

SOLOMON ISLANDS

**THE FACILITATION OF INTERNATIONAL ASSISTANCE ACT
(NO. 1 OF 2003)**

Passed by the National Parliament this Seventeenth day of July 2003

Assented to in Her Majesty's name and on Her Majesty's behalf this twenty first day of July 2003.

Date of commencement: See Section 1

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No. 1 of 2003

AN ACT TO MAKE PROVISIONS FOR THE REQUESTING OF INTERNATIONAL ASSISTANCE FOR THE RESTORATION OF LAW AND ORDER IN SOLOMON ISLANDS, AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

ENACTED by the National Parliament of Solomon Islands.

Short title and commencement

- 1.** This Act may be cited as the Facilitation of International Assistance Act 2003, and shall come into operation on assent.

Interpretation

- 2.** In this Act, unless the context otherwise requires –

"assistance agreement" means the assistance agreement identified in the international assistance notice under section 3(2);

"assisting country" means the assisting country identified in the international assistance notice under section 3(1)(a);

"international assistance notice" means the notice under section 3(1) that causes this Act to apply, as may be amended from time to time;

"public purpose" means the purposes of ensuring the security and safety of persons and property, maintaining supplies and services essential to the life of the community preventing and suppressing violence, intimidation and crime, maintaining law and order, supporting the administration of justice, supporting and developing Solomon Islands institutions and responding to natural catastrophic events; and

"visiting contingent" means the visiting contingent identified in the international assistance notice under section 3(1)(b).

International Assistance notice

- 3.** (1) The Governor-General may publish a notice that -

(a) states that the Government has requested assistance of the government of another country (the "assisting country") for a public purpose;

(b) states that the assistance will be provided by a contingent of persons (the "visiting contingent") from the assisting country or another country; and

(c) states that, because of subsection (3), this Act applies in relation to the visiting contingent.

(2) The notice may specify an agreement or arrangement between the Government and the government of the assisting country that covers the operations and activities in Solomon Islands of the visiting contingent (the "assistance agreement").

(3) The provisions of this Act apply on the making of a notice under subsection (1).

Membership of visiting contingent

4. (1) The visiting contingent shall consist of -

(a) members of the police forces or armed forces of the assisting country, or of another country notified by the assisting country to the Ministry responsible for foreign affairs and accepted by the Ministry; and

(b) other individuals notified by the assisting country to the Ministry responsible for foreign affairs.

(2) If the assisting country notifies the Ministry responsible for foreign affairs that specified members of the visiting contingent are not to be accorded specified powers or privileges under this Act, those members may not exercise those powers or privileges.

Area of application of Act

5. This Act applies to the territory of the Solomon Islands all areas where it exercises maritime jurisdiction, and the superjacent airspace.

PART II POWERS AND PRIVILEGES OF VISITING CONTINGENT

Powers and privileges may be varied

6. The regulations may limit, vary or add to the powers and privileges set out in this Part, but not so as to limit the effect of sections 7, 15, 16, 17 and 19.

Use of force and police powers

7. (1) Armed forces and police members of the visiting contingent may exercise any powers that may be exercised by police officers appointed under the Police Act.

(Cap. 110)

(2) In addition to the powers under subsection (1), armed forces and police members of the visiting contingent may use such force as is reasonably necessary to achieve a public purpose.

Eligibility for appointment to the Police Force

8. (1) A member of the visiting contingent shall be deemed to be eligible for appointment to any office in the Police Force (but the exercise by a member of powers under section 7 does not depend on such an appointment).

(2) Section 11 of the Police Act shall not apply to any person appointed to an office in the Police Force by reason of this section.

Carriage of weapons by the visiting contingent

9. Members of the visiting contingent may possess, carry and use arms in accordance with their internal orders or rules in order to -

(a) protect themselves or the visiting contingent; or

(b) protect other persons; or

(c) protect property of the visiting contingent; or

(d) protect public or private property; or

(e) achieve a public purpose.

Seizure and destruction of weapons

10. (1) The visiting contingent may seize any weapons, as necessary for the achievement of a public purpose.

