

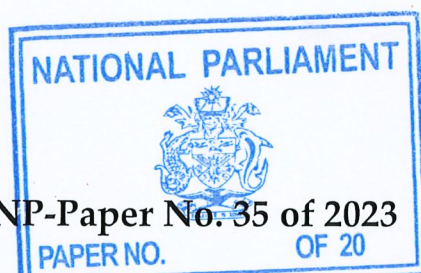


NATIONAL PARLIAMENT OF SOLOMON ISLANDS

BILLS AND LEGISLATION COMMITTEE

COMMITTEE REPORT

Report on Constitution (Amendment and Validation)
Bill 2023 (No. 11 of 2023)



NP-Paper No. 35 of 2023

PAPER NO.

OF 20

Presented on 14 November 2023

National Parliament Office



COMMITTEE MEMBERS

The current members of the Bills and Legislation Committee (11th Parliament) are:

Hon. John Maneniaru, MP (Chairman)

Hon. Matthew Cooper Wale, MP

Hon. John Deane Kuku, MP

Hon. Rick Nelson Houenipwela, MP

Hon. Peter Kenilorea Jnr, MP

Hon. Lilly Maefai, MP

Hon. Derrick Rawcliff Manuari, MP

Hon. Silas Vaqara Tausinga, MP

Secretariat:

Committees Secretariat

Supporting Departments:

Media

Hansard

ICT

Contacts:

Bills and Legislation Committee

National Parliament of Solomon Islands

P O Box G19

HONIARA

Website: www.parliament.gov.sb

Telephone: (677) 24164

Facsimile: (677) 24272

CHAIR'S FOREWORD



Mr. Speaker,

Pursuant to Standing Orders No. 71 (g) of the National Parliament of Solomon Islands, it is an honour and pleasure for me, Sir, to present the Report of the Bills and Legislation Committee on the Inquiry into the **Constitution (Amendment and Validation) Bill 2023** for laying before Parliament.

A handwritten signature in blue ink, consisting of a series of loops and a long horizontal stroke, positioned above a horizontal line.

Hon. John Maneniaru, MP

Chairman

Bills and Legislation Committee

14 November 2023

COMMITTEE FUNCTIONS

Standing Order 71 of the National Parliament of Solomon Islands.

There shall be a Standing Select Committee designated the Bills and Legislation Committee whose functions, in addition to the provisions in 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 seems 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.

EXECUTIVE SUMMARY

As mandated under Order 71 (g) of the Parliamentary Standing Orders the Committee conducted hearings into the **Constitution (Amendment and Validation) Bill 2023 (“the Bill”)** in Honiara on Wednesday 25th October 2023.

The object of the Bill is to provide for corrections and validations of the Constitution and other Acts to perfect them for publishing as reprints under the Legislation Act 2023.

In its scrutiny of the Bill, the Committee recognized the need for the Acts to comply with Section 59(3) of the Constitution.

The Committee has not made any recommendations and commends the Bill to the House.

CONTENTS

COMMITTEE MEMBERS	2
CHAIR'S FOREWORD.....	3
COMMITTEE FUNCTIONS	4
EXECUTIVE SUMMARY.....	5
1.0 INTRODUCTION	7
2.0 BACKGROUND	8
3.0 GENERAL ISSUES.....	8
4.0 CONTENT ISSUES	11
5.0 APPENDICES	12
Appendix 1: Witnesses	12
Minutes of Proceedings.....	13
Appendix 2: Submissions	17

1.0 INTRODUCTION

- 1.0 This Report presents the findings of the inquiry and the recommendations by the Committee. This Report summarizes the findings and recommendations of the Bills and Legislation Committee ('the Committee') after conducting an inquiry into the **Constitution (Amendment and Validation) Bill 2023** ('the Bill') as required by the Standing Orders of the National Parliament of Solomon Islands ('the Standing Orders').
- 1.1 The Bill's hearing was held over a day at the National Parliament of Solomon Islands, Conference RII, Honiara, on Wednesday 25th October 2023.
- 1.2 The relevant government ministry and stakeholders were invited and participated in the hearings. Appendix 1 contains a list of witnesses who came before the Committee, and the minutes of the proceedings, and Appendix 2 contains a list of submissions received.
- 1.3 Other interested stakeholders and individuals were invited to make written submissions.

