

THE PROVINCIAL GOVERNMENT BILL 1981

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FROM:

Parliamentary Draftsman

TO:

Minister of Home Affairs and National Development  
(for signing of Explanatory Notes, Notice of Presentation  
and letter to Clerk)

TO:

Minister of Finance  
(for signing of letter to Clerk signifying Cabinet approval  
under s.60 of the Constitution)

TO:

Clerk to National Parliament  
(for certificate by Speaker)

TO:

Parliamentary Draftsman  
(for printing)

TO:

Clerk to National Parliament  
(for reference during 1st, 2nd and 3rd Readings)

TO:

Parliamentary Draftsman  
(for checking before Assent)

TO:

Governor-General  
(for Assent)

TO:

Clerk to National Parliament  
(for distribution: 2 Copies Attorney General's Chambers  
(1 copy to Government Printer  
when title page has been reset)  
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1 Copy Parliament Office

\*Objects & Reasons\*

SOLOMON ISLANDS



# THE PROVINCIAL GOVERNMENT ACT 1981

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# **THE PROVINCIAL GOVERNMENT ACT 1981**

*Passed by the National Parliament this eighth day of December 1981.*

*This printed impression has been carefully compared by me with the Bill passed by Parliament and found by me to be a true and correct copy of the said Bill.*

*F. Fa'ambed  
Clerk to the National Parliament*

*Assented to in Her Majesty's name and on Her Majesty's behalf this twenty-second day of January 1982.*

*B. Devesi  
Governor General*

*Date of commencement:      date of publication in the Gazette*

AN ACT to provide for provincial government in Solomon Islands.

ENACTED by the National Parliament of Solomon Islands.

PART I  
PRELIMINARY

1. (1) This Act may be cited as the Provincial Government Act 1981.
- (2) This Part and sections 45(2) and 46 shall come into force on the day on which this Act is published in the Gazette.
- (3) Subject to section 28(5) -
- (a) Parts II and III shall come into force throughout Solomon Islands on such day as the Minister may by order under this section appoint (in this Act referred to as "the first appointed day"); and
- (b) the remaining provisions shall come into force in a province on such day as may be appointed under section 28(2) (in this Act referred to, in relation to a province, as "the second appointed day").
2. Schedule 9 contains a glossary of terms; and in this Act unless the context otherwise requires any expression for which there is an entry in the first column of the Schedule -
- (a) has the meaning given against it in the second column; or
- (b) is to be construed in accordance with directions given against it in the second column.

PART II  
PROVINCIAL GOVERNMENT  
*Establishment of Provinces*

3. (1) For the administration of provincial government on and after the first appointed day, Solomon Islands (excluding Honiara) shall be divided into areas to be known as provinces.
- (2) The provinces shall be those named in column 1 of Schedule 1 to this Act and shall comprise the islands respectively mentioned in column 2.
- (3) Subject to subsection (4), the area of each province shall extend seaward for three nautical miles from the low-water line of each island comprised in the province and, if the island is situated on an atoll or has a fringing reef -
- (a) shall include any area contained within the atoll or between the island and the reef; and
- (b) shall extend seaward for three nautical miles from the low-water line of the atoll or reef.

Short title  
and com-  
mencement.

Inter-  
pretation.

Establish-  
ment of  
Provinces.

(4) The area of a province shall not extend beyond the boundary lines referred to in relation to that province in column 2 of the Schedule.

(5) The area of Guadalcanal Province shall not include such area of sea adjacent to Honiara as the Minister may by order specify, and an order under this subsection shall be subject to negative resolution.

(6) In this section "island" and "low-water line" have the meanings given in the Delimitation of Marine Water Act 1978.

(7) Nothing in this section shall be construed as affecting traditional rights, privileges and usages in respect of land and fisheries in any parts of Solomon Islands.

No 32 of  
1978.

4. (1) It shall be the duty of the Constituency Boundaries Commission (in this Part of this Act referred to as "the Boundaries Commission") to review the boundaries of the provinces not more than five years after the first appointed day and thereafter at intervals of not more than five years.

Review of  
boundaries  
by Consti-  
tuency  
Boundaries  
Commission.

(2) The Provincial Executives of two or more provinces may jointly make proposals to the Boundaries Commission on any matter about which the Commission has power to make recommendations on a review.

(3) Subject to subsection (4), the Boundaries Commission shall consider any proposals made to it under subsection (2) and review the boundaries of the provinces concerned and any other province which, in the opinion of the Commission, may be affected by the proposals.

(4) The Boundaries Commission is not required to conduct a review under subsection (3) if they are of the opinion that -

- (a) the boundaries concerned have recently been reviewed or will be reviewed in the near future; and
- (b) the proposals concerned do not require the immediate review of those boundaries.

(5) Where the Minister is of the opinion that serious differences have arisen -

- (a) between the Provincial Executives of two or more provinces, or
- (b) between an Area Council or similar body of a province and the Provincial Executive,

on any matter about which the Boundaries Commission has power to make recommendations on a review, and that the boundaries of the province or provinces concerned have not recently been reviewed and will not be reviewed under subsection (1) in the near future, then the Minister may by order require the Bounda-



ries Commission to review the boundaries concerned and the boundaries of any other province which, in his opinion, may be affected.

(6) An order under subsection (5) shall be subject to affirmative resolution.

Powers of  
Commission  
on a review.

5. (1) On a review under section 4 of the boundaries of one or more provinces, the Boundaries Commission may make recommendations to the Minister for effecting changes appearing to the Commission desirable in the interests of effective and convenient provincial government.

(2) The Boundaries Commission may recommend that the changes be made by one or more of the following steps -

- (a) altering the boundaries of any province;
- (b) establishing a new province by combining two or more existing provinces, or parts of them, or by separating any area from an existing province or provinces;
- (c) altering any electoral arrangements (as defined in section 8(5)).

(3) The Boundaries Commission may not on a review under section 4 recommend any change in the boundaries of Honiara.

Implementa-  
tion of  
Commission's  
recommenda-  
tions.

6. Where the Minister receives any recommendations under section 5, he may introduce a Bill in Parliament for the purpose of -

- (a) giving effect to those recommendations; and
- (b) making such other alterations in the law as may be necessary or expedient in consequence of the implementation of those recommendations.

#### *Establishment of New Provincial Assemblies*

Provincial  
Assemblies.

7. (1) There shall be a Provincial Assembly in each province.

(2) Subject to subsections (3) and (4), the elected members of a Provincial Assembly shall be returned for the electoral wards for the time being specified in an order made under section 8, and each ward shall (subject to the provisions of the order) return one member.

(3) For the purposes of any election held in a province before an order is made for the province under section 8, the elected members shall be returned for the electoral wards which,

on the first appointed day, are electoral wards for the purposes of the Local Government Act, and each ward shall return one member.

(4) Part I of Schedule 2 shall have effect to determine the persons who shall be the initial elected members of a Provincial Assembly, and to make transitional modifications of the Local Government Act.

Cap 14.

8. (1) As soon as practicable after the first appointed day the Boundaries Commission shall review the electoral arrangements for each province as a whole, and submit proposals for those arrangements to the Minister.

Review of  
electoral  
arrange-  
ments.

(2) Where the Boundaries Commission have conducted an initial review of the electoral arrangements for a province, they may from time to time conduct further reviews of those arrangements or any part of them, and submit proposals to the Minister accordingly.

(3) Where proposals are submitted to the Minister under this section he shall make an order giving effect to the proposals.

(4) An order under this section shall be subject to negative resolution.

(5) In this part of this Act, "electoral arrangements" means, in relation to a province -

- (a) the number of elected members of the Provincial Assembly;
- (b) the number and boundaries of the electoral wards into which the province is divided for the purpose of the election of members of the Provincial Assembly;
- (c) the number of members to be returned for any electoral ward; and
- (d) the name of any electoral ward.

9. (1) Subject to subsection (3), the first ordinary election of members of a Provincial Assembly shall, unless an election is held sooner under section 10(4), be held on the fourth anniversary of the date of the last general election for the existing Provincial Assembly.

