for assisting the communities to identify and appraise community needs; and
 - (ii) formulate projects and programs; and
 - (iii) liaise with line Ministries, and development partners and other funding agencies for the funding of these projects and programs; and
 - (b) assist the Constituency Development Officer in:
 - (i) providing an ongoing analysis as to the appropriateness of development activities undertaken; and
 - (ii) realigning them with the development plan; and
 - (c) assist the office of the Constituency Member of Parliament in the formulation of the constituency annual budget; and
 - (d) carry out activities as requested by the Constituency Member of Parliament.
- (4) The Constituency Project Officer shall be based primarily in the constituency.

12 Constituency Accountant Officer

- (1) The Public Service Commission, in consultation with the Accountant General and Constituency Member of Parliament, shall appoint a Constituency Accountant Officer on merit basis.
- (2) A Constituency Accountant Officer shall be a contracted public officer.
- (3) The Constituency Accountant Officer is responsible for the proper management of constituency funds and in performing this responsibility the Constituency Accountant Officer must:
 - (a) ensure that all project funds are utilised for the purpose approved;
 - (b) ensure that all payments are supported by proper accounting documentation;

- (c) assist the Constituency Development Committee during its deliberations on the budget and all matters relating to constituency finances;
- (d) assist the people in the constituency to identify the costs of community projects for submission to funding agencies;
- (e) assist the office of the Constituency Member of Parliament in the formulation of the constituency annual budget; and
- (f) compile the constituency annual financial reports and acquittal for submission to the office of the Constituency Member of Parliament.

13 Constituency Development Committee

- (1) A constituency must establish a Constituency Development Committee to assist with the disbursement of funds.
- (2) A Constituency Development Committee consists of not less than five members, appointed by the Permanent Secretary of the Ministry in consultation with the Constituency Member of Parliament; and at least two of the five members must be female.
- (3) The members of the Constituency Development Committee shall be entitled to appropriate level of remuneration approved by the Permanent Secretary of the Ministry.
- (4) The Constituency Development Committee is responsible for:
 - (a) the coordination of the constituency development programs; and
 - (b) the consideration and approval of the annual budget of the constituency; and
 - (c) the general management of the Constituency Development Funds under the direct supervision of the Ministry in consultation with the Constituency Member of Parliament; and
 - (d) the coordination, monitoring, and supervision of the implementation of approved projects; and
 - (e) developing the constituency development plan; and

- (f) public relations and community interactions.

14 Powers of the Constituency Development Committee

- (1) The Constituency Development Committee shall have all the powers necessary to implement the Solomon Islands Constituency Development Policy of the government as outlined in the constituency development plan approved by the Minister.
- (2) The Constituency Development Committee has the following powers:
 - (a) to recommend to the Constituency Member of Parliament to set up “special sub-committees or taskforces”:
 - (i) from among its members or outside its membership; and
 - (ii) to carry out special tasks including but not limited to land access earmarked for development by the constituency; and
 - (iii) subject to its specific terms of reference, a sub-committee or taskforce under paragraph (a) dissolves after it submits its report to the Constituency Development Committee with a copy to the Constituency Member of Parliament; and
 - (b) to take on its own initiative any emergency measures which may be necessary in consultation with the Constituency Member of Parliament; and
 - (c) to undertake any special tasks, which the Constituency Member of Parliament may delegate to the Committee in writing; and
 - (d) in consultation with the Constituency Member of Parliament may when it deems necessary, review the number of office holders in the Constituency Development Committee, and other sub-committees and taskforces established under this Act to determine the number of memberships.

15**Meetings of the Constituency Development Committee**

- (1) The Committee shall meet at least three times in a fiscal year and whenever it is deemed necessary by the Permanent Secretary or the Chairman of the Committee.
- (2) The Constituency Member of Parliament shall be the Chairman of the Committee and during its first meeting, the Committee shall elect a Secretary of the Committee who shall be responsible for the operations of the Committee.
- (3) If the Constituency Member of Parliament is absent or is unable to attend a meeting of the Constituency Development Committee, the Constituency Member of Parliament may delegate the chairmanship in writing to a member of the Committee, who shall chair the committee in the absence of the Constituency Member of Parliament.
- (4) The quorum for the meetings is a simple majority of members of the Constituency Development Committee.
- (5) If a member of the Committee fails to attend meetings on three (3) consecutive occasions without good cause, that member is deemed to have relinquished their membership of the Committee.
- (6) Every member of the Committee shall be entitled to one vote on every question and in the event of a tie, the Chairman or other member presiding at the meeting shall have a second or the casting vote.
- (7) The Chairman may request the attendance of other persons, which in the opinion of the Chair can assist the Committee in providing information to make an informed decision on any agenda items.
- (8) For the avoidance of doubt the Development Officer, the Project Officer, and any other public officers who may be requested to attend the Committee by the Chairman under subsection (7), shall have no voting right in any business of the Committee.
- (9) The minutes of all meetings shall be sent to the office of the Constituency Member of Parliament.

