



**LAND AND TITLES
(AMENDMENT) ACT 2014**

(NO. 11 OF 2014)





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PASSED by the National Parliament this twenty-eighth day of May 2014.

(This printed impression has been carefully compared by me with the Bill passed by Parliament and found by me to be a true copy of the Bill)

*Taeasi Sanga (Mrs)
Clerk to National Parliament*

ASSENTED to in Her Majesty's name and on Her Majesty's behalf this twelfth day of June 2014.

*F. O. Kabui
Sir Frank Utu Ofagioro Kabui
Governor-General*

Date of Commencement: see section 1

AN ACT TO AMEND THE LAND AND TITLES ACT (CAP.133).

ENACTED by the National Parliament of Solomon Islands.

ARRANGEMENT OF SECTIONS

1. Short Title and commencement
2. Amendment of section 2
3. Amendment of section 3
4. Amendment of section 4
5. Insertion of new Part IIA
6. Repeal of section 25
7. Amendment of section 84
8. Amendment of section 120
9. Amendment of section 132
10. Amendment of section 135
11. Amendment of section 136
12. Amendment of section 139
13. Amendment of section 140
14. Amendment of section 142
15. Amendment of section 185
16. Amendment of section 243
17. Amendment of section 245
18. Amendment of section 248
19. Amendment of section 260
20. Savings and transitional provisions
21. Insertion of new Schedule

LAND AND TITLES (AMENDMENT) ACT 2014

1. This Act may be cited as the Land and Titles (Amendment) Act, 2014, and shall come into force on such a date as the Minister may appoint by Notice published in the Gazette.

Short title and commencement

2. Subsection (1) of section 2 of the Land and Titles Act (herein after referred to as the "principal Act") is amended by inserting the following definitions in the appropriate alphabetical order -

Amendment of section 2 of Cap.133

“allocate” in respect of land means to –

- (a) transfer, grant or lease an estate whether by public auction, tender, ballot or directly;
- (b) grant a temporary occupation licence; or
- (c) grant a right of way over public land, and

“allocation” has a corresponding meaning;

“Board” means the Land Board established by section 8B(1).

3. Section 3 of the principal Act is amended by adding the words “Board and a” before the word, “Commissioner.”

Amendment of Section 3

4. Section 4 of the principal Act is amended –

Amendment of Section 4

- (a) by deleting subsection (4) and substituting the following –

“(4) Subject to the provisions of this Act and any general or special direction of the Board the Commissioner shall, for and on behalf of the Government, have power -

- (a) to hold and deal in interest in land subject to section 8(C); and
- (b) to execute any instrument relating to an interest in land and such other powers as are provided for under the provisions of this Act.”

- (b) by deleting the word, "Minister" in subsection (5) and replacing it with the word, "Board".

Insertion of
new Part 11A

5. The principal Act is amended by inserting after Part II the following new Part –

“PART IIA – ESTABLISHMENT OF THE LAND BOARD AND ITS POWERS AND FUNCTIONS

Objects of
this Part

8A. The object of this Part is to establish a Land Board and to confer on it all powers and functions relating to the allocation of interest in land, the development of land and to ensure that the administration of land is carried out in a fair, transparent and equitable manner, to meet the needs and welfare of the people of Solomon Islands.

Establishment of
Land Board and
Power to appoint
members

8B. (1) There is hereby established for the purpose of this Act a Land Board (hereinafter referred to as the “Board”).

(2) The Board shall be constituted in accordance with the Second Schedule.

Powers and
functions of the
Board in land
allocation

- 8C. (1) The Board has power to -
- (a) allocate interest in any land in accordance with the provisions of this Act;
 - (b) approve any method of allocation of land and the terms and conditions to be applied;
 - (c) receive and determine any application for land allocation, subject to the provisions of subsection (6) of this section;
 - (d) consider and approve the level of rent, premium and covenants in respect of Perpetual estates and

Fixed-term estates subject to any powers conferred on the Surveyor General or any other person under any other law;

(e) in respect of land repossessed by forfeiture, voluntary surrender or any other like act, determine its availability for allocation;

(f) receive, consider and grant temporary occupation licences subject to the provisions of section 82;

(g) subject to Cabinet approval, allocate government land as compensation for customary land acquired for and on behalf of the Government and grant rights of way over public land;

(h) require the Commissioner to submit to it reports on the status of any dealing, current or otherwise, under this Act; and

(i) make rules and issue guidelines, directions and statements governing matters within its power specified in this section.

