STATUTORY INSTRUMENTS

1978 No. 783

PACIFIC ISLANDS

The Solomon Islands Independence Order 1978

Made - - - - 31st May 1978
Laid before Parliament - 8th June 1978
Coming into Operation - 7th July 1978

At the Court at Buckingham Palace, the 31st day of May 1978

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue and in exercise of the powers in that behalf by the Foreign Jurisdiction Act 1890(a) or otherwise in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

Citation and commencement.

1.—(1) This Order may be cited as the Solomon Islands Independence Order 1978.

(2) This Order shall be published in the Gazette and shall come into operation on the appointed day:

Provided that sections 4(2) and 6 of this Order shall come into operation forthwith.

Interpretation.

2.—(1) In this Order—

"the appointed day" means 7th July 1978;

"the Constitution" means the Constitution set out in the Schedule to this Order;

"the existing Constitution" means the Constitution set out in the Schedule to the British Solomon Islands Order 1974 (b) as amended by the British Solomon Islands (Amendment) Order 1975(c), the British Solomon Islands (Name of Territory) Order 1975(d), the Solomon Islands Courts Order 1975(e), the Solomon Islands (Amendment) Order 1975(f), the Solomon Islands (Amendment) Order 1976(g), and the Solomon Islands (Amendment) Order 1977(h);

"the existing laws" means any Acts of the Parliament of the United Kingdom, Orders of Her Majesty in Council, Ordinances, rules, regulations, orders or other instruments having effect as part of the law of Solomon Islands (whether or not they have been brought into operation) immediately before the appointed day but does not include any Order revoked by this Order;

(a) 1890 c. 37. (b) S.I. 1974/1262. (c) S.I. 1975/807. (d) S.I. 1975/808.
(e) S.I. 1975/1511. (f) S.I. 1975/1832. (g) S.I. 1976/422. (h) S.I. 1977/590.

"the existing Legislative Assembly" means the Legislative Assembly established by the existing Constitution;

"the existing Orders" means the Orders revoked by section 3(1) of this Order.

(2) The provisions of sections 133(2), 139, 144 and 145 of the Constitution shall apply for the purposes of interpreting sections 1 to 14 of this Order and otherwise in relation thereto as they apply for the purpose of interpreting and in relation to the Constitution.

Revocations.

3.—(1) The British Solomon Islands Order 1974, the British Solomon Islands (Amendment) Order 1975, the British Solomons Islands (Name of Territory) Order 1975, the Solomon Islands Courts Order 1975, the Solomon Islands (Appeals to Privy Council) Order 1975(**a**), the Solomon Islands (Amendment) Order 1975, the Solomon Islands (Amendment) Order 1976, and the Solomon Islands (Amendment) Order 1977 are revoked.

(2) The Emergency Powers Order in Council 1939(**b**) and any Order in Council amending that Order shall cease to have effect as part of the law of Solomon Islands on the appointed day.

Establishment of Constitution.

4.—(1) Subject to the provisions of this Order, the Constitution shall come into effect in Solomon Islands on the appointed day.

(2) The Governor (as defined for the purposes of the existing Constitution) may at any time after this subsection comes into operation exercise any of the powers conferred upon the Governor-General by section 5 of this Order or by the Constitution to such extent as may in his opinion be necessary or expedient to enable the Constitution to function as from the appointed day.

Existing laws.

5.—(1) The revocation of the existing Orders shall be without prejudice to the continued operation of any existing laws made, or having effect as if they had been made, under any of those Orders; and the existing laws shall have effect on and after the appointed day as if they had been made in pursuance of the Constitution and shall be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with the Solomon Islands Act 1978(**c**) and this Order.

(2) Where any matter that falls to be prescribed or otherwise provided for under the Constitution by Parliament or by any other authority or person is prescribed or provided for by or under an existing law (including any amendment to any such law made under this section) or is otherwise prescribed or provided for immediately before the appointed day by or under the existing Orders that prescription or provision shall, as from that day, have effect (with such modifications, adaptations, qualifications and exceptions as may be necessary to bring it into conformity with the Solomon Islands Act 1978 and this Order) as if it had been made under the Constitution by Parliament or, as the case may require, by the other authority or person.

(**a**) S.I. 1975/1510. (**b**) See S.I. 1952 I, p. 621. (**c**) 1978 c. 15.

(3) The Governor-General may, by order published in the Gazette, at any time before 31st December 1978 make such amendments to any existing law (other than the Solomon Islands Act 1978 or this Order) as may appear to him to be necessary or expedient for bringing that law into conformity with the provisions of this Order or otherwise for giving effect or enabling effect to be given to those provisions.

(4) An order made under this section may be amended or revoked by Parliament or, in relation to any existing law affected thereby, by any other authority having power to amend, repeal or revoke that existing law.

(5) It is hereby declared, for the avoidance of doubt, that, save as otherwise provided either expressly or by necessary implication, nothing in this Order shall be construed as affecting the continued operation of any existing law.

(6) The provisions of this section shall be without prejudice to any powers conferred by this Order or any other law upon any person or authority to make provision for any matter, including the amendment or repeal of any existing law.

First Governor-General.

6. Notwithstanding the provisions of section 27(1) of the Constitution, the first Governor-General shall be appointed by Her Majesty in accordance with such address as may have been made to Her before the appointed day by the existing Legislative Assembly, and any such appointment shall take effect as from the appointed day.

Ministers.

7.—(1) Any person who immediately before the appointed day holds office as Chief Minister or any other Minister under the existing Constitution shall as from that day hold office as Prime Minister or other Minister, as the case may be, as if he had been elected or appointed thereto under section 33 of the Constitution.

(2) Any person holding office as Prime Minister or other Minister by virtue of the preceding subsection who immediately before the appointed day was assigned responsibility for any business of the Government shall be deemed to have been assigned responsibility for such business under section 37 of the Constitution.

(3) Any person who holds office as Prime Minister or other Minister by virtue of subsection (1) of this section shall be deemed to have complied with the requirements of section 39 of the Constitution.

Leaders of Official Opposition and of Independent Members.

8. The persons who immediately before the appointed day are the Leader of the Official Opposition and the Leader of the Independent Members (as defined for the purposes of the existing Constitution) shall as from that day hold office respectively as Leader of the Official Opposition and Leader of the Independent Members as if they had been appointed thereto under section 66 of the Constitution.

Parliament.

9.—(1) Until such time as it is otherwise provided under section 54 of the Constitution, Solomon Islands shall be divided into thirty-eight constituencies the respective boundaries of which shall be the same as those prescribed in the Electoral Provisions (Legislative Assembly) Regulations 1976 for the thirty-eight electoral districts established by those Regulations.

(2) Notwithstanding anything in sections 47 and 54 of the Constitution, Parliament shall, until it is first dissolved, consist of thirty-eight members,

and any person who immediately before the appointed day is an elected member of the existing Legislative Assembly shall on that day become a member of Parliament (whether or not he becomes a citizen of Solomon Islands on that day) and shall be deemed to have complied with the requirements of section 63 of the Constitution and shall hold his seat in Parliament in accordance with the provisions of the Constitution.

(3) Any person who immediately before the appointed day holds the office of Speaker or Deputy Speaker of the existing Legislative Assembly shall on that day become the Speaker or, as the case may be, the Deputy Speaker of Parliament and shall hold office as such in accordance with the provisions of the Constitution.

(4) The rules and orders of the existing Legislative Assembly as in force immediately before the appointed day shall, except as may be otherwise provided under section 62 of the Constitution, have effect after the appointed day as if they had been made under that section but shall be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with this Order.

(5) Notwithstanding anything in section 73(3) of the Constitution, Parliament shall, unless sooner dissolved, stand dissolved on 1st June 1980.

Public officers.

10.—(1) Every person who immediately before the appointed day holds or is acting in a public office shall, as from that day, hold or act in that office or the corresponding public office established by the Constitution as if he had been appointed to do so in accordance with the provisions of the Constitution and shall be deemed to have taken any oaths required upon such appointment by any existing law:

Provided that any person who under the existing Constitution or any existing law would have been required to vacate office at the expiration of any period or on the attainment of any age shall vacate his office under the Constitution upon the expiration of that period or upon the attainment of that age.

(2) The provisions of this section shall be without prejudice to any powers conferred by or under the Constitution upon any person or authority to make provision for the abolition of offices and for the removal from office of persons holding or acting in any office.

(3) For the purpose of administering the oaths to be taken by the first Governor-General under section 29 of the Constitution, the Chief Justice (or such other judge of the High Court or the Court of Appeal as the Chief Justice may have designated under that section) shall be deemed to have taken the oaths required by section 141 of the Constitution.

Transitional provisions relating to Commissions.

11.—(1) Any person who immediately before the appointed day holds or is acting in any office to which this subsection applies shall, as from that day, hold or act in the corresponding office established by the Constitution as if he had been appointed to do so in accordance with the provisions of the Constitution:

Provided that any such person who under the provisions of the existing Constitution would have been required to vacate his office on the expiration of any period or at any other time specified in the instrument by which he was appointed shall vacate his office at the expiration of that period or at that time.

(2) Subsection (1) of this section applies to the following offices of members of Commissions established by Chapter V of the existing Constitution—

(*a*) any member of the Public Service Commission;

(*b*) the member of the Judicial and Legal Service Commission appointed under section 68A(2)(*d*) of the existing Constitution; and

(*c*) the member of the Police Service Commission appointed under section 68C(2)(*c*) of the existing Constitution.

(3) Any power that, immediately before the appointed day, is vested in a Commission established by Chapter V of the existing Constitution and that under that Constitution is then delegated to some other person or authority shall be deemed to have been delegated to that person or authority on the appointed day in accordance with the provisions of the Constitution; and any proceedings commenced or pending before any such Commission immediately before the appointed day may be carried on before the corresponding Commission established by Chapter XIII of the Constitution.

Legal proceedings.

12.—(1) All proceedings commenced or pending immediately before the appointed day before the High Court or the Court of Appeal established by the existing Constitution may continue on and after that day before the High Court or the Court of Appeal, as the case may be, established by the Constitution.