16 Process after the receipt of a project application for funding

The Constituency Development Committee shall be guided by the processes prescribed by the Minister in:

- (a) receiving a project application for project funding; and
- (b) the approval of an application; and
- (c) the release of project funds: and
- (d) for the management and coordination of the project implementation.

17 Direct employees

- (1) The Constituency Development Committee, in writing, may request the Permanent Secretary to directly appoint employees, and the request letter must be accompanied by the following relating to the directly appointed employee:
 - (a) endorsement letter from the Constituency Member of Parliament;
 - (b) a Terms of Reference and draft contract;
 - (c) a police clearance certificate; and
 - (d) a medical report.
- (2) A direct employee's terms of employment with the Constituency Development Committee is to be governed by an employment contract, and any other terms as may be provided by regulations.
- (3) The remuneration of a direct employee shall be paid from an annual allocation in the constituency budget, approved by the Constituency Development Committee.

18 Constituency Development Growth Centres

- (1) There shall be Constituency Development Growth Centres established in constituencies to manage and coordinate the participation of the rural people in development.

- (2) At a minimum, a Constituency Development Growth Centre may consist of:
 - (a) a constituency administration office; and
 - (b) where resources permit, infrastructure to support the Constituency Development Growth Centre.
- (3) An existing government substation or provincial town located within a constituency may serve as a Constituency Development Growth Centre.
- (4) The Constituency Development Growth Centres are the responsibilities of the Ministry.
- (5) The site of a Constituency Development Growth Centre shall be the property of the national government through compulsory acquisition under the *Land and Titles Act* (Cap. 133).
- (6) A Constituency Development Growth Centre shall have an administrator who shall be:
 - (a) a public officer appointed by the Public Service Commission and posted under the ministry; and
 - (b) responsible for the administration and management of the Centre.
- (7) The Constituency Officers shall be stationed in their respective Constituency Development Growth Centres upon establishment.
- (8) For the purpose of effective implementation of the approved development plan of the constituency, the Ministry will apply to the Public Service through the line Ministry to deploy public officers to the Constituency Development Growth Centres.

PART 4 FINANCIAL, BUDGETARY, PLANNING AND ACCOUNTABILITY REQUIREMENTS

19 Recipients of Constituency Development Funds

- (1) The Constituency Development Funds may be allocated for development purposes to individuals, group projects or community projects.
- (2) In allocating funds pursuant to subsection (1), the Constituency Development Committee shall have regard to ensuring inclusivity, gender equality and people with special needs.
- (3) For the purposes of this section, an agreement with a recipient of Constituency Development Funds shall be in the prescribed form.
- (4) In subsection (2), “people with special needs” means people who are physically and, or are mentally impaired.

20 Coordination of funds intended for the constituency

- (1) A development agency other than a Provincial Government, who wishes to undertake any development activities within the constituency, must notify the Constituency Development Committee of any planned activities.
- (2) The notification required under subsection (1) must include the following information:
 - (a) the nature of the development to be undertaken;
 - (b) the location of the development in the constituency;
 - (c) the level of funding committed to the development;
 - (d) the source of funding for the development; and
 - (e) any other information that is considered necessary by the Constituency Member of Parliament to get a better appreciation of the proposed development activities.

21 Constituency development plan

- (1) Each constituency shall prepare a constituency development plan in the prescribed form for the disbursement of Constituency Development Funds.
- (2) Each constituency development plan in subsection (1) must be:
 - (a) in accordance with the policies and strategies of the Ministry;
 - (b) formulated in compliance with the processes prescribed by the Minister;
 - (c) submitted to the Ministry for approval; and
 - (d) the prioritisation, selection, appraisal, endorsing and approval of projects to be funded will be guided by the constituency development plan.
- (3) In assessing a constituency development plan, the Constituency Development Committee must take account of the existence of development programs pursued in the constituency by donor, development agencies and Government line Ministries.