(2) Subject to the provisions of this Act the Board may in writing delegate any of the powers and functions in subsection (1) to the Commissioner.

(3) The Commissioner shall in the exercise of a delegated power or function in this Act, have regard to any rules, guidelines, directions or statements made or issued by the Board.

(4) In allocating land the Board shall –

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(a) where it decides to allocate land by tender, public auction or by ballot, direct the Commissioner to –

(i) cause the land to be advertised by whatever mode it deems appropriate in the circumstances;

(ii) undertake any administrative action required for allocation;

(iii) ensure that any applicable requirement under any other law is complied with fully;

(iv) provide a report to the Board on the actions taken in sub-paragraphs (i) to (iii) together with recommendations; and

(v) soon after allocation, inform the applicants and the public of the result.

(b) where it decides to allocate land directly, direct the Commissioner to –

(i) carry out the acts in sub-paragraphs (a)(i), (ii) and (iii);

(ii) cause a search to confirm the capability of the selected applicant; to fulfil the obligations attached to the allocation; and

(iii) undertake any other action as it deems necessary.

(5) Unless directed by the Board any land recovered by forfeiture, resumption or voluntary surrender under this Act, shall not be allocated within a period of six months.

(6) The Commissioner shall only exercise a power or carry out any function in subsection (4) if –

(a) there is a written directive from the Board to the Commissioner; and

(b) it is satisfied taking into account all necessary considerations that the method of allocation will not have any adverse consequences.

Provincial
land

8D. (1) Subject to the provisions of the Provincial Government Act 1997 or any other law applicable, any land owned by the Commissioner in a provincial land boundary is held subject to the provisions of this Act.

(2) Where a land under subsection (1) is required either by the Provincial Executive or the Commissioner to be allocated for whatever purpose, the Chairperson of the Provincial Town and Country Planning Board or the Commissioner as the case may be, shall inform the Board accordingly and the Board shall in the exercise of its powers under section 8C(1)(b) issue directives on the prescribed process of allocation to be applied.

(3) The Board may require the Provincial Town and Country Planning Board or the Commissioner under subsection (2) to make oral submissions on any specific case of allocation.

(4) Notwithstanding any powers conferred on the Provincial Government under any other law in respect of land within a provincial land boundary owned by the Commissioner, the Board may refuse to allocate land under this section if the proposed allocation –

(i) does not meet with any legal requirements under law; or

(ii) does not fall within the objectives of this Act; or

(iii) is determined not to be in the best interest of the public.

Annual
Report

8E. (1) The Board shall provide to the Minister –

(a) by 31 March in each year, a report on the performance of the Board in relation to its functions during the year ended 31 December of the previous year; and

(b) such other reports produced in relation to the functions of the Board as may be requested by the Minister.

(2) The Report shall, inter alia, state -

(a) all land allocated during the year;

(b) the names of all applicants who applied for the allocated land;

(c) the names of successful applicants;

(d) the premiums and rentals imposed;

(e) the conditions and covenants applied; and

(f) the method of allocation by which each parcel of land was allocated.

(3) As soon as practicable after receipt of the report, the Minister shall -

(a) forward a copy to the Speaker for presentation to Parliament;

(b) make available copies for public inspection or purchase.”

6. Section 25 of the principal Act is hereby repealed.

Repeal of
section 25

7. Section 84 of the principal Act is hereby amended -

Amendment
of Section 84

(a) in subsection (1) by deleting the word
“Where” and substituting the words “Subject to
subsection (1A), where”; and

(b) by inserting immediately after subsection (1)
the following new subsection -

“(1A) The Commissioner shall -

(a) before making an offer under
subsection (1), seek the advice of the
Board; and

(b) in making the offer, follow
any written directive issued by the
Board.”