Time of  
election and  
term of  
office of  
members.

(2) Subject to subsection (3), an ordinary election of members of a Provincial Assembly shall be held on the fourth anniversary of the date of the previous election of members (whether it was an ordinary election or an election under section 10(4)).

(3) If the anniversary referred to in subsection (1) or (2) falls on an excluded day the election shall be held on the next subsequent day which is not an excluded day.

(4) In this section "excluded day" in relation to an election, means Saturday, Sunday and any day which is a public holiday for the purposes of the Public Holidays Act, unless it is a day appointed under section 6 of that Act for the purposes of the election.

(5) The term of office of any elected member of a Provincial Assembly (whether elected at an ordinary election or otherwise) shall begin on the day on which he is elected and end with the dissolution of the Assembly.

Dissolution  
of Assembly.

10. (1) A Provincial Assembly is dissolved by virtue of this subsection on the eve of any ordinary election of members.

(2) A Provincial Assembly shall be dissolved by direction of the Minister if -

(a) the Assembly resolves that it should be dissolved; and

(b) if the resolution is supported by the votes of an absolute majority of the members of the Assembly.

(3) A direction dissolving an Assembly -

(a) shall not dissolve it earlier than three months after the second appointed day or on a Friday or Saturday but, subject to that,

(b) shall dissolve it not later than three months after the date of the resolution in pursuance of which the direction is given.

(4) A direction dissolving an Assembly shall require an election of members to be held on the day following the dissolution.

Provincial  
franchise.

11. (1) Subject to the following provisions of this section, the persons entitled to vote at a Provincial Assembly election in any electoral ward are those who -

(a) are citizens of Solomon Islands;

(b) have attained the age of eighteen years;

(c) are ordinarily resident in the province; and

(d) are not disqualified from voting at the election under this or any other enactment.

(2) A person may not vote in any electoral ward unless registered there in the register of Provincial Assembly electors to be used at the election.

(3) A person may not vote more than once at a Provincial Assembly election.

(4) A person is disqualified from voting at a Provincial Assembly election if he is not entitled to be registered as an elector for Parliament by virtue of section 55(3) of the Constitution (disqualification because of certain criminal convictions or insanity).

12. (1) The Minister may by regulations make provision -  
(a) as to the conduct of elections of members of Provincial Assemblies; and  
(b) as to the questioning of such an election and the consequences of irregularities;  
and the regulations may make different provision for different provinces.

Conduct of elections.

(2) Regulations under this section -  
(a) may apply (with such modifications or exceptions as may be specified in them) any provision of the National Parliament Electoral Provisions Act 1980 and may impose requirements for candidates in addition to those imposed by that Act; and  
(b) may provide for the charging of any sum on the Provincial Fund of the province concerned.  
(3) Regulations under this section shall be subject to negative resolution.

No 5 of 1980.

(4) Part II of Schedule 2 to this Act shall have effect in relation to a Provincial Assembly election held (whether under section 9, 10 or 13 or paragraph 2 of the Schedule) before regulations are made for the province under this section.

13. (1) Subject to subsection (3), where the seat of an elected member of a Provincial Assembly is vacant an election shall be held to fill the vacancy.

By-elections.

(2) The date of the election shall be fixed by the Minister, and shall not be later than three months after the vacancy has come to his notice.

(3) The election may not be held if the last date for holding it would fall within the three months preceding the next election to be held under section 9 or 10.

14. (1) A Provincial Assembly may by resolution appoint persons to membership of the Assembly, and the terms and conditions of their membership shall be such as may be specified in the resolution.

Appointed members.

(2) Not more than ten of the persons appointed by a Provincial Assembly under this section shall be appointed to represent the traditional leaders of the province.

(3) A person appointed under this section is referred to in this Act as an "appointed member".

(4) An appointment as member of a Provincial Assembly shall come to an end with the dissolution of the Assembly.

Disqualifica-  
tion for  
membership  
of an  
Assembly.

15. (1) A person is disqualified for membership of a Provincial Assembly at any time if, at that time -

- (a) he is disqualified for election as a member of Parliament under section 48 or 49(1)(a), (c), (d) and (f) of the Constitution;
- (b) he is under sentence as mentioned in section 49(1)(e) of the Constitution;
- (c) he has been convicted in Solomon Islands or in any other Commonwealth country of any offence for which he was liable on conviction to be sentenced to imprisonment for a period of six months or more and a period of less than four years, has elapsed since the date of the conviction;
- (d) he is a Minister of the Government by virtue of section 33(2) of the Constitution;
- (e) he is a public officer;
- (f) he is a provincial government officer of the province;
- (g) he is not ordinarily resident in the province; or
- (h) he is Speaker of the Assembly.

(2) A person is not disqualified by virtue of subsection (1)(b) or (c) unless the time for appealing against the sentence or conviction has expired without an appeal being made or the appeal has been finally disposed or abandoned.

(3) If a person is disqualified for membership of a Provincial Assembly on a ground specified in subsection (1)(b) or (c) and the disqualification arises from the sentence or conviction by a court outside Solomon Islands, then, he may apply to the High Court for relief under this section.

(4) On an application for relief under this section, the High Court may, if it thinks it appropriate in all the circumstances of the case, order the disqualification on that ground to be disregarded as from the date specified in the order (which may be the date on which the disqualification took effect or any subsequent date).

(5) If a person is elected or appointed as a member of the Assembly at a time when he is disqualified for membership of the

Assembly on any of the grounds specified in subsection (1)(d) to (h), his disqualification on any of those grounds shall be disregarded if the ground is removed within the period of one month beginning with the time of his election or appointment.

16. A Provincial Assembly may by resolution provide that, in the case of every person who is elected or appointed as a member of the Assembly at a time when he is disqualified for membership of the Assembly on any of the grounds specified in subsection (1)(b) to (h), his disqualification on any of those grounds shall be disregarded if the ground is removed by an order under subsection (4) of section 15 or by virtue of subsection (5) of that section.

Resolution to disregard disqualification.

17. (1) If a person who is disqualified for membership of a Provincial Assembly on any ground is elected or appointed as a member of the Assembly, his election shall be void unless the ground is to be disregarded by virtue of an order under section 15(4) or (5).

Effect of disqualification.

(2) If a member of a Provincial Assembly becomes disqualified for membership of the Assembly, his seat shall be vacated or, as the case may be, his appointment shall come to an end.

(3) The validity of any proceedings of a Provincial Assembly shall not be affected by the disqualification of any person for membership of the Assembly.

18. (1) Subject to subsection (2) a member of a Provincial Assembly may at any time resign by giving notice in writing to the Speaker.

Resignation.

(2) A member who resigns from a Provincial Assembly shall be disqualified from standing in a bye-election held to fill the vacancy caused by his resignation.

19. (1) Subject to the provisions of this Act, a Provincial Assembly may do anything (whether or not involving the acquisition or disposal of any property) which is calculated to facilitate or is conducive or incidental to the discharge of any of its functions.

Subsidiary powers of Assemblies.

(2) Any expenses incurred under this section shall be payable out of the Provincial Fund.

20. Part III of Schedule 2 (which contains transitional provisions) shall have effect.

Transitional.

*The Provincial Executive*

The Provincial  
Executive.

21. (1) For each province there shall be a Provincial Executive, one of whose members shall be known as the Premier.

(2) References in this Act and any other enactment to a Provincial Executive, in relation to the exercise by the Executive of any functions, includes a reference to a member or members of the Provincial Executive acting on behalf of the Executive as a whole.

(3) The Provincial Executive may appoint such officers and servants as may be required for the exercise of the functions of the Executive.

(4) After every ordinary election of members of a Provincial Assembly, and every election under section 10(4), a new Provincial Executive shall be formed.

(5) A new Provincial Executive shall be formed if -

- (a) the Provincial Assembly passes a motion of no confidence in the Premier; and
- (b) where the motion is supported by an absolute majority of the members of the Assembly;

Choice of  
members of  
Executive.

