



NATIONAL PARLIAMENT OF SOLOMON ISLANDS
BILLS AND LEGISLATION COMMITTEE

**Report on the Mines and
Minerals (Amendment) Bill
2014**



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EXECUTIVE SUMMARY

The Committee after conducting its inquiry into the *Mines and Minerals (Amendment) Bill 2014* acknowledges the Ministry of Mines, Energy and Rural Electrification for bringing these reforms to Parliament.

The Committee resolve to conduct one hearing into the Mines and Minerals (Amendment) 2014 and the Income Tax (Amendment) Bill 2014 together because the amendments complement each other.

The Committee supports the noble intention of the amendments to create a new mining tax regime that will be able to attract mining investors.

However the Committee is concern on some issues within the clauses of the Bill. Such includes the royalty rate of 3% which some members express is still too low for landowners and suggest it to be increased to 5%. Also certain clauses of the Mines and Minerals amendment gives too much power to the Minister to prescribe rates. The Committee feels that there is possibility of conflict of interest when given such powers. The Committee also express its concern that the issue of Minerals rights needs to be resolved with the avenue to include greater participation by landowners. The position now under common law is that the Government have rights to any minerals six feet below the surface of the soil. As the country is now moving towards federalism there is great need for drive towards legislative changes that would allow landowners to own shares in mining companies operating on their land.

The only mining company that appear before the Committee also raise some areas of concern in the mining industry. Such includes the high cost of exploration due to not much incentive from the Government and the nature of our geography. Contributing to this is the short period of seven years a company is required to do prospecting and compile mining data. Further the suspicious attitude of landowners towards miners sometimes hinder mining operations. Representatives from the company also express their concern on the tax on the gross value of minerals under section 3 (2) (a) of the Mines and Minerals Amendment. As is stated under the clause, low grade or uneconomical minerals extracted from any mine site will also be taxed.

The Committee commends the amendments but recommends the ministry of mines to establish a proper digitise mining data base which is kept on line. Also the Committee recommends the Ministry to conduct awareness programme about mining operations throughout the country. Further the Committee also recommends the Government to make legislative changes to enable landowners to have greater participation in the mining industry.

1 INTRODUCTION

The Bills and Legislation Committee (“the Committee”) had completed its review of the *Mines and Minerals (Amendment) Bill 2014*. The Bill was submitted to the Speaker through the Clerk to Parliament as required under the *Standing Orders*¹ on the 11th of April 2014.

The Committee had its deliberative meeting on the 14th of April and resolved to invite stakeholders² to make presentations on the contents and policy matters of the Bill. The hearing into the Bill with the relevant stakeholders was held on the 16th of April 2014. The minutes of these proceedings are in appendix 1.

1.1 Functions of the Committee

The Bills and Legislation Committee is established under the *Standing Orders*³. The Order made pursuant to the *Constitution*⁴ has the functions together with the necessary powers to discharge such, to:

- (a) examine such matters as may be referred to it by Parliament or the Government;
- (b) review all draft legislation prepared for introduction into Parliament;
- (c) examine all subsidiary legislation made under any Act so as to ensure compliance with the Acts under which they are made;
- (d) monitor all motions adopted by Parliament which require legislative action;
- (e) review current or proposed legislative measures to the extent it deems necessary;
- (f) examine such other matters in relation to legislation that, in the opinion of the Committee require examination; and
- (g) make a written report to each Meeting of Parliament containing the observations and recommendations arising from the Committee’s deliberations.

1.2 Terms of Reference

Pursuant to its mandate under the *Standing Orders*⁵, the terms of reference of the Committee in this instance is to examine the Bill and to report its observations and recommendations on the Bill to Parliament.