22 Constituency account

- (1) Each constituency shall set up a constituency bank account which:
 - (a) shall contain the words "SIG Development Fund Account"; and
 - (b) shall be approved in writing by the Minister of Finance and Treasury for the purposes of operating the Constituency Development Funds; and
 - (c) the Treasury Division of the Ministry of Finance and Treasury shall enter the bank account of each constituency into the register of government bank accounts.
- (2) The signatories to the constituency account:
 - (a) shall be:
 - (i) the Constituency Development Officer;
 - (ii) the Constituency Accountant Officer; and

- (iii) a public servant appointed by the Constituency Member of Parliament following the prescribed appointment process; and
 - (b) shall only sign cheque slips in the presence of the Constituency Member of Parliament; and
 - (c) can only withdraw or transfer from the account with an express authorisation from the Constituency Member of Parliament; and
 - (d) must not operate the constituency account for private or personal purposes.
- (3) The constituency cheque book shall be in the physical possession of the Constituency Member of Parliament.
- (4) The Constituency Member of Parliament shall not expressly authorise withdrawals or transfers from the Account to personally benefit the Constituency Member of Parliament.

23 Constituency assets

- (1) The assets acquired for the purposes of the Constituency Development Funds shall remain the property of the Government, and such assets are inclusive of:
 - (a) moveable assets including vessels, vehicles, machineries; and
 - (b) disposable assets including computers; and
 - (c) physical infrastructures including buildings; and
 - (d) enterprises set up through public and private partnerships on behalf of, or, in the name of the constituency, by the Ministry to benefit the constituency.
- (2) The assets in subsection (1) shall be disposed pursuant to the prescribed procedures under section 75(c) of the *Public Financial Management Act 2013*.
- (3) A person who uses the constituency assets referred to in this section is required to do so responsibly.

24 Registry for public resources

- (1) The Constituency Development Officer shall maintain a registry of all public resources of the Constituency Development Office which include computers, furniture, fittings and large machines bought by public fund for the purposes of this Act.
- (2) The Constituency Development Officer shall exercise care and record all public stores and property and comply with the prescribed procedures in the *Public Financial Management Act 2013*.
- (3) A person who uses public resources referred to in this section is required to do so responsibly.

25 Allocations

The allocation of funds from the Constituency Development Funds shall be by way of grants and projects.

26 Utilisations

- (1) The funds provided to the Ministry shall be apportioned for utilisation fairly and equitably in a transparent and accountable manner.
- (2) The apportionment for utilisation in subsection (1) is as follows.
 - (a) productive and resource sectors - 40%;
 - (b) essential services - 20%;
 - (c) cross-sectoral/inclusivity/gender - 20%;
 - (d) social and cultural obligations - 20%.
- (3) The activities permitted for the utilisation apportioned in subsection (2)(d), are limited to:
 - (a) medical assistance;
 - (b) repatriation of deceased;
 - (c) natural disaster relief payments;
 - (d) religious activities and community events;

- (e) women and youth activities; and
- (f) support for physically impaired people.

27 Applications

- (1) An application for funds shall:
 - (a) be in the form prescribed by the Minister; and
 - (b) shall bear the endorsement of the Constituency Member of Parliament of the particular constituency.
- (2) An application under this section must meet the requirements prescribed by the Minister when applying for funds.

28 Procurement

- (1) The conduct of procurement of goods and services under the Constituency Development Funds shall:
 - (a) be in compliance with sections 73 and 74 of the *Public Financial Management Act 2013*; and
 - (b) in the prudent spending and use of public resources, be in accordance with prescribed procedures under this Act; and
 - (c) which shall take into consideration the remoteness and dispersion of the constituencies in the Solomon Islands.
- (2) The Constituency Development Officer and the Ministry shall:
 - (a) ensure that the prescribed procurement procedures in this Act and its subsidiary regulations are fully complied with; and
 - (b) ensure that the goods have been shipped to the constituencies before making any payment to the suppliers of those goods.
- (3) The Ministry shall work collaboratively with the internal auditor in the Ministry of Finance and Treasury in ensuring that the goods and services provided by suppliers are according to the prescribed procurement processes under the *Public Financial Management Act 2013*.