22. (1) The members of a Provincial Executive shall be chosen from among the elected members of the Provincial Assembly.

(2) The Premier shall be chosen by election of an absolute majority of the elected members at a meeting of the Provincial Assembly at which all the elected members are present.

(3) The election of the Premier shall be by secret ballot.

(4) The members of the Provincial Executive other than the Premier shall be appointed by the Minister acting in accordance with the advice of the Premier.

(5) Where a new Provincial Executive is being formed, the term of office of each member shall begin as soon as he is chosen.

Termination of  
membership  
of Executive.

23. (1) On the election of a new Premier, the term of office of the members of the existing Executive shall come to an end.

(2) A member of a Provincial Executive may at any time resign.

(3) A member of a Provincial Executive shall cease to be a member if -

- (a) he is disqualified for membership of the Provincial Assembly; or
- (b) he resigns his seat;

but shall not cease to be a member of the Executive by reason only of the dissolution of the Assembly.

(4) The Premier may remove from office any other member of the Provincial Executive.

*Speaker and officers of Assembly*

24. (1) For each Provincial Assembly there shall be a presiding officer (in this Act referred to as "the Speaker") appointed by the Assembly.

Speaker, Clerk and other officers and servants.

(2) The Speaker may, with the consent of the Assembly as to numbers, appoint a Clerk and such other persons as may be required to act as officers and servants of the Assembly.

(3) The pay and conditions of service of any person appointed under this section shall be such as the Assembly may from time to time determine.

(4) Any expenses incurred under this section shall be payable out of the Provincial Fund.

(5) Any functions of the Speaker may, if the office of Speaker is vacant or the Speaker is for any reason unable to act, be discharged by the person appointed under Standing Orders to preside in his absence.

*Conduct of Business*

25. (1) A Provincial Assembly shall make Standing Orders for regulating its procedure.

Standing Orders.

(2) The Standing Orders shall make provision for the matters referred to in Schedule 3 to this Act and shall do so in accordance with the requirements of that Schedule.

(3) The Minister may give directions for regulating the procedure of a Provincial Assembly pending the making of Standing Orders.

26. (1) A Provincial Assembly may from time to time make rules governing the discharge by the Provincial Executive of the functions conferred on it under this Act or any other enactment.

Constitutional rules.

(2) Subject to the provisions of this Act, any other enactment and any rule of law, a Provincial Executive shall discharge its functions in accordance with the rules.

(3) Rules under this section may require a member of a Provincial Executive who is not disqualified for membership of the Provincial Assembly not to discharge any of his functions -

(a) while he stands charged with an offence if, on conviction, he would be liable to a term of imprisonment of six months or more; or



No 13 of  
1970.

(b) if he is liable to be detained as a patient in a mental hospital under the Mental Treatment Act 1970.

(4) Rules under this section may provide for a member of the Provincial Executive chosen in accordance with the rules to preside at meetings of the Executive in the absence of the Premier or pending the choice of a new Premier.

(5) Rules under this section may make provision for the purpose of securing that the number of members of the Provincial Executive is neither less than the minimum nor more than the maximum specified in the rules.

(6) Rules under this section may provide that, where power is conferred on the Provincial Executive by any enactment to make any orders, rules or regulations (in this subsection referred to as "subsidiary legislation") -

(a) the subsidiary legislation shall be laid before the Assembly;

(b) the subsidiary legislation shall not come into force until a draft of it has been approved by the Assembly or, as the case may be, shall be subject to annulment by the Assembly after it has been made; and

(c) the subsidiary legislation shall be published in accordance with the rules.

(7) Rules under this section may make provision for matters other than those referred to in subsection (3) to (6).

*Salaries and allowances of members of  
Assembly and Executive*

Salaries  
and  
allowances.

27. (1) No salary or allowance may be paid in right of membership of a Provincial Assembly or Provincial Executive unless payment is made in accordance with a resolution or direction under this section.

(2) There may be paid to or in respect of the elected members of a Provincial Assembly and members of the Provincial Executive such salaries and allowances as the Assembly may by resolution determine.

(3) There may be paid to or in respect of the appointed members of a Provincial Assembly such travelling and other allowances (including compensation for loss of remunerative time) as the Assembly may by resolution determine.

(4) A resolution of a Provincial Assembly under this section shall not have effect unless a draft of the resolution has been approved by the Parliamentary (Conditions of Service) Commission.

(5) Different provision may be made under this section for different cases.

(6) Pending the first determination under this section of any salaries and allowances for members of a Provincial Assembly and Provincial Executive, the amounts payable shall be such as the Minister may direct.

(7) In this section "salary" includes any benefit payable in right of membership of a Provincial Assembly or Provincial Executive.

(8) Payments under this section shall be made out of the Provincial Fund.

PART III  
TRANSFER OF FUNCTIONS  
*Devolution Orders*

28. (1) In respect of any province the Minister may, with the consent of the Provincial Executive, and after consultation with any other Minister having responsibility for a matter which is the subject of an order, make orders under this section (in this Act referred to as "devolution orders").

Devolution  
orders.

(2) The first devolution order in respect of each province shall -

(a) appoint a day for the commencement of Parts IV and V and section 43 to 45(1) and 47 of this Act in the province; and

(b) provide for the dissolution of the existing Provincial Assembly.

(3) A devolution order in respect of a province may declare which of the matters included in Schedule 4 shall be within the legislative competence of the Provincial Assembly for the purposes of this Act.

(4) A devolution order may bring into force in respect of a province any of the provisions of Schedule 5 (statutory functions).

(5) The amendments specified in Part I of Schedule 8 shall have effect in a province on such day as may be appointed by devolution order; and different days may be appointed for different provisions.

(6) A devolution order shall be subject to affirmative resolution.

Transfer of  
property.

29. (1) A devolution order may provide that any property which -

- (a) is held by or on behalf of the Government, and
- (b) appears to the Minister to be property used or to be used solely or mainly for a Provincial Assembly or for or in connection with the exercise in a province of devolved functions,

shall be held by or on behalf of the Provincial Assembly or, as the case may be, the Premier of the province.

(2) To the extent that a devolution order so provides, it may -

- (a) be made subject to any exceptions or reservations specified in or determined under the order; and
- (b) contain such consequential, incidental or supplementary provisions (including provisions for the transfer of liabilities connected with the property concerned) as appear to the Minister to be necessary or expedient.

(3) Any property which is to be held by or on behalf of a Premier of a province shall be deemed to be held by or on behalf of the person for the time being holding that office.

(4) No stamp duty shall be payable on any instrument made by, to or with, a Provincial Assembly or the Premier of a province and no fee shall be payable in respect of the registration of any such instrument.

Devolution  
orders:  
additional  
provisions.

30. A devolution order in respect of a province may include provision -

- (a) for any provision of the Local Government Act to cease to have effect in the province subject to such savings as may be specified in the order, and for the provisions so saved to have effect with such adaptations and modifications as may be required to bring them into conformity with the provisions of this Act;
- (b) for any function given to an existing Provincial Assembly to make by-laws to cease to have effect in the province, subject to such savings as may be specified in the order;
- (c) relating to the transfer of any property, rights, obligations or liabilities of the existing Provincial Assembly;
- (d) relating to the revenue and expenditure of the Provincial Executive for the period beginning with the second appointed day and ending with the beginning of the financial year next following, including provision modifying the operation of Part V of this Act;

- (e) for treating anything done before the date on which the order comes into force by any authority in the exercise of functions which, on and after that date, become functions of some other authority as having from that date been duly done by that other Authority;
- (f) relating to the transfer of the employment of any person employed by an existing Provincial Assembly (in this subsection referred to as "the old employer") to the employment of the Provincial Assembly established by this Act or the Provincial Executive (in this paragraph referred to as "the new employer"), including provision for treating the period of employment with the old employer, and any period of employment with the new employer, as being, for the purposes of any enactment specified in the order, a continuous period of employment with the new employer, and otherwise for protecting the interests of persons whose employments are so transferred;
- (g) making such other consequential or supplementary provisions (including the amendment of any enactment passed or made before the passing of this Act) as appear to the Minister necessary or expedient in consequence of this Act or any devolution order.