(2) Any decision given before the appointed day by the High Court or the Court of Appeal established by the existing Constitution shall for the purposes of its enforcement or, in the case of a decision given by the High Court, for the purpose of any appeal therefrom, have effect on and after that day as if it were a decision of the High Court or the Court of Appeal, as the case may be, established by the Constitution.

(3) Sections 85 to 89 of the Constitution shall come into operation on such date as the Governor-General may by order prescribe, and any such order may make such transitional provision as to pending proceedings or otherwise as the Governor-General thinks fit.

(4) Notwithstanding the provisions of this section, until such time as the Court of Appeal is established under section 85 of the Constitution, appeals from the High Court shall lie to the Court of Appeal of Fiji or such other court as Parliament may prescribe.

Provincial government.

13. Until further provision is made by Parliament under section 114 of the Constitution—

(*a*) provincial government in Solomon Islands shall be regulated by the provisions of the Local Government Ordinance(a) subject to such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with the provisions of the Constitution; and

(*b*) each Local Council shall be redesignated Provincial Assembly, and each Area Committee shall be redesignated Area Council.

Alteration of this Order.

14.—(1) Parliament may alter any of the provisions of this Order in the same manner as it may alter any of the provisions of the Constitution not specified in section 61(2) of the Constitution:

(a) Cap. 14.

Provided that subsections (1), (2), (3) and (5) of section 9, section 10, subsections (1) and (2) of section 11 and this section may be altered by Parliament only in the same manner as the provisions so specified.

(2) Section 61(5) of the Constitution shall apply for the purpose of construing references in this section to any provision of this Order and to the alteration of any such provision as it applies for the purpose of construing references in section 61 of the Constitution to any provision of the Constitution and to the alteration of any such provision.

N. E. Leigh,
Clerk of the Privy Council.

THE CONSTITUTION OF SOLOMON ISLANDS

ARRANGEMENT OF SECTIONS

CHAPTER I

THE STATE AND THE CONSTITUTION

Section
1. The State and Head of State.
2. Constitution is supreme law.

CHAPTER II

PROTECTION OF FUNDAMENTAL RIGHTS AND FREEDOMS OF THE INDIVIDUAL

3. Fundamental rights and freedoms of the individual.
4. Protection of right to life.
5. Protection of right to personal liberty.
6. Protection from slavery and forced labour.
7. Protection from inhuman treatment.
8. Protection from deprivation of property.
9. Protection for privacy of home and other property.
10. Provisions to secure protection of law.
11. Protection of freedom of conscience.
12. Protection of freedom of expression.
13. Protection of freedom of assembly and association.
14. Protection of freedom of movement.
15. Protection from discrimination on grounds of race, etc.
16. Provisions for periods of public emergency.
17. Compensation for contravention of rights and freedoms.
18. Enforcement of protective provisions.
19. Interpretation and savings.

CHAPTER III

CITIZENSHIP

20. Persons who become citizens on Independence Day.
21. Persons entitled to be registered as citizens after Independence Day.
22. Persons born on or after Independence Day.
23. Avoidance of dual nationality.
24. Commonwealth citizens.
25. Powers of Parliament.
26. Interpretation.

CHAPTER IV

THE GOVERNOR-GENERAL

Section
27. Establishment of office of Governor-General.
28. Acting Governor-General.
29. Oaths to be taken by Governor-General.

CHAPTER V

THE EXECUTIVE

30. Executive authority of Solomon Islands.
31. Exercise of Governor-General's functions.
32. Governor-General to be kept informed.
33. Ministers.
34. Tenure of office of Ministers.
35. The Cabinet.
36. Proceedings in Cabinet.
37. Assignment of responsibilities to Ministers.
38. Performance of Prime Minister's functions during illness or absence.
39. Oaths to be taken by members of Cabinet.
40. Direction, etc. of Government departments.
41. Secretary to Cabinet.
42. Attorney-General.
43. Commissioner of Police.
44. Constitution of offices.
45. Prerogative of Mercy.

CHAPTER VI

THE NATIONAL LEGISLATURE

Part I—Parliament

46. Establishment of Parliament.
47. Composition of Parliament.
48. Qualifications for membership.
49. Disqualifications from membership.
50. Vacation of seats by members.
51. Vacation of seat on sentence, etc.
52. Determination of questions as to membership.
53. Constituency Boundaries Commission.
54. Constituencies.
55. Qualifications and disqualifications for registration as an elector.
56. Right to vote at elections.
57. Electoral Commission.
58. Functions of Electoral Commission.

Part II—Legislation and Procedure in Parliament

Section

59. Power to make laws.
60. Introduction of Bills, etc.
61. Alteration of Constitution.
62. Rules of procedure of Parliament.
63. Oath of allegiance.
64. The Speaker and Deputy Speaker.
65. Presiding in Parliament.
66. Leaders of opposition and independent groups in Parliament.
67. Quorum.
68. Proceedings in Parliament.
69. Privileges of Parliament and its members.
70. Proceedings of Parliament to be held in public.
71. Voting.
72. Sessions of Parliament.
73. Prorogation and dissolution.
74. General elections.

CHAPTER VII

THE LEGAL SYSTEM

Part I—The Application of Laws

75. Application of laws.
76. Common law and customary law, etc.

Part II—The Judiciary

(a) The High Court

77. Establishment of High Court.
78. Appointment of judges of High Court.
79. Acting judges and Commissioners of High Court.
80. Tenure of office of judges in High Court.
81. Judge may sit after appointment has terminated.
82. Seal of High Court.
83. Jurisdiction of High Court in constitutional questions.
84. High Court and subordinate courts.

Section

(b) The Court of Appeal

85. Establishment of Court of Appeal.
86. Appointment of judges of Court of Appeal.
87. Tenure of office of judges of Court of Appeal.
88. Judge may sit after appointment has terminated.
89. Seal of Court of Appeal.

(c) Rules of Court

90. Rules of court.

Part III—The Director of Public Prosecutions and the Public Solicitor

91. Director of Public Prosecutions.
92. Public Solicitor.

CHAPTER VIII

LEADERSHIP CODE

93. Application of this Chapter.
94. Responsibilities of office.
95. Further provisions.

CHAPTER IX

THE OMBUDSMAN

96. Office of Ombudsman.
97. Functions of Ombudsman.
98. Discharge of functions of Ombudsman.
99. Further provisions.

CHAPTER X

FINANCE

100. Consolidated Fund and Special Funds.
101. Withdrawal of money from Consolidated Fund.
102. Authorisation of expenditure.
103. Authorisation of expenditure in advance of appropriation.
104. Delay in Appropriation Act owing to dissolution.
105. Public debt and borrowing.
106. Imposition of taxation.
107. Remuneration of certain officers.
108. Auditor-General.
109. Interpretation.

CHAPTER XI

LAND

Section

110. Land.
111. Non-customary land.
112. Customary land.
113. Savings and interpretation.

CHAPTER XII

PROVINCIAL GOVERNMENT

114. Provincial government.

CHAPTER XIII

THE PUBLIC SERVICE

115. Public Service Commission.
116. Appointments etc. of public officers.
117. Judicial and Legal Service Commission.
118. Appointments etc. of judicial and legal officers.
119. Police and Prisons Service Commission.
120. Appointments of officers in Police Force.
121. Removal and discipline of members of Police Force.
122. Appeal.
123. Appointments of officers in Prisons Service.
124. Removal and discipline of members of Prisons Service.
125. Appeal.
126. Removal from office of members of Commissions.
127. Appointments etc. to particular offices.
128. Appointment of Permanent Secretaries.
129. Tenure of office of certain public officers.
130. Applicability of pensions law.
131. Pensions etc. charged on the Consolidated Fund.
132. Grant and withholding of pensions etc.

CHAPTER XIV

MISCELLANEOUS

133. Powers of appointment and acting appointments.
134. Reappointments and concurrent appointments.
135. Removal from office.

Section

136. Resignations.
137. Performance of functions of Commissions, etc.
138. Saving for jurisdiction of courts.
139. Power to amend and revoke instruments, etc.
140. Consultation.
141. Oaths.
142. National seal.
143. Establishment of certain offices.
144. Interpretation.
145. References to public office, etc.

SCHEDULE 1

FORMS OF OATHS AND AFFIRMATIONS

SCHEDULE 2

ELECTION OF PRIME MINISTER

SCHEDULE 3

APPLICATION OF LAWS

THE CONSTITUTION OF SOLOMON ISLANDS

We the people of Solomon Islands, proud of the wisdom and the worthy customs of our ancestors, mindful of our common and diverse heritage and conscious of our common destiny, do now, under the guiding hand of God, establish the sovereign democratic State of Solomon Islands;

As a basis of our united nation

DECLARE that

(*a*) all power in Solomon Islands belongs to its people and is exercised on their behalf by the legislature, the executive and the judiciary established by this Constitution;

(*b*) the natural resources of our country are vested in the people and the government of Solomon Islands;

AGREE AND PLEDGE that

(*a*) our government shall be based on democratic principles of universal suffrage and the responsibility of executive authorities to elect assemblies;

(*b*) we shall uphold the principles of equality, social justice and the equitable distribution of incomes;

(*c*) we shall respect and enhance human dignity and strengthen and build on our communal solidarity;

(*d*) we shall cherish and promote the different cultural traditions within Solomon Islands;

(*e*) we shall ensure the participation of our people in the governance of their affairs and provide within the framework of our national unity for the decentralisation of power;

AND for these purposes we now give ourselves this Constitution.

CHAPTER I

THE STATE AND THE CONSTITUTION

The State and Head of State.

1.—(1) Solomon Islands shall be a sovereign democratic State.

(2) Her Majesty shall be the Head of State of Solomon Islands.

Constitution is supreme law.

2. This Constitution is the supreme law of Solomon Islands and if any other law is inconsistent with this Constitution, that other law shall, to the extent of the inconsistency, be void.

