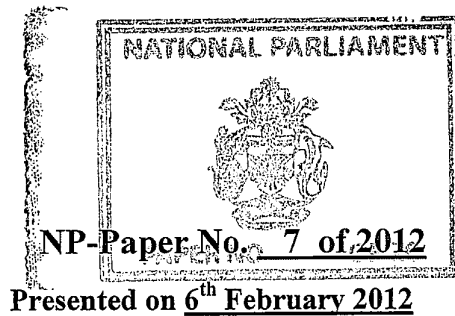




**NATIONAL PARLIAMENT OF SOLOMON ISLANDS
BILLS AND LEGISLATION COMMITTEE**

Report on the Passports Bill 2012



National Parliament Office

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1 INTRODUCTION

Standing Orders 71 (b), mandates the *Bills and Legislations Committee* (Committee) to review all draft legislation prepared for introduction into Parliament.¹ Under that provision, the committee had conducted numerous reviews on various Bills tabled in Parliament.

This report is based on the review conducted by the committee on the *Passports Bill 2011*. The Bill was received on 2 December 2011, noticed on 5 December and first read in the House on 12 December.

As required by Standing Orders aforementioned, the committee deliberated on the Bill on 7 December with the intention to commence its review. In its deliberation the committee resolved that due to time constraint (Parliament's priority was to pass the 2012 budget), the *Passports Bills 2011* will be comprehensively delved into earlier in January 2012.² This was to allow for the Public Accounts Committee to conduct its hearings on the 2012 budget as there are not much committee resources to conduct hearings simultaneously. Thus the Bill was shelved during Christmas period, as most of the members went on holidays.

During Parliament recess, it was realised that the Bill needs to be amended on a few clauses. One such amendment was the title of the Bill being changed from the *Passports Bill 2011* to the "*Passports Bill 2012*". It took a while to make the amendments and to print hard copies as there is no government printery to do the printing job and the committee hearing was delayed for a number of days awaiting the amended copies.

When the Bill was finally amended on 23 January 2012, the Committee consequently held a public hearing on the same date. The hearing was attended by the Officials from the Ministry of Commerce Employment and Trade - Immigration Division and Representative from the Attorney General's Chambers³.

¹ Standing Orders 71(b)

² See Minutes of Deliberation 7 December 2011, Appendix 2

³ See full list of witnesses on Appendix 2

Terms of Reference

The terms of reference of the Committee in this instance; is to examine the Bill and to report its observations and recommendations on the Bill to Parliament.

Functions of the Committee

The Bills and Legislation Committee is established under *Standing Order 71*, an Order made pursuant to the *Constitution*⁴, and under that Order has the functions, together with the necessary powers to discharge such, 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 deems 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.

Membership

The current members of the Bills and Legislation Committee (9th Parliament) are:

1. Hon. Manasseh Sogavare, MP (Chair)
2. Hon. Seth Gukuna, MP
3. Hon. Mathew Cooper Wale, MP
4. Hon. James Tora, MP
5. Hon. Milner Tozaka, MP
6. Hon. John Maneniaru, MP
7. Hon. Mark Kemakeza, MP
8. Hon. Shemuel Iduri, MP
9. Hon. Dr Derek Sikua, MP

⁴ Section 62, *Constitution of Solomon Islands* 1978.

2 POLICY BACKGROUND

Purpose of the Bill

The object of this Bill is to.

- a. repeal the Current Passports Act (Cap 61) and
- b. establish new requirements for the issuance and management of Solomon Islands passports and other identity documents and other related matters.

Background

There is an existing Passports Act (Cap 61) that takes care of the administration and management of passports. It has been argued that its provisions need to be modernized to strengthen the passports issuance and security issues and as well as to accommodate new and updated practices around the globe. Consequently the Bill was produced with the intention that if passed, would repeal the existing Act.

The Bills and Legislations Committee in this report discuss its findings on issues that arose from the proposed amendment, pointed out during the Bills and Legislation Committee Public Hearings on the Bill. It also bears the Committee's recommendations on the issues.

3 REVIEW OF THE BILL

In its review of the Bill, the Committee heard from key witnesses from the Ministry of Commerce Industries Labour and Immigration and Attorney General's Chambers.

Public Hearing

The Committee held public hearings on Monday 23 January 2012, with the view to hear from relevant officials of the Ministry of Commerce Industries Labour and Immigration. The following witnesses appeared before the Committee at the hearing:

- Permanent Secretary, Ministry of Commerce Industries Labour and Immigration.
- Director of Immigration
- Technical Advisor, Immigration Border Strengthening Program, Ministry of Commerce Industries Labour and Immigration
- Representative from the Attorney General's Chambers

A complete list of witnesses who appeared at the hearing is annexed **Appendix 2**.

4 ISSUES ARISING

From its preliminary research and evidence gathered at the hearing, the Committee identified a number of issues arising from its review of the Passports Bill 2012. These are discussed in this Chapter, together with responses from witnesses and, where necessary, recommendations of the Committee on a specific issue.

