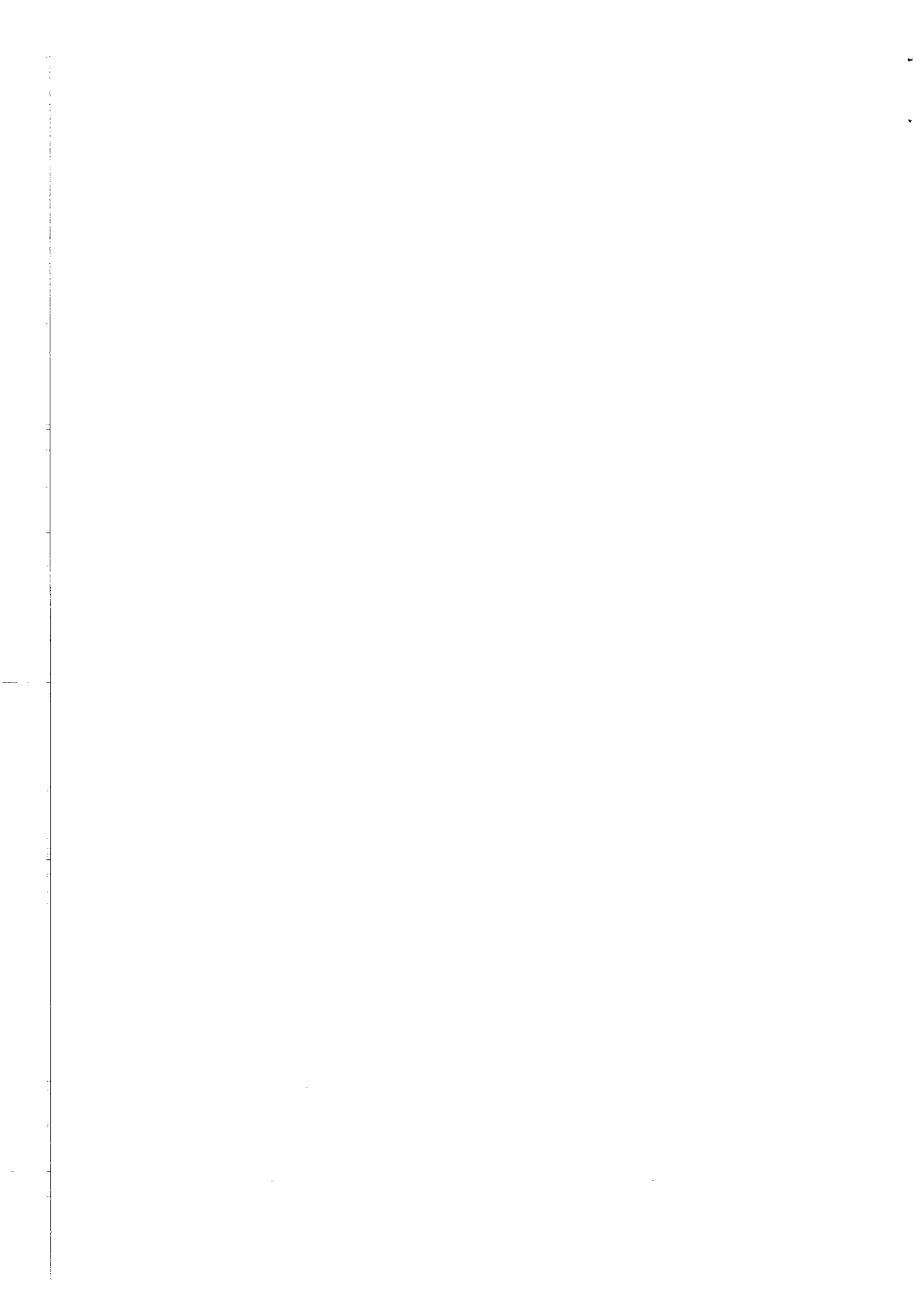




LEGISLATION BILL 2023

(NO. 12 OF 2023)





LEGISLATION BILL 2023

(NO. 12 OF 2023)

A

BILL

Entitled

AN ACT SPECIFYING THE RESPONSIBILITY TO DRAFT AND PUBLISH LEGISLATION OF SOLOMON ISLANDS, PROVIDING FOR THE CONSOLIDATION AND REPRINTING OF LEGISLATION OF SOLOMON ISLANDS, AND FOR RELATED PURPOSES.

ENACTED BY THE NATIONAL PARLIAMENT OF SOLOMON ISLANDS.

LEGISLATION BILL 2023

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LEGISLATION BILL 2023

PART 1 PRELIMINARY MATTERS

1 Short title

This Act may be cited as the *Legislation Act 2023*.