¹*Standing Order 44 (1)*

²See Appendix 2

³*Standing Order 71*

⁴*Section 62, Constitution of Solomon Islands 1978*

⁵*Standing Order 71*

1.3 Membership

The current members of the Bills and Legislation Committee (9thParliament) are:

Hon. Manasseh D. Sogavare, MP (Chairman)

Hon. Dr Derek Sikua, MP

Hon. Milner Tozaka, MP

Hon. Matthew Cooper Wale, MP

Hon. John Maneniaru, MP

Hon. James Tora, MP

Hon. Douglas Ete, MP

Hon. Sam Iduri, MP

Hon. Johnley Hatimoana, MP

2 BACKGROUND

Solomon Islands is currently at a crossroads in the management of its natural resources. It is widely expected that Solomon Islands' main exported natural resource, round logs, will be depleted within years. To ensure the most is made of the nation's mineral resources in the future, there is need for a taxation framework which encourages responsible mining activities while also ensure an appropriate return from these resources for the people of Solomon Islands. The Mines and Minerals (Amendment) Bill 2014 together with the Income Tax (Amendment) Bill 2014 propose to introduce a new mining tax regime for the mining industry in the Solomon Islands. The mining tax regime proposed is intended to attract increased foreign investment (and associated expertise and experience) and secure revenue in the future.

The Committee notes that the amendments are intended to come into effect on 1st July 2014.

2.1 The Mines and Minerals (Amendment) Bill 2014

The Mines and Mineral Act is amended by adding a new section 36A to allow the Minister to require the construction of approved infrastructure as a condition of a mining license.

Section 45 is amended by re specifying the amount of royalties. Royalties from mining gold, silver, copper, nickel, bauxite, and iron ore will be received by the Solomon Islands Government, with proportions received in trust to be passed through to landowners and the relevant Provincial Government. Royalties from these minerals will be shared according to the following proportions; 40% to landowners, 10% to the relevant Provincial Government and 50% to the Solomon Islands Government.

Where a mining project is located in an area where there is no landowners (for example, an undersea mining operation) the proportion of royalties that would usually be received in trust to be passed through to land owners is instead included as Consolidated Revenue of the Solomon Islands Government.

Section 45 is also amended to clarify how the market value of various minerals is to be determined.

These amendments are consequential in order to give effect to the introduction of a new mining tax regime in the Income Tax Act

3 IMPACTS

3.1 New Mining Tax Regime

The Income Tax Amendment Bill with related amendment to the Mines and Minerals Act introduces a new mining tax regime in the country. The legislations consolidated and modernizes the arrangements governing the Solomon Islands taxation of mining, more specifically to encourage responsible mining activities while at the same time ensuring that there is appropriate return to mineral owners and the Government. The reforms will also remove the need for the Government to negotiate fiscal deals on one on one basis with mining companies.

3.2 Attracting Investors

Another objective of the amendments is to introduce appropriate tax arrangements that are not only fair but are also competitive, simple and reasonable to mining investors. According to the Ministry of Finance⁶, a primary objective of the Income Tax (Amendment) Bill 2014 is to provide business confidence and certainty to prospective investor and that would allow them to make sound business proposals in the mining sector.

⁶ Shadrack Fanega, Oral Evidence, 16th April 2014

4 CONCERNS

During the scrutiny of the Bills, concerns were raised on certain clauses of the amendments.

4.1 Royalty Rate

Members of the Committee express their concern on section 3 (2) (a) of the Mines and Minerals Amendment Bill. The view is that the royalty rate of 3% to land owners is still low compared to other mining countries. Committee members suggest increasing the royalty rate to 5%. The following table shows a comparative analysis of other mining countries⁷.

Country	Tax Rates					Loss carry forward
	Royalty	CIT	APT/Other	DWT	IWT	
Solomon Is	3%	35%	20%	0%	15%	7yrs
Australia	0-10%	30%	22.5%	0-30%	10%	Uncapped
Ghana	5%	35%	Nil	8%	8%	5yrs
Indonesia	3-7%	25%	Nil	20%	20%	5yrs
PNG	2% (10%) ⁸	30/48%	Nil	17%	15%	20yrs
Peru	1-12%	30%	6-21.5%	4.1%	5/30%	4yrsfwd/50%
Philippines	>5%	32/33%	Nil	15/30%	20%	3/5yrs
US	2-14.5%	39-44%	0-5%	30%	30%	20yrs

Note: rates are inclusive of state/municipal/local/landowner taxes where applicable.

