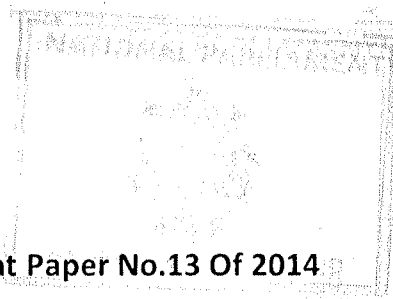




**NATIONAL PARLIAMENT OF SOLOMON ISLANDS
BILLS AND LEGISLATION COMMITTEE**

**Report on the Land and Titles
(Amendment) Bill 2014 (No.10
of 2014)**



National Parliament Paper No.13 Of 2014

Presented on 9th May 2014

National Parliament Office

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EXECUTIVE SUMMARY

The Land and Titles (Amendment) Bill 2014 changes the authoritative power to allocate crown land in Solomon Islands. Since the enactment of the *Land and Titles Act*, the power to allocate an interest in crown land is vested in the Commissioner of Lands. This Bill is asking to change that arrangement and instead conferring those powers to a Land Board.

The Committee welcomes this reform since it seeks to improve the land administration system by granting the power to allocate and distribute an interest in land to a Board rather than to an individual. However, the Committee is greatly concerned that other aspects of our land administration system are equally in dire need of reform. Urban squatting, land zoning, Honiara City boundaries, waste disposal, environmental degradation, to name a few, are some of the pressing issues that need urgent attention for reform.

A holistic reform is required to address many of the difficulties and flaws in the land administration system in order to better facilitate development and quality of life. Key underlying principles of the Act must be revisited and aligned to best practices. Every aspect of administration ought to be reviewed to further increase transparency and accountability in the process, in order to lessen or even avoid disrepute to the system. Complex processes must be simplified and equally available and accessible to each and every citizen of this country. Stringent measures must be put in place to avoid and deter unprofessional and corrupt practices. The entire land administration system needs an overhaul to encourage a fairer, efficient, justifiable and equitable land administration system.

This Bill is a step forward in improving the land administration system. The Committee recommends it to the House.

1. INTRODUCTION

The Bills and Legislation Committee (“the Committee”) reviewed the *Land Titles (Amendment) Bill 2014* on the 1st May 2014. The Bill was submitted on the 11th April 2014 to the Speaker through the Clerk to Parliament as required under the *Standing Orders*¹.

The Committee deliberated on 14th April 2014 and resolved to invite relevant stakeholders² to appear before the Committee and make presentations on the contents, policy matters, and intentions of the Bill. The hearing was held on the 1st May 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 review 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*

⁴Section 62, *Constitution of Solomon Islands 1978*

⁵Above, n3.

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

2 BACKGROUND

The Land and Titles (Amendment) Bill 2014 (the “Bill”) seeks to amend the *Land and Titles Act* [Cap.133] (the “Act”). The Act was enacted in 1968 to regulate land tenure and the processes and administration involved in the acquisition, forfeiture, registration, transfer of title and other interests in land, and other matters relating to land administration, especially crown land. A major review on land administration was conducted in 1988. This is the second attempt at improving the administration system.

The overall objective of the Bill is to increase transparency and accountability in the processes involved in the allocation of land⁶ and the administrative aspects thereof. It is envisaged that the Amendment will improve the administrative system that should stimulate better customer service and set the platforms for a fairer, efficient, justifiable and equitable land allocation system.

2.1 Current practice of land allocation

The Commissioner of Lands (the “Commissioner”), assisted by a Deputy Commissioner, a Registrar of Titles, Assistant Registrars, Surveyors, Title Examiners, and other officers, administers the Act. The power to hold and deal with interests in land for and on behalf of the government is vested on the Commissioner, subject to directions by the Minister responsible for land matters. It is the duty of the Commissioner to advise the Minister on matters concerning land policies.

The Commissioner also has the power under the Act to grant or transfer estates to any person, and impose conditions on such grants or transfers. The Commissioner also has the power to forfeit an estate, if the owner fails to pay rent or fails to perform any obligation incidental to the estate.