2 Commencement

This Act commences on the day appointed by the Minister by notice in the *Gazette*.

3 Definitions

In this Act:

“*amendment*”:

- (a) means an amendment of legislation made by other legislation; and
- (b) includes repealing, revoking, replacing, adding to, inserting and omitting words or provisions;

“*consolidation*” means legislation that has the amendments made to it on or before the date specified on the legislation incorporated into its text;

“*incorporate*” means incorporate into legislation an amendment made to the legislation by subsequent legislation;

“*correction*” means a correction to the text of legislation that:

- (a) corrects:
 - (i) a printing error; or
 - (ii) a cross reference; or
 - (iii) punctuation; or

- (iv) a grammatical, typographical or similar error; or
 - (v) a gender specific reference; and
- (b) does not change the effect or affect the substance of the legislation; and
- (c) is not an amendment;

“Government website” means a website established and maintained by the Attorney-General for purposes that include providing public access to the legislation of Solomon Islands;

“legislative drafter” means a person authorised by the Attorney-General under section 5(2) to draft legislation;

“legislation” means an Act or subsidiary legislation, whether made before or after the commencement of this Act;

“printed copy” means a copy that is printed by the Government Printer;

“publishing legislation” means:

- (a) publishing legislation in the *Gazette*; or
- (b) publishing legislation on a Government website; or
- (c) publishing legislation on another website that publishes legal information; or
- (d) publishing indexes to legislation; or
- (e) making printed copies available;

“reprint” means a copy of legislation (which may be a consolidation) as in force on the date specified on the legislation that is published under Part 3.

PART 2 RESPONSIBILITY FOR DRAFTING AND PUBLISHING LEGISLATION

4 Attorney-General is responsible for legislation

- (1) The Attorney-General is responsible for drafting and publishing the legislation of Solomon Islands.
- (2) The Attorney-General's responsibilities for legislation include:
 - (a) drafting or supervising the drafting of legislation; and
 - (b) providing advice to the Government about:
 - (i) proposals for drafting legislation;
 - (ii) drafts of legislation produced by or under the authority of the Attorney-General; and
 - (c) endorsing draft legislation as suitable to be made as legislation of Solomon Islands; and
 - (d) arranging the printing by the authorised Government printer of Bills for presentation to the Parliament and Acts for presentation to the Governor-General for assent; and
 - (e) publishing legislation and indexes to legislation; and
 - (f) preparing and publishing reprints; and
 - (g) by notice in the *Gazette*, making corrections to the text of legislation; and
 - (h) performing responsibilities incidental to a responsibility referred to in paragraphs (a) to (g).

5 Attorney-General may authorise persons to perform his or her responsibilities for legislation

- (1) The Attorney-General may authorise a person to perform a responsibility under section 4.

- (2) The Attorney-General may authorise the following kinds of persons to perform the responsibilities for drafting legislation and providing advice about the draft legislation produced:
- (a) a public officer appointed by the Judicial and Legal Services Commission under section 118 of the Constitution to a position in the Attorney-General's Chambers;
 - (b) a person who:
 - (i) holds a legal qualification attained in a common law country; and
 - (ii) has sufficient experience drafting legislation in a common law jurisdiction; and
 - (iii) is or is to be engaged under a contract to draft specified legislation for Solomon Islands.
- (3) The Attorney-General may authorise a public officer to carry out duties for performing any other responsibility under section 4.

6 Attorney-General's supervision of legislative drafters

- (1) A legislative drafter drafts legislation subject to the direction of the Attorney-General.
- (2) The Attorney-General's directions to a legislative drafter may be in the form of:
 - (a) employment duties;
 - (b) oral directions;
 - (c) a legislative drafting manual;
 - (d) written guidelines setting out drafting practices;
 - (e) a condition of a legislative drafter's authorisation to draft; or
 - (f) a term or condition of a contract.

PART 3 PROGRAM TO CONSOLIDATE AND REPRINT LEGISLATION

7 Purpose of Part 3

The Purpose of this Part is to make up-to-date copies of legislation publicly available in electronic or printed form.

8 Program to reprint legislation

- (1) There is an ongoing program to:
 - (a) consolidate legislation or a class of the legislation of the Solomon Islands; and
 - (b) publish legislation or a class of legislation of Solomon Islands as reprints.
- (2) The program must be conducted under the supervision of the Attorney-General and in the manner directed by the Attorney-General.

9 Authorisation of reprints

- (1) A reprint must not be published under this Act unless it is authorised by the Attorney-General.
- (2) If the Attorney-General is satisfied that legislation correctly sets out its contents as in force at the date stated on the legislation, the Attorney-General may authorise publication of the legislation as a reprint.
- (3) If the legislation is a consolidation, the Attorney-General must not authorise publication of the consolidation as a reprint unless satisfied that the consolidation correctly sets out the contents of the legislation, and the amendments made to the legislation, as in force at the date stated on the legislation.