Key: CIT-company income tax, APT-additional profits tax, DWT-dividends withholding tax, IWT-income withholding tax

Also members of the Committee express their concern on subsection (b) and other related clauses where discretionary powers are given to the Minister of mines in consultation with the Minister of Finance to prescribe rates for other minerals. The Committee feels that the rates should be prescribe in the clauses so that it lessens interference and conflict of interest from the Executive through the Minister.

4.2 Mineral rights

Committee members also express their concern on the need to amend the current Mines and Minerals Acts to clarify the ownership of mineral resources. The common law position as adopted by the Solomon Islands is, the state owns what is six feet below the surface of the soil. With the current thinking of state Government and the drafting of various state constitutions to give ownership rights to various states, there is now great need for a total amendment to our current legislations to reflect the peoples wish to fully benefit from their mineral resources.

⁷ Pricewater house Coopers, Corporate income taxes, mining royalties and other mining taxes, June 2012. www.taxrates.cc (for PNG)

⁸ Unconfirm new rate

On a broader mining policy the Committee strongly feels that legislative changes should be made to allow landowners to have a greater participation in the mining industry in the future. Such includes making legislative changes to allow landowners to have shares in mining companies operating on their land.

4.3 Tax on Gross Value of Minerals

A concern raised by the representatives from Axiom KB Ltd that appear before the Committee is with regards to Mines and Minerals (Amendment) Bill 2014 section 3 (2) (a) where it states;

*The rate of royalty payable pursuant to subsection (1) shall be-
in respect of gold, silver, copper, nickel, bauxite, and iron ore, three percent of the gross value of minerals removed from the site of the mine or transferred to another person if there is a disposal of the minerals to another person prior to removal from the site;*

By the reading of this section representative from the company state that it means any of the mineral listed once extracted from the ground gets 3% royalty charge on its economical value. The Company is concern that the 3% royalty rate is going to be charged on a low grade by product that is going to be discharge with the tailings. There is need for this section to be better clarified or redrafted.

4.4 Exploration Costs

Representatives from Axiom KB Ltd when appearing before the Committee express how it is costly to do exploration mining in the Solomon Islands. They express certain issues that can make exploration costly in the country. Such includes the following;

a. Seven years for prospecting license

Axiom KB Ltd representative express their concern that seven years is too short to develop a mine. A representative from the company demonstrates how long it is to develop a mine as follows;

"I will give you two examples; one is just up the road in Lihir (PNG). The initial evaluation was done in 1982 find an anomalous soil sample and followed that up and it turned into one of the highest grade best Gold deposits in the world. Even though, they were drilling and they could not miss the deposit, no matter where they tried, it took them up until 1992 to get the mine underway and that's the best case scenario-Ten years. In New Zealand the biggest mine we have; ... it is called the Macraes Gold Mine, it is a big open pit and undergrounds mine. It has 8million ounces. That was discovered in the 1800s when that Gold rush was on down in Central Ortago in the South Island of New Zealand. It had a little bit of underground

workings some artisanal miners and the real first push came in 1971. That's when some guys decided to have a go and turn it to a modern mine. It came into production in 1992."⁹

b. Mining data base

Axiom KB Ltd representatives also express concern on how mineral data from previous exploration can be obtained from the Ministry of Mines, Energy and Rural Electrification.