8. Section 120 of the principal Act is amended by adding the
words “or Board” immediately after the word “Minister”.

Amendment of
section 120

9. Section 132 of the principal Act is amended -

Amendment of
section 132

(a) by deleting from subsections (1) and (2), the
word “Commissioner” wherever it appears in those
subsections and substituting the word “Board” in
each case;

(b) by adding immediately before paragraph (a)
of subsection (1) the following new paragraph;

“(a1) advertise land as available for
allocation in accordance with the provisions
of this Act or”;

(c) by adding immediately after subsection (2),
the following new subsection -

“(2A) Where there is a transfer of land in
accordance with subsection (2), the
sublessee holds the sublease subject to the
payment of rent to the lessor.”

(d) by deleting subsection (4) and substituting the following new subsection –

“(4) Subject to the provisions of the Act, the Board may –

(a) vary, negative or add to obligations contained or implied in any transfer or grant of an estate; and

(b) vary the rent of any fixed term estate”; and

(e) by inserting after subsection (4) the following new subsections -

“(5) A decision made by the Board under subsection (4) shall be implemented by an instrument in the prescribed form executed by the Commissioner and the owner of the estate.

(6) The Commissioner shall not except, where there are special grounds of an urgent or exceptional character, consent to a dealing referred to in subsection (3) where an obligation to develop the land has not been complied with”.

Amendment
of section 135

10. Section 135 of the principal Act is amended -

(a) by deleting subsection (3) and substituting the following new subsection –

“(3) From and after the commencement of this Act the Commissioner shall -

(a) subject to section 140, at intervals of not less than seven years in the case of an estate comprising town land, or fifteen years in the case of an estate comprising other land, revise under

subsection (5) the amount of rent incident to an estate; and

(b) on revision of the rent under this section, deliver to the Registrar a notification of the amount of the revised rent and the Registrar shall enter such amount in the register, and the payment of the revised rent may be enforced against the person who for the time being is the owner of the estate in like manner as if that person had been the original transferee or grantee of the estate.

(b) by inserting after subsection (3) the following new subsection -

“(3A) In respect of estates granted before the commencement of this Act, the revision of rent under subsection (3)(a) shall -

(i) for a grant yet to be revised under the principal Act, take effect from the date of the first revision; and

(ii) for a grant already revised under the principal Act, take effect from the date of the last revision.”

11. Section 136 of the principal Act is amended -

Amendment of section 136

(a) by deleting subsection (1) and substituting the following new subsections -

“(1) Subject to section 139, the Board shall have the right to forfeit an estate if the owner -

(a) fails to pay rent incident to the estate when it becomes due;

(b) fails to perform any obligation on his part incident to the estate;

(c) irrespective of any contrary time period referred to in the lease, fails to develop the land in accordance with the development obligation incident thereto within a period of three years from the date of transfer or grant;

(d) or any person in occupation of the land has been convicted by a court for any offence relating to the possession or sale of liquor in the premises under the Liquor Act (cap. 144) or any drugs specified as dangerous drugs under the provisions of the Dangerous Drugs Act (Cap. 98); or

(e) has permitted any person to enter or remain on the land and construct any dwelling house, whether of a permanent or temporary nature without first obtaining the consent of the Commissioner.”

“(1A) Where the Board exercises the right to forfeit an estate under subsection (1), neither the owner nor any person claiming a right in the property through or under him, shall be entitled to compensation in respect of the property.”; and

(b) by inserting in the proviso to subsection (3) after the words “acceptance of rent” the words “or the commencement of any development on the land in accordance with the development obligation”.

12. Subsection (2) of section 139 is amended by deleting the words “six months” that appear in paragraphs (b) and (c) of that subsection and substituting the words “one month” in each case.

