

THE SOLOMON ISLANDS MONETARY AUTHORITY (AMENDMENT) BILL 1982

(NAME OF BILL)

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TO Clerk to National Parliament
(for distribution: 2 copies Attorney General's Chambers
1 copy Ministry
1 copy Parliament Office
1 copy Registrar of the High Court
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SOLOMON ISLANDS



SOLOMON ISLANDS
MONETARY AUTHORITY
(AMENDMENT) ACT 1982

(NO 19 OF 1982)

*The Solomon Islands Monetary Authority
(Amendment) Act 1982*

THE SOLOMON ISLANDS MONETARY AUTHORITY
(AMENDMENT) ACT 1982

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SOLOMON ISLANDS
MONETARY AUTHORITY
(AMENDMENT) ACT 1982

(NO 19 OF 1982)

Passed by the National Parliament this fifteenth day of December 1982.

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

Festus Fa'amaea

Clerk to National Parliament

Assented to in Her Majesty's name and on Her Majesty's behalf this fifteenth day of December 1982.

B Devesi

Governor-General

A handwritten signature in cursive script, appearing to read 'B. Devesi', written over a horizontal line.

Date of commencement: see section 1

AN ACT to further to amend the Solomon Islands Monetary Authority Act 1976 to provide for the re-structuring of the Solomon Islands Monetary Authority as the Central Bank of Solomon Islands with necessary regulatory and operational role to ensure that the monetary system better serves the needs of the people in terms of its stability, confidence and efficiency, and the adequacy, affordable cost and availability of financing in Solomon Islands' currency and foreign exchange for financial operations and development.

ENACTED by the National Parliament of Solomon Islands.

*The Solomon Islands Monetary Authority
(Amendment) Act 1982*

Short title
and
commence-
ment.

1. This Act may be cited as the Solomon Islands Monetary Authority (Amendment) Act 1982, and shall come into force on such date as the Minister may, by notice published in the Gazette appoint.

Re-naming
the Solomon
Islands
Monetary
Authority
as the
Central
Bank of
Solomon
Islands.

2. The Solomon Islands Monetary Authority Act 1976 (herein-
after called the "principal Act") is hereby amended -

- (a) in the long title and in section 1 by substituting for the words "Solomon Islands Monetary Authority", the words "Central Bank of Solomon Islands";
- (b) in section 2 -
 - (i) by deleting the definitions of "Authority" and "bank";
 - (ii) by substituting in the definition of "Board", for the word "Authority", the words "Central Bank";
 - (iii) by inserting immediately after the definition of "Board", the following definitions -
 - "commercial bank" means a financial institution whose business includes the acceptance of deposits of money withdrawable or transferable by cheque;
 - "Central Bank" means the Central Bank of Solomon Islands established under section 3(1);";
 - (iv) by deleting the definition of "Chairman";
 - (v) by substituting in the definitions of "demand liabilities" and "secretary", for the word "Authority", the words "Central Bank";
 - (vi) by inserting immediately after the definition of "General Reserve", the following definition -
 - "Governor" means the Governor of the Central Bank;"; and
- (c) in section 3 -
 - (i) by substituting for the words "Solomon Islands Monetary Authority", the words "Central Bank of Solomon Islands";

- (ii) by substituting for the word "Authority" wherever it appears, the words "Central Bank";
- (d) in all other provisions -
 - (i) by substituting for the word "Authority" wherever it appears, the words "Central Bank";
 - (ii) by substituting for the word "bank", the words "commercial bank";
 - (iii) by substituting for the word "Chairman" wherever it appears, except in section 9, the word "Governor".

3. Section 4 of the principal Act is hereby amended by inserting immediately after paragraph (c), the following paragraph -

"(cc) to supervise and regulate banking business;".

Regulatory
role of
the Central
Bank.

4. The principal Act is hereby amended by inserting immediately after section 4, the following new section -

"Overriding effect.
No 20 of
1976.

4A. (1) The provisions of this Act shall have effect, notwithstanding any thing inconsistent or to the contrary contained in the Banking Act.

Overriding
effect of the
Act.

(2) Save as aforesaid, the provisions of this Act shall be supplementary to but not in derogation of the Banking Act."

