



National Parliament of Solomon Islands

Bills and Legislation Committee

# Committee Report

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Report on the Electoral Bill 2018  
(No.4 of 2018)

NP-Paper No 20 of 2018

Presented on 6<sup>th</sup> August, 2018

National Parliament Office



## COMMITTEE MEMBERS

The current members of the Bills and Legislation Committee (10<sup>th</sup> Parliament) are:

**Hon. Matthew Cooper Wale, MP (Chairman)**

**Hon. Dr Derek Sikua, MP**

**Hon. Manasseh Maelanga, MP**

**Hon. Douglas Ete, MP**

**Hon. Peter Tom, MP**

**Hon. Christopher Laore, MP**

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## CHAIR'S FOREWORD



Hon. Matthew Cooper Wale, MP, Chairman

## REPORT OF THE BILLS AND LEGISLATION COMMITTEE

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 **Electoral Bill 2018** for laying before Parliament.

A handwritten signature in dark ink, appearing to be 'M. Cooper Wale', written in a cursive style.

**Hon. Matthew Cooper Wale, MP**

Chairman

Bills and Legislation Committee

6<sup>th</sup> August, 2018



## COMMITTEE FUNCTIONS

The Committee is established under *Standing Order*<sup>71</sup>; an Order made pursuant to the *Constitution*<sup>1</sup> and 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.

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<sup>1</sup>Section 62, *Constitution of Solomon Islands* 1978.





## EXECUTIVE SUMMARY

The Committee has concluded its inquiry into the Electoral Bill 2018.

The Bill seeks to;

(a) to repeal and replace the *National Parliament Electoral Provisions Act (Cap.87)*;

(b) to improve the registration system of electors through the following:

- i. regular reviews of the register;
- ii. out-of-constituency registration;
- iii. registration of persons aged between 17 and 18 in preparation for an election;

(c) to further regulate nomination process of candidates, including:

- i. to increase the candidate nomination fee;
- ii. to require candidates for political parties to provide certificate of their party membership from the Registrar of Political Parties Commission;
- iii. to clarify the nomination process;

(d) to further improve the conduct of voting by:

- i. requiring employers to release their employees to vote on polling day; and
- ii. ensuring arrangements are made to help those with disabilities to cast their votes; and
- iii. ensuring that electors already inside a polling station when voting hours close are permitted to cast their votes; and
- iv. allowing certain electors (such as electoral officials) to cast their vote before polling day; and
- v. providing the option for a remote voting procedure to be established in the future; and
- vi. to provide complaints mechanisms during voting;

(e) to improve the counting process by :

- i. improving the process for verifying ballot papers; and
- ii. providing for a complaints mechanism during the counting of votes; and



- (f) to ensure there is a comprehensive range of electoral offences with appropriate penalties.

After scrutinising the Bill, the Committee makes the following recommendations:

1. That government not abandon the search for a better election system. The Committee notes that although the reforms contained in this Bill will improve the current system, the structural deficiencies inherent in the First-Past-The-Post (FPTP) system are not remedied.
2. That the Electoral Commission be given responsibility for the conduct of all elections in the country.
3. That both national (parliamentary) and all provincial assembly elections are held on the same day.
4. That out of constituency voting be conducted in Honiara in 2019 general elections.
5. That on the registration form, space is provided for people with disabilities to indicate if they will require assistance with voting in elections. This will assist the Electoral Commission in its planning.
6. That names of electors that voted and those did not vote be published (without reference to candidates) after each election.
7. That a mechanism for the efficient determination of election petitions be included in the Bill or other policy options be considered such as a totally different tribunal be set up specifically to deal with petitions and that it is time limited to within six months to a year of elections.
8. That important parts of the Bill including clause 4 be commenced before the 2019 general elections.
9. That clause 12 be amended to state that the Electoral Commission 'must' carry out registration of electors and conduct elections for provincial assemblies.
10. That clause 21(3) be amended to state that the tabling of the annual report occurs when a copy is given to the Speaker.
11. That Clause 24 state that a revising officer cannot be the same person who was the registration officer for the same constituency. This rule should also apply to the assistant revising officers.
12. That clause 66 (4) be deleted to allow the withdrawal of nominations even if it reduces the number of candidates in a constituency to zero. In such a situation fresh nominations should be called for.



13. That clause 67 be amended to allow voting to proceed in the event of the death of a candidate.
14. That political parties are allowed to permit candidates to keep election symbols they used in the last election.
15. That guidelines are established to assist the courts to have a consistent definition of bribery and other customary obligations in election petitions.
16. That the Electoral Commission be left independent of the Political Parties Commission. That Clause 11(b) be deleted, and Clause 11(c) be amended to delete the words “and the Political Parties Integrity Act 2014”. That Clause 143 be deleted.
17. That Clause 125 be amended to reflect a realistic view of the costs in the various parts of the country. That for the purposes of election expenses, the country is divided into 3 cost zones relative to their proximity to Honiara, and that the outer zones are permitted higher limits for campaign expenses. In the absence of any relevant cost data, the committee recommends that limits are set at Zone 1 - \$300,000; Zone 2 - \$500,000; Zone 3 - \$700,000.

