

National Parliament of Solomon Islands

Bills and Legislation Committee

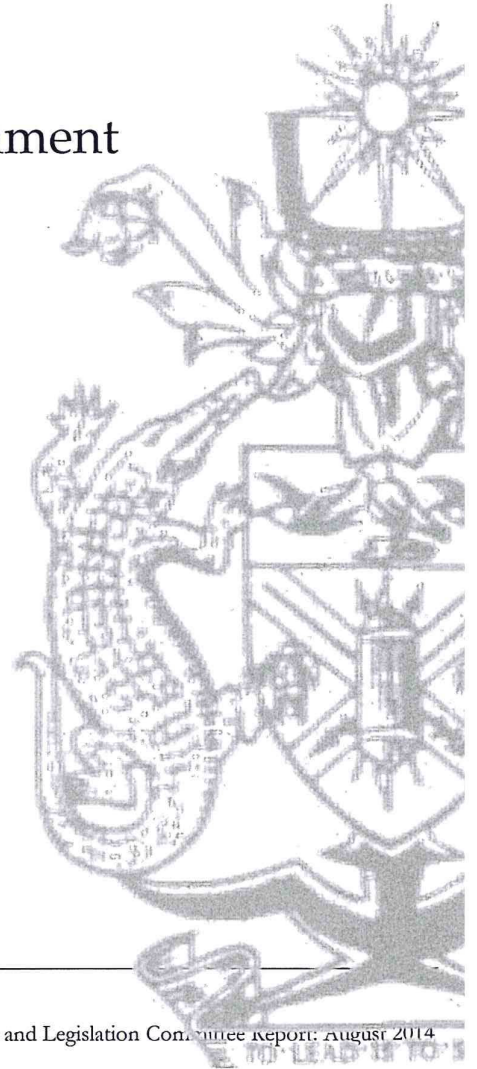
Committee Report

Report on the Provincial Government
(Amendment) Bill 2014

NP-Paper No.31/2014

Presented on 19 August 2014

National Parliament Office



COMMITTEE MEMBERS

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

Hon. Manasseh D Sogavare, MP (Chairman)

Hon. Dr Derek Sikua, MP

Hon. Milner Tozaka, MP

Hon. Matthew C. Wale, MP

Hon. John Maneniaru, MP

Hon. James Tora, MP

Hon. Douglas Ete, MP

Hon. Andrew Manepora'a, MP

Hon. Sam Iduri, MP

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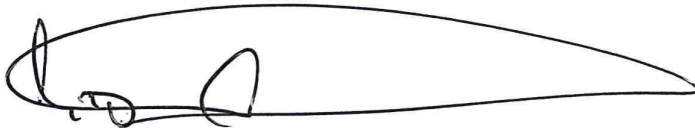
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CHAIR'S FOREWORD

REPORT OF THE BILLS AND LEGISLATION COMMITTEE

Mr. Speaker,

Pursuant to Standing Orders No. 71 (g) of the National Parliament of Solomon Islands, it is an honour and pleasure for me Sir, to present the Report of the Bills and Legislation Committee on the Inquiry into the **Provincial Government (Amendment) Bill 2014** for laying before Parliament.

A handwritten signature in black ink, consisting of a large, sweeping loop followed by a smaller loop and a horizontal line extending to the right.

Honourable Manasseh D Sogavare

Chairman

Bills and Legislation Committee

August 19, 2014

COMMITTEE FUNCTIONS

The Committee is established under *Standing Order*⁷¹; an Order made pursuant to the *Constitution*¹ and 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.

¹Section 62, *Constitution of Solomon Islands* 1978.

EXECUTIVE SUMMARY

The Bills and Legislation Committee had completed its review of the **Provincial Government (Amendment) Bill 2014** on the 13th of August. The Committee in a prior deliberative meeting resolved to invite only the sponsoring Ministry, the Ministry of Provincial Government and Institutional Strengthening (MPGIS), and the Legal draftsman of the Attorney Generals Chamber to make presentations on the contents and policy matters of the Bill. The Committee is of the view that the amendment sought in the Bill is reasonable and important to resolve election difficulties faced by the Ministry during times of Provincial elections.

The Bill basically sought amendment to section 9 of the *Provincial Government Act 1997* (PGA) to allow flexibility on the Minister to declare Provincial elections on other dates rather than on the fourth anniversary of previous elections or after every four years as is currently practised. Officials from the MPGIS when appear before the Committee informed the Committee that they often encounter difficulties and unforeseen circumstances like bad weather, lack of funds and deaths of election officials during fourth anniversary elections. The amendment in the Bill to section 9 of the PGA allows the Minister to declare elections on other dates when such circumstances arise. Further, the new amendment explicitly provides for such circumstances unlike the current practice where it is not provided for, causing the Minister to invoke section 47 of the PGA. Section 47 according to the MPGIS officials was intended to cater for the transition from the 1996 to the current 1997 PGA and other unforeseen circumstances other than Provincial elections. However, there is general trend that section 47 is being abused for other circumstances not intended for, such as the calling of elections as a result of political quarrelling by Assembly members.

