



# CONSTITUTION (AMENDMENT) BILL 2009

(NO. 7 of 2009)

SOLOMON ISLANDS NATIONAL PARLIAMENT

09/03/2009

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**CONSTITUTION (AMENDMENT)  
BILL 2009**

**(NO. 7 of 2009)**

**A  
BILL  
Entitled**

**AN ACT** OF PARLIAMENT TO ALTER THE CONSTITUTION.

**ENACTED** by the National Parliament of Solomon Islands.

## ARRANGEMENT OF CLAUSES

1. Short title and commencement
2. Section 77 amended
3. Section 78 amended
4. New Section 78A added
5. Section 79 amended
6. Section 80 amended
7. Section 85 amended
8. Section 87 amended
9. Transitional and saving

“(1A) If, for any reason (including illness or absence from Solomon Islands), the Chief Justice and the Deputy Chief Justice are unable to perform the functions of the office of Chief Justice, such functions (including any functions delegated under section 78A(2)) shall be performed –

- (a) by the next senior puisne judge in terms of appointment who is in office in Solomon Islands; or
- (b) if the next senior puisne judge is unable for any reason (including illness or absence from Solomon Islands) to perform such functions, by a puisne judge or another person appointed pursuant to subsection (1) to act as Chief Justice.”;
- (c) in subsection (2), by inserting “or Deputy Chief Justice” after “Chief Justice”.

Section 80  
amended

6. Section 80 of the Constitution is amended –

- (a) in subsection (1), by deleting “sixty” and substituting “seventy”;
- (b) in subsection (2), by deleting “not a citizen of Solomon Islands and is over the age of sixty” and substituting “over the age of seventy”.
- (c) by adding the following new subsection –

“(2A) Notwithstanding subsection (1), a judge of the High Court may voluntarily retire upon attaining the age of 60 years.”.

Section 85  
amended

7. Section 85 of the Constitution is amended in subsection (2)(b) by inserting “, Deputy Chief Justice” after “Chief Justice”.

Section 87  
amended

8. Section 87 of the Constitution is amended –

- (a) in subsection (1), by deleting “sixty” and substituting “seventy”;

## CONSTITUTION (AMENDMENT) BILL 2009

Short title and  
commencement

1. This Act may be cited as the Constitution (Amendment) Act 2009, and commences on a date appointed by the Minister, by notice in the *Gazette*.

Section 77  
amended

2. Section 77 of the Constitution is amended in subsection (2) by inserting “,the Deputy Chief Justice” after “Chief Justice”.

Section 78  
amended

3. Section 78 of the Constitution is amended in subsection (2) by inserting “Deputy Chief Justice and the” before “puisne judges”.

New section 78 A  
added

4. The Constitution is amended by adding the following new section –

*“Functions of the  
Deputy Chief  
Justice”*

“78A. - (1) Notwithstanding section 79, the Deputy Chief Justice shall perform the functions of the office of Chief Justice if –

- (a) the office of Chief Justice is vacant; or
  - (b) for any reason (including illness or absence from Solomon Islands), the Chief Justice is unable to perform the functions of his office.
- (2) The Chief Justice may, by order in the *Gazette*, delegate some of the functions of his office to the Deputy Chief Justice.”.

Section 79  
amended

5. Section 79 of the Constitution is amended –

- (a) in subsection (1) –
  - (i) by adding “or Deputy Chief Justice” after “Chief Justice” in line 1;
  - (ii) by deleting “or if the person holding that office is for any reason unable to perform the functions of his office”; and
  - (iii) by adding “or Deputy Chief Justice” after “Chief Justice” at the end of subsection (1);
- (b) by adding the following subsection –

(b) in subsection (2), by deleting 'not a citizen of Solomon Islands and is over the age of sixty' and substituting "over the age of seventy";

(c) by adding the following new subsection –

“(2A) Notwithstanding subsection (1), a judge of the Court of Appeal may voluntarily retire upon attaining the age of 60 years.”.

9. At the commencement of this Act, all existing appointments made under section 78 or 86 of the Constitution shall be extended by virtue of this section until the holders of such appointments reach the age of 70 years.

Transitional and  
saving

**CONSTITUTION (AMENDMENT) BILL 2009****OBJECTS AND REASONS**

The Bill seeks to alter the Constitution –

- (a) to establish the position of Deputy Chief Justice, including his duties to perform the functions of the office of Chief Justice if that office is vacant or the incumbent is unable to perform the functions of that office;
- (b) to provide for the most senior puisne judge in terms of appointment to act as Chief Justice, if both the Chief Justice and Deputy Chief Justice are unable to perform the functions of the office of Chief Justice. If the senior puisne judge is also unable to act, then a puisne judge or other person is to be appointed to act as Chief Justice.
- (c) to increase the compulsory retirement ages for High Court and Court of Appeal judges from 60 to 70 years; but a judge may opt to retire voluntarily upon attaining 60 years.
- (d) to allow judges who are citizens of Solomon Islands to be reappointed as judges of the High Court or Court of Appeal when they retire, which is currently available only to non-citizens;
- (e) to provide other consequential amendments as result of establishing the new Deputy Chief Justice position, including transitional provision on existing appointments.

PRIME MINISTER

Honiara, Solomon Islands  
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