Subject to the above recommendations, the Committee commends the Bill to the House.



# TABLE OF CONTENTS

<b>COMMITTEE MEMBERS .....</b>	<b>i</b>
<b>CHAIR'S FOREWORD .....</b>	<b>ii</b>
<b>COMMITTEE FUNCTIONS .....</b>	<b>iii</b>
<b>EXECUTIVE SUMMARY .....</b>	<b>iv</b>
<b>1.0 INTRODUCTION.....</b>	<b>1</b>
<b>2.0 BACKGROUND INFORMATION.....</b>	<b>2</b>
<b>2.1 Objectives of the Bill.....</b>	<b>3</b>
<b>2.2 Structure of the Bill.....</b>	<b>3</b>
<b>3.0 ISSUES DISCUSSED.....</b>	<b>5</b>
<b>3.1 Policy Issues.....</b>	<b>5</b>
<b>3.2 Contents Issues .....</b>	<b>10</b>
<b>4.0 APPENDICES.....</b>	<b>15</b>
<b>Appendix 1: Witnesses .....</b>	<b>15</b>
<b>Appendix 2: Minutes of Proceedings.....</b>	<b>16</b>
<b>Appendix 3: Submissions.....</b>	<b>21</b>





## 1.0 INTRODUCTION

This Report presents the findings and recommendations of the Bills and Legislation Committee ('the Committee') after reviewing the Electoral Bill 2018 ('the Bill') as required under the Standing Orders of the National Parliament of Solomon Islands ('the Standing Orders').

The Committee in its review of the Bill scrutinized it together with the *Constitution (Amendment) (Electoral Reform) Bill 2018* because they complement each other in implementing electoral reforms in our country.

Relevant stakeholders<sup>2</sup> were invited before the Committee to make presentations or provide submissions on the contents, policy matters, and intentions of the Bill.

The hearings and inquiries into the Bill were held from the 15<sup>th</sup> to the 17<sup>th</sup> of May 2018. The List of witnesses that appeared before the Committee and minutes of those proceedings are contained in Appendices 1 and 2.

Written submissions were also received from some of the witnesses that appeared before the Committee. A list of Written Submissions can be found in Appendix 3.

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<sup>2</sup>See Appendix 1

## 2.0 BACKGROUND INFORMATION

Solomon Islands election legislation had been amended about eight times<sup>3</sup> since independence. With this Bill, it is the first time that a comprehensive review of existing laws related to elections had been undertaken to for it to follow the current circumstances. According to the Chief electoral officer<sup>4</sup> (CEO) the work on the electoral reform commence in 2015. The reform basically focuses on six (6) major areas.

1. *Election system* - this is an examination of whether we have a better system than the current First-Past-The-Post (FPTP) election system.
2. *Registration of voters* - this looks at issues such as timing, out of constituency registration, 17 year old pre-registration, the safe guarding of the national data of voters, the eligibility to register in terms of the definition of ordinary residence and the campaign period.
3. *Candidacy* - with this reform the campaign period is now clearly defined and all candidates contesting elections are to be registered voters. This will be achieved through the constitution amendment bill that accompanies this Bill.
4. The *voting* itself - this is introducing remote voting, pre-polling and out of constituency voting. Emphasis is put on the secrecy of the ballot to ensure that a vote by an elector is absolutely secret. The reform deals with the voting hours, for example from 7am to 5pm and allows registered voters already in the queue to be able to vote. And the polling day to be a public holiday, as well as procedures in the polling station itself.
5. *Counting of votes* - One of the changes with this electoral reform is the mixing of the ballot papers before counting starts and the announcements of results on the counts.
6. The *commissioner's office* - this reform provides for the commissioners' office to be an independent institution. To strengthen its independence as well as the responsibilities and functions of the institution, including the responsibility in terms of a possible merger with PPC as well as any responsibility for provincial elections. Then the increase in the membership of commission from

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<sup>3</sup> Mr. Mose Saitala, oral evidence, 15 May 2018

<sup>4</sup> Ibid

three to five as well as the new position of commissioner of elections. A new organization structure, consistent with these reforms, for the office of the Solomon Islands Electoral Commission has been approved by Cabinet on the 18<sup>th</sup> of January 2018<sup>5</sup>.

## 2.1 Objectives of the Bill

The objects of the Bill are as follows:

- (g) to repeal and replace the *National Parliament Electoral Provisions Act (Cap.87)*;
- (h) to improve the registration system of electors through the following:
  - i. regular reviews of the register;
  - ii. out-of-constituency registration;
  - iii. registration of persons aged between 17 and 18 in preparation for an election;
- (i) to further regulate nomination process of candidates, including:
  - i. to increase the candidate nomination fee;
  - ii. to require candidates for political parties to provide certificate of their party membership from the Registrar of Political Parties Commission;
  - iii. to clarify the nomination process;
- (j) to further improve the conduct of voting by:
  - i. requiring employers to release their employees to vote on polling day; and
  - ii. ensuring arrangements are made to help those with disabilities to cast their votes; and
  - iii. ensuring that electors already inside a polling station when voting hours close are permitted to cast their votes; and
  - iv. allowing certain electors (such as electoral officials) to cast their vote before polling day; and
  - v. providing the option for a remote voting procedure to be established in the future; and
  - vi. to provide complaints mechanisms during voting;
- (k) to improve the counting process by :
  - i. improving the process for verifying ballot papers; and
  - ii. providing for a complaint mechanism during the counting of votes;
- (l) to ensure there is a comprehensive range of electoral offences with appropriate penalties.