13. Section 140 of the principal Act is amended –

(a) by deleting subsection (2) and substituting the following new subsections –

“(2) The Commissioner must not consent to any subdivision if –

(a) an application is not supported by evidence that the requirements of the Town and Country Planning Act (Cap. 154) have been complied with; and

(b) in respect of any application for land for an urban purpose, such land is not wholly within an area which has been designated as town land under section 135(4) or which has not been declared to be a town under the Town and Country Planning Act (Cap. 154).”;

“(2A). For the purposes of subsection (2)(b), any residential, commercial or industrial use that is not wholly or primarily ancillary to agricultural use, shall be deemed to be an urban purpose.”;

(b) by deleting subsection (4) and substituting the following new subsection –

“(4) Where land comprised in an estate is subdivided, the Commissioner shall determine and revise the rent (if any) in respect of each subdivision to reflect the new value of each parcel, and impose new obligations on the estates resulting from the subdivision;

(c) by inserting after subsection (4) the following new subsection –

“(4A) The owner of each subdivision shall –

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- (a) pay the revised rent; and
- (b) perform any obligation, as determined by the Commissioner, in respect of that estate”.; and

(d) by deleting paragraph (a) of subsection (5) and substituting the following new paragraph –

“(a) pay the moneys payable (if any) under the charge based on the rent as determined under subsection (4) and”.

Amendment
of section 142

14. Section 142(1) of the principal Act is amended by deleting the words “Commissioner may insert” from paragraph (ii) to the proviso and substituting the words “the Board may direct the Commissioner to insert”.

Amendment
of section 185

15. Section 185 of the principal Act is amended by deleting the word “Commissioner” and substituting the word “the Board”.

Amendment
of section 243

16. Section 243 of the principal Act is amended –

(a) in subsection (1) by deleting the words, “fifty” and substituting the words, “five thousand”; and

(b) in subsection (2) by deleting the word, “fifty” and substituting the words, “ten thousand”.

Amendment of
Section 245

17. Section 245 of the principal Act is amended –

(a) by deleting the word “or” that appears in paragraph (c);

(b) by deleting the comma that appears at the end of paragraph (d) and substituting instead a semi-colon and the word “or”; and

(c) by adding the following new paragraph thereafter

“(e) continues to remain on land repossessed by the Commissioner under this Act.”

18. Section 248(1) of the principal Act is amended by deleting the words “Commissioner” and “he” and substituting the words “Board” and “it” respectively.

Amendment
of section 248

19. Section 260 of the principal Act is amended -

Amendment
of section 260

(a) in subsection (2) by inserting immediately before the word “the Commissioner” wherever it appears, the words “the Board or”; and

(b) by adding the following new subsection -

“(3) Before the Minister makes any regulations relating to any power or function given by this Act to the Board, he shall consult with the Board on the matter and take its views into account.”

20. Any current grant, certificate, licence, approval or registration previously issued or made under any power herein amended either by the Minister, the Commissioner or any other officer acting under a prescribed or delegated power shall be deemed to have been issued or made under this Act and shall remain valid for the period of its validity.

Savings and
transitional
provisions

21. The principal Act is amended -

Insertion
of new
Schedule

(a) by renumbering the existing Schedule as “First schedule”, and any reference in the Act or Regulations to the Schedule shall be taken to be a reference to the Schedule so renumbered; and

(b) by inserting the following new Schedule as the Second Schedule.

“SECOND SCHEDULE
(Section 8B)

1. Board membership

(1) The Board shall consist of the following members -

(a) five nominated members; appointed by the Minister;

(b) Permanent Secretary of the Ministry responsible for land or his nominee, ex officio;

(c) Clerk to the Honiara City Council or his nominee, ex officio;

(d) Chairman, Town and Country Planning Board or his nominee, ex officio;

(e) Permanent Secretary of the Ministry responsible for provincial governments or his nominee, ex officio;

(f) Permanent Secretary of the Ministry responsible for commerce or his nominee, ex officio;

(g) Permanent Secretary of the Ministry responsible for environment or his nominee, ex officio; and

(h) Permanent Secretary of the Ministry responsible for infrastructure development or his nominee, ex officio.

