

THE PROVINCIAL GOVERNMENT (AMENDMENT) BILL 1986
(NAME OF BILL)

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TO

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TO

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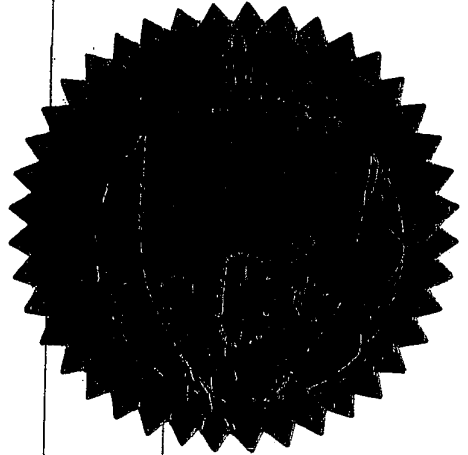
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**THE PROVINCIAL
GOVERNMENT
(AMENDMENT) ACT 1986**

NO. 5 OF 1986





THE PROVINCIAL GOVERNMENT (AMENDMENT) ACT 1986

NO. 5 OF 1986

Passed by the National Parliament this twenty-third day of June 1986.

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.

J.M. Puhaiaka
Clerk to the National Parliament

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

B. Devesi
Governor-General

Date of commencement: see section 1.

AN ACT to amend the Provincial Government Act (No. 7 of 1981).

ENACTED by the National Parliament of Solomon Islands.

THE PROVINCIAL GOVERNMENT (AMENDMENT) ACT
1986

ARRANGEMENT OF SECTIONS

Section:

1. Short title and commencement.
2. Amendment of section 14.
3. Repeal and replacement of section 15.
4. Repeal and replacement of section 16.
5. Repeal and replacement of section 17.
6. Amendment of section 22.
7. Amendment of section 24.
8. Amendment of section 26.
9. Repeal and replacement of section 27.
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12. Amendment of section 41.
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14. Amendment of Schedule 1.
15. Amendment of Schedule 3.
16. Amendment of Schedule 4.
17. Amendment of Schedule 6.
18. Minor amendment of Schedule 8.
19. Amendment of Schedule 9.

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1. (1) This Act may be cited as the Provincial Government (Amendment) Act 1986.

Short title and commencement.

(2) This Act or any provision thereof shall come into operation on such day or days as the Minister may appoint by notice published in the Gazette.

2. The Provincial Government Act 1981 (hereinafter referred to as the principal Act) is hereby amended in section 14 as follows -

Amendment of section 14 of Act No. 7 of 1981.

- (a) deleting subsection (2); and
- (b) by renumbering subsections (3) and (4) as subsections (2) and (3) respectively.

3. Section 15 of the principal Act is hereby repealed and the following new section substituted therefor -

Repeal and replacement of section 15.

“Qualification for membership of an Assembly. 15. Subject to the provisions of section 16, a person shall be qualified for membership of a Provincial Assembly if, the person -

- (a) is a citizen of Solomon Islands;
- (b) has attained the age of twenty-one years; and
- (c) is ordinarily resident in the Province.”

4. Section 16 of the principal Act is hereby repealed and the following new section substituted therefor -

Repeal and replacement of section 16.

“Disqualification from membership of an Assembly. 16. (1) A person shall be disqualified from membership of a Provincial Assembly if, the person -

- (a) is, by virtue of his own act, under any acknowledgement of allegiance, obedience or adherence to a foreign power or state;
- (b) is an undischarged bankrupt under Solomon Island law;
- (c) is certified to be insane or otherwise adjudged to be of unsound mind under Solomon Island law;
- (d) is under sentence of death imposed by a court in any part of the world, or is under a sentence of imprisonment (by whatever name called) for a term of, or exceeding, six months, other than a sentence in lieu of a fine, but including a suspended sentence, imposed by such a court or substituted by a competent authority for some other sentence imposed by such a court;
- (e) is disqualified from membership of Parliament or a Provincial Assembly or from registration as an elector or from voting at elections under Solomon Island law relating to offences connected with elections;



- (f) is a member of the National Parliament;
 - (g) holds, or is acting in, any public office or is a provincial government officer of any province;
 - (h) is not a resident of the province; or
 - (i) is the Speaker of the Assembly.
- (2) For the purpose of subsection (1)(d) -
- (a) two or more terms of imprisonment that are required to be served consecutively shall be regarded as a single term of imprisonment for the aggregate period of those terms;
 - (b) a person is not disqualified by virtue of that subsection unless the time of appealing against the sentence or conviction has expired without an appeal being made or the appeal has been disposed of or abandoned;
 - (c) a person disqualified by virtue of that subsection due to a sentence imposed by a court outside Solomon Islands may, petition the High Court for relief from such disqualification.
- (3) A person who would otherwise be disqualified from membership of an Assembly on any of the grounds specified in subsection (1)(f) to (i), shall, if, such disqualification is to be disregarded within thirty days after the election or appointment have the ground of disqualification removed."

