



SOLOMON ISLANDS NATIONAL PARLIAMENT

BILLS AND LEGISLATION COMMITTEE

REPORT

ON

THE PUBLIC SOLICITOR (AMENDMENT) BILL 2005

National Parliament Paper No. 22 of 2005

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The Members of the Bills and Legislation Committee are:

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Hon. Edward J. Huniehu, MP
Chairman

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Hon. Manasseh Sogavare, MP
Member

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Hon. Clement Kengava, MP
Member

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Hon. Dr. Steve S. Aumanu, MP
Member

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Hon. Meshach M. Maetoloa, MP
Member

1. **TERMS OF REFERENCE**

To examine and report to Parliament the Committee's observations and recommendations on:-

“The Public Solicitor (Amendment) Bill 2005”.

2. **FUNCTIONS**

In accordance with Section 62 of the Constitution as read with Section 71 of the Standing Orders, the Bills and Legislation Committee's functions in addition to the provisions in Standing Orders 50 and 55, shall be 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.

3. **ACKNOWLEDGEMENT**

The Committee would like to acknowledge the attendance of the Legal Officer from the Attorney General's Department, the Permanent Secretary of the Department of Justice & Legal Affairs, who have availed themselves before the Committee to help explain and clarify questions that may emanate from the members.

4. **PURPOSE OF THE PUBLIC SOLICITOR (AMENDMENT) BILL 2005**

The objects and reasons as stated in the amending Bill are as follows:

The *Public Solicitor Act* was enacted to make provisions in respect of the granting of legal aid by the office of the Public Solicitor. In terms of the Act, it appears that such legal aid can only be provided by a legal practitioner employed in the office of the Public Solicitor.

The increased volume of both civil and criminal litigation has placed a heavy burden on the office of the Public Solicitor. The office with its present staff is unable to meet the needs of the people seeking legal aid.

It is, therefore, considered that the scope of legal aid offered by widened by providing for legal aid work to be assigned by the Public Solicitor to legal practitioners who are not officers employed in the office of the Public Solicitor.

This Bill, therefore, seeks to –

- (a) substitute a new definition for the present definition of “legal officer”; and
- (b) redraft the regulation making section so as to provide for the Minister to prescribe the terms and conditions under which legal aid could be assigned to legal practitioners who are not in the employ of the Public Solicitor.

5. **THE PUBLIC SOLICITOR ACT (CAP. 30)**

S.2 of *The Public Solicitor Act* defines Legal Officer as –

A legal practitioner employed in the office of the Public Solicitor.

S.11. *The Minister may make regulations –*

- (a) prescribing any matter which, by this Act, is or may be required to be prescribed;*
- (b) in the case where a person seeks legal aid in a matter of urgency, making provision necessary to meet the special circumstances;*
- (c) making provision as to the manner in which the rate of a person’s disposable income is to be computed for the purposes of this Act;*
- (d) prescribing any forms to be used under this Act; and*
- (e) generally for the better carrying out of all or any of the provisions of this Act.*

5. **OBSERVATIONS**

In its deliberation on “**The Public Solicitor (Amendment) Bill 2005**”, the Committee made the following observations:

The Committee noted that the minor amendment to the Bill was to widen the scope of legal aid provided by the office of the Public Solicitor. The amendment seeks to provide for legal aid work to be assigned by the Public Solicitor to legal practitioners who are not officers employed in the office of the Public Solicitor. The current Act only caters for the legal aid to be provided by a legal practitioner employed in the office of the Public Solicitor. The Committee notes that the intent of the Bill reflects the practice for the provision of legal aid in most overseas jurisdictions.

To cater for the broad scope of legal aid to be offered, it is considered necessary to redefine the definition of ‘legal officer’ as “*a legal practitioner either employed in the office of the Public Solicitor or a legal practitioner to whom legal aid is assigned by the Public Solicitor in accordance with regulations made under this Act*”.

Clause 3 replaces the current S11 on Regulations, which basically is the same as the current Act, except for paragraph (d) which deals with the prescribing of the terms and conditions under which legal aid can be assigned by the Public Solicitor to a legal practitioner who is not employed in the office of the Public Solicitor.

The Committee expressed some concern that the associated regulations which will prescribe the way the Act will operate are currently not drafted. The relevant officer was also not in a position to outline to the committee how it was proposed to allocate the work to legal practitioners in the Solomon Islands. The Committee reminded the relevant officers that after the regulations were gazetted they must be laid before Parliament at which time this Committee will consider them. The Committee emphasized it is particularly concerned that the allocation of work is done in a fair, equitable and transparent manner and that the Regulations should be drafted accordingly.

6. **RECOMMENDATIONS**

The Committee strongly recommends that following the passing of the Interpretation and General Provisions (Validation and Indemnity) Bill 2005, the Regulation should be tabled in the first sitting of the new Parliament.

The Committee notes that the Regulations are yet to be drafted and recommends that they be drafted to ensure allocation of work is done in a fair, equitable and transparent manner.

It is also recommended that the Bills Committee of the next Parliament scrutinize the regulations and take up the recommendations of this Committee.

The Committee has considered the Bill and **RECOMMENDED** that “**The Public Solicitor (Amendment) Bill 2005**” be presented and debated on in Parliament.