2.2 Proposed changes to the Act

The Bill seeks to address public criticisms levelled at the Ministry of Lands and the Commissioner in the way land parcels are allocated and how land matters are dealt with. There were allegations that the Office of the Commissioner has been constantly abused in the

⁶ For the purposes of this Report, ‘land allocation’ or ‘allocation of land’ has the same meaning as ‘allocate’ or ‘allocation’ used Clause 2 on the Bill.

process of allocating parcels of land.⁷ There were also claims of inefficiency and ineffectiveness in the land administration system.⁸

The Bill seeks to address these concerns by diluting the powers accorded to the Commissioner under the Act so far as allocation of land is concerned, and confers the necessary powers and functions on a Board to be known as the Land Board (the “Board”).

Other changes include the development and administration of land, envisaging a fair, transparent, and equitable manner that best meets the needs and welfare of the people of Solomon Islands.

3 OBSERVATIONS

The following are the Committee’s observations regarding the Bill.

3.1 The Board’s power to make rules versus the Minister’s delegated power to make Regulations

The Committee noted that the Board is empowered to *make rules and issue guidelines, directions and statements governing its matters within its power*⁹, whilst the Minister is delegated the legislative powers under section 260 of the Act to make Regulations for carrying into effect the purposes or provisions of the Act.

The Committee is concerned that the distinction between the Board’s power in that respect and the Minister’s delegated power to make Regulations under section 260 of the Act is not very clear and may be exploited. There has to be a clear delineation between the power of the Board to make administrative rules and the Minister’s power to make Regulations. Conversely, if the Board make rules that would amount to legislative action, then the Board’s power to make rules must be tied neatly with the Minister’s delegated legislative powers to make Regulations.

⁷ Evidence,

⁸ *Ibid*

⁹ Clause 5, [8C(1)(i)], Lands and Titles (Amendment) Bill 2014

3.2 Non-liability of Board members

The Committee noted that a member of the Board will not be held liable for any act or omission done in good faith in the execution of his or her powers and duties under the Act.

The Committee is concerned that this provision can be used as a shield to escape liability where an act or omission done is not in good faith. There should be a qualifying provision that where such acts or omissions are not done in good faith, the culprit must face a relatively severe penalty to deter abuse of office and other corrupt practices.

3.3 Zoning

The Committee noted that there is a great disparity between the *Land and Titles Act* and the *Town and Country Planning Act* in terms of zoning land according to their purposes. It is clearly evident in our city that there is no proper demarcation between residential and commercial zones, or perhaps lack of enforcing the demarcation. Land used solely for commercial purposes are seen to be sprouting amongst what should have been residential zones only.

The Committee is concerned that public amenities are lacking in urban centres. Land within the city is prioritised for commercial purposes, giving lesser priority to parks, sport fields, and other recreational amenities.

3.4 Composition of the Board

The Committee noted that the composition of the Board is mostly Permanent Secretaries from various Government Ministries and officials from other departments or Ministries who may not deal directly with the administration of land.

The Committee is concerned of the effectiveness and efficiency of the Board to function as intended. Although, a delegate may be nominated in place of a primary member, continuity may be problematic especially where earmarked Board members are expectantly preoccupied with their primary roles and responsibilities.

3.5 Quorum required for meeting

The Committee noted that the quorum required for the Board to meet is four voting members from amongst the twelve voting members.

The Committee is concerned that the quorum required for the Board to meet is very low considering the number of the members. The required quorum must reflect majority action.

3.5 Contravention of the Liquor Act [Cap.144] as a ground for forfeiture

The Committee noted that the Board have the right to forfeit an estate if the owner is convicted for any offences relating to the possession or sale of liquor in the premises under the Liquor Act.

The Committee welcomes this aspect of the reform. However, this provision should be extended so that an estate may also be forfeited in the event the owner of the estate is convicted of an offence relating to the possession, manufacture, and sale of dangerous and illicit drugs.

4 RECOMMENDATIONS

At the conclusion of the hearing and based on the evidences collected at the hearing, the Committee makes the following recommendations –

Recommendation 1

The Committee recommends that the Government conducts a thorough review of the land administration system.

Recommendation 2

The Committee recommends that the Act must expressly state the boundaries between the Board's power to make rules and the Minister's power to make Regulations.