*"I have spent a lot of time in your Mines Department here and there is no organized catalogue system of being able to get hold of your data. If anyone comes into Papua New Guinea, Australia, New Zealand or Fiji, there is stuff online. You just log in and you can have a look through that data, just like what I do overseas, to say here is a place that we are interested in looking at. You check the open source from previous companies; it belongs to the government of Solomon Islands. It is one that cost a lot of money to get by the private sector. However here, you have to fly into this country and walk into the Mines Department; a bit of rabbit's warren in terms of being able to source the documents. It takes one person to grab that document and walk out the door and the government will just lost that data forever. The archive is in a poor condition and the accessibility of that data is pretty difficult. I understand that there has been some work done on digitising some of the maps. But it is about providing the access for explorers to come in and use that data, so that they can build on it. I do not know the cost but I would imagine that over forty years you will be looking at billions of dollars that is being invested to collect that data. That is an asset of the Solomon Islands now and just being ignored or not being utilised in an efficient way."*¹⁰

c. Land owner's suspicion

Another concern raised by Axiom KB Ltd representatives is the attitude of land owners towards mining companies. Explorations are often hindered by landowners being suspicious of mining companies stealing their mineral resources. Landowners sometimes confront mining workers on the field and disrupt operations because they thought mining companies illegally smuggle minerals away. The representatives express that there is need for awareness to be carried out by an independent body to inform landowners about the three stages of mining and how it is done.

⁹ Trevor Wright, Oral evidence, 17th April 2014

¹⁰ Trevor Wright, Oral evidence, 17th April 2014

5 RECOMENDATIONS

The Committee after reviewing the Mines and Minerals (Amendment) Bill 2014 adopt the following recommendations;

1. The Committee recommends the Ministry of Mines, Energy and Rural Electrification to establish a proper digitise mining data base where it is kept online.

2. The Committee recommends the Government to develop legislative changes that will allow landowners to have greater participation in mining companies operating on their land.

3. The Committee recommends clause 3 (2) be amended to increase the royalty rate from 3% to 5%, even in circumstances where they have direct participation in the mining company.

4. The Committee recommends the Ministry of Mines, Energy and Rural Electrification to carryout awareness programs about mining in the country to enable people to better understand the operations of the mining Industry.



Hon. Manasseh Sogavare
Chairman
Bills and Legislation Committee
24 April 2014

6 APPENDICES

APPENDIX 1: MINUTES



BILLS AND LEGISLATION COMMITTEE

NATIONAL PARLIAMENT OF SOLOMON ISLANDS

Deliberative meeting

Minutes of deliberative meeting into the Mines and Minerals (Amendment) Bill 2014 and the Income Tax (Amendment) Bill 2014

Held: Monday 14 April 2014,
Venue: Parliament Conference Room 2
Time: 2:43pm – 3:18pm

1. Members Present

Hon. Manasseh D. Sogavare (Chairman)
Hon. Dr. Derek Sikua
Hon. Matthew Wale
Hon. James Tora

Secretariat

Wilson Anii, Committee Secretariat

2. Chair's Opening Remarks

The Chair thanked Committee members for attending. The Chair introduced the two Bills and brief members on the Bills.

3. Committees resolution

Members were invited to suggest witnesses and stakeholders to be invited to appear before the Committee. The Committee resolved to invite the following:

- Rep from the Ministry of Mines
- Rep from the Ministry of Finance
- Chief Legal Draftsman, AG Chambers
- The Commissioner of Inland Revenue Division (IRD)
- Chamber of Commerce
- Sumitomo Solomon Islands
- Axiom KB Ltd
- Evita Solomon Ltd

The Committee also resolve to start inquiry hearings on Wednesday 16 April in the afternoon.

4. Close

Closing prayer by Hon. Matthew Wale

Minutes of Proceedings Day 1 Hearing

Date: Wednesday 16 April,
Venue: Parliament Conference Room 2,
Time: 1:34pm – 4:23pm

Members Present

Hon. Manasseh Sogavare, MP (Chair)
Hon. Dr Derek Sikua, MP
Hon. James Tora, MP
Hon. Matthew Wale, MP
Hon. John Maneniaru, MP
Hon. Douglas Ete, MP
Hon. Johnley Hatimoana, MP

Stakeholders (Witnesses)