CHAPTER II

PROTECTION OF FUNDAMENTAL RIGHTS AND FREEDOMS OF THE INDIVIDUAL

Fundamental rights and freedoms of the individual

3. Whereas every person in Solomon Islands is entitled to the fundamental rights and freedoms of the individual, that is to say, the right, whatever his race, place of origin, political opinions, colour, creed or sex, but subject to respect for the rights and freedoms of others and for the public interest, to each and all of the following, namely:—

(*a*) life, liberty, security of the person and the protection of the law;

(*b*) freedom of conscience, of expression and of assembly and association; and

(*c*) protection for the privacy of his home and other property and from deprivation of property without compensation,

the provisions of this Chapter shall have effect for the purpose of affording protection to those rights and freedoms subject to such limitations of that protection as are contained in those provisions, being limitations designed to ensure that the enjoyment of the said rights and freedoms by any individual does not prejudice the rights and freedoms of others or the public interest.

Protection of right to life.

4.—(1) No person shall be deprived of his life intentionally save in execution of the sentence of a court in respect of a criminal offence under the law in force in Solomon Islands of which he has been convicted.

(2) A person shall not be regarded as having been deprived of his life in contravention of this section if he dies as the result of the use, to such extent and in such circumstances as are permitted by law, of such force as is reasonably justifiable—

(*a*) for the defence of any person from violence or for the defence of property;

(*b*) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;

(*c*) for the purpose of suppressing a riot, insurrection or mutiny; or

(*d*) in order to prevent the commission by that person of a criminal offence,

or if he dies as the result of a lawful act of war.

Protection of right to personal liberty.

5.—(1) No person shall be deprived of his personal liberty save as may be authorised by law in any of the following cases, that is to say—

(*a*) in consequence of his unfitness to plead to a criminal charge;

(*b*) in execution of the sentence or order of a court, whether established for Solomon Islands or some other country, in respect of a criminal offence of which he has been convicted;

(*c*) in execution of the order of a court of record punishing him for contempt of that court or of a court inferior to it;

(*d*) in execution of the order of a court made to secure the fulfilment of any obligation imposed on him by law;

(*e*) for the purpose of bringing him before a court in execution of the order of a court;

(*f*) upon reasonable suspicion of his having committed, or being about to commit, a criminal offence under the law in force in Solomon Islands;

(*g*) in the case of a person who has not attained the age of eighteen years, under the order of a court or with the consent of his parent or guardian, for the purpose of his education or welfare;

(*h*) for the purpose of preventing the spread of an infectious or contagious disease;

(*i*) in the case of a person who is, or is reasonably suspected to be, of unsound mind, addicted to drugs or alcohol, or a vagrant, for the purpose of his care or treatment or the protection of the community;

(*j*) for the purpose of preventing the unlawful entry of that person into Solomon Islands, or for the purpose of effecting the expulsion, extradition or other lawful removal of that person from Solomon Islands or for the purpose of restricting that person while he is being conveyed through Solomon Islands in the course of his extradition or removal as a convicted prisoner from one country to another; or

(*k*) to such extent as may be necessary in the execution of a lawful order of a court requiring that person to remain within a specified area within Solomon Islands or prohibiting him from being within such an area, or to such extent as may be reasonably justifiable for the taking of proceedings against that person relating to the making of any such order, or to such extent as may be reasonably justifiable for restraining that person during any visit that he is permitted to make to any part of Solomon Islands in which, in consequence of any such order, his presence would otherwise be unlawful.

(2) Any person who is arrested or detained shall be informed as soon as reasonably practicable, and in a language that he understands, of the reasons for his arrest or detention.

(3) Any person who is arrested or detained—

(*a*) for the purpose of bringing him before a court in execution of the order of a court; or

(*b*) upon reasonable suspicion of his having committed, or being about to commit, a criminal offence under the law in force in Solomon Islands,

and who is not released, shall be brought without undue delay before a court; and if any person arrested or detained upon reasonable suspicion of his having committed or being about to commit a criminal offence is not tried within a reasonable time, then, without prejudice to any further proceedings that may be brought against him, he shall be released either unconditionally or upon reasonable conditions, including in particular such conditions as are reasonably necessary to ensure that he appears at a later date for trial or for proceedings preliminary to trial.

Protection from slavery and forced labour.

6.—(1) No person shall be held in slavery or servitude.

(2) No person shall be required to perform forced labour.

(3) For the purposes of this section, the expression "forced labour" does not include—

(*a*) any labour required in consequence of the sentence or order of a court;

(*b*) any labour required of any person while he is lawfully detained that, though not required in consequence of the sentence or order

of a court, is reasonably necessary in the interests of hygiene or for the maintenance of the place at which he is detained;

(*c*) any labour required of a member of a disciplined force in pursuance of his duties as such or, in the case of a person who has conscientious objections to service as a member of a naval, military or air force, any labour that that person is required by law to perform in place of such service;

(*d*) any labour required during any period of public emergency or in the event of any other emergency or calamity that threatens the life and well-being of the community, to the extent that the requiring of such labour is reasonably justifiable in the circumstances of any situation arising or existing during that period or as a result of that other emergency or calamity, for the purpose of dealing with that situation; or

(*e*) any labour reasonably required as part of reasonable and normal communal or other civic obligations.

Protection from inhuman treatment.

7. No person shall be subjected to torture or to inhuman or degrading punishment or other treatment.

Protection from deprivation of property.

8.—(1) No property of any description shall be compulsorily taken possession of, and no interest in or right over property of any description shall be compulsorily acquired, except where the following conditions are satisfied, that is to say—

(*a*) the taking of possession or acquisition is necessary or expedient in the interests of defence, public safety, public order, public morality, public health, town or country planning or the development or utilisation of any property in such a manner as to promote the public benefit; and

(*b*) there is reasonable justification for the causing of any hardship that may result to any person having an interest in or right over the property; and

(*c*) provision is made by a law applicable to that taking of possession or acquisition—

(i) for the payment of reasonable compensation (the valuable consideration of which may take the form of cash or some other form and may be payable by way of lump sum or by instalments) within a reasonable period of time having due regard to all the relevant circumstances; and

(ii) securing to any person having an interest in or right over the property a right of access to the High Court, whether direct or on appeal from any other authority, for the determination of his interest or right, the legality of the taking of possession or acquisition of the property, interest or right, and the reasonableness of the compensation and the period of time within which it shall be paid.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section—

(*a*) to the extent that the law in question makes provision for the taking of possession or acquisition of any property—

(i) in satisfaction of any tax, rate or duty;

(ii) by way of penalty for breach of the law or forfeiture in consequence of a breach of the law;

(iii) as an incident of a lease, tenancy, mortgage, charge, bill of sale, pledge or contract;

(iv) in the execution of judgments or orders of a court in proceedings for the determination of civil rights or obligations;

(v) in circumstances where it is reasonably necessary so to do because the property is in a dangerous state or injurious to the health of human beings, animals or plants;

(vi) in consequence of any law with respect to the limitation of actions or acquisitive prescription; or

(vii) for so long only as may be necessary for the purposes of any examination, investigation, trial or enquiry or, in the case of land, the carrying out thereon—

(A) of work of soil conservation or of conservation of other natural resources; or

(B) of work relating to agricultural development or improvement which the owner or occupier of the land has been required, and has without reasonable excuse refused or failed, to carry out,

except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society; or

(*b*) to the extent that the law in question makes provision for the taking of possession or acquisition of—

(i) enemy property;

(ii) property of a deceased person, a person of unsound mind, a person who has not attained the age of twenty-one years or a person who is absent from Solomon Islands, for the purpose of its administration for the benefit of the persons entitled to the beneficial interest therein;

(iii) property of a person declared to be insolvent or a body corporate in liquidation, for the purpose of its administration for the benefit of the creditors of the insolvent or body corporate and, subject thereto, for the benefit of other persons entitled to the beneficial interest in the property; or

(iv) property subject to a trust, for the purpose of vesting the property in persons appointed as trustees under the instrument creating the trust or by a court or, by order of a court, for the purpose of giving effect to the trust.

(3) Nothing in this section shall be construed as affecting the making or operation of any law for the compulsory taking of possession in the public interest of any property, or the compulsory acquisition in the public interest of any interest in or right over property, where that pro-

perty, interest or right is held by a body corporate established for public purposes by any law and in which no moneys have been invested other than moneys provided by the Government.

Protection for privacy of home and other property.

9.—(1) Except with his own consent, no person shall be subjected to the search of his person or his property or the entry by others on his premises.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision—

(*a*) in the interests of defence, public safety, public order, the prevention and investigation of breaches of the law, public morality, public health, town or country planning, the development and utilisation of mineral resources, or the development or utilisation of any other property in such a manner as to promote the public benefit;

(*b*) for the purpose of protecting the rights or freedoms of other persons;

(*c*) for the purpose of authorising an officer or agent of the Government, a provincial government authority or a body corporate established by law for a public purpose to enter on the premises of any person in order to inspect those premises or anything thereon for the purpose of any tax, rate or duty or in order to carry out work connected with any property that is lawfully on those premises and that belongs to the Government, that authority or that body corporate, as the case may be;

(*d*) for the purpose of authorising the entry upon any premises in pursuance of an order of a court for the purpose of enforcing the judgment or order of a court in any proceedings; or

(*e*) for the purpose of authorising the entry upon any premises for the purpose of preventing or detecting criminal offences,

and except so far as that provision or, as the case may be, anything done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

Provisions to secure protection of law.

10.—(1) If any person is charged with a criminal offence, then, unless the charge is withdrawn, that person shall be afforded a fair hearing within a reasonable time by an independent and impartial court established by law.

(2) Every person who is charged with a criminal offence—

(*a*) shall be presumed to be innocent until he is proved or has pleaded guilty;

(*b*) shall be informed as soon as reasonably practicable, in detail and in a language that he understands, of the nature of the offence charged;

(*c*) shall be given adequate time and facilities for the preparation of his defence;

(*d*) shall be permitted to defend himself before the court in person or, at his own expense, by a legal representative of his own choice;

(*e*) shall be afforded facilities to examine in person or by his legal representative the witnesses called by the prosecution before the court, and to obtain the attendance and carry out the examination of witnesses to testify on his behalf before the court on the same conditions as those applying to witnesses called by the prosecution; and

(*f*) shall be permitted to have without payment the assistance of an interpreter if he cannot understand the language used at the trial of the charge,

and, except with his own consent, the trial shall not take place in his absence unless he so conducts himself as to render the continuance of the proceedings in his presence impracticable and the court has ordered him to be removed and the trial to proceed in his absence.