(2) The visiting contingent may, with the permission in writing of the Solomon Islands Commissioner of Police, destroy seized weapons.

(3) The visiting contingent shall, as far as practicable, record particulars of weapons seized or destroyed, including serial numbers (if applicable) and the dates and places of seizures or destruction, and the particulars of the persons from whom they were seized.

(4) In considering whether to give permission under subsection (2), the Commissioner shall take into account whether it is likely that the weapons will be required for production as evidence in ongoing criminal investigation or civil matters.

Freedom of movement

11. (1) Members of the visiting contingent, together with service vehicles, vessels, aircraft and equipment, shall enjoy freedom of movement throughout the area to which this Act applies.

(2) The visiting contingent may use roads, bridges, canals and other waters, port and airfield facilities without payment of dues, tolls or any other charges or fees.

(3) Members of the visiting contingent may operate vehicles, vessels, aircraft and other equipment without a permit or licence.

(4) Vehicles, vessels, aircraft or other equipment provided and used by the visiting contingent shall not be subject to registration and licensing laws.

Accommodation and use of public utilities

12. (1) Members of the visiting contingent may use such premises, including facilities, as may be necessary for their accommodation while engaged in fulfilling a public purpose free of charge, unless otherwise negotiated.

(2) Members of the visiting contingent may use water, electricity and other public utilities free of charge, unless otherwise negotiated.

(3) The visiting contingent may generate, transmit and distribute electricity for its own use without being subject to regulation or licensing requirement and free of charge.

Wearing of national uniforms

13. Members of the visiting contingent may wear their national uniforms when on official duty.

Medical staff

14. Members of the visiting contingent who are medical, nursing or paramedic staff may treat members of the visiting contingent and other persons without being subject to regulation or licensing requirements.

Entry, departure and customs

15. (1) Members of the visiting contingent shall be exempt from any visa laws and immigration inspection and restrictions when entering or departing from Solomon Islands.

(2) Members of the visiting contingent shall be exempted from departure tax.

(3) The visiting contingent may import into Solomon Islands without licence or other restriction or registration and free of customs, duties and taxes or any other charge that may be sought to be levied, equipment (including vehicles and weapons) and other supplies required for a public purpose, together with personal effects of and items for the support of members of the visiting contingent.

(4) Any material belonging to an individual member of the visiting contingent that is imported under this section and later sold in Solomon Islands to a person other than those entitled to tax-free privileges shall be subject to customs and other duties at the time of its sale.

(5) Any material imported under this section may be re-exported without licence or other restriction or registration and free of customs, duties and taxes or any other charge that may be sought to be levied.

Taxation

16. Members of the visiting contingent shall be exempt from direct taxes, including income tax and death duties, and all other fees and charges.

Immunity from legal proceedings

17. (1) Members of the visiting contingent, the assisting country, and any other country whose personnel are members of the visiting contingent, shall have immunity from legal proceedings in Solomon Islands courts and tribunals in relation to actions of the visiting contingent or its members that are taken in the course of, or are incidental to, official duties.

(2) Criminal and disciplinary jurisdiction shall not be exercised over a member of the visiting contingent arising out of an action taking place in Solomon Islands if such jurisdiction is asserted over that member in respect of that action by a country referred to in section 3(1)(b).

(3) Where criminal and disciplinary jurisdiction has been exercised over a member of the visiting contingent arising out of an action taking place in Solomon Islands, that jurisdiction will be relinquished to a country referred to in section 3(1)(b) if that country asserts jurisdiction over that member in respect of that action.

(4) In this section, "legal proceedings" include criminal, civil, disciplinary and administrative proceedings, and proceedings seeking to enforce customary law.

(5) For this section, the Minister responsible for justice shall be deemed to have directed the Director for Public Prosecutions that he is to initiate no action with respect to members of the visiting contingent for actions referred to in subsections (1) and (2), unless the assisting country has expressly consented to the exercise of such jurisdiction.

(6) The assisting country may waive immunity granted by this section.

Deceased members of the visiting contingent

18. The visiting contingent may take charge of and repatriate the body of a member of the visiting contingent who dies in Solomon Islands.