5. The principal Act is hereby amended by substituting for section 6, the following sections -

"Board of
Directors.

6. (1) The Central Bank shall be conducted and managed in accordance with this Act by a Board of Directors consisting of -

Board of
Directors to
commensu-
rate with
the status
of a Central
Bank.

- (a) the Governor;
- (b) the Deputy Governor;

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- (c) the Permanent Secretary, Ministry of Finance or any other public officer for the time being supervising over the department in charge of that Permanent Secretary, ex officio Director; and
- (d) such number of other Directors being not less than three, and not more than six, as the Minister may, from time to time, determine.

(2) From among the persons of repute and recognised experience in financial matters, banking, public finance or professional or academic matters -

- (a) the Governor shall be appointed by the Governor General for a period of five years, on the recommendation of the Minister who shall consult the Cabinet;
- (b) the Deputy Governor shall be appointed by the Minister after consultation with the Governor for such period not exceeding five years as may be specified in his letter of appointment;
- (c) the other Directors shall be appointed by the Minister after consultation with the Governor for such period not exceeding three years as may be specified in their respective letters of appointment.

(3) The Governor, Deputy Governor and every Director other than the ex officio Director shall, subject to the provisions of sections 6A and 6B, be eligible for re-appointment.

(4) The names of the Governor, the Deputy Governor and other Directors of the Board appointed, from time to time, under this section shall be published in the Gazette.

First
appoint-
ments.

6A. (1) Notwithstanding any thing contained in section 6 -

- (a) the persons holding office as the Chairman and directors of the Solomon Islands Monetary Authority, immediately before the commencement of the Solomon Islands Monetary Authority (Amendment) Act 1982, hereafter in this section referred to as the Amending Act, shall, upon such commencement, but subject to the provisions of subsections (2) and (3), be deemed to have been appointed as the Governor and Directors of the Central Bank respectively, till such time as the Board so constituted is re-constituted in accordance with the provisions of subsections (1) and (2) of section 6; and

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(b) the Board so constituted shall, until it is re-constituted as aforesaid, function as effectively and validly and to all intents and for all purposes of this Act as if it were a duly constituted Board in accordance with section 6.

(2) Upon the re-constitution of the Board in accordance with the provisions of subsections (1) and (2) of section 6, the term of office of the Governor and the Directors deemed to have been appointed as such under subsection (1), including the term of their office as Chairman and Directors of the Solomon Islands Monetary Authority immediately before the commencement of the Amending Act shall come to an end, notwithstanding any thing contained in this Act or in their respective notices or letters of appointment, as this Act and those notices and letters stood before the commencement of the Amending Act:

Provided that the person holding the office of the Governor or of a Director immediately before the re-constitution of the Board under subsection (1) shall be eligible to be re-appointed as Governor or Director in accordance with subsections (1) and (2) of section 6, and where any such person is re-appointed, the period of his office shall commence afresh in accordance with subsection (2) of section 6 from the date of his re-appointment.

(3) Nothing contained in subsections (1) and (2) nor any action taken thereunder shall entitle any person -

(a) to claim any compensation for the termination of any office held by him immediately before the commencement of the Amending Act or immediately before the re-constitution of the Board under this section; or

(b) to claim re-instatement in that office.

Other
terms and
conditions
of service.

6B. (1) The other terms and conditions of appointment of the Governor, Deputy Governor and other Directors shall be set out in their respective letters of appointment, and such terms and conditions shall, except otherwise provided in subsection (2), not be altered to their disadvantage during their period of office.

(2) A person holding the office of the Governor, Deputy Governor or a Director may be removed from office before the expiry of his term of office only on grounds of permanent incapacity or serious misconduct substantially prejudicing the interests of the Central Bank:

Provided that the Governor shall not be removed on any such ground except on the recommendation of the tribunal appointed under subsection (3).

(3) If the Governor-General considers that the question of removing the Governor ought to be investigated, he shall appoint a tribunal, which shall consist of a Chairman, who holds or has held high judicial

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office, and not less than two other persons, which shall enquire into the matter, after giving the Governor a reasonable opportunity of being heard, and recommend to the Governor-General whether the Governor ought to be removed from his office.