(3) When a person is tried for any criminal offence, the accused person or any person authorised by him in that behalf shall, if he so requires and subject to payment of such reasonable fee as may be prescribed by law, be given within a reasonable time after judgment a copy for the use of the accused person of any record of the proceedings made by or on behalf of the court.

(4) No person shall be held to be guilty of a criminal offence on account of any act or omission that did not, at the time it took place, constitute such an offence, and no penalty shall be imposed for any criminal offence that is severer in degree or description than the maximum penalty that might have been imposed for that offence at the time when it was committed.

(5) No person who shows that he has been tried by a competent court for a criminal offence and either convicted or acquitted shall again be tried for that offence or for any other criminal offence of which he could have been convicted at the trial for that offence, save upon the order of a superior court in the course of appeal or review proceedings relating to the conviction or acquittal.

(6) No person shall be tried for a criminal offence if he shows that he has been pardoned for that offence.

(7) No person who is tried for a criminal offence shall be compelled to give evidence at the trial.

(8) Any court or other adjudicating authority prescribed by law for the determination of the existence or extent of any civil right or obligation shall be established or recognised by law and shall be independent and impartial; and where proceedings for such a determination are instituted by any person before such a court or other adjudicating authority, that person shall be given a fair hearing within a reasonable time.

(9) Except with the agreement of all the parties thereto, all proceedings of every court and proceedings for the determination of the existence or extent of any civil right or obligation before any other adjudicating authority, including the announcement of the decision of the court or other authority, shall be held in public.

(10) Nothing in the preceding subsection shall prevent the court or other adjudicating authority from excluding from the proceedings

persons other than the parties thereto and their legal representatives to such extent as the court or other authority—

(*a*) may by law be empowered so to do and may consider necessary or expedient in circumstances where publicity would prejudice the interests of justice or in interlocutory proceedings or in the interests of decency, public morality, the welfare of persons under the age of eighteen years or the protection of the private lives of persons concerned in the proceedings; or

(*b*) may by law be empowered or required so to do in the interests of defence, public safety or public order.

(11) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of—

(*a*) subsection (2)(*a*) of this section to the extent that the law in question imposes upon any person charged with a criminal offence the burden of proving particular facts;

(*b*) subsection (2)(*e*) of this section to the extent that the law in question imposes reasonable conditions that must be satisfied if witnesses called to testify on behalf of an accused person are to be paid their expenses out of public funds; or

(*c*) subsection (5) of this section to the extent that the law in question authorises a court to try a member of a disciplined force for a criminal offence notwithstanding any trial and conviction or acquittal of that member under the disciplinary law of that force, so, however, that any court so trying such a member and convicting him shall in sentencing him to any punishment take into account any punishment awarded him under that disciplinary law.

Protection of freedom of conscience.

11.—(1) Except with his own consent, no person shall be hindered in the enjoyment of his freedom of conscience, and for the purposes of this section the said freedom includes freedom of thought and of religion, freedom to change his religion or belief, and freedom, either alone or in community with others, and both in public and in private, to manifest and propagate his religion or belief in worship, teaching, practice and observance.

(2) Every religious community shall be entitled, at its own expense, to establish and maintain places of education and to manage any place of education which it wholly maintains.

(3) No religious community shall be prevented from providing religious instruction for persons of that community in the course of any education provided at any place of education which it wholly maintains or in the course of any education which it otherwise provides.

(4) Except with his own consent (or, if he is a person who has not attained the age of eighteen years, the consent of his guardian) no person attending any place of education shall be required to receive religious instruction or take part in or attend any religious ceremony or observance if that instruction, ceremony or observance relates to a religion other than his own.

(5) No person shall be compelled to take any oath which is contrary to his religion or belief or to take any oath in a manner which is contrary to his religion or belief.

(6) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision which is reasonably required—

(*a*) in the interests of defence, public safety, public order, public morality or public health; or

(*b*) for the purpose of protecting the rights and freedoms of other persons, including the right to practise and observe any religion without the unsolicited intervention of members of any other religion,

and except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

(7) Nothing in this section shall affect the power of Parliament to prescribe the curriculum and related matters in all places of education within Solomon Islands.

(8) References in this section to a religion shall be construed as including references to a religious denomination, and cognate expressions shall be construed accordingly.

Protection of freedom of expression.

12.—(1) Except with his own consent, no person shall be hindered in the enjoyment of his freedom of expression, and for the purposes of this section the said freedom includes the freedom to hold opinions without interference, freedom to receive ideas and information without interference, freedom to communicate ideas and information without interference and freedom from interference with his correspondence.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision—

(*a*) in the interests of defence, public safety, public order, public morality or public health;

(*b*) for the purpose of protecting the reputations, rights and freedoms of other persons or the private lives of persons concerned in legal proceedings, preventing the disclosure of information received in confidence, maintaining the authority and independence of the courts, or regulating the administration or the technical operation of telephony, telegraphy, posts, wireless, broadcasting or television; or

(*c*) that imposes restrictions upon public officers,

and except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

Protection of freedom of assembly and association.

13.—(1) Except with his own consent, no person shall be hindered in the enjoyment of his freedom of assembly and association, that is to say, his right to assemble freely and associate with other persons and in particular to form or belong to political parties or to form or belong to trade unions or other associations for the protection of his interests.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision—

(*a*) in the interests of defence, public safety, public order, public morality or public health;

(*b*) for the purpose of protecting the rights or freedoms of other persons; or

(*c*) that imposes restrictions upon public officers,

and except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

Protection of freedom of movement.

14.—(1) No person shall be deprived of his freedom of movement, and for the purposes of this section the said freedom means the right to move freely throughout Solomon Islands, the right to reside in any part of Solomon Islands, the right to enter Solomon Islands and immunity from expulsion from Solomon Islands.

(2) Any restriction on a person's freedom of movement that is involved in his lawful detention shall not be held to be inconsistent with or in contravention of this section.

(3) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision—

(*a*) for the imposition of restrictions on the movement or residence within Solomon Islands of any person or on any person's right to leave Solomon Islands that are reasonably required in the interests of defence, public safety or public order;

(*b*) for the imposition of restrictions on the movement or residence within Solomon Islands or on the right to leave Solomon Islands of persons generally or any class of persons that are reasonably required in the interests of defence, public safety, public order, public morality or public health;

(*c*) for the imposition of restrictions on the movement or residence within Solomon Islands of any person who is not a citizen of Solomon Islands or the exclusion or expulsion from Solomon Islands of any such person;

(*d*) for the imposition of restrictions on the acquisition or use by any person of land or other property in Solomon Islands;

(*e*) for the imposition of restrictions upon the movement or residence within Solomon Islands of public officers;

(*f*) for the removal of a person from Solomon Islands to be tried or punished in some other country for a criminal offence under the law of that other country or to undergo imprisonment in that other country in execution of the sentence of a court in respect of a criminal offence under the law in force in Solomon Islands of which he has been convicted; or

(*g*) for the imposition of restrictions, by order of a court, on the movement or residence within Solomon Islands of any person or on any person's right to leave Solomon Islands either in consequence of his having been found guilty of a criminal offence under the law

in force in Solomon Islands or for the purpose of ensuring that he appears before a court at a later date for trial or for proceedings relating to his extradition or lawful removal from Solomon Islands,

and except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

(4) If any person whose freedom of movement has been restricted by virtue only of such a provision as is referred to in subsection (3) (*a*) or (*b*) of this section so requests at any time during the period of that restriction not earlier than six months after he last made such a request during that period, his case shall be reviewed by an independent and impartial tribunal presided over by a person, qualified to be admitted to practise in Solomon Islands as an advocate or as a barrister and solicitor, appointed by the Chief Justice.

(5) On any review by a tribunal in pursuance of the preceding subsection of the case of a person whose freedom of movement has been restricted, the decision of the tribunal concerning the necessity or expediency of continuing the restriction shall be binding on the authority by which it was ordered.

Protection from discrimination on grounds of race, etc.

15.—(1) Subject to the provisions of subsections (5), (6) and (9) of this section, no law shall make any provision that is discriminatory either of itself or in its effect.

(2) Subject to the provisions of subsections (7), (8) and (9) of this section, no person shall be treated in a discriminatory manner by any person acting by virtue of any written law or in the performance of the functions of any public office or any public authority.

(3) Subject to the provisions of subsection (9) of this section, no person shall be treated in a discriminatory manner in respect of access to shops, hotels, lodging-houses, public restaurants, eating-houses or places of public entertainment or in respect of access to places of public resort maintained wholly or partly out of public funds or dedicated to the use of the general public.

(4) In this section, the expression "discriminatory" means affording different treatment to different persons attributable wholly or mainly to their respective descriptions by race, place of origin, political opinions, colour, creed or sex whereby persons of one such description are subjected to disabilities or restrictions to which persons of another such description are not made subject or are accorded privileges or advantages which are not accorded to persons of another such description.

(5) Subsection (1) of this section shall not apply to any law so far as that law makes provision—

(*a*) for the imposition of taxation or the appropriation of revenue by the Government or any provincial government or assembly for local purposes;

(*b*) with respect to persons who are not citizens of Solomon Islands;

(*c*) for the application, in the case of persons of any such description as is mentioned in the preceding subsection (or of persons connected with such persons), of the law with respect to adoption, marriage, divorce, burial, devolution of property on death or other like matters that is the personal law applicable to persons of that description;

(*d*) for the application of customary law;

(*e*) with respect to land, the tenure of land, the resumption and acquisition of land and other like purposes;

(*f*) for the advancement of the more disadvantaged members of the community; or

(*g*) whereby persons of any such description as is mentioned in the preceding subsection may be subjected to any disability or restriction or may be accorded any privilege or advantage which, having regard to its nature and to special circumstances pertaining to those persons or to persons of any other such description, is reasonably justifiable in a democratic society.

