

NATIONAL PARLIAMENT OF SOLOMON ISLANDS

BILLS AND LEGISLATION COMMITTEE

REPORT

ON

THE MAGISTRATES' COURTS (AMENDMENT) BILL 2007

CONTENTS

1. TERMS OF REFERENCE
2. FUNCTIONS
3. MEMBERSHIP
4. PURPOSE OF THE BILL
5. OBSERVATIONS
6. SPECIFIC OBSERVATIONS

TERMS OF REFERENCE

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

"The Magistrates' Courts (Amendment) Bill 2007"

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. MEMBERSHIP

The Membership of the Bills & Legislation Committee is made up of:

Hon. Edward J. Huniehu (Chairman)

Hon. Peter Boyers

Hon. James Tora

Hon. Seth Gukuna

Hon. Laurie Chan

Hon. Fred Fono

4. PURPOSE OF THE BILL

The Magistrates' Courts (Amendment) Bill 2007

Objects and Reasons:

The Bill seeks to substantially increase the Courts jurisdictional limits of the Magistrate's Courts and also seeks to formally create the posts of Chief Magistrate and Deputy Chief Magistrate, and to give statutory recognition to the organisation of the Magistrates' Courts. Under the revised set up a single Magistrates' Court is established with magistrates being able to serve throughout Solomon Islands. This would ensure a proper allocation of court resources and provide greater management flexibility. The creation of formal roles for the Chief Magistrate and Deputy Chief Magistrate will ensure that the court has the capacity to administer itself whilst being responsible to the Chief Justice. This would enhance judicial independence and permit more efficient case management practices to be adopted.

This Bill, therefore, seeks to provide for the creation of one magistrates court for Solomon Islands replacing the existing three court divisions of Principle Magistrates Courts, and Magistrates Courts of the First Class

and Magistrates Courts of the Second Class, and confer on such courts enhanced jurisdiction.

5. OBSERVATIONS

The Bills and Legislation Committee met on Tuesday 14 August 2007 to examine and make its observations and recommendations on “The Magistrates’ Courts (Amendment) Bill 2007”.

General Observations on the Bill

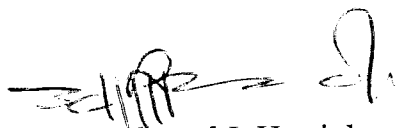
- The Committee is satisfied with the Permanent Secretary’s presentation and explanation of the Bill and notes his extensive knowledge and understanding of the effects and the intention of the Bill
- The proposed amendments to the substantive act will create greater flexibility and in turn efficiency in the work of the magistrates’ courts for instance the Bill provides for the Chief Magistrate to have overall administrative responsibility of the magistrates Courts
- The Bill is part of the ongoing reform of the justice system.
- The Committee noted that the geographical allocation of resources are currently not aligned to provinces but rather remain aligned to the districts as they were during the colonial days.
- The Bill will increase the work load of the magistrates’ courts and thus the Ministry must develop the administrative capacity to accommodate the demand for services.
- The Committee raises a general view that whilst the proposed changes are important and timely. The Committee would also like

to see improvement in the courts infrastructure in the districts to accommodate and enhance court services and achieve the overarching aim of ensuring that people in the provinces, especially in the rural areas have adequate access to the courts

6. SPECIFIC OBSERVATIONS

Section 1 page 5 short title and comment:

The Committee has previously raised concern over the open ended nature of this provision. Currently the Bill comes into force "on such date as the Minister may appoint by Notice published in the Gazette". The Committee is concerned that this discretion may lead to unintended delays and intends to monitor the provision to ensure that Bills passed by Parliament come into effect in the shortest possible time following assent.



Hon. Edward J. Huniehu

Chairman

Bills & Legislation Committee



Minutes of Proceedings

Meeting No.7

Tuesday 14 August 2007, Parliament Conference Room, 9:30am.

1. Members Present

Hon. Edward Hunuiehu, MP (Chairman)

Hon. Peter Boyers, MP

Hon. Laurie Chan, MP

Hon. Fred Fono, MP

Hon. Seth Gukuna, MP

Hon. James Tora, MP

In-Attendance

Mr. James Remobatu, Permanent Secretary, Ministry of Justice and Legal Affairs

Secretariat

Mr. Warren Cahill, Parliamentary Strengthening Project

Mr. David Kusilifu, Committee Secretariat

Mr. Jude Devesi, Committee Secretariat

Ms. Alice Willy, Committee Secretariat

2. Chair's Opening Remarks

The Chair opened the meeting and thanked members and relevant officials for their attendance.

a) The Magistrates' Courts (Amendment) Bill 2007

The Chair invited the Permanent Secretary (PS) of the Ministry of Justice and Legal Affairs to brief the Committee on the purpose and objectives of the Bill.

The Committee questioned the PS.

Evidence concluded.

The Committee deliberated and supported the objectives of the Bill but highlighted a number of general issues relating to the implementation and administration of the proposed amendments, more specifically with regard to the lack of a clear enforcement date.

Further, the Committee resolve that the report highlighting the issues raised in relation to the Bill be prepared and presented to Parliament for its consideration.

5. Close

The Committee adjourned at 11:00 until 11:30 am.