(4) Where the tribunal recommends to the Governor-General that the Governor ought to be removed from his office, the Governor-General shall remove him from office.

(5) If the question of removing the Governor has been referred to the tribunal, the Governor-General may suspend the Governor from performing the functions of his office, and any such suspension may at any time be revoked by the Governor-General and shall in any case cease to have effect if the tribunal recommends to the Governor-General that the Governor ought not to be removed from office.

Disqualifi-
cation
from
holding
other
office.

6C. (1) The Governor, Deputy Governor or a Director shall not while holding office hold any other office, whether remunerated or not, without the written permission of the Minister.

(2) The Governor, Deputy Governor or a Director shall not be appointed or remain as such Governor, Deputy Governor or Director, who, without the written permission of the Minister -

- (a) is a member of the national Parliament of Solomon Islands; or
- (b) is a Director, officer or employee of any commercial bank or other financial institution.

Vacancy
not to
invalidate
pro-
ceedings.

6D. No proceeding of the Board, nor the exercise of any power, or the performance of any function or duty conferred on the Board under this Act shall be invalidated by reason only of a vacancy in the office of any member of the Board.

Adminis-
tration.

6E. (1) All the powers, functions and duties of the Central Bank shall be vested in, or exercised or performed by the Board in the name of the Central Bank, and the Board shall be responsible for the policy, general administration and affairs of the Central Bank.

(2) Without prejudice to the generality of the foregoing provision, the Board shall have power to consider, and where appropriate, decide any matter in relation to achieving any object of the Central Bank.

(3) The Governor shall be the Chairman of the Board and chief executive of the Central Bank and as such he shall be in charge of the day to day management and operations of the Central Bank in accordance with, or in implementation of, the policy of the Central Bank. He shall be answerable to the Board for his acts or decisions.

(4) The Deputy Governor shall perform such duties as the Governor may direct, and in the absence of the Governor due to illness or for any other reason, the

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Deputy Governor shall function as the Chairman of the Board and the chief executive of the Central Bank.

(5) In the event of the temporary absence of the Governor and the Deputy Governor, the Minister acting on the advice of the Governor shall designate a Director to act as the Governor during such period of absence."

Power of the Central Bank to make regulations to attain its objectives.

6. The principal Act is hereby amended by inserting immediately after section 7 the following new section -

"Power of the Central Bank to make regulations.

7A. The Central Bank may, with the previous approval of the Minister, make regulations, not inconsistent with this Act, for carrying out its functions, for attaining its objects and prescribing all matters which by this Act are required to be permitted or prescribed, or which are necessary or convenient to be prescribed for the conduct of its business in accordance with this Act."

Consequential provision for increase in the capital of the Central Bank.

7. Section 12 of the principal Act is hereby amended -

- (a) by substituting for the words "five hundred thousand dollars", the words "three million dollars";
- (b) by substituting for the words "Prime Minister", the words "Governor-General".

Provision to keep the external reserves at adequate level to meet external transaction needs of the economy.

8. The principal Act is hereby amended by substituting for section 26, the following section -

"Adequacy of reserve of external assets.

26. (1) The Central Bank shall use its best endeavours to ensure that the reserve of the external assets provided for in section 25 is maintained at a level adequate for the international transactions of Solomon Islands.

(2) If such level of the reserve of external assets is declined or, in the judgment of the Central Bank appears likely to decline

to such an extent as to endanger its adequacy at the level specified in subsection (1), the Central Bank shall submit to the Minister a report on such external reserve position and the causes which have led or may lead to such decline, together with the recommendations as to the measures that it considers necessary to forestall or otherwise remedy the situation.

(3) Until such time as, in its opinion, the situation has been rectified, the Central Bank shall make further reports and recommendations at intervals not exceeding six months."