(6) Nothing contained in any law shall be held to be inconsistent with or in contravention of subsection (1) of this section to the extent that it makes provision with respect to standards or qualifications (not being standards or qualifications specifically relating to race, place of origin, political opinions, colour, creed or sex) to be required of any person who is appointed to any office in the public service, any office in a disciplined force, any office in the service of a provincial government or any office in a body corporate established directly by any law for public purposes, or who wishes to engage in any trade or business.

(7) Subsection (2) of this section shall not apply to anything which is expressly or by necessary implication authorised to be done by any such provision of law as is referred to in subsection (5) or (6) of this section.

(8) Subsection (2) of this section shall not affect any discretion relating to the institution, conduct or discontinuance of civil or criminal proceedings in any court that is vested in any person by or under this Constitution or any other law.

(9) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision whereby persons of any such description as is mentioned in subsection (4) of this section may be subjected to any restriction on the rights and freedoms guaranteed by sections 9, 11, 12, 13 and 14 of this Constitution, being such a restriction as is authorised by section 9(2), 11(6), 12(2), 13(2) or 14(3), as the case may be.

Provisions for periods of public emergency.

16.—(1) In this Chapter "period of public emergency" means any period during which—

(*a*) Solomon Islands is at war; or

(*b*) there is in force a declaration made under the provisions of this section.

(2) The Governor-General may at any time by proclamation declare that a state of public emergency exists and as soon as practicable shall publish such proclamation in the Gazette.

(3) A declaration made under subsection (2) of this section shall cease to have effect on the expiration of a period of seven days commencing with the day on which the declaration is made unless before the expiration of that period it has been approved by a resolution of Parliament supported by the votes of at least two-thirds of all the members thereof:

Provided that, if a declaration is made during any period when Parliament is not sitting, Parliament shall be convened not later than two weeks after the day on which the declaration is made and the period of seven days referred to in this subsection shall commence on the day on which Parliament convened.

(4) A declaration made under subsection (2) of this section may at any time before it has been approved by a resolution of Parliament be revoked by the Governor-General by a proclamation published in the Gazette.

(5) A declaration made under subsection (2) of this section and approved by a resolution of Parliament under subsection (3) shall continue in force until the expiration of a period of four months commencing with the day on which the declaration is made or until such earlier date as may be specified in the resolution.

(6) Notwithstanding the provisions of subsection (5) of this section, a declaration made under subsection (2) and approved by a resolution of Parliament under subsection (3) may at any time be revoked by a resolution of Parliament supported by the votes of a majority of all the members thereof.

(7) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of section 5, 6(2), 9, 11, 12, 13, 14 or 15 of this Constitution to the extent that the law in question makes in relation to any period of public emergency provision, or authorises the doing during any such period of any thing, that is reasonably justifiable in the circumstances of any situation arising or existing during the period for the purpose of dealing with that situation.

(8) Where a person is detained by virtue of a law that authorises the taking during a period of public emergency of measures that are reasonably justifiable for the purpose of dealing with the situation that exists in Solomon Islands during that period, the following provisions shall apply, that is to say—

(*a*) he shall, as soon as reasonably practicable, be furnished with a statement in writing, in a language that he understands, specifying in detail the grounds upon which he is detained;

(*b*) the announcement of his detention shall be made as soon as possible, and not more than fourteen days after the commencement of his detention a notification shall be published in the Gazette stating that he has been detained and giving particulars of the provision of law under which his detention is authorised;

(*c*) not more than one month after the commencement of his detention and thereafter during his detention at intervals of not more than six months, his case shall be reviewed by an independent and impartial tribunal established by law consisting of a Chairman appointed by the Chief Justice and two other persons appointed by the Judicial and Legal Service Commission;

(*d*) he shall be afforded reasonable facilities to consult a legal representative of his own choice who shall be permitted to make representations to the tribunal; and

(*e*) at the hearing of his case by the tribunal he shall be permitted to appear in person or by a legal representative of his own choice.

(9) On any review by a tribunal in pursuance of subsection (8) of this section of the case of a detained person, the decision of the tribunal concerning the necessity or expediency of continuing his detention shall be binding on the authority by which it was ordered.

(10) Nothing contained in paragraph (*d*) or (*e*) of subsection (8) of this section shall be construed as entitling a person to legal representation at public expense.

Compensation for contravention of rights and freedoms.

17. Any person any of whose rights or freedoms under this Chapter has been contravened shall be entitled to compensation for the contravention thereof from the person or authority which contravened it.

Enforcement of protective provisions.

18.—(1) Subject to the provisions of subsection (6) of this section, if any person alleges that any of the provisions of sections 3 to 16 (inclusive) of this Constitution has been, is being or is likely to be contravened in relation to him (or, in the case of a person who is detained, if any other person alleges such a contravention in relation to the detained person) then, without prejudice to any other action with respect to the same matter which is lawfully available, that person (or that other person) may apply to the High Court for redress.

(2) The High Court shall have original jurisdiction—

(*a*) to hear and determine any application made by any person in pursuance of the preceding subsection;

(*b*) to determine any question arising in the case of any person which is referred to it in pursuance of the next following subsection,

and may make such orders, issue such writs and give such directions, including the payment of compensation, as it may consider appropriate for the purpose of enforcing or securing the enforcement of any of the provisions of sections 3 to 16 (inclusive) of this Constitution:

Provided that the High Court may decline to exercise its powers under this subsection if it is satisfied that adequate means of redress for the contravention alleged are or have been available to the person concerned under any other law.

(3) If in any proceedings in any subordinate court any question arises as to the contravention of any of the provisions of sections 3 to 16

(inclusive) of this Constitution, the person presiding in that court may, and shall if any party to the proceedings so requests, refer the question to the High Court unless, in his opinion, the raising of the question is merely frivolous or vexatious.

(4) Any person aggrieved by any determination of the High Court under this section may appeal therefrom to the Court of Appeal:

Provided that no appeal shall lie from a determination of the High Court under this section dismissing an application on the ground that it is frivolous or vexatious.

(5) Parliament may confer upon the High Court powers additional to those conferred by this section for the purpose of enabling that court more effectively to exercise the jurisdiction conferred upon it by this section.

(6) Rules of court making provision with respect to the practice and procedure of the High Court in relation to the jurisdiction conferred on it by or under this section (including rules with respect to the time within which any application or reference shall or may be made or brought) may be made by the person or authority for the time being having power to make rules of court with respect to the practice and procedure of that court generally.

Interpretation and savings.

19.—(1) In this Chapter, unless the context otherwise requires—

"contravention", in relation to any requirement, includes a failure to comply with that requirement, and cognate expressions shall be construed accordingly;

"court" means any court of law having jurisdiction in Solomon Islands, other than a court established by a disciplinary law, and includes in sections 4 and 6 of this Constitution a court established by a disciplinary law;

"disciplinary law" means a law regulating the discipline of any disciplined force;

"disciplined force" means—

(*a*) any naval, military or air force;
(*b*) the Solomon Islands Fire Service;
(*c*) the Prisons Service;
(*d*) the Marine Division;
(*e*) the Police Force;
(*f*) the Special Constabulary; or
(*g*) any other constabulary or police force established by Parliament;

"member", in relation to a disciplined force, includes any person who, under the law regulating the discipline of that force, is subject to that discipline.

(2) Nothing contained in sections 12, 13 and 14 of this Constitution shall be construed as precluding the inclusion in the terms and conditions of service of public officers of reasonable requirements as to their communication or association with other persons or as to their movements or residence.

(3) In relation to any person who is a member of a disciplined force of Solomon Islands, nothing contained in or done under the authority of the disciplinary law of that force shall be held to be inconsistent with or in contravention of any of the provisions of this Chapter other than sections 4, 6, 7, 8 and 15.

(4) In relation to any person who is a member of a disciplined force that is not a disciplined force of Solomon Islands and who is present in Solomon Islands in pursuance of arrangements made between the Government of Solomon Islands and another Government or an international organisation, nothing contained in or done under the authority of the disciplinary law of that force shall be held to be inconsistent with or in contravention of any of the provisions of this Chapter.

(5) No measure taken in relation to a person who is a member of a disciplined force of a country with which Solomon Islands is at war and no law, to the extent that it authorises the taking of any such measures, shall be held to be inconsistent with or in contravention of any of the provisions of this Chapter.

CHAPTER III

CITIZENSHIP

Persons who become citizens on Independence Day.

20.—(1) (*a*) Every person who is immediately before Independence Day an indigenous Solomon Islander shall become a citizen of Solomon Islands on Independence Day.

(*b*) Every person who was born in Solomon Islands before Independence Day and who has or had two grandparents who are or were members of a group, tribe or line indigenous to Papua New Guinea or the New Hebrides shall become a citizen of Solomon Islands on Independence Day.

(2) Every person who before Independence Day has made, or been included in, an application to the Government for citizenship of Solomon Islands containing the information specified in subsection (4) of this section and who at the time of making such application possessed any of the qualifications specified in subsection (3) of this section shall become a citizen of Solomon Islands on Independence Day.

(3) The qualifications referred to in subsection (2) of this section and subsection (1) of the next following section are that the person concerned, not being an indigenous Solomon Islander, is—

(*a*) a woman married to an indigenous Solomon Islander; or

(*b*) a citizen of the United Kingdom and Colonies or a British protected person who was born in Solomon Islands; or

(*c*) a citizen of the United Kingdom and Colonies or a British protected person having acquired such status under the British Nationality Acts 1948 to 1965(a) by virtue of his having been naturalised or registered under those Acts, or naturalised as a British subject before 1949, by the Governor of the former protectorate of the Solomon Islands; or

(*d*) a citizen of the United Kingdom and Colonies or a British protected person whose father possesses, or at his death possessed, one of the qualifications specified in paragraph (*b*) or (*c*) of this subsection; or

(*e*) a woman who has been married to a person who possesses, or at his death possessed, one of the qualifications specified in paragraph (*b*), (*c*) or (*d*) of this subsection; or

(*f*) a citizen of the United Kingdom and Colonies or a British protected person who was deemed to belong to Solomon Islands because such person—

(i) has lawfully resided in Solomon Islands for any period of seven years during which he has not been absent therefrom for a period or periods amounting in all to more than eighteen months and since the completion of such period of residence has not been ordinarily resident continuously for a period of two years or more in any other territory within the Commonwealth in circumstances in which he has acquired or retained a right of residence in that territory; or

(ii) is the wife of a person to whom the foregoing subparagraph applies not living apart from such person under a decree of a court or a deed of separation; or

(iii) is the child, step-child or child adopted in a manner recognised by law under the age of eighteen years of a person to whom either of the foregoing subparagraphs applies.