The Committee generally agrees with the amendment; however, urge the Ministry to review the PGA and reform the Provincial Government system entirely rather than resolving the difficulties faced by our Provinces on a piece meal basis. This is to resolve some of the difficulties, maladministration and political quarrelling encountered by our Provinces. A Suggestion is for the inclusion of further more deterrence and penalty clauses in the current Act so that defaulting Provincial Executives are held accountable for their actions.

In line with the suggested reform above, Committee members also raised the issue of revenue sharing by the National Government to Provinces. There is general view that the current formula is inadequate.

The Committee therefore commend the Bill to the House for passing and recommend the Ministry to review the PGA wholly so that administrative difficulties and mal-administration experienced by Provinces are resolved.

1.0 INTRODUCTION

1.1 Scope of this Report

Pursuant to its mandate under the *Standing Orders*², 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.

1.2 Methodology

The Bills and Legislation Committee (“the Committee”) had completed its review of the **Provincial Government (Amendment) Bill 2014**. The Bill was submitted to the Speaker through the Clerk to Parliament as required under the *Standing Orders*³ on the 9th of August 2014.

The Committee had its deliberative meeting on the 13th of August and resolved to invite only the sponsoring Ministry and the Legal draftsman from the AG Chambers to make presentations on the contents and policy matters of the Bill. The hearing into the Bill with the stakeholders was held on the same day (13 August) in the afternoon. (The minutes of these proceedings are in appendix 2).

2.0 COMMITTEE DELIBERATIONS

The Committee is of the view that the amendment sought in the Bill is reasonable and generally agrees with what it tries to achieve.

2.1 Objective of the Amendment

The Permanent Secretary for the Ministry of Provincial Government and Institutional Strengthening (MPGIS) in his presentation before the Committee highlighted two main objectives for the proposed amendment to the Provincial Government Act (PGA) in the current Bill. They are; (a) the need for flexibility in the conduct of Provincial elections and, (b) the need for proper application of section 47 of the PGA.

²Standing Order 71(g)

³ Standing Order 45 (1)

(a) The need for flexibility in the conduct of Provincial elections

The current trend is that provincial elections are normally held at the fourth anniversary of the previous ordinary election of the members of a Provincial Assembly. This is provided under section 9 of the PGA. According to the PS of MPGIS, the experience that the Ministry normally have is that sometimes they are faced with unplanned activities or circumstances like weather or unfortunate deaths, making it not appropriate to carry out Provincial elections on a particular date when declared by the Minister. For example, last year (2013) in the Western Province an election officer died, compelling the Ministry to invoke section 47 of the PGA to change the date of elections. Such unforeseen or special circumstances are prescribed under section 47 of the Act which allows the Minister to declare new election dates.

Therefore, the Bill is basically to resolve the practical problems that usually arise during Provincial election day, such as unforeseen circumstances or situation where staff may die, bad weather conditions or shortage of funds. Generally, it also tries to give some kind of flexibility so that the Minister can set different dates for different provinces for logistics convenience and to resolve any uncertainties that may arise.

(b) The need for proper application of section 47 of the PGA

As mentioned above, currently when the Ministry is faced with unforeseen circumstances during the conduct of Provincial elections, the Minister will normally invoke section 47 of the Act to set new dates for elections.

In her presentation before the Committee, the Legal Adviser to the MPGIS stated that section 47 of the Act was originally intended as a transitional provision from the 1996 to 1997 Provincial Government Act. However, it has now being used as a short cut and that such advice has been given over the years where the Minister can use it in all sorts of different circumstances. Such circumstances include whether it be for elections or to suspend Provinces or to do all sorts of other things that perhaps that section was not originally intended to cover.

What the Bill tries to achieve with the amendment is, to remove the abuse of power prescribed under section 47 and try to limit the circumstance in which the Minister can exercise the power.

2.2 Contents of the Amendment

The Bill has only two Clauses. Clause 1 contains the commencement date of the amendment and Clause 2 deals with the amendment of section 9 of the PGA.

(a) Clause 1

Clause 1 of the Bill generally states the commencement of the amended Act. The amended Act shall come into force on any date that it is published in the Gazette.

(b) Clause 2

Clause 2 amend section 9 of the principal Act by deleting subsection (1) and expanded it to include a further two more parts, (a) & (b). Part (a) maintains what is originally in subsection (1) of section 9, which is the conducting of an ordinary election of members of a Provincial Assembly on the fourth anniversary of the date of the office of the previous election.

Part (b) is the new inclusion where it prescribes the Minister, where it is necessary in the public interest after consultation with the Premier of a Province, may appoint any date to hold Provincial elections. However, the date of election should not be more than 60 days before or after the fourth anniversary election. This basically limits the Minister not to declare Provincial elections within two months after or before a fourth anniversary election.