29 Reports

- (1) The Constituency Development Officer shall prepare an annual report of the operation of the Constituency Development Funds in the constituency under prescribed content and format by the end of February of the following year, or at such time determined by the Permanent Secretary.
- (2) The annual report shall be in the prescribed form and include the following:
 - (a) a report on the compliance of the constituency to the requirements of this Act;
 - (b) the use of Constituency Development Funds by sectors; and
 - (c) the list of recipients of the fund by sectors.
- (3) The annual report:
 - (a) shall be presented to the Ministry before the end of March of the following year, or at such date as determined by the Permanent Secretary; and
 - (b) be tabled by the Minister in Parliament in the next available sitting; and
 - (c) be disseminated to the public in the most appropriate manner; and
 - (d) be made available to the constituencies' Annual Conferences organised by the constituency offices and funded by the Ministry.

30 External and internal audit

- (1) The Constituency Development Funds is subject to audit by the Auditor General and audit by the Internal Audit Office under the *Public Financial Management Act 2013*.
- (2) The Permanent Secretary in consultation with the Permanent Secretary of Finance and Treasury determines the regularity of the internal audit of the Constituency Development Funds.

- (3) The officers authorised by the Director of Internal Audit to undertake the audit shall have the right stipulated by section 20 of the *Public Financial Management Act 2013*.

31 Misconduct in office

The public officer managing the Constituency Development Funds is subject to section 84 of the *Public Financial Management Act 2013*.

32 Offences and penalties

- (1) A person who misappropriates any funds or assets from the Constituency Development Funds, or assists or causes any person to misappropriate or apply the funds otherwise than in the manner provided in this Act and Regulations, commits an offence.

Maximum penalty: 100,000 penalty units or imprisonment for 5 years, or both.

- (2) A person who misuses or damages any assets in section 23, or any of the public resources in section 24, or assists or causes any person to use the assets or the public resources otherwise than in the manner provided in this Act and Regulations, commits an offence.

Maximum penalty: 100,000 penalty units or imprisonment for 5 years, or both.

33 Specific offences

- (1) A Member of Parliament, or a public officer, or a fund recipient commits an offence if he or she:
- (a) misappropriates any funds or assets from the Fund; or
 - (b) advances materials and cash from a supplier without prior approval from the responsible Ministry; or
 - (c) fraudulently converts project assets or materials to his own use or to the use of some other person; or
 - (d) deliberately victimises non-voters by excluding them from receiving Constituency Development Funds projects and funds without justifiable grounds; or

- (e) assists or causes a person to misappropriate or apply the funds otherwise than in the manner provided in this Act and Regulations.

Maximum penalty: For a Member of Parliament - 100,000 penalty units or 5 years imprisonment, or both.

For a public officer - 50,000 penalty units or 3 years imprisonment, or both.

For a fund recipient - 5,000 penalty units or 3 years imprisonment, or both.

34 Investigations

- (1) The Ministry and the Ministry of Finance and Treasury may cause an investigation to be carried out in respect of any constituency where there is reason to believe:
 - (a) that there has been a breach of sections 84 and 85 of the *Public Financial Management Act 2013*;
 - (b) that the constituency is mismanaging public funds; and
 - (c) that a complaint has been made by a potential recipient or group of such recipients to investigate a member of the constituency that warrants an investigation.
- (2) The investigator authorised to undertake the investigation in subsection (1) shall:
 - (a) be allowed to enter any premises or place where the development is being carried out including the constituency development office at reasonable hours; and
 - (b) be allowed to inspect the books, accounts and files of the constituency development office.
- (3) The results of the investigation shall be submitted to the Constituency Development Office for a response.
- (4) The final report shall be provided to the Permanent Secretary and the Permanent Secretary of the Ministry of Finance and Treasury

who shall either collectively or individually take the necessary actions including submitting the report to the police and other relevant authorities.

35 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 exercise of a power or performance of a function under this Act.

36 Administering of constituency

Where a Constituency Member of Parliament vacates his or her seat under section 50 of the Constitution:

- (a) the Ministry shall administer the constituency and the Constituency Development Funds until a new Member of Parliament is elected; and
- (b) each constituency and all its set ups shall be under a caretaker mode.

PART 5 IMPLEMENTATION, SUPERVISION, AND COORDINATION OF CONSTITUENCY PROJECTS

37 Implementation, supervision and coordination of constituency projects

- (1) The Constituency Development Office and the Constituency Development Committee shall manage, supervise and coordinate the implementation of all approved constituency projects.
- (2) For the purpose of facilitating the effective identification and coordination of development needs, implementation of approved projects, and managing hardship relating to project implementation, the Constituency Development Committee shall establish sub-committees in the ward level as they see fit according to section 14(2)(a) of this Act.