*Agency Agreements*

31. (1) Arrangements may be made between the Premier of a province and any public authority for any functions of one of them to be discharged by, or by officers of, the other, and for the provision by one of them for the other of administrative, professional or technical services.

(2) No such arrangements for the discharge of any functions shall affect the responsibility of the authority on whose behalf the functions are discharged.

(3) In this section "public authority" means -

- (a) any department of the Government;
- (b) any Provincial Executive;
- (c) any Area Council or similar body;
- (d) any body corporate established by an enactment; and
- (e) any company (within the meaning of the Companies Act) of which a public authority is a member.

Agency  
agreements.

PART IV  
EXERCISE OF FUNCTIONS  
*Legislation*

Provincial  
Ordinances.

32. (1) Subject to section 33, laws may be made for a province by Ordinance of the Provincial Assembly.

(2) An Ordinance shall be enacted by being passed by the Assembly and assented to by the Minister; but the Minister may not withhold his assent from any proposed Ordinance except in accordance with section 34.

(3) Subject to section 33 an Ordinance may amend or repeal any provision made by or under an enactment or by an imperial enactment.

(4) The validity of any proceedings leading to the enactment of an Ordinance shall not be called in question in any legal proceedings.

(5) Ordinances shall be judicially noticed.

(6) It is hereby declared that this Act does not affect the power of Parliament to make laws for any province.

Extent of  
power to  
make laws.

33. (1) A Provincial Assembly has power to make laws only if and to the extent that -

(a) they relate to matters within the legislative competence of the Assembly; or

(b) they are merely incidental to or consequential on other provisions, and those provisions relate to matters within the legislative competence of the Assembly.

(2) A Provincial Assembly has no power to make laws extending to any part of Solomon Islands other than the province.

(3) A Provincial Assembly has no power to make laws which would have the effect of amending any provision of this Act; but this subsection does not prevent the amendment by Ordinance of any enactment mentioned in Schedule 5 or 8.

(4) A Provincial Assembly has no power to make laws affecting the international obligations of Solomon Islands, including trade and commerce with countries outside Solomon Islands.

(5) A Provincial Assembly has no power to make laws imposing, altering or abolishing any tax, except where power to do so is expressly conferred on the Provincial Assembly by or under this Act.

34. (1) Subsection (2) applies where the Minister is of the opinion that any provision of a proposed Ordinance of a Provincial Assembly -

Withholding  
assent from  
Ordinances.

(a) relates to matters within the legislative competence of the Assembly; but

(b) would, if the Ordinance were enacted, conflict with Government policy for Solomon Islands as a whole.

(2) Where this subsection applies the Minister shall -

(a) lay a copy of the proposed Ordinance before Parliament together with a statement of the policy with which in his opinion it conflicts, and

(b) move a motion in Parliament that the proposed Ordinance be disallowed,

and shall then withhold his assent if the motion is carried but otherwise shall give his assent.

(3) Where the Minister is of the opinion that a proposed Ordinance of a Provincial Assembly contains any provision as to which the Assembly has no power to make laws, he shall refer the question whether the provision is one as to which the Assembly has power to make laws to the High Court for decision; and he may do so if he is of the opinion that there is sufficient doubt about it to justify the reference.

(4) On a reference of any provision under subsection (3) -

(a) if the High Court decides that the Assembly has power to make laws as to that provision and any other provision involved in the reference, the Minister shall give his assent and the decision of the Court shall be binding in all legal proceedings; but

(b) if the High Court decides that the provision is not one as to which the Assembly has power to make laws, the Minister shall withhold his assent.

#### *Executive Functions*

35. (1) The Provincial Executive shall exercise as regards the province the functions which are functions of the Executive by virtue of any devolution order.

Extent of  
executive  
functions.

(2) Where a function of a Provincial Executive is included in Part II of Schedule 5, it shall continue to be exercisable by the person to whom it is given as well as by the Provincial Executive.

(3) The functions which, immediately before the second appointed day, are given to an existing Provincial Assembly, or the Clerk to the Assembly, by or under any enactment shall be exercisable by the Provincial Executive for the corresponding province established by this Act.

(4) Subsection (3) does not apply to any function given by or under the Local Government Act.

(5) Subject to the provisions of any enactment (wherever made or passed), a Provincial Executive -

(a) may provide services for the province in respect of any of the matters mentioned in Schedule 6; and

(b) may do anything (whether or not involving the acquisition or disposal of any property) which is calculated to facilitate or is conducive or incidental to the provision of such a service for the province.

(6) A Provincial Executive shall not, in the exercise of its functions -

(a) conduct relations with any country outside Solomon Islands; or

(b) seek to obtain, or accept, financial assistance from funds outside Solomon Islands, except with the consent of the Minister.

#### PART V

#### FINANCE

#### *Establishment and Management of Funds*

Provincial  
Fund.

36. (1) For each province there shall be a Provincial Fund.

(2) A Provincial Assembly has no power to appropriate any sums forming part of the Provincial Fund except by Ordinance (in this Act referred to as an "Appropriation Ordinance"); and an Appropriation Ordinance may only appropriate sums -

(a) for the purposes of devolved functions; or

(b) for a purpose for which they are payable out of the Provincial Fund under this or any other Act.

(3) An Appropriation Ordinance may provisionally authorise the payment out of the Provincial Fund in advance of appropriation of sums not exceeding in the aggregate such amount as may be specified in the Ordinance.

(4) An Appropriation Ordinance shall not have effect at any time unless, at that time, there is in force in the province an Ordinance (in this Act referred to as a "Financial Management Ordinance") dealing with each of the matters mentioned in Schedule 7.

37. (1) No payment shall be made out of a Provincial Fund except under the authority of a warrant given by the Premier.

Payments  
out of  
Provincial  
Fund.

(2) The Premier shall not give a warrant authorising the payment of any sum unless -

- (a) the sum is part of the sums appropriated for any purpose by the Assembly; or
- (b) payment of the sum has been provisionally authorised under section 36(3); or
- (c) the sum has been charged on the Fund by or under any Act.

(3) A sum issued out of the Provincial Fund may not be applied for any purpose other than -

- (a) the purpose for which it was appropriated or charged; or
- (b) the purpose to which it is allocated in accordance with the Financial Management Ordinance, being a purpose falling within section 36(2).

38. (1) Any sums forming part of the receipts of the Provincial Executive shall, so far as they are not disposed of or accounted for in accordance with any other enactment or an arrangement under section 31, be paid into the Provincial Fund.

Payments  
into the  
Provincial  
Fund.

(2) The Minister shall, in respect of each financial year, make payments into each Provincial Fund; and the amount of the payment into each Fund, and the timing and amount of any instalments by which the payment is to be made, shall be such as may be specified by the Minister by order.

(3) An order under subsection (2) may make different provision for different provinces.

(4) An order under subsection (2) shall be subject to affirmative resolution; and when the draft of the order is laid before Parliament the Minister shall also lay a statement of the considerations taken into account in preparing the order.

*Accounts and audit*

39. (1) The Provincial Executive shall lay before the Assembly, before the commencement of each financial year, estimates of the revenue and expenditure of the province for that year.

Estimates.

(2) The estimates shall show the sources of revenue and the purpose and scope of each head of expenditure.



## Accounts.

40. (1) For each financial year, the Provincial Executive shall prepare the following accounts -

- (a) accounts of sums paid and received by them;
- (b) an account of payments into and out of the Provincial Fund; and
- (c) a balance sheet of their assets and liabilities.

(2) The accounts shall be sent to the Auditor-General as soon as practicable after the end of the financial year to which they relate but, in any event, not later than nine months after the end of that year.

(3) The Auditor-General shall, after auditing the accounts pursuant to subsection (3) of section 108 of the Constitution (audit of public accounts) lay copies of them, together with his report under that subsection, before the Assembly.