(i) The Commissioner of Lands, Registrar of Titles, Surveyor General, Valuer General and Director of Physical Planning or such other officer as may from time to time be required for any specific purpose and when required by the Board shall attend any meeting of the Board ex officio.

(2) Only members referred to in paragraph (1)(a) to (h) shall be voting members.

(3) The members in paragraph (1)(a), shall be appointed by the Minister in the following manner:-

(a) by selection of three members, one of whom must be a female nominated by the Ministry responsible for women,

youth, children and family affairs, in response to public advertisement;

(b) by selection of one member, from a list of three candidates, submitted by the Solomon Islands Chamber of Commerce; and

(c) in consultation with Cabinet, the selection of one member from the public who is considered to be in a position to contribute to the Board by reason of his or her experience and knowledge in land.

(4) A member appointed under paragraph (1)(d) shall -

(a) only attend a meeting of the Board when matters for consideration relate to its Province or City; and

(b) at such meeting only vote on such matters.

2. Term of Office

Subject to paragraph 3, a nominated member -

(a) appointed by the Minister shall be published by notice in the Gazette

(b) shall be appointed for a term not exceeding two years;

(c) is not eligible to have his appointment extended;

(d) is not eligible for re-appointment until five years have passed since the expiration of the member's appointment; and

(e) holds office on such terms and conditions as are determined by the Minister.

3. Termination of appointment of members of the Board

(1) A member of the Board, other than an ex officio member, may resign his office by writing signed by him and delivered to the Minister, and from the date of receipt by the Minister, the member shall cease to be a member of the Board.

(2) A member of the Board shall cease to hold office -

- (a) in the case of an ex officio member, when he ceases to hold office in the capacity he was appointed;
- (b) in the case of a nominated member, when his term expires, or when the Minister terminates his appointment;
- (c) in the case of all members, upon election to any national, provincial or local government body.

(3) The Minister shall terminate a member other than an ex officio member if the member –

- (a) becomes permanently incapable of performing his duties; or
- (b) is certified by a qualified medical practitioner to be of unsound mind; or
- (c) is absent, except with the written consent of the Chairman of the Board, from three consecutive meetings of the Board; or
- (d) fails to disclose an interest in accordance with paragraph 9; or
- (e) becomes bankrupt, or applies to take the benefit of any law for the benefit of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit; or
- (f) is convicted of a criminal offence involving dishonesty or an offence punishable under a law by a term of imprisonment of one year or longer; or
- (g) ceases to be ordinarily resident in the country.

(4) The Minister may on the advice of the Board and by written notice issue a warning to a member other than an ex officio member, on suspected misbehaviour likely to bring the Board into disrepute.

(5) A member terminated under paragraph (3) may appeal the decision to the Minister within 14 days from the date of receipt of the termination letter. Failing to appeal within the stipulated time bars a member from invoking this right.

(6) Where an appeal is made under paragraph (5) the Minister shall deal with it taking into account all the relevant facts and law

and make a decision thereafter informing the member within 14 days.

4. Remuneration

The members of the Board shall be entitled to be paid such remuneration (including travelling and subsistence allowances where appropriate) as the Minister may prescribe by regulation from time to time.

5. Chairperson and Deputy Chairperson

(1) The voting members of the Board shall elect a Chairperson and Deputy Chairperson herein after referred to as the Deputy from among the nominated members.

(2) The Chairperson and Deputy hold office as Chairperson or Deputy until the expiration of the period of their respective appointments or until they cease to be members, whichever first occurs.

(3) At a meeting of the Board –

(a) the Chairperson, or in his absence the Deputy, shall preside as Chair; or

(b) in the absence of both the Chairperson and the Deputy, a nominated member elected by the voting members present shall preside as Chair.

6. Meetings

(1) The Board shall meet at such times and places decided, provided that there shall not be less than one meeting per quarter in any calendar year.