PART 6 MISCELLANEOUS PROVISIONS

38 Repeal of Constituency Development Funds Act 2013

The *Constituency Development Funds Act 2013* is repealed.

39 Regulations

- (1) The Minister may make regulations as appears to him to be necessary or expedient for carrying the objects and provisions of this Act into effect, including for the following matters:
 - (a) the organisation, management, and conduct of meetings of committees, special sub-committees and taskforces established under this Act;
 - (b) the receiving and approval of project applications, the release of funding and management and coordination of project implementation by the Constituency Development Committee;
 - (c) the formulation, proper control, management and implementation of the constituency budget;
 - (d) the employment of direct employees for a Constituency Development Committee;
 - (e) any other matters which the Minister considers necessary to regulate under this Act, to give effect to the Act.
- (2) The Minister may prescribe the processes, structure and content of the forms, and all other matters required to be prescribed under this Act.

CONSTITUENCY DEVELOPMENT FUNDS BILL 2023

EXPLANATORY MEMORANDUM

OBJECT

The Constituency Development Funds Bill 2023 proposes a new improved legislative framework, one that mirrors the challenges and successes of the people of Solomon Islands over the decades and strive to achieve an inclusive, effective and improved delivery mechanism of the Constituency Development Funds. The Bill's object is to develop a strong governance system in the administration, coordination and management of the Constituency Development Funds to ensure the system is transparent, non-corrupt, disciplined and proactive in dealing with the people of Solomon Islands.

To achieve its objective, the Bill

- establishes purposes and guiding principles for everybody under this Act;
- establishes strong administration of Constituency Development Funds;
- establishes a constituency office for the day to day management of constituency development programs;
- establishes a Constituency Development Committee to assist with the disbursement of funds;
- establishes direct employees for the constituency offices;
- establishes Constituency Development Growth Centres that will manage and coordinate the participation of the people in the rural areas towards decentralisation;
- establishes a constituency development plan that a constituency is required to provide for the disbursement of funds;
- establishes an improved transparent process of constituency account;
- establishes constituency assets to benefit the constituency but are to be disposed accordingly;
- establishes a proper utilisation of the Constituency Development Funds that is equitable in a transparent and accountable manner;
- establishes a procurement procedure to conduct the goods and services under the Constituency Development Fund in a prudent manner;

- establishes annual reports of the operation of the Constituency Development Funds that are to be produced by the Constituency Development Officer;
- establishes external and internal audit procedure to undertake audit matters of the Constituency Development Funds;
- establishes offences and penalties for any person, or a Member of Parliament, or public officer, or a fund recipient that misappropriates any funds or assets from the Fund; and
- establishes a strong implementation, supervision and coordination of constituency projects.

CONTENT

PART 1 Preliminary matters

Clause 1 provides for the short title of the Act.

Clause 2 allows the Minister to appoint a date for the Act to commence.

Clause 3 contains the definitions for the purposes of the Act.

Clause 4 provides for the application of the Act.

Clause 5 provides that the Act binds the Crown. This means that the Government must comply with any requirements that apply to it.

PART 2 Purpose and principles of Act

Clause 6 sets out the purpose of this Act.

Clause 7 sets out the principles of the Act.

PART 3 Source of funds and administration of the constituency establishment

Clause 8 sets out the source of funds that are to be delivered by the constituency office.

Clause 9 introduces the Constituency Development Office established for all constituencies.

Clause 10 introduces the role of Constituency Development Officer, who is a contracted public officer that shall act in accordance with directions issued by the Ministry.

Clause 11 introduces the role of Constituency Project Officer, who is a contracted public officer that shall carry out activities as requested by the Constituency Member of Parliament.

Clause 12 introduces the role of Constituency Accountant Officer, who is a contracted public officer who is responsible for the proper management of constituency funds.

Clause 13 sets out the Constituency Development Committee that assist with the disbursement of funds.

Clause 14 provides the powers of the Constituency Development Committee to implement the Solomon Islands Constituency Development Policy of the government in the constituency development plan approved by the Minister.

Clause 15 sets out the meetings of the Constituency Development Committee which shall be held at least three times in a fiscal year and where the Permanent Secretary and or Chairman of the Committee deemed necessary.

Clause 16 outlines the process that guided the Constituency Development Committee in receiving a project application for project funding, approving of an application, releasing of project funds and the management and coordination of project implementation.