10 Content of reprints

- (1) A reprint:
 - (a) is legislation and amendments to the legislation as in force at the date stated on the reprint; and

- (b) does not include amendments to the legislation that commence after that date.
- (2) A reprint must include, and must be published with:
- (a) on the first page:
 - (i) the date as at which the legislation is reprinted; and
 - (ii) whether the legislation is currently in force, repealed or expired or has not commenced; and
 - (b) on the first page and at the foot of each following page, a statement that it is a reprint published under the *Legislation Act 2023*; and
 - (c) in an appropriate place, a statement that the Attorney-General has authorised the reprint; and
 - (d) notes providing the legislative history of the reprinted legislation; and
 - (e) the prescribed notes or information (if any).
- (3) A reprint must not include, and must be published without:
- (a) the words enacting the legislation; and
 - (b) the date of making the legislation; and
 - (c) the signature of the person making the legislation; and
 - (d) the signature of the person authenticating the signature of the person making the legislation.

11 Legislative history notes

Legislative history notes contained in a reprint must specify the following:

- (a) the legislation and amendments to the legislation incorporated in the reprint;
- (b) each provision of the reprinted legislation that has been amended and how the provision has been amended;

- (c) the relevant assent, commencement, repeal and expiry dates of the legislation and the amendments to the legislation incorporated in the reprint.

12 Publication of reprints

- (1) A reprint is published under this Act by publishing:
 - (a) a printed copy of the reprint; or
 - (b) an electronic copy of the reprint on a Government website; or
 - (c) an electronic copy of the reprint on a prescribed website.
- (2) If a reprint is published under this Act by publishing it on a Government website or a prescribed website, then the following is, for the purposes of this Act or any other law, taken to be published under this Act:
 - (a) an electronic copy of the reprint downloaded unaltered from the website;
 - (b) a printout of such an electronic copy.

13 Evidentiary status of reprints

- (1) In a legal proceeding, a reprint published under this Act is, in the absence of proof to the contrary, taken to:
 - (a) correctly set out the contents of the legislation and amendment legislation incorporated into the reprint as at the date stated on the reprint; and
 - (b) be authorised by the Attorney-General.
- (2) If doubt is raised as to the accuracy of the reprint, the Court may determine the correct text of the reprint by reference to the legislation and amendment legislation incorporated into the reprint.

PART 4 MISCELLANEOUS MATTERS

14 Attorney-General may correct legislation

- (1) The Attorney-General may, by notice published in the *Gazette*, make a correction to the text of legislation.
- (2) If the correction is made in the course of incorporating legislation for publication as a reprint, the Attorney-General must make the correction on or before the day on which the reprint is published under this Act.
- (3) Corrections made to legislation under this section are for interpretation purposes, and are deemed to have been in force at the commencement of that legislation.

15 Legal professional privilege

Communications with the Attorney-General for drafting legislation are subject to legal professional privilege and may not be disclosed by the Attorney-General or a legislative drafter without the consent of the Minister responsible for the legislation.

16 Copyright

The copyright for all legislation vests in the Government.

17 Regulations

- (1) The Minister may make regulations, not inconsistent with this Act, to prescribe matters that are necessary or convenient for carrying out or giving effect to this Act.
- (2) Without limiting subsection (1), the Regulations may:
 - (a) prescribe additional alterations that may be made to legislation to be published as a reprint; or
 - (b) prescribe additional notes or information that may be included in a reprint; or
 - (c) prescribe additional ways in which a reprint may be published; or

- (d) provide for the publication and distribution of reprints or a class of reprints as a revised edition of the legislation or the class of legislation of Solomon Islands.

PART 5 REPEAL AND CONSEQUENTIAL AMENDMENT

18 Repeal of Revised Edition of the Laws Act 1995

The *Revised Edition of the Laws Act 1995* (No. 5 of 1995) is repealed.

19 Consequential amendment of Interpretation and General Provisions Act (Cap. 95)

- (1) This section amends the *Interpretation and General Provisions Act* (Cap. 85) ("**Principal Act**").
- (2) Sections 26 and 27 of the Principal Act are repealed.

LEGISLATION BILL 2023
EXPLANATORY MEMORANDUM

OBJECT

The object of the *Legislation Bill 2023* is to:

- (a) specify the Attorney-General's responsibilities for drafting, advising on and publishing the legislation of Solomon Islands and the manner in which the Attorney-General authorises and supervises other persons to perform the responsibilities for drafting and providing advice about draft legislation; and
- (b) authorise the publication of copies of up-to-date legislation in electronic and printed form under the supervision and direction of the Attorney-General; and
- (c) enable the Attorney-General to correct the text of legislation and give notice of the correction by notice published in the *Gazette*; and
- (d) specify the evidentiary status of reprints, the legal professional privilege of communications with the Attorney-General for drafting legislation and copyright in legislation of Solomon Islands.