## 2.2 Structure of the Bill

The Bill has eleven (11) parts, one hundred and forty-six (146) clauses and two (2) schedules. The parts are separated as follows;

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<sup>5</sup> Ibid

Part 1 deals with preliminary matters,

Part 2 deals with electoral systems, rights and constituencies,

Part 3 deals with the administration of the Bill,

Part 4 deals with registration of electors,

Part 5 deals with the conduct of elections,

Part 6 deals with the counting of votes,

Part 7 deals with results of elections,

Part 8 deals with petitions relating to elections and members of parliament,

Part 9 deals with offences,

Part 10 deals with miscellaneous provisions, and

Part 11 deals with repeals, transitional matters and consequential amendments.

Schedule 1 outlines the electoral constituencies and schedule 2 contains the form for application for registration as an elector (Form 1).

### 3.0 ISSUES DISCUSSED

The following policy and contents issues were considered during discussions on the Bill.

#### 3.1 Policy Issues

##### Delay in enacting the Bill

The CEO<sup>6</sup> of the Electoral Commission (EC) emphasized to the Committee that any delay in enacting this Bill, including the accompanying Constitutional amendment in the coming July sitting, will make it difficult for the EC to implement them for the National General Elections (NGE) in 2019. This is with regards to the proposed changes to the qualification for candidacy and the proposed merger with the Political Parties Commission (PPC).

##### Committee Comments

The delay in getting these two bills to the House is regrettable. Both bills contain important reforms to our electoral processes that represent significant improvements. The Committee is of the considered view that the Political Parties Commission remain as it is and should not be merged with the Electoral Commission. Whilst, registration and administration functions regarding political parties could be arguably done by the Electoral Commission, the Committee is very concerned with the very important responsibility charged on the Political Parties Commission for the development of political parties, a function that should not be done by the Electoral Commission.

##### Limited Preferential voting system

In the initial stages of the electoral reforms there was quiet a strong push for the limited preferential voting system (LPV). The CEO in his submission to the Committee stated that they looked at all the electoral systems but their application will be constrained by circumstances in the country's context. For example, our political party system is still in its infant stage, therefore using proportional representation might be distorted by the presence of a lot of independent Members of Parliament. Although that is much more preferred in any country.

However a better majoritarian type which involves limited preferential voting system was probably the best in getting members of parliament elected with a 50% plus one majority of the votes.

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<sup>6</sup> Mr. Mose Saitala, oral evidence, 15 May 2018

It is also one way of helping women to get to Parliament according to literature from the Inter-Parliamentary Union. Their findings say that the first past the post system (FPTP) is probably the most unkind election system towards women. Therefore introducing LPV will be a mitigating factor to help women with the increased possibility of getting elected to parliament.

#### **Parliament White paper**

According to the CEO, two white papers on the proposed electoral reforms were presented to Parliament for debate. A total of 36 members spoke during the debate. He said the government estimated three MPs were in favour of proportional representation, five want to retain the FPTP, and the rest appeared to prefer the LPV or somewhere in between. So there was a preference for introducing the LPV.

#### **Decision by PNG Parliament**

During discussions on the LPV, the CEO informed the Committee that the only country near us that use the LPV is Papua New Guinea. However earlier this year PNG decided to abandon the LPV system. This caused our Government to review its position and a decision was taken to not introduce LPV system in Solomon Islands.

The Government wants to take the time to have another look at the LPV system and to understand the reasons why it was abandoned by Papua New Guinea.

#### **Committee Comments**

Committee appreciates the cautious approach taken by the government on the Limited Preferential System of voting. In light of PNG's experience with the LPV and its recent decision, it is important that Solomon Islands does not rush into it. The Committee notes that many political parties' policies recognize the shortcomings of the FPTP system and state the need for a better elections system.

#### **Responsibility for the conduct of all elections**

The Committee notes that the Bill does not give sole responsibility for the conduct of registration and all elections, parliamentary and provincial assembly, to the Electoral Commission. The Committee is of the strong view that sole responsibility for all elections and registration ought to be vested in the Electoral Commission. Further, work should be done to explore holding all provincial assembly elections at the same time as a national general election.

### Committee Comments

Committee members express that it will be much better if the EC is given all responsibilities to conduct all elections.

### Nomination fee

Clause 63 (2) (d) of the Bill sets the nomination fee at SBD\$5000-00, an increase from the current SBD\$2000-00. When queried on the policy rationale behind this increase, the CEO stated that the Electoral Commission's recommendation was for an increase to \$3000-00 but that the Government made the decision to increase it to \$5,000, as the fee has been increased in a long time.

### Committee Comments

The Committee wishes to draw the attention of members to the High Court decision on this matter in the case of *Folotalu v AG [2001] SBHC 149: HC-CC 234 of 2001 (19 Oct 2001)*. The Committee agrees with the government that an increase to \$5,000 in the nomination fee is reasonable.