Repeal and
replacement
of section 17.

5. Section 17 of the principal Act is hereby repealed and the following new section substituted therefor -

"Effect of disqualification. 17. (1) Where a member of a Provincial Assembly is disqualified under section 16, the Speaker shall by written notice declare the seat of the member as vacant, and his appointment shall thereupon cease.

(2) A member whose seat has been declared vacant may, within thirty days, petition the High Court for relief from the declaration, and the decision of the High Court on such petition shall be final.

(3) A seat declared vacant under subsection (1), shall remain vacant until the time of filing a petition for relief has expired without a petition being filed, or the petition has been disposed of, or abandoned.

(4) The validity of any proceedings of a Provincial Assembly shall not be affected by the disqualification of any person from membership of the Assembly."

- 6. Section 22 of the principal Act is hereby amended as follows -
 - (a) by deleting subsection (2) and substituting therefor the following new subsection -

Amendment of section 22.

"(2) The Premier shall be elected, by secret ballot, by an absolute majority of the elected members of the Provincial Assembly."; and

- (b) by deleting subsection (3) and substituting therefor the following new subsection -

"(3) The results of the election of the Premier shall be published in the Gazette."

- 7. Section 24 of the principal Act is hereby amended as follows -

Amendment of section 24.

- (a) by inserting in the marginal note the words "Deputy Speaker," between the words "Speaker," and "Clerk";

- (b) by deleting subsection (1) and substituting therefor the following new subsection -

"(1) Each Provincial Assembly shall elect -

- (a) a Speaker to be presiding officer and
- (b) a Deputy Speaker to act in the absence of the Speaker or when the office of Speaker is vacant."; and

- (c) by deleting subsection (5).

- 8. Section 26 of the principal Act is hereby amended as follows -

Amendment of section 26.

- (a) by deleting the marginal note and substituting therefor the words "Governing Rules";

- (b) by deleting subsection (1) and substituting therefor the following new subsection -

"(1) Each Provincial Assembly shall make rules (in this Act referred to as "Governing rules") governing the discharge by the Provincial Executive of the functions conferred on the Provincial Executive under this Act or any other law.";

- (c) by inserting the word "Governing" before the word "rules" that appear at the end of subsection (2);

- (d) by deleting the word "Rules" that appear at the commencement of subsection (3) and substituting therefor the words "Governing rules";

- (e) by deleting subsection (4) and substituting therefor the following new subsection -

“(4) Governing rules shall provide that the Premier appoint a member of the Provincial Executive to be Deputy Premier, who shall preside at meetings of the Provincial Executive in the absence of the Premier or pending the election of a new Premier, or where the Premier had died, resigned, or has been disqualified.”;

- (f) by deleting from subsection (5) the word “rules” wherever it appears in that subsection and substituting therefor in each case the words “Governing rules”;
- (g) by deleting subsection (6) and substituting therefor the following new subsection -

“(6) Governing rules shall provide that where the Provincial Executive makes any orders, rules or regulations (in this subsection referred to as “subsidiary legislation”), such subsidiary legislation -

- (a) shall be laid before the Provincial Assembly;
- (b) shall not come into force until approved by the Provincial Assembly or, as the case may be, shall be subject to annulment by the Provincial Assembly after having been made; and
- (c) shall be published in accordance with the Governing rules”; and
- (h) by deleting the word “Rules” that appear at the commencement of subsection (7) and substituting therefor the words “Governing rules”.

Repeal and
replacement
of section 27.

9. Section 27 of the principal Act is hereby repealed and the following new subsection substituted therefor -

“Salaries and 27. (1) Power to determine salaries and allowances of members of the Provincial Assemblies or Provincial Executives and to review such determinations annually shall vest in the Members of Parliament (Entitlements) Commission.

(2) No salary or allowance may be paid in right of membership of a Provincial Assembly or Provincial Executive unless payment is in accordance with the determination made by the Members of Parliament (Entitlements) Commission.

(3) There may be paid to or in respect of the appointed members of a Provincial Assembly such travelling or other allowances (including compen-

sation for loss of remuneration time) as the Members of Parliament (Entitlements) Commission may determine.

(4) Different provision may be made under this section for different cases.

(5) Pending the first determination under this section of any salaries and allowances for members of a Provincial Assembly and Provincial Executive, the amounts payable shall be as the Minister may direct.

(6) Payments made by virtue of this section shall be made out of the Provincial Fund.

(7) In this section "salary" includes any benefit payable in right of membership of a Provincial Assembly or Provincial Executive."

10. Subsection (6) of section 35 is hereby deleted and the following new subsection substituted therefor -

Amendment of section 35.

"(6) A Provincial Executive shall not, in the exercise of its functions -

- (a) establish or conduct any relations of a diplomatic nature with any foreign country;
- (b) conduct or establish any relations of a business or economic nature with any foreign country without having first obtained the approval of the Minister, which may be given in consultation with Cabinet; or
- (c) seek to obtain, or accept, any financial assistance from funds outside Solomon Islands, except in accordance with the provisions of section 30B of the Central Bank Act."