(4) The Assembly shall publish -

- (a) the accounts and reports received by it under subsection (3); and
- (b) the reports of the Accounting Committee.

(5) The Provincial Executive shall pay in respect of any audit under section 108(3) of the Constitution such amount as the Auditor-General may direct; and any sum payable under this subsection -

- (a) shall be paid in accordance with the direction; and
- (b) shall be charged on the Provincial Fund.

*Borrowing and lending*

## Borrowing.

41. (1) A Provincial Executive shall not borrow money except in accordance with this section.

(2) A Provincial Executive may borrow temporarily (either by way of overdraft or otherwise) from a Government lender or an authorised lender such sums as may appear to the Executive to be required -

- (a) for the purpose of meeting a temporary excess of sums paid out of the Provincial Fund over sums paid into the Fund; or
- (b) for the purpose of providing a working balance in the Fund.

(3) Subject to subsection (2), a Provincial Executive may borrow for the purposes of devolved functions -

- (a) if the borrowing is in respect of recurrent expenditure, from a Government lender.
- (b) in any other case, from a Government lender or an authorised lender.

(4) The aggregate outstanding in respect of the principal of sums borrowed by a Provincial Executive shall not exceed such sum as may from time to time be fixed for that Executive by order of the Minister.

(5) Sums required for the repayment of, or the payment of interest on, sums borrowed under this section shall be charged on the Provincial Fund.

(6) In this section -

“Government lender” means the Minister and any Government fund the purposes of which include the lending of money to Provincial Executives; and

“authorised lender” means any person authorised by the Minister for the purposes of this section.

42. (1) A Provincial Executive may lend money, or give a guarantee in respect of the repayment of any money, if, and only if, they do so for the purposes of devolved functions.

Lending.

(2) The aggregate of -

(a) the amounts outstanding in respect of the principal of any sum lent by a Provincial Executive, and

(b) sums the repayment of which have been guaranteed by the Provincial Executive,

shall not exceed such sum as may from time to time be fixed for that Executive by order of the Minister.

#### PART VI

#### GENERAL AND SUPPLEMENTARY

#### *Relations with Central Government*

43. (1) Parliament shall by standing orders make provision for ensuring that a Bill for an Act the purposes of which include the amendment of any of the provisions of Parts II to IV of this Act (except Schedule 5 and 8 and the mention in Schedule 4 of any enactment) shall not be read a second time unless both the following requirements are satisfied, that -

Notice of Bills.

(a) the long title shows that it is proposed to amend such a provision; and

(b) twenty-eight days have elapsed since the Bill was read a first time.

(2) Parliament shall by standing orders make provision for ensuring that a Bill for an Act which includes any provision -

(a) relating to a matter that is within the legislative competence of a Provincial Assembly, or

(b) affecting the functions of a Provincial Executive, shall not be read a second time unless the Speaker of Parliament is satisfied that adequate notice of the provision has been given to the Provincial Assembly or Provincial Executive.

Provision  
of informa-  
tion.

44. (1) Where it appears to the Minister that any information relating to the exercise of functions by any Minister is required for the exercise of functions by a Provincial Executive, he may request the Minister concerned to supply the information to the Executive and that Minister shall comply with the request.

(2) Where it appears to the Minister that any information relating to the exercise of functions by a Provincial Executive is required for the exercise of functions by any Minister, he may request the Executive to supply the information to the Minister concerned and the Executive shall comply with the request.

#### Miscellaneous

Amendments  
of enactments.

45. (1) The enactments mentioned in Part II of Schedule 8 shall have effect subject to the amendments there specified.

(2) The Minister may by order subject to affirmative resolution make such amendments in any enactment passed or made before the passing of this Act as appear to him necessary or expedient in consequence of this Act or any devolution order.

Subsidiary  
legislation.

46. (1) This section (and not section 55(1), 56 and 59(2) of the Interpretation and General Provisions Act 1978) applies where, by any provision of this Act, power is conferred on the Minister to make any order or regulations (in this section referred to as "subsidiary legislation").

(2) There is implied in the provision concerned a power exercisable in the same manner, and subject to the same conditions or limitations, to revoke, amend or re-enact any subsidiary legislation made in exercise of the power.

(3) If the subsidiary legislation is expressed to be subject to negative resolution -

- (a) a copy of the subsidiary legislation shall be laid before Parliament; and
- (b) the copy shall be laid before the subsidiary legislation comes into effect unless, in the opinion of the Minister, it is essential that the subsidiary legislation comes into effect before it can be laid; and
- (c) if, within the period of twenty days beginning with the day on which the copy is laid, Parliament resolves

that the subsidiary legislation be annulled, the subsidiary legislation shall cease to have effect as from the date of the resolution, but without prejudice to the validity of anything previously done under it or to the making of new subsidiary legislation.

(4) In reckoning any period of twenty days for the purpose of subsection (3)(c), no account shall be taken of any time during which Parliament is prorogued or dissolved or is adjourned for more than four days.

(5) If the subsidiary legislation is expressed to be subject to affirmative resolution, the subsidiary legislation shall not come into operation until a draft of it has been laid before Parliament and approved by a resolution of Parliament.

(6) The subsidiary legislation shall be published in the Gazette.

47. The functions of a Provincial Assembly, Provincial Executive or Premier of a province are not be regarded as performed on behalf of the Crown.

No crown  
immunity.

## SCHEDULES

SCHEDULE 1  
PROVINCIAL BOUNDARIES

Section 3

<i>Province</i>	<i>Area</i>	<i>Existing Authority</i>
Western	The islands comprised in the area bounded by a line commencing at a point on the boundary between Solomon Islands and Papua New Guinea in Longitude $157^{\circ} 55'$ East thence by a line bearing due South to a point in Latitude $8^{\circ} 20'$ South thence by a line bearing due East to a point in Longitude $159^{\circ}$ East thence by a line bearing due South to a point in Latitude $9^{\circ} 20'$ South thence by a line bearing due West to a point in Longitude $155^{\circ} 20'$ East thence by a line bearing due North to intercept the boundary between Solomon Islands and Papua New Guinea and thence along that boundary to the point of commencement.	Western Provincial Assembly
Isabel	The islands comprised in the area bounded by a line commencing at a point in Latitude $7^{\circ}$ South Longitude $160^{\circ} 30'$ East thence, by a line bearing due South to a point in Latitude $8^{\circ} 45'$ South thence by a line bearing due West to a point in Longitude $159^{\circ}$ East and thence along the common boundary with Western Province in a northerly direction to a point in Latitude $7^{\circ}$ South and thence to the point of commencement.	Santa Isabel Provincial Assembly
Central	The islands comprised in - (a) the area bounded by Longitudes $159^{\circ}$ East and $160^{\circ} 30'$ East and Latitudes $8^{\circ} 45'$ South and $9^{\circ} 13'$ South; and (b) the area bounded by Longitudes $159^{\circ}$ East and $161^{\circ}$ East and Latitudes $10^{\circ} 30'$ South and $12^{\circ} 30'$ South.	Central Islands Provincial Assembly

Guadalcanal

Excluding Honiara, the islands comprised in the area bounded by a line commencing at a point in Latitude  $9^{\circ} 13'$  South Longitude  $160^{\circ} 30'$  East and bearing due South to a point in Latitude  $9^{\circ} 20'$  South thence by a line bearing due East to a point in Longitude  $161^{\circ}$  East thence by a line bearing due South to a point in Latitude  $10^{\circ} 30'$  South thence along the common boundary with Central Province to a point in Longitude  $159^{\circ}$  East thence by a line bearing due North to a point in Latitude  $9^{\circ} 13'$  South and thence along the common boundary with Central Province to the point of commencement.