### Out of Constituency voting

The CEO stated that the Electoral Commission has been planning on the basis that, for the coming general elections, it will conduct out of constituency registration as well as voting in Honiara. But he cautioned that the Commission is constrained by limited resources. The Committee was subsequently informed of the government's decision not to conduct out of constituency polling in Honiara for the coming general elections. The Committee was told that some ministers in Cabinet fear that out of constituency polling would somehow allow voters from areas outside their constituencies to influence the vote.

### Committee Comments

The Committee regrets this decision. The Committee notes that the limit placed on campaign expenses is unlikely to cover election costs such as ship charters from Honiara to rural constituencies and back. Out of constituency polling conducted in Honiara would have removed a large part of election expenses from candidates. If this is not done, the campaign expenses limit of \$250,000 is not realistic.

Further, the Committee sees the reasoning behind the decision as irrational. Members need to note that only voters that are registered in a particular constituency can vote for that constituency. It is therefore important that members ensure that their electoral roll only contains people from their

constituencies. And that candidates can and should make use of the objections process during the registration period to remove any voters not deemed to be part of their constituencies. Once the voters roll is final, out of constituency voting will have no impact that would be any different from the current voting in constituency. The Committee urges the government to reverse this decision.

### **People with disabilities (PWD)**

This is an issue raised during discussion on the Bill. It is important that PWDs are assisted to ensure that they can register and cast their ballots during elections. Registration centres and polling booths must be designed for ease of access of PWD.

### **Committee Comments**

The Committee notes from the last registration and elections, that the physical design and construction of centres were mostly inaccessible to PWDs. The Committee urges the Electoral Commission to ensure that proper ease of access standards are used in the construction of such centres, and that existing facilities selected for these processes provide PWD access. Further, the Committee recommends that the registration form asks an elector to indicate whether they will require PWD access during polling as registration is about to commence.

### **Identification on the ballot paper**

The Committee was informed by the CEO that in the new proposal the ballot paper will no longer have any identification linking it to the counterfoil. It will just be a generic ballot paper. On the electors register there will be just an identification number for each elector. So it will be impossible to establish connection between the ballot paper and the electors register after voting. This is to protect the secrecy of the ballot.

### **Committee Comments**

Secrecy of the ballot is at the core of our electoral system. If this is compromised, it may have an adverse effect on the voter's freedom of conscience to choose. However, the Committee is also concerned that there must be a way that electors can be traced to their ballot, to ensure that the ballot is counted as the elector intended it to be. The lack of a link between the ballot and the counterfoil may lend the counting process vulnerable to fraudulent activity, which must be avoided. The Committee suggests that the voters list is published after an election, to show who voted and who on the electoral roll did not vote. Such a publication must not indicate candidates voted for.



## Campaign expenses ceiling

In the Bill it will be an election offence if a candidate's campaign expenses exceed SBD\$250,000. In the current legislation the campaign finance ceiling is put at \$50,000. The Committee queried the basis for this increase. The explanation given was that it was an average estimate of the expenses incurred in a constituency. They compared the expenses in the smallest and the biggest constituency and work out the average between them. No evidence of that cost comparative work was presented to the Committee, therefore the Committee is unable to report on the reasonableness of the amount. The Political Parties Integrity Act does not limit political party spending on election campaign for their candidate in a constituency. This is prejudicial to independent candidates.

## Committee Comments

Ships charters are a usual expense when candidates transport their voters to their home constituencies. Out of constituency voting in Honiara would remove this very high cost from candidate election expenses. If out of constituency voting in Honiara is not conducted, the Committee is concerned that the \$250,000 limit will mostly be utilised in this one cost element. Further, distance from Honiara directly correlates with the level of such ship charters. This may result in a candidate not having enough room left in the \$250,000 limit to use for in-constituency expenses.

## Election petitions

Election petitions have taken way too long to be determined. A number of factors contribute to this situation. The Chief Electoral Officer informed the Committee that, in response to the Electoral Commission's request for explanation, the Chief Justice stated that the court is under-resourced to deal efficiently with election petitions. There are still election petitions still to be determined in the final few months of the life of this parliament.

## Committee Comments

The Committee notes with great regret that neither of the two bills on the electoral system deals with the matter of efficient determination of election petitions. The Committee is of the considered view that the bill impose on the court a time limit for the determination of election petitions, perhaps six months. Conversely, the government could consider setting up a special election tribunal to determine election petitions.

## Recommendations

The Committee recommends that:

1. The government not abandon the search for a better election system. The Committee notes that although the reforms contained in this Bill will improve the current system, the structural deficiencies inherent in the First Past The Post (FPTP) system are not remedied.
2. The Electoral Commission be given responsibility for the conduct of all elections in the country.
3. Both national (parliamentary) and all provincial assembly elections are held on the same day.
4. Out of constituency voting be conducted in Honiara in next year's general elections.
5. On the registration form, space is provided for people with disabilities to indicate if they will require assistance with voting in elections. This will assist the Electoral Commission in its planning.
6. Names of electors that voted and those did not vote be published (without reference to candidates) after each election.
7. A mechanism for the efficient determination of election petitions be included in the Bill or other policy options be considered such as a totally different tribunal be set up specifically to deal with petitions and that it is time limited to within six months to a year of elections.
8. Important parts of the Bill including clause 4 be commenced before the 2019 general elections.