2.0 BACKGROUND

- 2.0 The work on the Solomon Islands Legislations began in 26 January 2017 under the Legislation Digitalization and Reprints Project. The objectives of the project was to compile all amendments made since 1996 and create a collection of laws in their current form that could be updated continuously in an electronic format at a far lower cost and with greater efficiency. The collection will be posted on the Solomon Islands Government website with the intention of making the legislation easily accessible to all. Since legal certainty is crucial to everyone, this will considerably support both economic investment and access to justice.¹
- 2.1 This Bill is developed through the project. The objectives of the project is to take the entire body of Solomon Islands primary legislation and insert all the amendments (changes) that have been made since 1996 (can be referred to as consolidation; to produce it in an electronic format that is easily and freely accessible to all; to ensure that it can be updated as further changes are made so that it is always up to date; and to create and maintain a detailed and underpinning series of Indices.²
- 2.2 Section 59(3) of the Constitution provides that an Act must be published in a gazette hence, the objective of the this Bill is to address errors in Section 59(3) of the Constitutions and also some minor errors in other Constitution Acts such as misspellings, grammar mistakes, punctuation, and lack of proof that legislation was published in the gazette as required by Section 59(3) of the Constitution.³
- 2.3 This Bill seeks to validate 24 Acts that were not published in the gazette, contrary to the provision of Section 59 (3) of the Constitution, by suspending the Constitution. Clause 4 of the Bill alters Section 59 (3) of the Constitution, so it does not apply to the 24 Acts listed in Clause 4, with the effect that those Acts do not have to be published in the gazette to come into operation lawfully. Clause 4 sub clause (3) and (4) validate actions taken under each of those Acts to avoid a court finding that they are invalid and unlawful. Hence, it is timely that these corrections are made.⁴

3.0 GENERAL ISSUES

¹ Lenore Hamilton, Written Submission, 29 October 2023

² Ibid.

³ Ibid.

⁴ Ibid.

Disorganization of the process leading up to the publication of Acts

- 3.1 The Committee is very concerned that the whole process leading up to the publication of Acts is very disorganized. The Committee sought clarity on what are the weaknesses and whether there are internal process and procedures to avoid such situations. The Committee also sought clarity on what steps have been taken to ensure that the new system works and this current issue of the disorganization of the publication process is not repeated in the future.
- 3.2 The Consultant⁵ stated that one reason for the current situation is the lack of knowledge of the specific process involved. She also added that there is also a weakness in the gazettal process. However, that has changed overtime and the gazettal process has been strengthened. Thus, as part of the new process it is proposed that the project winds up with guidance for Ministries on the actual process and the importance of following that process.
- 3.3 The Committee is however of the view that the whole process is in disarray and needs to be fixed. It wants assurance that the new procedures will ensure that such situations does not occur again in the future.
- 3.4 The Consultant further stated that it is part of the project and it will also come into the Legislation Bill 2023 that will put in place practices so that amendments made to Acts are incorporated into electronic versions. This will also involve the drafting version to ensure there are no mistakes in the process.

The need for a register

- 3.1 The Committee is of the view that there should be a register or a central body to keep track of whats been done in each stage leading up to the publication of Acts and coordinate through the process.
- 3.2 The register should keep records beginning when a Bill has passed through the third reading, the assent by the Governor General, publication of gazette and the commencement. Each phase that the Act reaches after passage in Parliament, there is a register recording when it is received and handed down to the next agency and finally the date where it is published in a Gazette.

⁵ Ms. Lenore Hamilton, Adviser, Hansard Transcript, 25 October 2023.

Gazette Office

- 3.3 The Committee is aware that the gazette office is within the Office of the Prime Minister and Cabinet. The Committee is of the view that administratively, the gazette office should be consolidated with the Drafting Unit at the Attorney Generals Chamber. This is to ensure that each step of the process leading up to the publication and commencement of Act is tracked, recorded and registered. This is will also ensure that laws are updated as they are going through the system.

4.0 CONTENT ISSUES

Corrigendum

- 4.1 Few errors have been identified that needs to be corrected, however, that will be done by way of corrigendum by the legislative drafting unit within the Attorney Generals Chamber.

END OF REPORT

5.0 APPENDICES

Appendix 1: Witnesses

Date	Name	Position & Organisation
Wednesday 25 th October, 2023 10:37am -11: 36 am	Ms. Dr. Lalotoa Mulitalo Mrs. Kyla Venokana - Sie Ms. Ha'a Hauirae Ms. Florence Joel Ms. Tiffany Tani Ms. Tina Haro	Legal Drafter (Ag),
		CLPO, MJLA
		CLC
		DSPM
		Gazatte Officer
		Legal Type - Setter
Thursday 26 th October, 2023 10:37am – 11:37am	Ms. Dr. Lalotoa Mulitalo Mrs. Kyla Venokana - Sie Ms. Ha'a Hauirae Ms. Florence Joel Ms. Tiffany Tani Ms. Tina Haro	Legal Drafter (Ag),
		CLPO, MJLA
		CLC
		DSPM
		Gazatte Officer
		Legal Type - Setter
Friday 27 th October, 2023 10:08am – 11:27am	Ms. Dr. Lalotoa Mulitalo Mrs. Ellah Keru Mrs. Kyla Venokana - Sie Ms. Ha'a Hauirae Ms. Florence Joel Ms. Tiffany Tani Ms. Tina Haro Mr. Jefferson Hallu	Legal Drafter (Ag), AG Chamber
		Legal Publication Officer
		CLPO, MJLA
		CLC
		DSPM
		Gazatte Officer
		Legal Type - Setter
		Deputy Clerk, NPO
Monday 30 th October, 2023	Ms. Dr. Lalotoa Mulitalo Mrs. Ellah Keru Ms. Ha'a Hauirae	Legal Drafter (Ag),
		Legal Publication Officer
		CLC