(4) The information required to be contained in an application for the purposes of this section and the next following section is as follows—

(*a*) the name, date and place of birth (so far as is known) of the applicant, of any other person included in the application or of a minor on whose behalf the application is made, together with, where applicable, the date of naturalisation or registration;

(*b*) a statement by the applicant whether or not he is including in his application his wife and minor children, if any, and in the case of an application including a wife, a statement by her that she consents to her inclusion in the application;

(*c*) if the applicant is applying on grounds that his father was born, naturalised or registered in Solomon Islands, also the father's name, place and date of birth (so far as is known) and, if relevant, the date of the father's naturalisation or registration;

(*d*) if the application is made by or on behalf of a woman on grounds of marriage to a man who, or whose father, was born, naturalised or registered in Solomon Islands, also the name, place and date of birth (so far as is known) and, if relevant, the date of naturalisation or registration of the man and, if necessary, his father;

(a) 1948 c. 56; 1958 c. 10; 1964 c. 22; 1964 c. 54; 1965 c. 34.

(*e*) a statement by the applicant that, if he is resident in Solomon Islands at the time of making application, he intends to continue such residence, or that, if he is not so resident at that time, he regards Solomon Islands as his home country;

(*f*) a declaration by the applicant of his allegiance to Solomon Islands and his respect for the culture, the language and the way of life of Solomon Islands; and

(*g*) a statement by the applicant that he intends to renounce any other nationality that he may hold at the time of making application.

(5) The reference in paragraph (*c*) of subsection (3) of this section to the Governor of the former protectorate of the Solomon Islands shall, in relation to any certificate of naturalisation granted or registration effected by some other officer in his capacity as the officer for the time being administering the Government of the former protectorate of the Solomon Islands, be construed as a reference to that officer.

(6) Every person who becomes a citizen of Solomon Islands on Independence Day by virtue of subsection (2) of this section shall receive a certificate of his acquisition of such citizenship as soon as practicable after Independence Day.

Persons entitled to be registered as citizens after Independence Day.

21.—(1) Every person who immediately before Independence Day possessed any of the qualifications specified in subsection (3) of the preceding section and who within the prescribed period has made, or been included in, an application to the Government for citizenship of Solomon Islands containing the information specified in subsection (4) of the preceding section shall be registered as a citizen of Solomon Islands.

(2) For the purposes of subsection (1) of this section, "the prescribed period" means the period beginning on Independence Day and expiring two years thereafter:

Provided that the Minister responsible for citizenship matters may extend that period in respect of such applications or classes of application where the applicant was, by reason of his absence from Solomon Islands or other reasonable cause, unaware of his right to apply, as he may think fit.

Persons born on or after Independence Day.

22. Every person born on or after Independence Day, whether within or outside Solomon Islands, shall become a citizen of Solomon Islands at the date of his birth if at that date either of his parents is, or would but for his death have been, a citizen of Solomon Islands.

Avoidance of dual nationality.

23.—(1) Subject to the provisions of subsection (2) of this section, any citizen of Solomon Islands who is a national of some other country shall cease to be a citizen of Solomon Islands at the expiry of two years after the date on which he acquired citizenship of Solomon Islands or attained the age of eighteen years, whichever is the later, or such longer period as may be prescribed by Parliament, unless before the expiry of that period he has renounced or lost the nationality of that other country or, if the law of that other country does not permit him to renounce that nationality, made such declaration as may be prescribed.

(2) Any person who, being aged eighteen years or more, acquired citizenship of Solomon Islands by virtue of section 20(2) or 21 of this Constitution and who is a national of some other country shall cease to be a citizen of Solomon Islands at the expiry of six months after the date on which he acquired citizenship of Solomon Islands or such longer period as may be prescribed by Parliament, unless before the expiry of that period he has renounced or lost the nationality of that other country or, if the law of that other country does not permit him to renounce that nationality, made such declaration as may be prescribed.

Common-wealth citizens

24.—(1) Every person who under this Chapter or any other law is a citizen of Solomon Islands or under any enactment for the time being in force in any country to which this section applies is a citizen of that country shall, by virtue of that citizenship, have the status of a Commonwealth citizen.

(2) Every person who is a British subject without citizenship under the British Nationality Act 1948, who continues to be a British subject under section 2 of that Act or is a British subject under the British Nationality Act 1965 shall, by virtue of that status, have the status of a Commonwealth citizen.

(3) Save as may be otherwise provided by Parliament, the countries to which this section applies are Australia, The Bahamas, Bangladesh, Barbados, Botswana, Canada, Cyprus, Fiji, The Gambia, Ghana, Grenada, Guyana, India, Jamaica, Kenya, Lesotho, Malawi, Malaysia, Malta, Mauritius, Nauru, New Zealand, Nigeria, Papua New Guinea, Seychelles, Sierra Leone, Singapore, Southern Rhodesia, Sri Lanka, Swaziland, Tanzania, Tonga, Trinidad and Tobago, Uganda, The United Kingdom and Colonies, Western Samoa and Zambia.

Powers of Parliament.

25. Parliament may make provision—

(*a*) for the acquisition of citizenship of Solomon Islands by persons who are not eligible or who are no longer eligible to become citizens of Solomon Islands by virtue of the provisions of this Chapter;

(*b*) for the deprivation and renunciation of citizenship of Solomon Islands held by any person who has attained the age of eighteen years.

Interpretation.

26.—(1) In this Chapter—

"British protected person" means a person who is a British protected person for the purposes of the British Nationality Act 1948;

"indigenous Solomon Islander" means any person who is, or one of whose parents is or was, a British protected person and of a group, tribe or line indigenous to Solomon Islands.

(2) Any reference in this Chapter to the father of a person shall, in relation to a person born out of wedlock, be construed as a reference to the mother of that person.

(3) For the purposes of this Chapter, a person born aboard a registered ship or aircraft, or aboard an unregistered ship or aircraft of the government of any country, shall be deemed to have been born in the place in which the ship or aircraft was registered or, as the case may be, in that country.

(4) For the purposes of this Chapter, an application shall be deemed to have been made on the date on which it is lodged with the Government or with any person who has been appointed by the Government to receive applications.

CHAPTER IV

THE GOVERNOR-GENERAL

Establishment of office of Governor-General.

27.—(1) There shall be a Governor-General of Solomon Islands who shall be appointed by the Head of State in accordance with an address from Parliament and who shall be the representative of the Head of State in Solomon Islands.

(2) A person shall not be qualified for appointment to the office of Governor-General unless he is qualified for election as a member of Parliament under Chapter VI of this Constitution.

(3) The office of Governor-General shall become vacant—

(*a*) at the expiration of five years from the date of his appointment; or

(*b*) if he is removed from office by the Head of State, in accordance with an address from Parliament supported by the votes of at least two-thirds of all the members thereof, for misbehaviour or for such other cause as may be prescribed by Parliament.

(4) No person may be appointed as Governor-General for more than two terms of office.

Acting Governor-General.

28. Whenever the office of Governor-General is vacant or the holder of the office is absent from Solomon Islands or is for any other reason unable to perform the functions of his office, those functions shall be performed by the Speaker or, if the office of Speaker is vacant or the holder of that office is likewise absent or unable to perform those functions, by the Chief Justice.

Oaths to be taken by Governor-General.

29. A person appointed to the office of Governor-General or assuming the functions of that office under the preceding section shall, before entering upon the duties of that office, take and subscribe the oath of allegiance and the oath of office as prescribed in Schedule 1 to this Constitution, such oaths being administered by the Chief Justice or such other judge of the High Court or the Court of Appeal as may be designated by the Chief Justice.

CHAPTER V

THE EXECUTIVE

Executive authority of Solomon Islands.

30.—(1) The executive authority of the people of Solomon Islands is vested in the Head of State.

(2) Save as otherwise provided in this Constitution, that authority may be exercised on behalf of the Head of State by the Governor-General either directly or through officers subordinate to him.

(3) Nothing in this section shall preclude persons or authorities other than the Governor-General from exercising such functions as may be conferred upon them by any law.

Exercise of Governor-General's functions.

31.—(1) In the exercise of his functions under this Constitution or any other law, the Governor-General shall act in accordance with the advice of the Cabinet or of a Minister acting under the general authority of the Cabinet except in cases where he is required by this Constitution to act in accordance with the advice of, or after consultation with, any person or authority other than the Cabinet or in his own deliberate judgment.

(2) Where the Governor-General is required by this Constitution to exercise any function after consultation with any person or authority other than the Cabinet, he shall not be obliged to exercise that function in accordance with the advice of that person or authority.

(3) Where the Governor-General is required by this Constitution to act in accordance with the advice of, or after consultation with, any person or authority, the question whether he has in any matter so acted shall not be called in question in any court of law.

Governor-General to be kept informed.

32. The Prime Minister shall keep the Governor-General fully informed concerning the general conduct of the government of Solomon Islands and shall furnish the Governor-General with such information as he may request with respect to any particular matter relating to the government of Solomon Islands.

Ministers.

33.—(1) There shall be a Prime Minister who shall be elected as such by the members of Parliament from amongst their number in accordance with the provisions of Schedule 2 to this Constitution.

(2) There shall be, in addition to the office of Prime Minister, such other offices of Minister of the Government, not exceeding eleven or such greater number as Parliament may prescribe, as may be established by the Governor-General, acting in accordance with the advice of the Prime Minister:

Provided that one of such offices of Minister of the Government shall be that of Deputy Prime Minister.