Guadalcanal  
Provincial Assembly

SCH. 1

Malaita

The islands comprised in the area bounded by a line commencing at a point on the boundary of Solomon Islands and Papua New Guinea in approximate Latitude  $4^{\circ} 52'$  South Longitude  $160^{\circ}$  East thence by a line bearing due East to a point in Longitude  $163^{\circ}$  East thence by a line bearing due South to a point in Latitude  $9^{\circ}$  South thence by a line bearing due West to a point in Longitude  $161^{\circ} 50'$  East thence by a line bearing due South to a point in Latitude  $10^{\circ}$  South thence by a line bearing due West to a point in Longitude  $161^{\circ}$  East thence in a northerly direction along the common boundary with Guadalcanal, Central, Isabel and Western Provinces to a point intersecting the boundary of Solomon Islands and Papua New Guinea thence generally North Easterly along that boundary to a point in approximate Longitude  $159^{\circ}$  East and thence generally along that boundary to the point of commencement.

Malaita Provincial  
Assembly

Makira

The islands comprised in the area bounded by a line commencing at a point in Latitude  $9^{\circ}$  South Longitude  $161^{\circ} 50'$  East thence by a line bearing due East to a point in Longi-

Makira  
Provincial Assembly

SCH. 1

tude  $164^{\circ}$  East thence by a line bearing due South to a point in Latitude  $12^{\circ}30'$  South thence by a line bearing due West to a point in Longitude  $161^{\circ}$  East and thence in a generally Northerly direction along the common boundary with Central, Guadalcanal and Malaita Provinces to the point of commencement.

Temotu

The islands comprised in the area bounded by a line commencing at a point in Latitude  $9^{\circ}$  South Longitude  $164^{\circ}$  East thence by a line bearing due East to a point in Longitude  $170^{\circ}20'$  East thence by a line bearing due South to a point in Latitude  $12^{\circ}30'$  South thence by a line bearing due West to a point in Longitude  $164^{\circ}$  East and thence North along the common boundary with Makira Ulawa Province to the point of commencement.

Eastern Islands  
Provincial Assembly

SCHEDULE 2

SCH. 2

Section 7(4), 12(4) and 20

TEMPORARY ARRANGEMENTS  
PART I

*Initial Members of new Assemblies and  
modification of Local Government Act*

1. A person who on the first appointed day is -
  - (a) a member of an existing Provincial Assembly for any electoral ward, and
  - (b) is not disqualified for membership of the corresponding Provincial Assembly established by this Act (in this Part of this Schedule referred to as "the new Assembly"),shall be the elected member of the new Assembly for that ward, and his term of office shall begin on the first appointed day.
2. If, on the first appointed day, a member of an existing Provincial Assembly for any ward is disqualified for membership of the new Assembly, an election shall be held to fill the vacancy in that ward.
3. Notwithstanding anything in section 13, the date of an election under paragraph 2 shall be fixed by the Minister, and it shall not be later than three months after the disqualification has come to his notice.
4. Where, before the second appointed day, a person is returned as an elected member of a new Assembly for any ward (whether under paragraph 2 or section 13) he shall, as from the day of his election and for all the purposes, take the seat in the existing Provincial Assembly of the member for that ward.
5. Where, before the second appointed day, a Provincial Executive has been formed in a province -
  - (a) the Premier shall discharge also the functions of the President of the existing Provincial Assembly; and
  - (b) a member of the Provincial Executive nominated by the Premier in that behalf shall discharge also the functions of the Vice-President of the existing Provincial Assembly; and
  - (c) the Provincial Executive shall discharge also the functions of the Executive Committee of the existing Provincial Assembly.
6. On the first appointed day, Part III of the Local Government Act (composition of Assemblies and elections) shall cease to have effect in relation to existing Provincial Assemblies.

PART II  
*Transitional arrangements for  
Provincial Assembly elections*

7. The regulations made under the Local Government Act specified in paragraph 8 shall (notwithstanding anything in paragraph 6) apply in relation to a Provincial Assembly election as if they had been made under section 12 of this Act.
8. Those regulations are -
  - (a) in the Local Government (Elections) Regulations, regulations 6(b) and (c), 7, 8 (including the Schedule), 9 to 44, 46 to 63, 64 (including the Local Government (Election Petition) Rules



SCH. 2

- made under it), 65 and, so far as relating to those regulations, regulation 2; and
- (b) the Local Government (Registration of Voters) Regulations.
9. Those regulations shall apply in relation to a Provincial Assembly election with such adaptations and modifications as may be required to bring the regulations into conformity with the provisions of this Act and, in particular -
- (a) references to existing Provincial Assemblies and their areas shall be construed as references to the Provincial Assemblies and the provinces established under this Act;
- (b) references to the general revenue of an existing Provincial Assembly shall be construed, on and after the second appointed day, as references to the Provincial Fund of the corresponding province established under this Act; and
- (c) references to any provision of the Local Government Act shall be construed as references to the corresponding provision of this Act.
10. The Minister may by order make such amendments of those regulations as are necessary or expedient in consequence of the preceding provisions of this Schedule and, in addition, the order may -
- (a) provide that the functions formerly conferred by the regulations on the High Commissioner shall be exercisable by the Minister;
- (b) with the consent of the Provincial Executive, require candidates for election to deposit, in accordance with the provisions of the order, a sum of money of an amount specified in the order; and
- (c) specify the latest time at which candidature for election may be withdrawn.
11. For the purposes of section 11(2) of this Act, the register of voters for the time being kept under the Local Government (Registration of Voters) Regulations in respect of a province shall be treated as the register of Provincial Assembly electors to be used at any Provincial Assembly election in the province.

PART III  
*Other Transitional Provisions*

12. Any expenses incurred by a Provincial Assembly or Provincial Executive before the second appointed day shall, notwithstanding anything in the Local Government Act or this Act, be paid out of the general fund of the existing Provincial Assembly.
13. (1) The first meeting of a Provincial Assembly shall be held on such day and at such time and place as may be determined by the existing Provincial Assembly.
- (2) That day shall fall within the period of one month beginning with the first appointed day.
14. No salary or allowance shall be payable to any person in respect of his membership of a Provincial Assembly or Provincial Executive for any period expiring on or before the second appointed day; and in this paragraph "salary" has the same meaning as in section 27.

SCHEDULE 3

SCH. 3

Section 25

MATTERS TO BE PROVIDED FOR  
IN STANDING ORDERS

*Speaker*

1. (1) The manner of appointing the Speaker.  
(2) Provision for a member of the Assembly to preside in his absence.

*Meetings*

2. (1) Summoning of meetings of the Assembly by the Speaker.  
(2) Standing orders made in pursuance of this paragraph shall provide for the Assembly to meet at least twice in any period of twelve months.

*Oath of allegiance*

3. Provision for ensuring that no member of the Assembly takes part in any of its proceedings or the proceedings of any of its committees until he has made an oath or affirmation of allegiance in the form set out in Schedule 1 to the Constitution.

*Right to vote*

4. Provision that only elected members may vote at any meeting of the Assembly or its committees.

*Quorum*

5. Quorum of the Assembly and of any of its committees.

*Order*

6. (1) Preservation of order in the proceedings of the Assembly and its committees.  
(2) Standing orders made in pursuance of this paragraph may include provision for excluding a member from the proceedings.

*Passing legislation*

7. (1) Provision -
  - (a) for general debate of a proposed Ordinance with an opportunity for members to vote on its general principles;
  - (b) for the consideration of, and an opportunity for members to vote on, the details of a proposed Ordinance; and
  - (c) for final stage at which a proposed Ordinance can be passed or rejected but not amended.(2) Provision for the procedure to be adopted where the Minister has withheld his assent from a proposed Ordinance.

*Financial Control*

8. (1) Ensuring that the Assembly does not proceed with any proposed Ordinance to appropriate any sum out of the Provincial Fund unless either -
  - (a) there has been laid before the Assembly the estimates of expenditure on which the proposed Ordinance is based; or
  - (b) the proposed Ordinance would have effect only in relation to the first four months of a financial year and would appropriate a

## SCH. 3

sum sufficient only to maintain existing services.  
 (2) Ensuring that the Assembly does not pass such an Ordinance except in pursuance of a recommendation of the Provincial Executive.