(2) The Secretary shall, at least one week before a meeting of the Board distribute to the members –

(a) the agenda of that meeting;

(b) copies of supporting papers; and

(c) the minutes of the previous meeting

(3) Upon deciding the agenda the Chairperson may call on each of the ex officio members and cause discussions on the need or not for personal attendance.

(4) Subject to the provisions of this Schedule, the Board may regulate its own proceedings.

7. Voting

All decisions of the Board shall be made by a majority of votes of the voting members present and voting, and if on any question the votes are equally divided, the presiding Chairperson shall have and exercise a second or casting vote.

8. Quorum

The quorum of any meeting of the Board shall be seven voting members.

9. Disclosure of interest by member of the Board

(1) A member who has a direct or indirect interest -

(a) in a matter being considered or about to be considered in a meeting of the Board; or

(b) in a thing being done or about to be done by the Board,

shall, as soon as the relevant facts relating to the interest come to his knowledge, disclose the nature of the interest to the Board before deliberation on the matter containing the interest.

(2) A disclosure by a member at a meeting of the Board that the member -

(a) is a director or shareholder of a company falling under subparagraph (1) company or is a relative of a director or shareholder of such a company; or

(b) has some other specified interest relating to a specified company or other body or to a specified person; or

(c) has a personal interest in the land to be dealt with;

shall be sufficient disclosure of the nature of the interest.

(3) The Board shall cause particulars of any disclosure made under this paragraph to be recorded in a book kept for the purpose and such book shall be open at all reasonable hours for inspection by person on payment of such fee as the Board may, from time to time, determine.

(4) A disclosure under subsection (1), shall be recorded in the minutes of the Board, and the member –

(a) shall not, after the disclosure –

(i) take part in any deliberation or decision of the Board in relation to the matter; or

(ii) exercise any function under this Act with respect to that thing; and

(b) shall be disregarded for the purpose of constituting a quorum of the Board for any such deliberation or decision.

10. Validity of proceedings

The validity of any proceedings of the Board shall not be affected by any vacancy among the members nor by any defect in the appointment of a member.

11. Assistance

(1) The Board may -

(a) seek assistance or advice on any matter from any person; and

(b) co-opt a person other than an officer in subparagraph (1)(i) to be an additional non-voting member of the Board for the purposes of consideration of a particular matter.

(2) A person who is co-opted under subparagraph (1)(b) shall act in an advisory capacity only and may be reimbursed reasonable travelling and accommodation expenses necessarily incurred in attending meetings of the Board and may be paid such sitting allowance as the Minister determines.

12. Non-liability of Board members

No member shall be liable in respect of anything done or omitted to be done by him in good faith in the execution or purported execution of his powers and duties under this Act.

13. Secretary

The Commissioner shall act as Secretary to the Board, and may delegate any of the functions of Secretary to the Deputy Commissioner.

14. Minutes and List of Successful Applicants

(1) The Secretary shall keep full and accurate minutes of each meeting of the Board. The minutes shall be made available for public inspection soon after the meeting and shall be confirmed by the Board at a later meeting.

(2) The Secretary shall forward notice of allocations made by the Board to every person who, in his opinion, is interested in an application or matter dealt with by the Board.

(3) The Commissioner shall, as soon as practicable after the Board has made an allocation –

(a) publish a list of successful applicants at some place to which the public has unhindered access; and

(b) make public notification, in the media, that the list is available for inspection.

15. Authentication of acts, decisions, minutes etc.

All acts, decisions, minutes and documents that require authentication, shall be signed by the Chairperson, his Deputy or Secretary of the Board in accordance with the decisions of the Board.

16. Forms and Procedure

The Board shall approve and issue Forms and publish directions relating to its procedure. Parties shall adhere to such directions when dealing with the Board.

17. Offices not public offices

The offices of the Chairperson, his Deputy and members of the Board shall not be public offices for the purpose of Chapter XIII of the Constitution”.