(3) The Ministers other than the Prime Minister shall be appointed by the Governor-General, acting in accordance with the advice of the Prime Minister, from among the members of Parliament:

Provided that if occasion arises for making an appointment while Parliament is dissolved a person who was a member of Parliament immediately before the dissolution may be appointed.

Tenure of office of Ministers.

34.—(1) If a resolution of no confidence in the Prime Minister is passed by Parliament by an absolute majority of the votes of members thereof the Governor-General shall remove the Prime Minister from office, whereupon the members of Parliament shall meet as soon as possible during the same session of Parliament to elect a new Prime Minister in accordance with the provisions of Schedule 2 to this Constitution.

(2) A motion for a resolution of no confidence in the Prime Minister shall not be passed by Parliament unless notice of the motion has been given to the Speaker at least seven clear days before it is introduced.

(3) The office of Prime Minister shall also become vacant—

(*a*) when, after a general election, the members of Parliament meet to elect a Prime Minister in accordance with the provisions of Schedule 2 to this Constitution;

(*b*) if he ceases to be a member of Parliament for any reason other than a dissolution of Parliament;

(*c*) if he is elected as Speaker or Deputy Speaker; or

(*d*) if he resigns such office by writing under his hand addressed to the Governor-General.

(4) Subject to the next following subsection, during any period when the office of Prime Minister is vacant, the person who held that office immediately before the vacancy arose shall continue to perform the functions of Prime Minister until a person is elected to the office of Prime Minister in accordance with the provisions of Schedule 2 to this Constitution.

(5) If the person holding the office of Prime Minister dies, the Governor-General shall, after consultation with the other Ministers, appoint one of them to perform the functions of Prime Minister until a person is elected to the office of Prime Minister in accordance with the provisions of Schedule 2 to this Constitution.

(6) The office of a Minister other than the Prime Minister shall become vacant—

(*a*) upon the election of any person to the office of Prime Minister in accordance with the provisions of Schedule 2 to this Constitution;

(*b*) if he ceases to be a member of Parliament for any reason other than a dissolution of Parliament;

(*c*) if he is elected as Speaker or Deputy Speaker;

(*d*) if he resigns such office by writing under his hand addressed to the Governor-General; or

(*e*) if his appointment to the office of a Minister is revoked by the Governor-General, acting in accordance with the advice of the Prime Minister.

The Cabinet.

35.—(1) There shall be a Cabinet for Solomon Islands, consisting of the Prime Minister and the other Ministers.

(2) The functions of the Cabinet shall be to advise the Governor-General in the government of Solomon Islands and the Cabinet shall be collectively responsible to Parliament for any advice given to the Governor-General by or under the general authority of the Cabinet and for all things done by or under the authority of any Minister in the execution of his office.

(3) The provisions of the preceding subsection shall not apply in relation to—

(*a*) the appointment and removal from office of Ministers, the assigning of responsibility to any Minister under section 37 of this Constitution, or the authorisation of another Minister to perform the functions of the Prime Minister during illness or absence; or

(*b*) the matters referred to in section 45 of this Constitution (which relate to the Prerogative of Mercy).

(4) The Attorney-General shall be the legal adviser to the Cabinet and as such shall attend the meetings of the Cabinet unless otherwise directed by the Cabinet.

Proceedings in Cabinet.

36.—(1) The Cabinet shall be summoned by the Prime Minister.

(2) The Prime Minister shall, so far as is practicable, attend and preside at all meetings of the Cabinet.

(3) No business except that of adjournment shall be transacted in the Cabinet if objection is taken by any member present that there are present less than a majority of the members for the time being of the Cabinet.

(4) Subject to the preceding subsection, the Cabinet shall not be disqualified for the transaction of business by reason of any vacancy in its membership, and any proceedings of the Cabinet shall be valid notwithstanding that some person who was not entitled to do so took part in those proceedings.

(5) The Prime Minister shall decide what business shall be considered at any meeting of the Cabinet.

(6) The person presiding in the Cabinet may summon any person to a meeting of the Cabinet, notwithstanding that that person is not a member of the Cabinet, when in the opinion of the person presiding the business of the Cabinet makes the presence of that person desirable:

Provided that a person shall not be under any obligation to answer any question put to him by any member of the Cabinet at such meeting.

Assignment of responsibilities to Ministers.

37. The Governor-General, acting in accordance with the advice of the Prime Minister, may, by directions in writing, assign to the Prime Minister or any other Minister responsibility for the conduct (subject to the provisions of this Constitution and any other law) of any business of the Government, including responsibility for the administration of any department of the Government.

Performance of Prime Minister's functions during illness or absence.

38.—(1) Whenever the Prime Minister is unable, by reason of illness or absence from Solomon Islands, to perform the functions conferred on him by this Constitution, those functions shall be performed by the

Deputy Prime Minister or, if he too is unable to do so, the Governor-General may, by directions in writing, authorise some other Minister to perform those functions (other than the functions conferred by this section) and that Minister may perform those functions until his authority is revoked by the Governor-General.

(2) The powers of the Governor-General under this section shall be exercised by him in accordance with the advice of the Prime Minister:

Provided that if the Governor-General, acting in his own deliberate judgment, considers that it is impracticable to obtain the advice of the Prime Minister owing to the Prime Minister's illness or absence, the Governor-General may exercise those powers without that advice and in his own deliberate judgment.

Oaths to be taken by members of Cabinet.

39. Before assuming the functions of his office every member of the Cabinet shall make before the Governor-General, or some person authorised in that behalf by the Governor-General, oaths of allegiance and for the due execution of his office in the forms set out in Schedule 1 to this Constitution.

Direction, etc. of Government departments.

40. Where any Minister has been charged with responsibility for the administration of any department of the Government, he shall exercise general direction and control over that department and, subject to such direction and control, any department in the charge of a Minister (including the office of the Prime Minister or any other Minister) shall be under the supervision of a Permanent Secretary or some other supervising officer whose office shall be a public office:

Provided that—

(*a*) any such department may be under the joint supervision of two or more supervising officers; and

(*b*) different parts of any such department may respectively be under the supervision of different supervising officers.

Secretary to Cabinet.

41.—(1) There shall be a Secretary to the Cabinet whose office shall be that of a Permanent Secretary.

(2) The Secretary to the Cabinet shall have charge of the office of the Cabinet and shall be responsible, in accordance with such instructions as may be given to him by the Prime Minister, for arranging the business for, and keeping the minutes of, the meetings of the Cabinet and for conveying the decisions of the Cabinet to the appropriate person or authority, and shall have such other functions as the Prime Minister may from time to time direct.

Attorney-General.

42.—(1) There shall be an Attorney-General whose office shall be a public office and who shall be the principal legal adviser to the Government.

(2) The Attorney-General shall be appointed by the Judicial and Legal Service Commission acting in accordance with the advice of the Prime Minister.

(3) No person shall be qualified to hold the office of Attorney-General unless he is entitled to practise in Solomon Islands as an advocate or as a barrister and solicitor.

(4) If the Minister responsible for justice is not a person entitled to practise in Solomon Islands as an advocate or as a barrister and solicitor, the person holding the office of Attorney-General shall be entitled to take part in the proceedings of Parliament as adviser to the Government:

Provided that he shall not be entitled to vote in Parliament or in any election for the office of Prime Minister.

Commissioner of Police.

43.—(1) There shall be a Commissioner of Police, whose office shall be a public office.

(2) The Commissioner of Police shall be appointed by the Governor-General, acting in accordance with the advice of the Prime Minister tendered after the Prime Minister has consulted the Police and Prisons Service Commission.

(3) The Police Force shall be under the command of the Commissioner of Police.

(4) The Prime Minister, or such other Minister as may be authorised in that behalf by the Prime Minister, may give to the Commissioner of Police such general directions of policy with regard to the maintenance of public safety and public order as he may consider necessary and the Commissioner shall comply with such directions or cause them to be complied with.

(5) Nothing in this section shall be construed as precluding the assignment to a Minister of responsibility under section 37 of this Constitution for the organisation, maintenance and administration of the Police Force, but the Commissioner of Police shall be responsible for determining the use and controlling the operations of the Force and, except as provided in the preceding subsection, the Commissioner shall not, in the exercise of his responsibilities and powers with respect to the use and operational control of the Force, be subject to the direction or control of any person or authority.

Constitution of offices.

44. Subject to the provisions of this Constitution and of any other law, the Governor-General, acting on the advice of the Prime Minister, may constitute offices for Solomon Islands, make appointments to any such office and terminate any such appointment.

Prerogative of Mercy.

45.—(1) The Governor-General may, in the name and on behalf of the Head of State—

(*a*) grant to any person convicted of any offence under the law of Solomon Islands a pardon, either free or subject to lawful conditions;

(*b*) grant to any person a respite, either indefinite or for a specified period, of the execution of any punishment imposed on that person for such an offence;

(*c*) substitute a less severe form of punishment for any punishment imposed on any person for such an offence; or

(*d*) remit the whole or any part of any punishment imposed on any person for such an offence or any penalty or forfeiture otherwise due to the Crown on account of such an offence.

(2) There shall be a Committee on the Prerogative of Mercy (in this section referred to as "the Committee") which shall consist of the following members—

(*a*) a Chairman and two other persons, one of whom shall be a qualified medical practitioner and the other of whom shall be a social worker, appointed by the Governor-General in his own deliberate judgment; and

(*b*) one person nominated by the provincial assembly of the province in which the person whose case is being reviewed ordinarily resides.

(3) The provincial assembly of every province shall as soon as it is elected nominate a person for the purposes of subsection (2) (*b*) of this section for such period as it deems appropriate.

(4) A member of the Committee appointed under subsection (2) (*a*) of this section shall vacate his seat on the Committee—

(*a*) at the expiration of the term of his appointment (if any) specified in the instrument of his appointment; or

(*b*) if his appointment is revoked by the Governor-General, acting in his own deliberate judgment.

(5) In the exercise of the powers conferred upon him by subsection (1) of this section, the Governor-General shall act in accordance with the advice of the Committee.