9. (1) The appointment of an Accounts Committee.  
 (2) Ensuring that the majority of members of the Committee are not members of the Provincial Executive.  
 (3) Provision requiring the Committee to examine and report to the Assembly on the accounts and reports laid before the Assembly by the Auditor-General.

*Proceedings in public*

10. Provision for proceedings of the Assembly and of any of its committees to be held in public, subject to any exceptions made by standing orders.

*Members interests*

11. (1) Ensuring that a member with an interest in any matter (whether it is a financial interest or some other kind of interest which is specified in the Standing Orders) discloses the interest before taking part in any proceedings dealing with that matter.  
 (2) Standing orders made in pursuance of this paragraph may include provision -  
 (a) for preventing or restricting participation of such members in such proceedings; and  
 (b) for excluding members contravening them from those proceedings.

*Relations with Central Government*

12. The admission to meetings of the Assembly or its committees of any member of Parliament whose constituency includes any part of the province.  
 13. The establishment of a co-ordinating committee to include any such member of Parliament.  
 14. Securing that no draft Ordinance is debated in the Assembly unless the Speaker is satisfied that the draft has been brought to the attention of the Minister.

*Resolution to dissolve or motion of no confidence*

15. Where a motion is to be moved under section 10(2) or 21(4), provision ensuring that adequate notice of the motion (not being less than one week) is given to members of the Assembly.

SCHEDULE 4

SCH. 4

Section 28(3)

LEGISLATIVE MATTERS

*Trade and Industry*

1. (1) Local licensing of professions, trades and businesses, Local marketing. (2) The Licence Act, the Co-operative Societies Act and the Weights and Measures Act 1973 are not included.

*Cultural and Environmental Matters*

2. (1) Local crafts, Historical remains, Protection of wild creatures and sanctuaries. (2) The Wild Birds Protection Act, except section 14 (bird sanctuaries), and the Protection of Wrecks and War Relics Act 1980 are not included.

*Transport*

3. (1) Coastal and lagoon shipping, Provision, maintenance, and improvement of harbours, roads and bridges. (2) The Shipping Act, the Ports Act and the Light Dues and Harbours Act, except section 5, are not included.

*Finance*

4. Raising revenue by -  
(a) head tax; (b) property tax; (c) fees for services performed or licences issued by or on behalf of the Provincial Executive (other than services performed or licences issued by them as agent of another); and (d) such other means as may be approved for the purposes of this

5. (1) A paragraph by the Minister by order, agricultural land, Grants, loans and subsidies in respect of agricultural production. Protection and improvement of fresh-water and reef fisheries.

*Agriculture and Fishing*

- (2) The Cocoa Act, the Copra Act, the Fisheries Act 1972 and the Cattle Development Authority Act 1977 are not included.

5. (1) Animal husbandry. Management of agricultural land. Grants, loans and subsidies in respect of agricultural production. Protection, improvement and maintenance of fresh-water and reef fisheries.

*Land and Land Use*

6. (1) Codification and amendment of existing customary law about land. Registration of customary rights in respect of land including customary fishing rights. Physical planning except within a local planning area (within the meaning of the Town and Country Planning Act 1979) or an area to which Part IV of that Act has been applied (development areas).

- (2) The Land and Titles Act, except sections 219 to 221 (customary land), and the Town and Country Planning Act 1979 are not included.

*Local Matters*

7. Fire services and fire protection. Waste disposal and cleansing services. Rest houses, eating houses and similar places. Public conveniences. Vagrancy. Public nuisances. Cemeteries. Parks and recreation grounds. Markets. Keeping of domestic animals.

## SCH. 4

*Local Government*

8. (1) The constitution, area and general powers and duties of Area Councils and similar bodies, their revenue and expenditure.
- (2) The making of by-laws by such bodies, that is, laws -
- (a) affecting only the area of responsibility of the body;
- (b) not having effect until confirmed by the Provincial Executive; and
- (c) not made for a purpose for which provision is made by, or is or may be made under, any other enactment.

*Housing*

9. (1) Housing. Regulation of rents.
- (2) The Solomon Islands Housing Authority Act 1970 is not included.

*Rivers and Water*

10. Control and use of river waters. Pollution of water. Provision of water supplies.

*Liquor*

11. (1) Liquor licensing.
- (2) Part VIII of the Liquor Act (distillation of liquor) is not included.

*NOTE* References in this Schedule to any enactment include a reference to any order, rules or regulations made under it.

SCHEDULE 5

SCH. 5

Section 28(4)

STATUTORY FUNCTIONS

PART I

FUNCTIONS THAT MAY BE TRANSFERRED

*Cultural and Environmental Matters*

- The Cinematograph Act      The functions given to the Licensing Authority under that Act.
- The functions given to the Minister under section 14 (making rules) except paragraph (f) (Board of Censors).
- The Wild Birds Protection Act      The functions given to the Minister under section 14 (Sanctuaries).

*Transport*

- The Roads Act      The functions given to the Minister under sections 3, 5, 27 and 29(b) to (f) and (so far as relating to those paragraphs) (g) of that Act.
- The Traffic Act      The functions given to the highway authority under sections 68 and 69 of that Act (closure of roads and injury to bridges).
- The Light Dues and Harbours Act      The functions given to the Chief Marine Officer under section 5 of that Act (obstructions in harbours).

*Agriculture and Fishing*

- The Cocoa Act      The functions given to the Under Secretary/ Agriculture (or the Director of Agriculture) under that Act.
- The functions given to the Minister under section 14(2)(e) (fees and charges).
- The Copra Act      The functions given to the Under Secretary/ Agriculture (or the Director of Agriculture) or the Clerk to a Provincial Assembly under that Act.
- The functions given to the Minister under section 15(1)(m) (fees).
- The Trespass and Branding Act      The functions given to the Minister or the Under Secretary/Agriculture under that Act.

*Land and Land Use*

- The Land and Titles Act      The functions given to the Minister under Division 2 of Part V of that Act (compulsory acquisition of land) in relation to land required for the purposes of devolved functions.

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*Rivers and Water*

The Water Supply Act      The functions given to the Minister, the Chief Executive Engineer (or the Director) or the Chief Accountant under that Act.

The River Waters Act      The functions given to the Minister under that Act.

*Forestry*

The Forests and Timber Act      The functions given to the Minister under section 5(3)(b) and Part IIA of that Act (approved timber agreements affecting customary land).

The functions given to the Minister under Part III (licensing of mills).

The functions given to the Minister under Part VI (control of forests to conserve water resources).

The functions given to the Minister under section 33 (regulations) so far as relating to Parts IIA, III and VI.

*Public Holidays*

The Public Holidays Act      The functions given to the Governor-General under section 6 of that Act (appointment of special public holidays).

*Liquor*

The Liquor Act      The functions given to the Minister under section 16 of that Act (appointment of Liquor Licensing Board).

The functions given to the Minister under section 84 (closure of bars).

The functions given to the Minister under section 96 (power to alter fees and forms).

PART II  
CONCURRENT FUNCTIONS

The functions included in Part I in respect of the following Acts -

The Roads Act  
The Traffic Act  
The Public Holidays Act

SCHEDULE 6

Section 35(5)

SCH. 6

PROVINCIAL SERVICES

*Trade and Industry*

Employment. Co-operatives. Local authorities. Trades and industries.

*Cultural and Environmental Matters*

Museums, libraries, local languages, arts and crafts, sports and other cultural and recreative activities. Historical remains. Conservation of the environment.

*Transport*

Shipping and harbours. Road transport. Aerodromes.

*Agriculture and Fishing*

Agriculture. Fishing.

*Health*

Medical services. Public Health.

*Local Matters*

Matters included in paragraph 7 of Schedule 4. Welfare and other social services.

*Housing*

Housing.

*Information*

Newspapers and other information services. Statistics.

*Forestry*

Forestry.

*Education*

Kindergartens, primary schools, provincial secondary schools and community education.