Shadrack Fanega- PS, Mins of Finance (MOFT)
Barnabas Anga- PS, Mins of Mines
Ranjit Hewagama- Chief Legal Draftsman, AG Chambers
Aylton Neale Jamieson- Commissioner Inland Revenue Division (IRD)
George Henry Tupo- Deputy Commissioner IRD
Selwyn Takana- Director Economic Reform Unit (ERU), MOFT
Katherine T- Senior Advisor, ERU, MOFT
Mckinnie Dentana- Undersecretary ERU, MOFT
Rictor Heaboe- ERU, MOFT

Secretariat

Mr Wilson Anii, Committee Secretary

1. Welcome & Opening Statement

Chairman acknowledges and thanked the stakeholders for their commitment to appear before the committee for the public hearing into the two Bills. The Chairman made welcome remarks and inform the witnesses on protection under parliament privileges.

2. Hearing into the Bill

The Chairman clarified that the hearing will inquire into the two Bills together because their objectives sought by the amendments are interrelated.

He then invited those who appear to make opening statements to the Committee on the Bill.

The PS MOFT made presentations on behalf of the Ministry of Finance followed by the Commissioner of IRD. The PS of the Mins of Mines also made presentations.

All express their support for the amendments and state that these will establish a new mining tax regime.

The Committee questioned, made comments and seek clarification from those who appear on the different issues covered in the Bill.

The evidence concluded and the Chair thanked the stakeholders for their attendance.

3. Closing

Closing prayer by Hon. James Tora

Minutes of Proceedings**Day 2 Hearing**

Date: Thursday 17 April,
Venue: Parliament Conference Room 2,
Time: 11:48am – 1:00pm

Members Present

Hon. Manasseh Sogavare, MP (Chair)
Hon. Dr Derek Sikua, MP
Hon. Matthew Wale, MP
Hon. John Maneniaru, MP
Hon. Douglas Ete, MP

Stakeholders (Witnesses)

Trevor Wright- Exploration Manager, Axiom KB Ltd
 Carlos Maelaua- Senior Geologist, Axiom KB Ltd

Secretariat

Mr Wilson Anii, Committee Secretary

1. Welcome & Opening Statement

Chairman acknowledges and thanked the two representatives from Axiom KB Ltd for their commitment to appear before the committee for the public hearing into the two Bills. The Chairman made welcome remarks and inform the witnesses on protection under parliament privileges.

2. Hearing into the Bill

The Chairman clarified that the hearing will inquire into the two Bills together because their objectives sought by the amendments are interrelated.

He then invited the two to make opening statements to the Committee on the Bills. Both witnesses made presentations led by Trevor Wright. However both witnesses don't have access to the Income tax (Amendment) Bill 2014. A copy was given to Trevor and the Committee requested if they could submit their written views on the Bill later.

The Committee questioned, made comments and seek clarification from them on the different issues covered in the Bill.

The evidence concluded and the Chair thanked the two witnesses for their attendance and reminded them to make written submissions on the Income Tax (Amendment) Bill 2014.

3. Closing

Chair once again acknowledge and thank the two witnesses for appearing before the Committee.

APPENDIX 2: WITNESSES

The following witnesses appeared before the Bills and Legislation Committee;

Date of appearance	Name	Ministry/Institution represented	Position/Job title
Wednesday 16 th April 2014	Shadrack Fanega	Ministry of Finance (MOFT)	PS
	Barnabas Anga	Ministry of Mines	PS
	Ranjit Hewagama	AG Chambers	Chief Legal Draftsman
	Aylton Neale Jamieson	Inland Revenue Division, MOFT	Commissioner
	George Henry Tupo	Inland Revenue Division, MOFT	Deputy Commissioner
	Selwyn Takana	Economic Reform Unit (ERU), MOFT	Director
	Katherine T	ERU, MOFT	Senior Advisor
	Mckinnie Dentana	ERU, MOFT	Under Secretary
	Rictor Heaboe	ERU, MOFT	Officer
Thursday 17 th April 2014	Trevor Wright	Axiom KB Ltd	Exploration Manager
	Carlos Maelaua	Axiom KB Ltd	Senior Geologist