Minutes of Proceedings



NATIONAL PARLIAMENT OF SOLOMON ISLANDS

BILLS & LEGISLATION COMMITTEE

P.O. Box G19,
Honiara.
Tel: 28520/23424.
Fax: 24272

Committee Hearing into the Constitution (Amendment and Validation) Bill 2023 (No.11 of 2023)

Day 1 /2023

Wednesday, 25th 2023, CR II, Parliament House 10:37 a.m

1. Members Present

Hon. John Maneniaru, MP – Chairman
Hon Matthew Wale, MP
Hon. Rick Houenipwela, MP
Hon. John Deane Kuku, MP

Absent/Apology

Hon. Peter Kenilorea Jr, MP
Hon. Derrick Manuarii, MP
Hon. Lilly Maefai, MP
Hon. Silas Tausinga, MP

Secretariat

Ms. Ivory Iruha'a, Committee Secretary
Ms. Monica Sekonga, Senior Admin - Committees
Mr. Sherilyn Ragoso, Hansard Reporter
Mr. Philemon Loe, Principal Media Officer
Mr Sunjay Dhari, ICT Officer
Mr. Pamentha Golo, ICT Officer

2. Prayer

The Legal Drafter Lady said the opening prayer.

3. Welcome and Opening Remarks

The Chairman of the Bills and Legislation Committee, made his opening remarks. The Chair informed the witnesses of the Parliamentary privileges.

4. Inquiry into the Constitution (Amendment and Validation) Bill 2023 (No.11 of 2023)

The hearing proper commenced and the following witnesses from the Office of the Prime Minister and Cabinet, Ministry of Justice and Legal Affairs and Attorney General's Chamber were admitted:

Hearing 1 Witnesses

- i. Dr. Lalotoa Mulitalo, Legal Drafter (Ag), AG Chamber
- ii. Ms Lenore Hamilton, Consultant, AG C
- iii. Ms. Kerrie Faradatolo, SLDC, AG Chamber
- iv. Ms. Ha'a Hauirae SLDC, AG Chamber
- v. Mrs. Kyla Venokana – Sie, Legal Policy Unit, MJLA

The witness made their presentations before the committee.

The committee questioned the witness based on the evidences presented.

The examination concluded.

Closing prayer

No closing prayer

Adjournment:

The committee adjourned hearing at 11: 36 p.m

Minutes of Proceedings



NATIONAL PARLIAMENT OF SOLOMON ISLANDS

BILLS & LEGISLATION COMMITTEE

P.O. Box G19,
Honiara.

Tel:
28520/23424.
Fax: 24272

Committee Hearing into the Constitution (Amendment and Validation) Bill 2023
(No.11 of 2023)

And

Committee Hearing into the Legislation Amendment, Repeal and Validation Bill
2023
(No. 16 of 2023)

Day 1 /2023

Monday 30th 2023, Paul Tovua Conference Room 10:01 a.m

1. Members Present

Hon. John Maneniaru, MP – Chairman
Hon Matthew Wale, MP

2. Absent/Apology

Hon. John Deane Kuku, MP
Hon. Rick Houenipwela, MP
Hon. Peter Kenilorea Jr, MP
Hon. Derrick Manuarii, MP
Hon. Lilly Maefai, MP
Hon. Silas Tausinga, MP

3. Secretariat

Ms. Ivory Iruha'a, Committee Secretary
Ms. Monica Sekonga, Senior Admin - Committees
Mr. Theresa Nori, Hansard Reporter
Mr. Philemon Loe, Principal Media Officer
Mr. Sunjay Dhari, ICT Officer
Mr. Pamantha Golo, ICT Officer

4. Prayer

The Legal Drafts lady said the opening prayer

5. Welcome and Opening Remarks

The Chairman of the Bills and Legislation Committee, made his opening remarks. The Chair informed the witnesses of the Parliamentary privileges.

6. Inquiry into the Constitution (Amendment and Validation) Bill 2023 (No.11 of 2023) and Legislation, Amendment, Repeal and Validation Bill 2023, (No. 16 of 2023)

The hearing proper commenced and the following witnesses from the Office of the Prime Minister and Cabinet, Ministry of Justice, Legal Affairs and Attorney General's Chamber and National Parliament Office were admitted:

Hearing 1 Witnesses

- i. Dr. Lalotoa Mulitalo, Legal Drafter (Ag), AG Chamber
- ii. Ms. Ha'a Hauirae, CLC, AG Chamber
- iii. Mrs. Ellah Keru, Legal Publication Officer, AG Chambers

The witness made their presentations before the committee.

The committee questioned the witness based on the evidences presented.

The examination concluded.

7. Adjournment:

The committee adjourned hearing at 10:03 a.m.

Appendix 2: Submissions

No	Author
1.	Generic Template from Ministry of Justice and Legal Affairs.