11. Subsections (1) and (2) of section 37 of the principal Act are hereby amended by inserting therein the words "or the member of the Provincial Executive responsible for Finance" immediately after the word "Premier" wherever that word appears in those subsections.

Amendment of section 37.

12. Section 41 of the principal Act is hereby amended as follows -

Amendment of section 41.

- (a) by deleting the words "subject to" which appear at the commencement of subsection (3) and substituting therefor the words "In addition to the purposes stated in"; and
- (b) by deleting the word "sums" that appear at the commencement of subsection (5) and substituting therefor the words "Unless an order of the Minister directs otherwise, sums".

Insertion of
new section
44A.

13. The principal Act is hereby amended by inserting immediately after section 44 the following new section -

“Power to suspend Provincial Government. 44A. (1) Where the Minister is satisfied that any Provincial Government has -

- (a) in the performance of any function acted in a manner prejudicial to the public interest or national interests of Solomon Islands; or
- (b) made default or mismanaged any aspect of its financial affairs,

he may, after having given the Provincial Government reasonable notice of his intention to do so, and having considered the representation, if any, of the Provincial Government thereon, in consultation and with the concurrence of the Cabinet, by order suspend the Provincial Government for such time as he may think fit from the performance of any such function or management to the extent of such breach, as may be specified in such order.

(2) For the purpose of determining default or mismanagement of the financial affairs as set out in paragraph (b) of subsection (1), the Minister may, authorise the Auditor General to prepare and transmit to him a report relating to the financial affairs of the Provincial Government.

(3) Where an order has been made under subsection (1), the Minister may, for the purposes of discharging the functions of the Provincial Government suspended under that order, appoint any person or body as he may think fit.

(4) Where any person or body is appointed under subsection (3) to discharge the functions of any Provincial Government, the expenses incurred by such person or body in discharging those functions shall be a debt due from the Provincial Government to such person or body, as the case may be.”.

Amendment
of Schedule 1.

14. Schedule 1 to the principal Act is hereby amended by adding next after the words “Makira” which appears therein under the expressions “Province” and “Existing Authority” in each case the word “Ulawa”.

15. Schedule 3 to the principal Act is hereby amended as follows -

- (a) in the heading to paragraph 1 by inserting the words "and Deputy Speaker" after the word "Speaker" that appears therein;
- (b) by deleting paragraph 1 and substituting therefor the following new paragraph -
 "1. (1) The manner of electing the Speaker, Deputy Speaker and for the appointment of any other person to preside in the absence of the Speaker or Deputy Speaker.
 (2) Provision that the Deputy Speaker shall be a member of the Assembly.";
- (c) by deleting the heading to paragraph 3 and substituting therefor the following new heading -
 "Oaths";
- (d) by renumbering paragraph 3 as subparagraph (1) of paragraph 3; and
- (e) by adding after the subparagraph (1) so numbered the following new paragraph as subparagraph (2) thereof -
 "(2) Provision for ensuring that no member of the Provincial Executive takes part in the proceedings of the Executive until the member has made an Oath or affirmation for the due execution of the office of Executive member in a form similar to the form set out in paragraph 3 of Schedule 1 to the Constitution."

Amendment
of Schedule 3.

16. Schedule 4 to the principal Act is hereby amended as follows -

- (a) by deleting subparagraph (2) of paragraph 1 and substituting therefor the following -
 "(2) The Weights and Measures Act 1983 is not included.";
- (b) by adding at the end of paragraph 7 thereof the words "Building Standards.";
- (c) by deleting subparagraph (2) of the paragraphs 2, 3, 5, 6, 9 and 11 respectively; and
- (d) by adding next after paragraph 11 the following new heading and paragraph -
 "Corporate or Statutory Bodies
 12. Establishment of corporate or statutory bodies for the providing of provincial services including economic activity."

Amendment
of Schedule 4.

<p>Amendment of Schedule 6.</p>	<p>17. Schedule 6 to the principal Act is hereby amended by adding thereto at the end the following new heading and paragraph - “Corporate or Statutory bodies Matters included in paragraph 12 of Schedule 4.”.</p>
<p>Minor amendment of Schedule 8.</p>	<p>18. Schedule 8 to the principal Act is hereby amended in the last sentence of subparagraph (4) of paragraph 5 by deleting the words “1980” and substituting therefor the words “1981”.</p>
<p>Amendment of Schedule 9.</p>	<p>19. Schedule 9 to the principal Act is hereby amended as follows - (a) by inserting immediately below the words “Expression” and “Meaning” the words “absolute majority” and “At least one half of all the elected members plus one” respectively; and (b) by inserting in the meaning corresponding to the expression “Minister” the words “of the National Government” after the word “Minister” that appears therein.</p>

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