*Electricity*

Supply of electricity outside supply areas (within the meaning of the Electricity Act).

*Tourism*

Tourism.



SCH. 7

SCHEDULE 7

Section 36(4)

MATTERS TO BE INCLUDED IN FINANCIAL  
MANAGEMENT ORDINANCE

The form of the annual estimates.

The method of authorising and making issues from the Provincial Fund.

The management and reallocation of funds within the amounts appropriated.

The provision of funds in advance of appropriation.

The use of bank accounts and the investment of monies forming part of the Provincial Fund.

The making of advances.

The acceptance of deposits.

The creation and control of special funds.

The appointment and responsibilities of staff charged with accounting tasks.

The making of rules and regulations relating to financial management and to the procurement, safekeeping, accounting for and disposal of stores.

SCHEDULE 8

Sections 28(5) and 45(1)

SCH. 8

AMENDMENTS OF ENACTMENTS

PART I

AMENDMENTS TO BE BROUGHT INTO FORCE BY  
DEVOLUTION ORDER

*Transport*

1. At the end of section 5 of the Ports Act (power to appoint ports) insert -

"(3) No order may be made under this section without the consent of the Provincial Executive for the province in which the place concerned is situated."

2. (1) In section 2 of the Roads Act, at the end of the definition of "Director" insert "and includes, in relation to any area of a province, any person to whom the Provincial Executive has assigned the functions conferred by this Act on the Director."

(2) Section 4 of that Act (power to vest control of roads in local authority) is repealed.

(3) In section 5 of that Act (power to close roads, etc.), after "Government" insert "or, as the case may be, the Provincial Executive".

(4) In section 16(1) of that Act, leave out "at Honiara".

(5) In section 28(1) of that Act (no liability for condition of road), after "Government" insert "or a Provincial Executive" and for "either" substitute "any of them".

*Agriculture and Fishing*

3. In section 2 of the Fisheries Act 1972, in the definition of "authorised officer", after "vessel" insert "any provincial government officer declared by the Provincial Executive to be an authorised officer for the purposes of this Act".

*Land and Land Use*

4. In section 13 of the Town and Country Planning Act 1979 (orders controlling development), in subsection (2), omit "either" and, in paragraph (b), for "or" substitute "and".

5. (1) In section 74 of the Land and Titles Act (effect of declaration that land is required for public purpose) after "Government" insert "or, in the case of a declaration by a Provincial Executive, for and on behalf of the Provincial Executive".

(2) In section 77 of that Act (alteration of register) after "Government" in paragraphs (a) and (b) insert "or, as the case may be, the Provincial Executive".

(3) In section 81 of that Act (temporary occupation of land) for "benefit of the people of Solomon Islands" substitute "public benefit".

(4) At the end of Part V of that Act insert -

"Expenses 84A. Any expenses incurred by the Commissioner incurred by under this Part in respect of land acquired, or occupied and used, for devolved functions (within on behalf of the meaning of the Provincial Government Act Provincial Provincial Executive. shall be charged on the Provincial Fund."

SCH. 8

*Rivers and Water*

6. (1) In section 3 of the River Waters Act (appointment and powers of inspectors) for subsection (1) substitute -

"(1) A Provincial Executive may, in respect of their province, appoint any person to be an inspector for the purposes of this Act."

(2) In that Act, for "Government" (whether it appears) substitute "Provincial Executive" and, in section 17(5), for "Consolidated Fund" substitute "Provincial Fund".

PART II  
GENERAL AMENDMENTS

*Liquor*

7. (1) In section 2 of the Liquor Act -

(a) in the definition of "licensing officer", for "the Clerk to the Provincial Assembly of that Province" substitute "any person appointed by the Provincial Executive to discharge the functions conferred on the licensing officer by this Act", and

(b) after the definition of "liquor" insert -

"local authority" means an Area Council or similar body; and

(c) for the definition of "town area" substitute -

"town area" means the area known as Honiara (the boundaries of which are delineated on Plan 1981 deposited in the office of the Commissioner of Lands); and references to the Provincial Executive, in relation to that area, are references to the Municipal Authority."

(2) In section 16(2) of that Act -

(a) for "the Clerk to the Provincial Assembly who shall be the" substitute "a person appointed by the Provincial Executive to be"; and

(b) for "district" substitute "province".

(3) In section 19(3) of that Act, for "Clerk to the Provincial Assembly of" substitute "Provincial Executive for".

(4) In section 29(1) of that Act, for "district" (in both places) substitute "province" and for "District Commissioner" substitute "Provincial Executive".

(5) In section 37 of that Act, in the proviso to subsection (1) -

(a) for "District Commissioner of the District" substitute "Provincial Executive for the province", and

(b) for "such District" substitute "such province", and in subsection (2), for "Consolidated Fund" substitute "Provincial Fund".

(6) In section 52(1), 57(1) and 59(1)(b) of that Act, for "district" substitute "province".

(7) In section 61 -

(a) in paragraph (a) for "District Commissioner" substitute "Provincial Executive"; and

(b) in the proviso, for "District Commissioner of the district" substitute "licensing officer for the province", and for "District Commissioner" substitute "licensing officer".

(8) In section 64(2) of that Act, for "Consolidated Fund" substitute "Provincial Fund".

(9) In section 81 of that Act, for "Clerk to the Provincial Assembly" substitute "licensing officer".

(10) In section 94 of that Act, for "general revenue of Solomon Islands" substitute "Provincial Fund".

*Audit of Accounts*

SCH. 8

8. In Part VI of the Public Finance and Audit Act (powers of Auditor-General) -

- (a) any reference to Government property includes a reference to property held by or on behalf of a Provincial Assembly or Provincial Executive; and
- (b) any reference to a public officer includes a reference to a provincial government officer.

*Interpretation of Ordinances*

9. (1) In the Interpretation and General Provisions Act, 1978, references to an Act in the following provisions, that is -

- (a) sections 5 to 30, but excluding the definition of financial year in section 16(1),
- (b) sections 33 to 54, and
- (c) sections 57 to 62,

include a reference to an Ordinance of a Provincial Assembly.

(2) Sections 55(1) and 56 of that Act (subsidiary legislation) do not apply to subsidiary legislation made by Provincial Executive or under an Ordinance of a Provincial Assembly.

(3) Section 65 of that Act (districts) is repealed.

## SCH. 9

## SCHEDULE 9

## Section 2

## GLOSSARY

<i>Expression</i>	<i>Meaning</i>
Accounts Committee .....	See paragraph 9 of Schedule 3.
Affirmative Resolution .....	See section 46(5).
Appointed Member .....	See section 14(3).
Appropriation Ordinance .....	See section 36(2).
Devolution order .....	See section 28.
Devolved function .....	In relation to a province means - (a) a matter which is within the legislative competence of a Provincial Assembly; and (b) a function which, by or under this or any other enactment, is a function of the Provincial Executive.
Existing Provincial Assembly ..	A Provincial Assembly established under the Local Government Act, except Honiara.
Financial Management Ordinance .....	See section 36(4).
Financial year .....	The twelve months ending with 31 March.
First appointed day .....	See section 1(3)(a).
Honiara .....	The area known as Honiara the boundaries of which are delineated on plan 1981 deposited in the office of the Surveyor General.
Legislative competence .....	See section 28(3).
Minister .....	When used anywhere in the Act means the Minister given the responsibility of administering that part of the Act in which the expression occurs.
Negative resolution .....	See section 46(3).
Ordinance .....	See section 32.

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Ordinary election .....	An election held under section 9(1) or (2).	SCH. 9
Premier .....	See section 21(1).	
Province .....	See section 3.	
Provincial Assembly .....	See section 7(1).	
Provincial Executive .....	See section 21.	
Provincial Fund .....	See section 36(1).	
Provincial government officer .....	Has the same meaning as in the Constitution.	
Public officer .....	Has the same meaning as in the Constitution.	
Second appointed day .....	See section 1(3)(b).	
Speaker .....	See section 24(1).	