Clause 17 allows the Constituency Development Committee to make a request to the Permanent Secretary to directly appoint employees.

Clause 18 introduces the Constituency Development Growth Centres that shall be established in constituencies and where an existing government substation or provincial town is located. It is to manage and coordinate the participation of the rural people in development.

PART 4 Financial, budgetary, planning and accountability requirements

Clause 19 introduces the recipients of development funds which includes individuals, groups and community projects that the Constituency Development Funds may be allocated to for development purposes.

Clause 20 requires that any development agency other than a Provincial Government, who wishes to undertake any development activities within the constituency, must notify the Constituency Development Committee of any planned activities.

Clause 21 requires for each constituency to prepare a constituency development plan that must be in accordance with the policies and strategies

of the Ministry, formulated in compliance with the processes prescribed by the Minister and submitted to the Ministry for approval.

Clause 22 requires for each constituency to set up a constituency bank account with the words “SIG Development Fund Account” which shall be approved in writing by the Minister of Finance and Treasury for the purposes of operating the Constituency Development Funds; and the treasury division of the Ministry of Finances and Treasury shall enter the bank account of each constituency into the register of government bank accounts.

Clause 23 requires that constituency assets acquired for the purposes of the Constituency Development Funds shall remain the property of the Government and shall be disposed accordingly to section 75(c) of the *Public Financial Management Act 2013*.

Clause 24 requires the Constituency Development Officer to maintain a registry of all public resources of the Constituency Development Office bought by public fund for the purposes of this Act.

Clause 25 sets out that the allocation of funds from the Constituency Development Funds shall be by way of grants and projects.

Clause 26 requires the Ministry to apportion Funds for utilisation fairly and equitably in a transparent and accountable manner.

Clause 27 requires the recipient’s application for Constituency Development Funds to meet the requirements prescribed by the Minister whereby it shall be in the prescribed form and shall bear the endorsement of the Constituency Member of Parliament of the particular constituency.

Clause 28 requires the Constituency Development Officer and the Ministry to ensure that the prescribed procurement procedures in this Act and its subsidiary regulations are fully complied with according to sections 73 and 74 of the *Public Financial Management Act 2013*.

Clause 29 requires the Constituency Development Officer to prepare an annual report of the operation of the Constituency Development Funds.

Clause 30 provides that the Constituency Development Funds is subject to audit by the Auditor General and audit by the Internal Audit Office under the *Public Financial Management Act 2013*.

Clause 31 introduces misconduct in office according to section 84 of the *Public Financial Management Act 2013*, whereby a public officer managing the Constituency Development Funds is subject to.

Clause 32 contains offences and penalties under this Act for whomever misappropriates any funds or assets from the Fund with the maximum penalty of 100,000 penalty units or imprisonment for 5 years, or both.

Clause 33 contains specific offences under this Act for a Member of Parliament, or a public officer, or a fund recipient with the maximum penalty for Member of Parliament at 100,000 penalty units or 5 years imprisonment, or both. For a public officer 50,000 penalty units or 3 years imprisonment or both. For a fund recipient 5,000 penalty units or 3 years imprisonment or both.

Clause 34 provides for the Ministry and the Ministry of Finance and Treasury to carry out investigation where there is reason to believe that there has been a breach of sections 84 and 85 of the *Public Financial Management Act 2013*, there is mismanaging of public funds and where a complaint has been made to investigate a member of a constituency.

Clause 35 a provision that provides the protection from liability where a person who acted in good faith in the exercise of a power or performance of a function under this Act will not be civilly or criminally liable.

Clause 36 requires the Ministry to administer the constituency and the Development Fund when a Constituency Member of Parliament vacates his seat under section 50 of the Constitution, until a new Constituency Member of Parliament is elected.

PART 5 Implementation, supervision, and coordination of constituency projects

Clause 37 requires the Constituency Development Office and the Constituency Development Committee to manage, supervise and coordinate the implementation of all approved constituency projects.

PART 6 Miscellaneous Provision

Clause 38 repeals the *Constituency Development Funds Act 2013*.

Clause 39 provides for the regulations making power. The Minister may also prescribe the processes, structure and content of the forms, and all other matters required to be prescribed under this Act.

.....
HON. MANASSEH DAMUKANA SOGAVARE
PRIME MINISTER AND
MINISTER FOR RURAL DEVELOPMENT

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