1. The need to repeal the existing Passports Act (Cap 61)

At the commencement of the hearing the committee asked for a justification of the responsible ministry's intention to repeal the existing Act; the significant difference the proposed law would provide; and whether an amendment would have been a better option than repeal.

Mr Jeffery Deve--director of immigration submitted in his evidence that the existing Act contains numerous out-dated provisions that need to be omitted and a new Act is a better option than amending the existing one. With regards to the significant difference between the existing and the proposed passports law, there is not much change both in the administrative procedures and the processes involved in applying and obtaining passports. However, the proposed law according to Mr Deve, would improve transparency and accountability in terms of administering passports.

Permanent Secretary Mr Hence Vaekesa, in his opening remarks presented before the committee that the Passports Bills provides a much more improved legislation protection against fraud and misuse of passports with respect to issuance of passports.

By comparison, the committee noted how well structured and more organised the Bill is, bearing clarity and easier to read in its design layout than the Act. Further the committee noted among other issues, the Act in its entirety use a gender biased language in its reference to applicants by use of pronouns "he/him/his" portraying a male oriented passports service system. Such provision, the committee agreed, are outdated and need to be erased in our legislations.

2. Consultations.

The committee sought to know about the level of consultation involved in the development of the Bill seeing that new passports laws will affect passports holders and prospective passports

applicants. Mr Deve informed the committee that the Ministry made a wide consultation involving government Ministries and divisions such as Ministry of Health, Correctional services, Foreign affairs, Magistrate and High courts, Aviation, Police and the Visitors' Bureau. The stakeholders provide feedbacks which have been factored in the development of the Bill. Additionally, a discussion paper had been circulated amongst stakeholders raising issues relating to the administration of the passports system. The committee notes and appreciates the amount of consultation involved in the development of the Bill.

3. Regulatory Mechanisms

One of the concerns raised by the Committee is regarding mechanisms that accounts for any fraudulent practices and the records of occurrence of fraud practices in the past. Mr Deve told the committee that with the introduction of electronic passports, it is easier to track passports holders, their biodata, and information relating to the passports holder's travelling. The current security mechanism embedded in electronic passports makes it easier to monitor the movements of persons. Additionally any illegal selling of passports can be easily detected by the system and perpetrators will be dealt with accordingly. So far there are no records of abuse of passports system according to the immigration director Mr Deve.

The committee inquired whether the Ministry of commerce have any plans or arrangement for a legitimate scheme for selling of passports to foreigners as practiced in other pacific countries. The Permanent Secretary Mr Vaekesa informed the committee that no government policy in existence on the matter as yet and thus no such plans set in place.

4. Implementation Impacts

In relations to the human resources needed to implement the Act (if passed) the committee questioned the panel about the human resources cost needed to enforce the passports system. The Permanent Secretary Mr Vaekesa submitted to the committee that arrangements for an increase in human resource capacity in the immigration division have already been agreed upon with the Ministry of Public Service in anticipation of implementation of the Bill (after enacted).

Mr Deve added that the passport monitoring system is computerised and require less manpower to man the system, and the implementation cost is comparatively minimal than a manual passports monitoring system.

5. Refugee Status Determination Act.

A thorough read through by the committee showed that clause 15(b) of the Bill made reference to *Refugee Status Determination Act* which does not exist in the existing laws of the land. The committee questioned the panel regarding the reference. Mr Deve acknowledged that no such Act in existence as yet. He explained that as part of immigration reforms and border strengthening control, three bills namely *Passports, Immigration* and *Refugee Status Determination* are all part of the immigration reform program. It turned out that the passports and Immigration Bills were ready and brought to Parliament while the *Refugees Determination Bill* is in its final stages and expected to be tabled in the next Parliament meeting.

The committee is concerned that if the bill is enacted and implemented clause 15(b) will not be applicable and difficult to interpret. Furthermore the reference implies in its wording as an Act in existence. Technical Advisor Mr Roy Muir, informed the committee that clause 15(b) is a reserved provision until such an Act subsist.

The committee recommends that the *Ministry of commerce Industries Labour and Immigration* dispose the *Refugees Determination Bill* and bring it to Parliament for enactment to be operable with the Passports Act and Immigration Act.

6. Printing issues

Another issue that arose peripheral to the content of the Bill but affects its production is printing of hard copies of the Bill. Legal Draftsman Mr Anthony Makabo pointed out that it was very difficult to print hard copies of the bill right on time since the liquidation of Solomon Islands Printers late last year. This in effect had cause delays in printing of bills to be introduced to Parliament. The committee is very concerned because several meetings of the committee had to be halted because of the unavailability of necessary documents for the public hearings.

The committee strongly recommends that government seriously address within the next two months the issue of printing services by identifying an appropriate printery to perform the job of printing Bills in replacement of SI printers.

5 RECOMMENDATIONS

After consultation and review of the bill with stakeholders, the Bills and Legislation committee is satisfied with the intentions of the bill and the committee make the following recommendations in the light of the issues raised during the public hearings.