### 3.2 Contents Issues

The following are issues identified during the inquiry:

#### Clause 2 - commencement

This clause outlines the various commencement times of different parts of the Bill. Sub-clause (a) (i) to (iii) outline the parts that are to be commenced by the Minister by notice in the Gazette, whilst sub-clause (b) states that the remainder of the Bill are to commence on the date of assent by the Governor-General.

The Committee is concerned that the prolonged deferment of enactment of important parts of the Bill may affect the conduct of next year's (2019) NGE, unless this is the policy intention of the government.

### **Clause 4 – ‘ordinarily resident’**

The definition of the term ‘ordinarily resident’ under clause 4 is one of the contentious issues raised during the scrutiny of the Bill. The clause extends the meaning of the term to include both continuous physical residence of at least six months in a constituency and, if not physically residing, that the elector is entitled to be or is a member of a group, tribe, or line indigenous to the constituency.

The Chief Electoral Officer stated that this clause may be deferred for commencement if the proposed Constitutional amendment of section 55 (2) (b) is delayed. The proposed Constitutional amendment empowers Parliament to prescribe the meaning of ‘ordinarily resident’.

### **Clause 12 – conduct of provincial elections**

Under clause 12 of the Bill the Electoral Commission may carry out the registration of electors and the conduct of elections for Provincial Assemblies. The Chief Electoral Officer stated that the Electoral Commission is already responsible for all registration of electors. However, discussions are still underway with the government and Ministry of Provincial Government on transfer of responsibility of provincial government elections to the Commission.

The Committee is of the view that the bill give sole responsibility for the registration of electors and the conduct of all elections (national, provincial, local government, City Council).

### **Clause 15 - Committees**

This clause deals with the setting up of committees to advise the Electoral Commission on the exercise of its powers and the performance of its functions.

The Committee agrees with this clause. There seems to be minor grammatical error with the sentence in sub-clause (d), i.e. ‘initiating and adopting of policies’. The Committee suggests that the word ‘of’ in the sentence to be deleted. Further, if the Electoral Commission is given the sole responsibility for registration and the conduct of provincial elections, then there is no need for the last sentence of the paragraph in sub-clause (d) (ii) and it should therefore be deleted.

### **Clause 21 – tabling of report**

This clause deals with the tabling of the EC annual report on the performance of the office’s functions during each financial year. The Commissioner of elections must prepare and give a copy of the

report to both the Minister and the Speaker. Under sub-clause (3) the Minister must table a copy of the report in Parliament within 12 sitting days after the Minister receives it.

The Committee's concern on this clause is that Parliament sitting days are unpredictable. We can have long or short sitting days and there is no guarantee of when parliament will next sit. Also the way the report is tabled is, it is given to the Speaker but requires the Minister to table it.

The Committee suggested that sub-clause (3) be reworded to enable the tabling of the report when a copy is given to the Speaker, otherwise it is pointless including the Speaker as a recipient.

#### Clause 24 – appointment of revising officers

This clause deals with appointing revising and assisting revising officers. The Committee agrees with this clause but members express concern on the current practice of re-appointment of registration officers to become revising officers. It is important that a different person is appointed to conduct revision.

The Committee suggests that the Bill to state that, the person who was registration officer cannot be appointed as revising officer for the same constituency.

#### Clause 26 (3) – returning officers (RO)

This clause gives sole authority to the returning officer on the validity of both nominations and ballots. The Committee is of the view that there are review powers reserved for the Elections Commissioner on the matter of validity of nominations.

#### Clause 67 – death of candidate

This clause deals with circumstances where a candidate dies after the close of the nomination period and before the polling day. Sub-clause (3) states that the Commission must request the Governor General to cancel the election and appoint a new election date and the process of nomination of candidates to re-start all over again.

The Committee sees this clause as prejudicial to the other candidates and political parties participating in the election, as they will have already incurred a lot of expenses and should not have to repeat the costs. The Committee is of the considered view that the death of a candidate before polling day does not affect the election. This should clause should therefore be amended to allow elections to continue regardless of the death of a candidate.

### Clause 75 – symbols on ballot paper

Independent Candidates are allocated a symbol by the returning officer. A party candidate uses the party symbol under the Political Parties Integrity Act.<sup>7</sup>

The Committee is of the view that political parties be given the discretion to allow their candidates to use a symbol other than the party symbol. Such other symbol is to be allocated by the returning officer. This is especially important for independent incumbent MPs who have since joined political parties to avoid confusion at elections.

### Clauses 88 and 89 – minor grammatical errors

There seems to be minor grammatical errors with these two clauses. In clause 88 (4) in the second line, where it says 'given tender ballot papers'. The word should be amended to state 'tendered ballot papers'.

In clause 89 (2) (a), the sentence 'behaves in an disorderly manner' should be amended to state 'behaves in a disorderly manner'.

### Clause 126 – Election bribery: custom as a defence

The Committee is aware that the courts have come up with various definitions of bribery and its relationship to customary obligations, particularly customary obligations of reciprocity.