9. Section 27 of the principal Act is hereby amended -

(a) in subsection (1) -

(i) by inserting in paragraph (b), the words "in matters other than those referred to in paragraph (d)" after the words "for the Government";

(ii) by inserting immediately after paragraph (c), the following paragraph -

"(d) shall act as a banker to the Government and shall, except as the Central Bank may otherwise decide, provide all normal banking services to the Government.";

(b) by inserting immediately after subsection (2), the following new subsection -

"(3) Whenever in the opinion of the Central Bank a development or event takes place which endangers, or is in any way likely to affect adversely, the attainment of its objects under this Act, the Central Bank shall make a report to the Government drawing attention to such development or event, analysing its cause, and if it sees fit, recommending measures it considers appropriate to be taken by the Government or the Central Bank."

Central
Bank to
act as
banker to
Government.

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Raising the limit of reserves to be maintained by commercial banks, etc.

Provision for lendable and other funds of the commercial banks, etc.

10. Section 28 of the principal Act is hereby amended in paragraph (a) of the proviso to subsection (4), by substituting for the words "fifteen per cent", the words "forty per cent".

11. The principal Act is hereby amended by inserting immediately after section 28, the following new section -

"Regulation of interest and credit. 28A.(1) The Central Bank may, with the approval of the Minister, specify, in respect of any or all commercial banks and financial institutions, by notice published in the Gazette and by written notice to the principal place of business in Solomon Islands of each commercial bank and financial institution affected thereby -

- (a) the methods of computation and maximum rates of interest payable in respect of any class of deposit and similar liabilities;
- (b) the permissible purposes, aggregate ceilings, maximum amounts beyond which the approval of the Central Bank is necessary, minimum cash margin or security, maximum maturities, and maximum interest rates chargeable in respect of -
 - (i) the making of any class of advances, whether by loans or overdrafts, and investments;
 - (ii) the discounting of any class of bills of exchange, promissory notes and other commercial, industrial, agricultural or financial paper;
 - (iii) the issuing of any class of letters of credit;
 - (iv) the granting of any class of acceptance and other forms of credit;

- (c) the minimum and maximum commissions, service charges and other fees which may be levied on any class of transactions with the public;
- (d) the manner of disclosure to the public and to -
 - (i) each depositor of the effective annual interest rate payable in respect of deposits made therewith;
 - (ii) each person to whom credit is extended of the terms of obtaining such credit, including the effective annual interest rate payable in respect thereof:

Provided that the Central Bank in notices under this section may differentiate in respect of the aforesaid items between -

- (i) commercial banks and financial institutions or classes thereof; and
 - (ii) other creditors referred to in subsection (2), or classes thereof, or members of such classes.
- (2) With the approval of the Minister, all or any of the provisions of subsection (1) may be made applicable by the Central Bank, by notice published in the Gazette and by written notice served on the person affected thereby, to any person a substantial share of whose operations, in the opinion of the Central Bank, includes the extension of credit.

(3) The Central Bank may call for and examine the accounts, books and papers of any person who, it has reason to believe, is extending or has extended credit and to whom the Central Bank considers the provisions of subsection (1) should be applied under subsection (2).

(4) Any notice issued under this section shall come into effect on such date as is specified therein but in any case not earlier than thirty days after the date of publication in the Gazette.

(5) Any commercial bank or financial institution which fails to comply with the provisions of a notice issued under subsection (1) shall be guilty of an offence and liable on conviction to a fine of \$10,000.

(6) Any person to whom the provisions of subsection (1) have been made applicable, pursuant to subsection (2), and who -

- (a) fails to comply with a notice issued under subsection (1);
- (b) knowingly supplies false information to the Central Bank; or
- (c) fails to furnish, within the time prescribed by the Central Bank, any documents called for by the Central Bank under subsection (3),

shall be guilty of an offence and liable -

- (i) in respect of an offence under subparagraph (a) or (b) to a fine of \$10,000;
- (ii) in respect of an offence under subparagraph (c), to a fine of \$1,000 for every day during which such offence has continued."

12. Section 30 of the principal Act is hereby amended -
- (a) in paragraph (b), by deleting the words "statutory authorities";
 - (b) in paragraph (e), by deleting the proviso;
 - (c) by inserting immediately after paragraph (e), the following new paragraph -
 - "(ee) make deposits with commercial banks for a fixed period not exceeding one year:
Provided that the Central Bank may, with the approval of the Minister make such deposit for any specific purpose for a period exceeding one year.";
 - (d) in paragraph (f) -
 - (i) by substituting for the words "fixed periods not exceeding six months", the words "a fixed period of one year";
 - (ii) by substituting for the proviso, the following proviso -
 - "Provided that the Central Bank may, with the approval of the Minister, grant such loans or advances for any specific purpose for a period exceeding one year;"
 - (e) in paragraph (g), in the proviso, by substituting for the words "General Reserve", the words "paid up capital and reserve".

