

THE LOCAL COURTS (AMENDMENT) BILL 1985

(NAME OF BILL)

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(Authorisation from Minister of Finance under s.60 of Constitution)

FROM Attorney General's Chambers

TO Minister *Hon. A. H. Nene MP*
(for signing Objects & Reasons, Notice of Presentation and covering letter to Clerk)

TO Minister of Finance
(for signing of letter to Clerk signifying Cabinet approval under s.60 of Constitution)

TO Clerk to National Parliament
(for certificate by Speaker)

TO Attorney General's Chambers
(for printing)

TO Clerk to National Parliament
(for reference during 1st, 2nd and 3rd Readings)
(Date passed *3.9.85* Act No. *9*)

TO Attorney General's Chambers
(for checking before Assent)

TO Governor General
(for Assent)

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



**LOCAL COURTS
(AMENDMENT) ACT 1985**

(No. 9 of 1985)



LOCAL COURTS (AMENDMENT) ACT 1985

(No. 9 of 1985)

Passed by the National Parliament this thirteenth day of September 1985.

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.

[Signature]
M. Puhaka

Assented to in Her Majesty's name and on Her Majesty's behalf this tenth day of January 1986.

[Signature]
B. Devesi
Governor-General

Date of commencement: on the date of publication in the Gazette.

AN ACT to amend the local Courts Act to provide for customary land disputes to be heard and determined by chiefs before such disputes are referred to local courts and for other matters incidental thereto and connected therewith.

ENACTED by the National Parliament of Solomon Islands.

Short title.

Amendment of section 8 Cap. 46.

Cap. 93.

1. This Act may be cited as the Local Courts (Amendment) Act 1985.

2. Section 8 of the Local Courts Act is amended by inserting immediately after section 8B the following sections -

“Interpretation.

8C. (1) For the purposes of sections 8D, 8E and 8F the expression -

“chiefs” means chief or other traditional leaders residing within the locality of the land in dispute and who are recognised as such by both parties to the dispute;

“customary land” has the same meaning as that assigned to it under the Land and Titles Act;

“customary land dispute” means a dispute in connection with the ownership of, or, of any interest in, customary land or the nature or extent of such ownership; and

“dispute” means customary land dispute.

Limitations on local jurisdiction to hear disputes.

8D. (1) Notwithstanding anything contained in this Act or in any other law, no local court shall have jurisdiction to hear and determine any customary land dispute unless it is satisfied that -

- (a) the parties to the dispute had referred the dispute to the chiefs;
- (b) all traditional means of solving the dispute have been exhausted; and
- (c) no decision wholly acceptable to both parties has been made by the chiefs in connection with the dispute.

(2) It shall be sufficient evidence that the requirements of paragraphs (a) and (c) of subsection (1) have been fulfilled if the party referring the dispute to the local court produces to the local court a certificate, as prescribed in form 1 of the Schedule, containing the required particulars and signed by two or more of the chiefs to whom the dispute had been referred.

(3) In addition to producing a certificate pursuant to subsection (2), the party referring the dispute to the local court shall lodge with the local court a written statement setting out -

- (a) the extent to which the decision made by the chiefs is not acceptable; and
- (b) the reasons for not accepting the decision.

Powers of local court when hearing dispute.

8E. When hearing and determining any dispute it has jurisdiction to hear and determine, the local court may -

- (a) have regard to the decision made by the chiefs in connection with the dispute;
- (b) hear evidence from -
 - (i) any or all of the witnesses who gave evidence before the chiefs at the hearing of the dispute; or
 - (ii) any other witness called by the parties;
- (c) call one or more of the chiefs who took part in making the decision to give evidence on the customary law which -
 - (i) is applicable within the locality of the land in dispute; and
 - (ii) governs the issues in the dispute; and
- (d) substitute for the decision made by the chiefs such decision as may to it seem just; or
- (e) refer the dispute to the chiefs with such directions as it may consider necessary.

		<p>Local court to record decisions by chiefs.</p> <p>8F. (1) Where, in any dispute referred to the chiefs, a decision wholly acceptable to both parties has been made by the chiefs, the chiefs or any of the parties to the dispute may, within three months from the date of the decision, cause a copy of the decision to be recorded by the local court.</p> <p>(2) A copy of the decision referred to in subsection (1) shall be in such form as prescribed in Form II of the Schedule and shall contain the particulars prescribed in that form and signed by the parties and two or more of the chiefs who took part in making the decision.</p> <p>(3) Any decision recorded by the local court pursuant to subsection (1) shall be deemed to be a decision of the local court for the purpose of any law."</p>
Addition of Schedule.		<p>3. The principal Act is amended by adding immediately at the end thereof the Schedule set out in the Schedule to this Act.</p>
Consequential amendments.		<p>4. The Land and Titles Act is amended -</p> <p>(a) in section 231(1), by inserting immediately after the word "section" the expression "and sections 8D, 8E and 8F of the Local Courts Act";</p> <p>(b) in section 231(4), by inserting immediately after the word "law" the expression "other than sections 8D, 8E and 8F of the Local Courts Act"; and</p> <p>(c) in section 231B(1), by inserting immediately after the expression "231" the expression "or section 8E(d) or (e) of the Local Courts Act."</p>
Cap. 93.		<p>5. Nothing in sections 8D, 8E and 8F shall in any way affect Part V (Purchase or lease of customary land by private treaty, and compulsory Acquisition of Land) of the Land and Titles Act.</p>

SCHEDULE

"Schedule

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Form I
S.8C(2)

CUSTOMARY LAND DISPUTE
(Unaccepted Settlement)

1 Name and address of
chiefs involved in the
decision

2 Name and address of the Parties
(a) Complainant:

(b) Defendant:

3 Name and address of witnesses:
(a) For the complainant:

(b) For the Defendant:

4 Description of the land relating to the dispute:

5 Description of the nature of the dispute:

6 Summary of evidence on behalf of:
(a) Complainant:

(b) Defendant:



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7 Summary of findings/decision by the chiefs:

8 Date and place where dispute was heard:

Dated at this day of 198

Certified by chiefs:

Format for: Gazette Notices, Legal Supplements, Acts of Parliament.



CUSTOMARY LAND DISPUTE
(Accepted Settlement)

1 Name and address of chiefs involved in the decision:

2 Name and address of the Parties:
(a) Complainant:

(b) Defendant:

3 Name and address of the witnesses:
(a) For the complainant:

(b) For the Defendant:

4 Description of the land relating to the dispute:

5 Description of the nature of the dispute:

6 Summary of the evidence on behalf of the:
(a) Complainant:

(b) Defendant:

7 Summary of findings/decision by chiefs:

8 Date and place where dispute was heard:

9 Declaration of acceptance:

(a) I, _____, Complainant, accept the decision made by the chiefs in connection with this dispute and I hereby undertake to abide by it.

Signed:.....

Witnessed by Chiefs:

(b) I, _____, Defendant, accept the decision made by the chiefs in connection with this dispute and I hereby undertake to abide by it.

Signed:.....

Witnessed by Chiefs:

Dated at _____ this _____ day of _____ 198

Certified by chiefs:.....

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