The Committee sees a need to have legislative directions so that it can guide the courts to have a consistent definition of bribery and how these relate to customary obligations.

### Clause 143 – Consequential amendment; merger with the PPC

Clause 143 (7) of the Electoral Bill, a consequential amendment to the Political Parties Integrity Act, enables the Commissioner of Elections to be also the Registrar of the Political Parties Commission. Representatives of the Political Parties Working Group and Transparency Solomon Islands expressed concern that by merging the Electoral Commission (EC) with the Political Parties Commission (PPC) it will undermine the ongoing work done by the PPC in strengthening and developing the political party system in the country. A political party representative<sup>7</sup> stated that if we are going to develop the Political Parties and help them take root and to become an important mechanism for our governance purposes this idea to merge the two commissions is inappropriate.

<sup>7</sup> Sir Nathaniel Waena, Oral Evidence, 17 May 2018

The Committee agrees that the Political Parties Commission remain as it is, and not be merged with the Electoral Commission. The political party development functions of the Political Party Commission should not be performed by the Electoral Commission. Such a merger may undermine the independence or the perception of independence of the Electoral Commission.

### Recommendations

The Committee recommends that:

9. Clause 12 be amended to state that the Electoral Commission 'must' carry out registration of electors and conduct elections for provincial assemblies.
10. Clause 21(3) be amended to state that the tabling of the annual report occurs when a copy is given to the Speaker.
11. Clause 24 state that a revising officer cannot be the same person who was the registration officer for the same constituency. This rule should also apply to the assistant revising officers.
12. Clause 66 (4) be deleted to allow the withdrawal of nominations even if it reduces the number of candidates in a constituency to zero. In such a situation fresh nominations should be called for.
13. Clause 67 be amended to allow voting to proceed in the event of the death of a candidate.
14. Political parties are allowed to permit candidates to keep election symbols they used in the last election.
15. Guidelines are established to assist the courts to have a consistent definition of bribery and other customary obligations in election petitions.
16. The Electoral Commission be left independent of the Political Parties Commission. That Clause 11(b) be deleted, and Clause 11(c) be amended to delete the words "and the Political Parties Integrity Act 2014". That Clause 143 be deleted.
17. Clause 125 be amended to reflect a realistic view of the costs in the various parts of the country. That for the purposes of election expenses, the country is divided into 3 cost zones relative to their proximity to Honiara, and that the outer zones are permitted higher limits for campaign expenses. In the absence of any relevant cost data, the committee recommends that limits are set at Zone 1 - \$300,000; Zone 2 - \$500,000; Zone 3 - \$700,000.

END OF REPORT

## 4.0 APPENDICES

### Appendix 1: Witnesses

Date	Name	Position & Organisation
Tues 15 <sup>th</sup> May 2018  1:47pm – 3:48pm	Mr Fred Rohorua	Special Secretary Prime Minister, OPMC
	Mr George Palau	Permanent Secretary- MHA
	Mr Mose Saitala	Chief Electoral Officer, MHA
	Mr Fredrick M. Bosoboe	OPS, SIEC, MHA
	Mr Phil Whelan	Advisor, Office of the Solomon Islands Electoral Commission
	Ms Catriona Steele	Legal Drafts Person - Attorney General Chambers
	Mr Olga Rabade	Advisor, UNDP, UNDP SELSP
Wed 16 <sup>th</sup> May 2018  10:17am – 12:38pm	Mr Fred Rohorua	Special Secretary Prime Minister, OPMC
	Ms Catriona Steele	Legal Draftsperson, AGC
	Mr Mose Saitala	Chief Electoral Officer, OSIEC
	Mr George Palua	PS, Ministry of Home Affairs
	Mr Phil Whelan	Advisor, OSIEC
	Mr Olga Rabade	Advisor, UNDP, UNDP SELSP
	Mr Fredrick Bosoboe	OPS, OSIEC
	Ms Florence R. Tagini	SCC, AGC
	Ms Ha'a Haurae	SCC, AGC
	2:37pm – 5:20pm	Mr Fred Rohorua
Mr Mose Saitala		Chief Electoral Officer, OSIEC
Mr Fredrick Bosoboe		OPS, OSIEC
Ms Catriona Steele		Legal Draftsperson, AGC
Mr Olga Rabade		Advisor, UNDP, UNDP SELSP
Mr Phil Whelan		Advisor, OSIEC
Ms Florence R. Tagini		SCC, AGC
Ms Ha'a Haurae		SCC, AGC
Thursday 17 <sup>th</sup> May 2018  09:17am – 9:53am	Mr Fred Rohorua	Special Secretary Prime Minister, OPMC
	Mr Mose Saitala	Chief Electoral Officer, OSIEC
	Mr Fredrick Bosoboe	OPS, OSIEC
	Ms Catriona Steele	Legal Draftsperson, AGC
	Mr Olga Rabade	Advisor, UNDP, UNDP SELSP
	Mr Phil Whelan	Advisor, OSIEC
9:59am – 11:06am	Mr. Francis Billy Hilly	Statesman
	Mr. Casper Fa'asala	General Secretary (Ag), NCW
2:02pm – 3:36pm	Sir Nathaniel Waena	Chairman, Political Parties Commission working group
	Mr. Charles Ashley	Secretary, PPP
	Mr. Fred Fakari	Ombudsman
3:42pm – 4:03pm	Ms. Ruth Liloqula	CEO, TSI
	Ms. Joy M. Abia	Legal Officer, TSI
Date	Name	Position & Organisation

## Appendix 2: Minutes of Proceedings



NATIONAL PARLIAMENT OF SOLOMON ISLANDS

P.O. Box G19,  
Honiara.