The Bills and Legislation Committee recommends:

1. That the *Ministry of commerce Industries Labour and Immigration* to bring the *Refugees Determination Bill* early to Parliament in the next meeting for enactment to be operable with the Passports Act and Immigration Act.
2. That government seriously address within the next two months the issue of printing services by identifying which printery will perform the job of printing Bills in replacement of SI printers.



Hon. Manasseh Sogavare

Chairman

Bills and Legislation Committee

APPENDIX 1: MINUTES OF PROCEEDINGS**BILLS AND LEGISLATION COMMITTEE**

NATIONAL PARLIAMENT OF SOLOMON ISLANDS**MINUTES OF DELIBERATIVE MEETING****Meeting No 1: Deliberative Meeting**

Wednesday 7th December 2011

Library Room, Parliament House 12:15pm

1. Members Present

Hon. Manasseh Sogavare, MP (Chair)

Hon. Matthew Wale, MP

Hon. Seth Gukuna, MP

Hon. Sam Iduri, MP

Hon. Milner Tozaka, MP

Hon. John Manenuira, MP

Hon. James Tora, MP

Hon. Derek Sikua, MP

Secretaries

Mr. Ian Rakafia, Committee Secretary

Miss. Natalina Hong, Committee Secretary

1. Committee Membership changes

Committee members were informed of changes to membership since Hon. Alfred Ghiro became a Minister of Public Service and therefore no longer a member of the Bills Committee

2. Committee deliberated respectively on the:

- i. Passports Bill 2011
- ii. Immigration Bill 2011

3. Public Hearing

The committee resolved to hold public hearings on the bills presented.

4. Stakeholders for public hearing

The committee resolved that the following stakeholders to appear in the public hearings for respective bills:

Passports Bill

- Passports officer

Immigration Bill

- Director Immigration
- PS Foreign Affairs
- Attorney General Chambers
- Ports Authority
- Customs and Excise
- Forestry Association
- Chinese Association
- Solomon Island Christian Association
- Solomon Island Full Gospel Association
- National Training Unit, Ministry of Education & Human Resources Development
- Chamber of Commerce
- Foreign Diplomatic Missions

5. Presentation of the Bills

The Committee deliberate on the two bills and discussed the time frame available in the current Parliament meeting before Christmas holidays and given the fact that Parliament for the next two weeks will concentrate on the 2012 budget the Committee therefore resolved that the Bills are to be presented in the next meeting in 2012 but that the secretariat distribute copies of the bill to stakeholders and invite them to make written submissions.

6. Close

The committee ended their deliberation and resolved that the secretariat advise on the next BLC meeting.



BILLS AND LEGISLATION COMMITTEE

NATIONAL PARLIAMENT OF SOLOMON ISLANDS

MINUTES OF DELIBERATIVE MEETING

Meeting No 1: Deliberative Meeting

Tuesday 17th January 2012

Dining Hall, Parliament House 2.00pm

Members Present

Hon. Manasseh Sogavare, MP (Chair)

Hon. Seth Gukuna, MP

Hon. Milner Tozaka, MP

Hon. John Manenuira, MP

Apologies

Hon. Matthew Wale, MP

Hon. Sam Iduri, MP

Hon. James Tora, MP

Hon. Derek Sikua, MP

Secretaries

Mr. Celsus Talifilu, Committee Secretary

Miss. Natalina Hong, Committee Secretary

Mr. Wilson Anii, Committee Secretary

Prayer and welcome

The Chair welcomed the Committee members and Hon John Maneniaru opened the meeting with a word of prayer

Deliberations on the Immigration and Passport Bills 2011

The committee deliberated and resolved:

- to hold a public hearing inquiry into the Immigration and Passport Bills 2011 on Thursday 19th January 2012 in the parliament conference room 2, as soon as parliament adjourns for the day.
- that the hearing will be a discussion with panel of stakeholders.
- that the diplomatic corps in the stakeholder list will have a separate hearing time as part of protocol and are scheduled for Friday 20th January 2012.

AOB

Attorney General office will be reprinting the date on the Immigration Bills 2011 and Passport Bill 2011 to change the date year “2011” to “2012”.

There is response from Minister for Finance regarding the formal withdrawal on the floor of parliament, of the Customs Valuation Bill 2011 for further consultation. Since the Bill had already been tabled in Parliament and the committee had already inquired and made a report on it. It is procedural that the bill be formally withdrawn by the minister in accordance with Standing Order 59

Close

Meeting ends at 2.45 pm with a closing prayer from Hon Gukuna

APPENDIX 2: WITNESSES

Witnesses who appeared before the Bills and Legislation Committee

Witnesses

1. Mr Hence Vaekesa Permanent Secretary of the Ministry of Commerce Industries Labour and Immigration
2. Mr Jeffery Sade Deve, Immigration Director, Ministry of Commerce Industries Labour and Immigration
3. Mr Roy Muir--Project Coordinator, International Organisation for Migration and Technical Advisor for Immigration Border Strengthening Program.
4. Mr Anthony Makabo –Legal draftsman, Attorney General’s Chambers