Further provisions as to availability of credit.

13. Section 30A of the principal Act is hereby amended by deleting the words "statutory authority" wherever it appears.

Grant of temporary advances to be limited to Government.

14. (1) For the removal of doubts it is hereby declared that the re-structuring of the Solomon Islands Monetary Authority hereafter in this section referred to as the Authority, by this Act as the Central Bank of Solomon Islands shall not affect the validity and operation of any thing done, action taken and transaction made by, or with, the Authority under the principal Act before its amendment by this Act, and every such thing, action and

Savings.

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transaction, in so far as it is subsisting or in force upon the commencement of this Act, shall continue after such commencement to be valid and effective as if it was done, taken or made by or with the Central Bank of Solomon Islands and the said Central Bank was established instead of the Authority under the principal Act before its amendment by this Act.

(2) Without prejudice to the generality of the foregoing provision -

- (i) all capital, profits and reserve of the Authority;
- (ii) all currency notes and coins issued, or securities made, including obligations incurred in respect of such currency notes and coins and securities issued by the Authority or bearing the name of the Authority;
- (iii) all operations done by the Authority;
- (iv) all contracts, guarantees, assurances, deeds, documents and other instruments made or executed by or on behalf of the Authority, including all suits or other actions instituted by or against the Authority in any court,

shall, in so far as such capital, profits, reserve, operations, currency notes, coins, securities, obligations, contracts, guarantees, assurances, deeds, documents, instruments, suits or actions are subsisting immediately before the commencement of this Act, shall, upon such commencement, be deemed to be as validly and effectively enforceable by or against the Central Bank of Solomon Islands as they would be enforceable by or against the Authority if this Act had not come into force.

(3) Every officer and employee serving the Authority immediately before the commencement of this Act shall, upon such commencement, continue to serve the Central Bank of Solomon Islands on the same terms and conditions of service on which he was serving the Authority before such commencement, until such terms and conditions of service are duly altered in accordance with the principal Act as amended by this Act.

15. (1) If any doubt or difficulty arises in giving effect to the provisions of the principal Act as amended by this Act, the Minister may, by order published in the Gazette, and in consultation with the Central Bank of Solomon Islands, remove such doubt or difficulty:

Removal of
difficulty.

Provided that -

- (a) nothing contained in this section shall empower the Minister to make an order which is inconsistent with the principal Act as amended by this Act; and
- (b) no such order shall be made after the expiry of one year from the date of commencement of this Act.

(2) An order made under subsection (1) shall, as soon as it is made, be laid before Parliament and the provisions of subsection (2) of section 56 of the Interpretation and General Provisions Act 1978 shall apply to that order.

No 20 of
1978.

16. The Banking Act is hereby amended -

(a) in section 2 -

Consequential
amendments
to Act No 20
of 1976.

- (i) by deleting the definition of "bank";
- (ii) by substituting for the words "Solomon Islands Monetary Authority", wherever they appear in the definitions, the words "Central Bank of Solomon Islands";
- (iii) by inserting immediately after the definition of "banking business", the following new definitions -

"Central Bank" means the Central Bank of Solomon Islands established by the Central Bank of Solomon Islands Act 1976;"

No 4 of
1976.

"Commercial Bank" has the meaning ascribed to that expression by the Central Bank of Solomon Islands Act 1976;"

No 4 of
1976.

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- (iv) by deleting the definition of "Monetary Authority";
- (v) by substituting for the words "Monetary Authority" in the proviso to subsection (1), the words "Central Bank";
- (b) in all other provisions -
 - (i) by substituting for the word "bank" wherever it appears, the words "commercial bank";
 - (ii) by substituting for the words "Monetary Authority" wherever they appear, the words "Central Bank".