Tel: 28520/23424.

Fax: 24272

BILLS AND LEGISLATION COMMITTEE

Minutes of Proceeding  
Committee Hearing into the Electoral Bill 2018

Day 1/Tuesday 15<sup>th</sup> May 2018, CR II, Parliament House @ 1:47pm.

### 1. Members Present

Hon. Matthew Wale, MP (Chairman)  
Hon. Manasseh Maelanga, MP  
Hon. Douglas Ete, MP  
Hon. Dr Derek Sikua, MP  
Hon. Christopher Laore, MP

### Secretariat and Support Services

Mr Wilson Orisi, Committee Secretary  
Ms Salome Pilumate, Committee Administration  
Mrs Esther Turangaluvu, Hansard  
Mr Philemon Loe, Media

### 2. Chairman call meeting to order

### 3. Welcome and Opening Remarks

The Chairman made opening remarks by acknowledging and welcoming the PS of the Ministry of Home Affairs, Electoral Bill 2018 Taskforce ("the Taskforce) and Legal Draftsperson. The witnesses were reminded of the Parliamentary Privileges, recordings of the proceeding, Member of the Committee were introduced. He then invites them to deliver their presentation. The SSPM introduces himself and members of the Taskforce and commenced his presentation.

### 4. Committee hearing into the 'Electoral Bill 2018'

The Hearing proper commenced and the following witnesses were admitted.

#### Hearing 1 Witnesses

Mr Fred Rohorua, SSPM, OPMC  
Mr George Palau, Permanent Secretary, MHA  
Mr Mose Saitala, Chief Electoral Officer, MHA  
Mr Fredrick Bosoboe, OPS, OSIEC  
Ms Catriona Steele, Legal Drafts Person, Attorney General Chambers  
Mr Phil Whelan, Advisor, OSIEC  
Mr Olga Rabade, Advisor, UNDP, UNDP SELSP



The Committee questioned the witnesses on their presentation and on the contents of the Bill. The witnesses answered, made clarification and commented on issues raised.

The Chairman thanked the witnesses for their attendance and conclude the proceeding.

Evidence concluded and the Chair thanked the witnesses for their attendance and presentations on the Bill.

## 5. Adjournment

The Committee adjourned hearing at 3:48pm

## 6. Tabled Document

Day 2 /Wednesday 16<sup>th</sup> May, 2018, CR II, Parliament House @ 10:17am.

### 1. Members Present

Hon. Matthew Wale, MP, Chairman  
 Hon. Manasseh Maelanga, MP  
 Hon. Christopher Laore, MP  
 Hon. Alfred Ghoro, MP  
 Hon. Dr Derek Sikua, MP  
 Hon. Douglas Ete, MP

### Secretariat

Mr Wilson Orisi, Committee Secretary  
 Ms Ivory Iruha'a, Committee Secretary  
 Ms Theresa Nori, Hansard  
 Mr Philemon Loe, Media

### 2. Chair call meeting to order

### 3. Welcome and Opening Remarks

The Chairman made opening remarks. Welcomed the witness and informed the witness of Parliamentary Privileges employed in this inquiry and the recording of the proceeding. The Chair introduced the Members of the Committee and invite the witness to make his opening presentation.

### 4. Committee hearing into the 'Electoral Bill 2018'

The Hearing proper commenced and the following witness was admitted:

#### Hearing 2 Witness

Mr Fred Rohorua, SSPM, OPMC  
 Ms Catriona Steele, Legal Draftsperson, AGC  
 Mr Mose Saitala, Chief Electoral Officer, MHA  
 Fredrick Bosoboe, PAO/Operations Manager, OSIEC  
 Mr George Palua, PS, MHA  
 Mr Phil Whelan, Advisor, OSIEC  
 Mr Olga Rabade, Advisor, UNDP  
 Ms Florence R. Tagini, SCC, AGC  
 Ms Ha'a Haurae, SCC, AGC

The Committee then go through the general principles of the Bill with the witness. The witness also answered and made clarification on issues raised.

Evidence concluded and the Chair thanked the witness for his attendance and contribution on the Bill.

*Evidence concluded at 12:38pm*

*Hearing suspended for lunch break.*

The Hearing resumed at 2:37pm and the following witnesses were admitted.

Hearing 3 Witnesses

Mr Fred Rohorua, SSPM, OPMC  
Ms Catriona Steele, Legal Draftsperson, AGC  
Mr Mose Saitala, Chief Electoral Officer, MH  
Fredrick Bosoboe, PAO/Operations Manager, OSIEC  
Mr George Palua, PS, MHA  
Mr Phil Whelan, Advisor, OSIEC  
Mr Olga Rabade, Advisor, UNDP  
Ms Florence R. Tagini, SCC, AGC  
Ms Ha'a Hauirae, SCC, AGC

The Chairman made opening remarks and invite the witnesses to introduce themselves and make their presentations.