CONTENT

Part 1 Preliminary matters

Clause 1 specifies the short title of the Act.

Clause 2 provides for the commencement of the Act by enabling the Minister to appoint the date for the Act to commence by notice published in the *Gazette*.

Clause 3 defines expressions used in the Act.

Part 2 Responsibility for drafting and publishing legislation

Clause 4 specifies that the Attorney-General is responsible for the drafting and publishing of the legislation of Solomon Islands. Those responsibilities include:

- drafting or supervising the drafting of legislation and advising about drafts of legislation produced under the Attorney-General's authority

- advising the Government about proposals for drafting legislation
- endorsing draft legislation as suitable for Solomon Islands
- printing Bills to be presented to Parliament and Acts for assent by the Governor-General
- publishing legislation and indexes to legislation
- making corrections to the text of legislation.

An additional responsibility proposed in the Bill is the preparing and publishing of reprints of legislation.

Clause 5 enables the Attorney-General to authorise other persons to perform a responsibility under clause 4. The kinds of person who the Attorney-General may authorise to perform his responsibility to draft legislation and provide advice about draft legislation include persons appointed by the Judicial and Legal Services Commission to positions in the Attorney-General's Chambers and persons with sufficient experience drafting legislation in a common law jurisdiction who are or are to be engaged under a contract to draft specified legislation.

Clause 6 provides for the supervision of persons authorised to draft legislation under clause 5. Legislative Drafters work subject to the direction of the Attorney-General, given in any of the following ways:

- employment duties
- oral directions
- a legislative drafting manual
- written guidelines setting out drafting practices
- a condition of a legislative drafter's authorisation to draft
- a term or condition of a contract.

Part 3 Program to consolidate and reprint legislation

Clause 7 specifies that the purpose of Part 3 is to make up-to-date copies of legislation publicly available in electronic or printed form.

Clause 8 sets out the program to consolidate legislation of the Solomon Islands and publish the legislation as reprints. The program is conducted under the supervision and direction of the Attorney-General.

Clause 9 provides that a reprint must not be published unless it is authorised by the Attorney-General. The Attorney-General authorises the publication of legislation as a reprint if satisfied that the legislation correctly sets out its contents as in force at the date stated on the legislation.

Clause 10 specifies that a reprint is legislation and amendments to the legislation (if any) made on or before the date stated on the reprint. It also sets out other content of a reprint, including:

- the date as at which the reprint is reprinted
- whether the legislation is currently in force, is repealed or expired or has not commenced
- a statement that it is a reprint published under this Bill and that the Attorney-General has authorised the reprint
- notes setting out the legislative history of the reprinted legislation.

In addition, a reprint must not include words of enactment, the date on which the legislation is made or the signature of the person making the legislation.

Clause 11 specifies that legislative history notes in a reprint must contain:

- the name of the legislation and amendments to the legislation incorporated into the reprint
- the dates of assent, publication in the *Gazette*, commencement, repeal and expiry
- each provision that has been amended and how it has been amended.

Clause 12 provides for the manner of publishing reprints. They may be published by publishing a printed copy of the reprint or an electronic copy of the reprint on a Government website or a prescribed website.

Clause 13 establishes the evidentiary status of reprints in legal proceedings. If there is doubt about the accuracy of a reprint, the Court may determine the correct text by reference to the legislation and amendment legislation incorporated into the reprint.

Part 4 Miscellaneous matters

Clause 14 provides that the Attorney-General's may correct the text of legislation and give notice of the correction by notice published in the *Gazette*.

Clause 15 specifies that communications with the Attorney-General for drafting legislation are subject to legal professional privilege and may not be disclosed without the consent of the Minister responsible for the legislation.

Clause 16 vests copyright for all legislation in the Government.

Clause 17 sets out the regulation making power under the Bill. The clause includes power to publish reprints as a revised edition of legislation of Solomon Islands.

Part 5 Repeal and consequential amendment

Clause 18 repeals the *Revised Edition of Laws Act 1995* (No. 5 of 1995).

Clause 19 repeals sections 26 and 27 of the *Interpretation and General Provisions Act* (Cap. 85).

HON. CLEZY RORE
MINISTER FOR JUSTICE AND LEGAL AFFAIRS

Honiara, Solomon Islands
Printed under the authority of the
Solomon Islands Government

Printed by Provincial Press