3.0 OTHER RELATED ISSUES

There are also other general concerns raised during discussions on the Bill.

Review of the Provincial Government Act 1997

Members of the Committee are of the view that rather than a piece meal fix of the PGA, there is great need to review the entire PGA 1997. The general view is that most Provinces are performing poorly and that there are mal-administrations in the provision of services to our people. A suggestion is for the Ministry to make vigorous amendment to the PGA to include provisions for deterrence and penalising defaulting Provinces. This was supported by the Committee;

“there should be mechanisms in the Act that trigger a province being placed under suspension or placed under some warnings.....there oath to be some mechanisms clearly

spelt out in the Act where it would be triggered or by vote and by operation of law, where they are placed on some watch list or blacklist and then some discretion exercise over and above that. That to me would seem to be like a real pressing issue because it really affect the delivery of services and the meagre resources that go to them are consumed by politics.”⁴

Furthermore, related to the above is the need to relook at the revenue sharing formula currently used by the Ministry in allocating funds towards Provincial budget support. There is a general view that the funds allocated are not enough to cater for service delivery and developments, particularly in Provinces with high population. The Ministry is urged to come up with an equitable and reasonable distribution formula that can ensure development in the Provinces.

⁴ Hon. Matthew C Wale , Oral evidence, 13th August 2014

RECOMMENDATION

The Committee after its scrutiny of the Bill made the following recommendation;

Recommendation One

The Committee commend the Bill to the House for passing.

Recommendation Two

The Committee recommends the Ministry of Provincial Government and Institutional Strengthening to speed up its review and reform of the Provincial Government Act and includes strict provisions against mal-administration and misappropriation by Provincial Governments.

APPENDICES

Appendix 1 Witnesses

Date	Name	Position & Organisation
Wed 13 August 2014 2 pm	Lindina Kopana	Chief Accountant, Mins of Provincial Gov't & Institutional Strengthening (MPGIS)
	Robert D Kaua	Director of Provincial Governance, MPGIS
	Stanley D Pirione	Permanent Secretary, MPGIS
	Melanie Philips	Legal Adviser, MPGIS
	Ranjit Hewagama	Chief Legal Draftsman, AG Chambers

Appendix 2 Minutes



BILLS AND LEGISLATION COMMITTEE

NATIONAL PARLIAMENT OF SOLOMON ISLANDS

Minutes of Committee Meetings and Hearings

Deliberative Meeting

Wednesday 13th August 2014, CR II, Parliament House 11:04 am

1. Members Present

Hon. Manasseh D Sogavare, MP (Chairman)

Hon. Dr Derek Sikua, MP

Hon. Matthew Wale, MP

Hon. James Tora, MP

Hon. Milner Tozaka, MP

Hon. Andrew Manepora'a, MP

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2. Prayer- Hon. J. Tora said the opening prayer.

3. Committee deliberations.

The Chairman, Hon Manasseh Sogavare made brief opening remarks. He welcomes members for attending and state that three Bills will be discussed. The Family Protection Bill 2014, the Provincial Government (Amendment) Bill 2014 and the Solomon Islands National University (Amendment) Bill 2014.

The Committee after discussion resolved that for the two Bills; the Provincial Government (Amendment) Bill 2014 and the Solomon Islands National University (Amendment) Bill 2014, the Committee will only invite their sponsoring Ministries and the Legal Draftsman from the AG Chambers to make presentations on the Bills.

The Committee then discussed the issues to be highlighted in the report on the Family Protection Bill 2014. Discussions concluded and the Chair thanked committee members for contributing to the discussion.

3. Adjournment

Closing prayer said by Hon. A. Manepora'a
The meeting adjourned at 12:01 pm.

Committee Hearing**Hearing**

Wednesday 13 August 2014, CR II, Parliament House 2:11pm

1. Members Present

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

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Witnesses

Lindina Kopana -Chief Accountant, Mins of Provincial Gov't & Institutional Strengthening (MPGIS)
Robert D Kaua -Director of Provincial Governance, MPGIS
Stanley D Pirione -Permanent Secretary, MPGIS
Melanie Philips -Legal Adviser, MPGIS
Ranjit Hewagama -Chief Legal Draftsman, AG Chambers

2. Prayer

Hon. James Tora said the opening prayer

3. Committee hearing into the Provincial Government (Amendment) Bill 2014

The Chairman made opening remarks and welcomes the Permanent Secretary (PS) and other officials from the Ministry of Provincial Government and Institutional Strengthening (MPGIS). He then invites the PS to introduce his group and made his presentation.

The PS made his presentation before the committee. The Committee questioned the PS, other MPGIS officials and the Legal Draftsman on the contents of the Bill. The PS and MPGIS officials answered, made clarification and commented on the Bill. Evidence concluded and the Chair thanks the witnesses for their attendance and contribution on the Bill.

4. Adjournment

Closing prayer by the PS of MPGIS
The Committee hearing closed at 2:52 pm.