Recommendation 3

The Committee recommends that the Act must qualify Board Members' liability by providing deterring offences and penalties where an action or omission is committed with an intention to deceive or mislead another in order to gain advantage or disadvantage another.

Recommendation 4

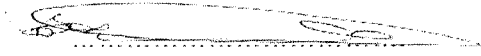
The Committee recommends that responsible Ministries and government agencies thoroughly review and update established mechanisms relating to town planning and land administration, with a view to reforming relevant Act of Parliament and its associated Regulations.

Recommendation 5

The Committee recommends that Paragraph 8 of Schedule to be amended so that the quorum required for a meeting of the Board must be seven (7) voting members.

Recommendation 6

The Committee recommends that Clause 11 (a) "(1)(d)" is amended to include all other dangerous and illicit drugs as defined in the Dangerous Drugs Act (Cap.98).



Hon. Manasseh Sogavare

Chairman

Bills and Legislation Committee

5 APPENDICES

APPENDIX 1: MINUTES



BILLS AND LEGISLATION COMMITTEE

NATIONAL PARLIAMENT OF SOLOMON ISLANDS

Minutes

Deliberative meeting on the Land and Titles (Amendment) Bill 2014.

Held: Monday 24 March 2014,
Venue: Parliament Conference Room 2
Time: 12:08pm – 12:17pm

1. Members Present

Hon. Manasseh D. Sogavare (Chairman)
Hon. Matthew Wale
Hon. John Maneniaru
Hon. James Tora

Secretariat

Jefferson Hallu, Committee Secretariat

2. Chair's Opening Remarks

The Chair calls the Committee to order and introduced the Bill.

3. Committees resolution

The Chair invites members to suggest witnesses to be invited to appear before the Committee and suggest date for the inquiry to commence. The Committee resolved to invite the following:

- Ministry of Lands, Housing and Survey
- Legal Draftsman, Attorney General's Chambers, Ministry of Justice and Legal Affairs

4. Close

Closing prayer by Secretary.

Minutes of Proceedings

Inquiry into the Land and Titles (Amendment) Bill 2014

Date: Thursday 1st May, 2014
Venue: Parliament Conference Room 2,
Time: 1:00pm – 4:00pm

Members Present

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

Stakeholders (Witnesses)

Stanley Wale – Permanent Secretary, MLHE

Heolo Pelu – Registrar of Titles, MLHE

Agnes – MLHA

Ranjit Hewagama – Legal Draftsman, Attorney General’s Chamber

Anthony Makambo – Crown Counsel, Attorney General’s Chamber

Secretariat

Mr Jefferson Hallu, Committee Secretary

1. **Welcome and Opening Prayer**
 - Chair brought the hearing to order.
 - Hon. John Maneniaru said the prayer.

 2. **Opening Statement**
 - Chairman acknowledges and thanked the stakeholders for their commitment to appear before the committee for the public hearing into the Bill.

 3. **Hearing into the Bill**
 - Chairman made welcome remarks and gave an overview of the order of the hearing.
 - Chairman reminded the witnesses on parliament privileges.
 - Panel of witnesses introduced themselves to the Committee.
 - The PS MLHS made his opening statement on the Bill.
 - Discussions, questions and answers ensued.
 - Chairman made closing remarks.
 - Hearing concludes.

 4. **Closing**
 - Hearing ends at 4:00pm.
 - Closing prayer by Mr. Pelu
-

APPENDIX 2: WITNESSES

The following witnesses appeared before the Bills and Legislation Committee;

| Date of appearance | Name | Ministry/Institution represented | Position/Job title |
|-----------------------------------|-----------------|---|---------------------------|
| Thursday 1 st May 2014 | Stanley Wale | Ministry of Lands, Housing & Survey | Permanent Secretary |
| | Haelo Pelu | Ministry of Lands, Housing & Survey | Registrar of Titles |
| | Agnes Atkin | Office of the Commissioner of Land | Officer |
| | Ranjit Hewagama | Attorney Generals Office | Legal Draftsman |
| | Anthony Makambo | Attorney Generals Office | Crown Counsel |