Command and control of visiting contingent

19. While respecting the laws of Solomon Islands, the visiting contingent shall have sole responsibility for the internal command, control, discipline and administration of the personnel of the visiting contingent.

PART III CONTROL OF WEAPONS

Controlled weapons area

20. (1) The Governor-General may publish a notice that -

- (a) declares an area in the territory of Solomon Islands to be controlled weapons area;
- (b) states that members of the visiting contingent are permitted to carry weapons in the area;
- (c) specifies other persons who are permitted to carry weapons in the area; and
- (d) prohibits all other persons from carrying weapons in the area.

(2) A person who carries a weapon in a controlled weapons area while prohibited from doing so by a notice under subsection (1) shall be guilty of an offence and liable to a fine of \$25,000 or imprisonment for 10 years, or both.

Weapons surrender area

21. (1) The Governor-General may publish a notice that -

- (a) declares an area in the territory of Solomon Islands to be a weapons surrender area;
- (b) states that members of the visiting contingent permitted to possess weapons in the area;
- (c) specifies other persons who are possess weapons in the area; and
- (d) prohibits all other persons from possessing weapons in the area.

(2) A person who -

- (a) is prohibited from possessing a weapon by a declaration under subsection (1); and
- (b) is in, comes into, possession of a weapon; and
- (c) fails to give the weapon, as soon as practicable, to a member of the visiting contingent,

shall be guilty of offence and liable to a fine of \$25,000 or imprisonment for years, or both.

PART IV MISCELLANEOUS

Regulations

22. (1) The Governor-General may make regulations providing for any matter which is necessary or convenient to give effect to this Act.

(2) Without limiting subsection (1) or section 6 of the regulations may do the following -

- (a) provide for the implementation of the assistance agreement, or of any other agreement or arrangement between the Government and the government of the assisting country that deals with the visiting contingent;
- (b) authorise specified members of the visiting contingent in addition to those authorized by subsection 7(1) to exercise any powers that may be exercised by police officers appointed under the Police Act;
- (c) provide that members of the visiting contingent may exercise powers, or perform functions, that can be exercised under a specified law or by suitably qualified or authorised persons; and
- (d) provide that a specified law does not apply to members of the visiting contingent.

(3) In subsection (2), a reference to a law includes a reference to a provision of a law.

Review of international assistance notice

23. (1) The Parliament shall be given the opportunity to review the international assistance notice every 1 year in accordance with this section.

(2) For this section, the review dates of the international assistance notice are the following:

- (a) the day 1 year after the day on which the notice was published; and
- (b) the day each 1 year after that day.

(3) The international assistance notice, as currently amended, shall be laid before Parliament within the period of 3 months that ends on a review date, unless it is revoked earlier.

(4) If Parliament passes a resolution within 3 months after the review date, to the effect that the international assistance notice is annulled, the notice ceases to have effect from 21 days after the date of the resolution, but without affecting the validity of anything previously done under this Act because of the notice.

Act to have effect notwithstanding other legislation

24. (1) Subject to the Constitution, this Act and any regulations or other subsidiary legislation made under this Act shall have effect notwithstanding any other law of Solomon Islands.

(2) An Act enacted after the commencement of this Act is not to be interpreted as -

- (a) amending or repealing, or otherwise altering the effect or operation of, this Act or subsidiary legislation made under this Act; or
- (b) authorising the making of subsidiary legislation amending or repealing, or otherwise altering the effect or operation of, a provision of this Act or, of the subsidiary legislation made under it.

(3) Subsection (2) does not affect the interpretation of any Act so far as that Act expressly provides for that Act, or subsidiary legislation made under that Act, to have effect despite this Act or despite subsidiary legislation made under this Act.

Evidentiary rules

25. Every document purporting to be a regulation, order, rule, licence, permit, certificate, direction, authority or other document made, granted or issued by the Governor-General or any other authority or person under this Act or any subsidiary legislation authorized under this Act, and purporting to be signed by or on behalf of the Governor-General or that other authority or person, shall be received in evidence, and shall, until the contrary is proved, be deemed to have been made, granted or issued by the Governor-General or that authority or person.