Members of the Committee then question and seek clarification from the witnesses on their presentations and on the clauses of the Bill.

Evidence concluded and the Chair thanked the witnesses for their attendance and presentations on the Bill.

5. Adjournment

The Committee adjourned hearing at 5:20pm

6. Tabled Document

Day 3 /Thursday 17<sup>th</sup> May, 2018, CR II, Parliament House @ 9:17am.

1. Members Present

Hon. Matthew, MP, Chairman  
Hon. Manasseh Maelanga, MP  
Hon. Douglas Ete, MP  
Hon. Dr Derek Sikua, MP

Absent

Secretariat  
Mr Gregory Fineanganofu, Committee Secretary

Mr Wilson Orisi, Committee Secretary  
 Mr Lawrence Scott, Media  
 Ms Theresa Nori, Hansard

**2. Chairman call meeting to order**

**3. Welcome and Opening Remarks**

The Chairman made opening remarks. Welcomed the witness and told the witnesses of the Parliamentary Privilege employed in this inquiry and the recording of the proceeding. The Chair introduced the Members of the Committee and invite the witness to make opening presentation.

**4. Committee hearing into the 'Electoral Bill 2018'**

The Hearing proper commenced and the following witnesses were admitted:

Hearing 4 Witnesses

Mr Fred Rohorua, SSPM, OPMC  
 Mr Mose Saitala, Chief Electoral Officer, OSIEC  
 Mr Fredrick Bosoboe, PAO/Operations Manager, OSIEC  
 Ms Catriona Steele, Legal Dreftsperson, AGC  
 Mr Phil Whelan, SIEC Advisor  
 Mr Olga Rabade, UNDP Advisor

The Chairman made opening remarks and invites the witnesses to introduce themselves and make their presentations.

Members of the Committee then question the witnesses on their presentations.

Evidence concluded and the Chair thanked the witnesses for their attendance and contribution on the Bill.

Evidence concluded at 9:53am.

Hearing resumed at 9:59am and the following witnesses were admitted;

Hearing 5 Witnesses

Sir Francis Billy Hilly, Statesman  
 Mr Casper Fa'asala, General Secretary, NCW

The Chairman made opening remarks and invites the witnesses to introduce themselves and make their presentations.

Members of the Committee then question the witnesses on their presentations.

Evidence concluded and the Chair thanked the witnesses for their attendance and contribution on the Bill.

Evidence concluded at 11:06am.

Hearing resumed at 2:02pm and the following witnesses were admitted;

Hearing 6 Witnesses

Sir Nathaniel Waena, Chairman, Political Parties Commission Working Group

Mr Charles Ashley, Secretary, PPP

Mr Fred Fakari, Ombudsman

The Chairman made opening remarks and invites the witnesses to introduce themselves and make their presentations.

Members of the Committee then question the witnesses on their presentations.

Evidence concluded and the Chair thanked the witnesses for their attendance and contribution on the Bill.

Evidence concluded at 3:36pm.

Hearing resumed at 3:42pm and the following witnesses were admitted;

Hearing 7 Witnesses

Ms Ruth Liloqula, CEO, TSI

Ms Joy M. Abia, Legal Officer, TSI

The Chairman made opening remarks and invites the witnesses to introduce themselves and make their presentations.

Members of the Committee then question the witnesses on their presentations.

Evidence concluded and the Chair thanked the witnesses for their attendance and contribution on the Bill.

Evidence concluded at 4:03pm.

*Hearing into the Bill Concluded.*

5. Adjournment

The Committee concluded the hearing proper into the Bill at 4:03pm

6. Tabled Document

Submission on the Draft Electoral Bill 2018, 17<sup>th</sup> May 2018, time received 2:00pm

### Appendix 3: Submissions

No.	Title	Author	Date Received
1	BLC Checklist	Fred R Isom	
2	CONCEPT PAPER AMALGAMATION OF THE POLITICAL PARTIES COMMISSION AND THE ELECTORAL COMMISSION – ISSUES AND RECOMMENDATIONS	PPC SIEC Merger	
3	Consolidated and amended_Consultation Booklet_FINAL version. Feb 2017	Task Force on Electoral Reform	
4	Written Submissions to the Bills and Legislation Committee on the Constitution (Amendment) (Electoral Reform) Bill 2018	Noel Quan	30 <sup>th</sup> April 2018
5	Task force consultations on "Electoral Issues"- Summary of feedback from Provinces,	Task Force on Electoral Reform	
6	Constitution ( Amendment) (Electoral Reform) Bill 2018	Transparency Solomon Islands	
7	Objection to the Merger and other Reform Issues/Constitution (Amendment) (Electoral Reform) Bill 2018.	Solomon Islands Political Parties Commission	
8	Objection to the Merger and other Reform Issues/Constitution (Amendment) (Electoral Reform) Bill 2018.	The Prime Minister	
9	Summary of key issues & Inherent weaknesses in the PPIA and Political Party System during national Consultation, 2015-2016	Office of the Registrar of Political Parties	