(6) The validity of the transaction of any business by the Committee shall not be affected by reason only of the fact that some person who was not entitled to do so took part in the proceedings.

(7) Whenever any person has been sentenced to death (otherwise than by a court-martial) for an offence, a report on the case by the judge who presided at the trial (or, if a report cannot be obtained from that judge, a report on the case by the Chief Justice), together with such other information derived from the record of the case or elsewhere as may be required by or furnished to the Committee shall be taken into consideration at a meeting of the Committee, which shall then advise the Governor-General whether or not to exercise his powers under subsection (1) of this section in that case.

CHAPTER VI

THE NATIONAL LEGISLATURE

Part I—Parliament

Establishment of Parliament.

46. There shall be a national legislature for Solomon Islands, which shall consist of a single chamber and shall be known as the National Parliament of Solomon Islands.

Composition of Parliament.

47.—(1) Parliament shall consist of persons elected in accordance with the provisions of this Constitution and, subject thereto, in such manner as may be prescribed.

(2) Each of the constituencies prescribed under section 54(1) of this Constitution shall return one member of Parliament.

Qualifications for membership.

48. Subject to the provisions of the next following section, a person shall be qualified for election as a member of Parliament if, and shall not be so qualified unless—

(*a*) he is a citizen of Solomon Islands; and

(*b*) he has attained the age of twenty-one years.

Disqualifications from membership.

49.—(1) No person shall be qualified for election as a member of Parliament who—

(*a*) is, by virtue of his own act, under any acknowledgement of allegiance, obedience or adherence to a foreign power or state;

(*b*) holds, or is acting in, any public office;

(*c*) is an undischarged bankrupt, having been adjudged or otherwise declared bankrupt under any law for the time being in force in any part of the Commonwealth;

(*d*) is certified to be insane or otherwise adjudged to be of unsound mind under any law for the time being in force in Solomon Islands;

(*e*) is under sentence of death imposed on him by a court in any part of the world, or is under a sentence of imprisonment (by whatever name called) for a term of, or exceeding, six months, other than a sentence in lieu of a fine, but including a suspended sentence, imposed on him by such a court or substituted by competent authority for some other sentence imposed on him by such a court;

(*f*) is disqualified from membership of Parliament or from registration as an elector or from voting at elections under any law for the time being in force in Solomon Islands relating to offences connected with elections; or

(*g*) holds, or is acting in, any office the functions of which involve any responsibility for, or in connection with, the conduct of any election to Parliament or the compilation or revision of any electoral register for that purpose.

(2) For the purpose of paragraph (*e*) of the preceding subsection two or more terms of imprisonment that are required to be served consecutively shall be regarded as a single term of imprisonment for the aggregate period of those terms.

Vacation of seats by members.

50. A member of Parliament shall vacate his seat—

(*a*) on a dissolution of Parliament;

(*b*) if he resigns his seat by writing under his hand addressed to the Speaker;

(*c*) if he is elected as Speaker;

(*d*) if he is appointed as Governor-General;

(*e*) if he is absent from two consecutive meetings of Parliament without having obtained from the person presiding, before the termination of either meeting, permission to be or to remain absent therefrom unless, in the opinion of the Speaker (or, if the office of Speaker is vacant or he is for any reason unable to perform the functions of his office, the Deputy Speaker), such absence was due to causes beyond the member's control;

(*f*) if any circumstance arises that, if he were not a member of Parliament, would cause him to be disqualified from election thereto by virtue of paragraph (*a*), (*b*), (*d*), (*f*) or (*g*) of subsection (1) of the preceding section; or

(*g*) in the circumstances mentioned in the next following section.

Vacation of seat on sentence, etc.

51.—(1) Subject to the provisions of this section, if a member of Parliament is sentenced by a court in any part of the world to death or to imprisonment (by whatever name called) for a term of, or exceeding, six months, including a suspended sentence, he shall forthwith cease to perform his functions as a member of Parliament, and his seat in Parliament shall become vacant at the expiration of a period of thirty days thereafter:

Provided that the Speaker (or, if the office of Speaker is vacant or he is for any reason unable to perform the functions of his office, the Deputy Speaker) may, at the request of the member, from time to time extend that period for thirty days to enable the member to pursue any appeal in respect of his conviction or sentence so however that extensions of time exceeding in the aggregate one hundred and fifty days shall not be given without the approval of Parliament signified by resolution.

(2) If at any time before the member vacates his seat he is granted a free pardon or his conviction is set aside or his sentence is reduced to a term of imprisonment of less than six months or a punishment other than imprisonment is substituted, his seat in Parliament shall not become vacant under the provisions of this section, and he may again perform his functions as a member of Parliament.

(3) For the purposes of this section—

(*a*) two or more terms of imprisonment that are required to be served consecutively shall be regarded as a single term of imprisonment for the aggregate period of those terms; and

(*b*) no account shall be taken of a sentence of imprisonment imposed as an alternative to or in default of the payment of a fine.

Determination of questions as to membership.

52.—(1) The High Court shall have jurisdiction to hear and determine any question whether—

(*a*) any person has been validly elected as a member of Parliament; or

(*b*) any member of Parliament has vacated his seat therein or is required by virtue of section 51 of this Constitution to cease to perform his functions as a member.

(2) No appeal shall lie from any decision of the High Court in proceedings under the preceding subsection.

Constituency Boundaries Commission.

53.—(1) There shall be a Constituency Boundaries Commission consisting of—

(*a*) a Chairman and two other members (in this section referred to as "the appointed members") appointed by the Governor-General, acting in accordance with the advice of the Judicial and Legal Service Commission; and

(*b*) the persons for the time being holding the offices of Chief Surveyor and Head of the Government's Statistical Services, who shall be members of the Commission *ex officio*.

(2) A person shall not be qualified to be an appointed member of the Commission if he is a member of, or a candidate for election to, Parliament or any provincial assembly.

(3) Subject to the provisions of the next following subsection, an appointed member of the Commission shall vacate his office—

(*a*) at the expiration of the period specified in the instrument by which he was appointed; or

(*b*) if any circumstances arise that, if he were not a member of the Commission, would cause him to be disqualified from appointment as such.

(4) The provisions of section 126 of this Constitution shall apply to an appointed member of the Constituency Boundaries Commission as they apply to a member of the Public Service Commission except that subsection (7) shall apply as if for the words "in accordance with the advice of the Prime Minister" there were substituted the words "in accordance with the advice of the Judicial and Legal Service Commission".

Constituencies.

54.—(1) For the purpose of the election of members of Parliament, Solomon Islands shall be divided into such number of constituencies, being not less than thirty and not more than fifty, and each constituency shall have such boundaries, as may be prescribed by Parliament by resolution on a recommendation of the Constituency Boundaries Commission in accordance with subsection (4) of this section.

(2) The Constituency Boundaries Commission shall make recommendations to Parliament with respect to the number and boundaries of constituencies as soon as practicable after the commencement of this Constitution; and thereafter the Commission may review the number

and boundaries of the constituencies whenever they consider this to be desirable and shall do so not later than ten years after they last reviewed them, and may make recommendations to Parliament for alterations in the number and boundaries of the constituencies.

(3) In making recommendations under the preceding subsection, the Constituency Boundaries Commission shall have regard to the principle that the number of inhabitants of each constituency shall be as nearly equal as is reasonably practicable:

Provided that the Commission may depart from the foregoing principle to such extent as they consider expedient in order to take account of the distribution of the population, the means of communication, and ethnic affiliations.

(4) Parliament may, by resolution, approve or reject the recommendations of the Constituency Boundaries Commission but may not vary them; and, if so approved, the recommendations shall have effect as from the next dissolution of Parliament.

Qualifications and disqualifications for registration as an elector.

55.—(1) Subject to the provisions of this section, a person shall be entitled to be registered as an elector if, and shall not be so entitled unless—

(*a*) he is a citizen of Solomon Islands; and

(*b*) he has attained the age of eighteen years.

(2) No person shall be entitled to be registered as an elector—

(*a*) in more than one constituency; or

(*b*) in any constituency in which he is not ordinarily resident.

(3) No person shall be entitled to be registered as an elector who—

(*a*) is under sentence of death imposed on him by a court in any part of the world, or is under a sentence of imprisonment (by whatever name called) for a term of, or exceeding, six months, other than a sentence in lieu of a fine, but including a suspended sentence, imposed on him by such a court or substituted by competent authority for some other sentence imposed on him by such a court;

(*b*) is certified to be insane or otherwise adjudged to be of unsound mind under any law for the time being in force in Solomon Islands; or

(*c*) is disqualified from registration as an elector or from voting at elections under any law for the time being in force in Solomon Islands relating to offences connected with elections.

(4) For the purposes of paragraph (*a*) of the preceding subsection two or more terms of imprisonment that are required to be served consecutively shall be regarded as a single term of imprisonment for the aggregate period of those terms.

Right to vote at elections.

56.—(1) Any person who is registered as an elector in any constituency shall be entitled to vote in such manner as may be prescribed at any election for that constituency unless—

(*a*) on the date appointed for polling he is under such sentence of death or serving such sentence of imprisonment as is referred to in paragraph (*a*) of section 55(3) of this Constitution or (except in so far as may be otherwise prescribed) he is for any other reason unable to attend in person at the place and time appointed for polling; or

(*b*) he is prohibited from so voting by any law in force in Solomon Islands because he holds or is acting in any office the functions of which involve any responsibility for, or in connection with, the conduct of that election or because he has been convicted of any offence connected with elections.

(2) No person shall vote at any election for any constituency who is not registered as an elector in that constituency.

Electoral Commission

57.—(1) There shall be an Electoral Commission consisting of—

(*a*) the Speaker, who shall be Chairman of the Commission; and

(*b*) two other members (in this section referred to as "the appointed members") appointed by the Governor-General, acting in accordance with the advice of the Judicial and Legal Service Commission.

(2) A person shall not be qualified to be an appointed member of the Commission if he is a member of, or a candidate for election to, Parliament or any provincial assembly.

(3) Subject to the provisions of the next following subsection, an appointed member of the Commission shall vacate his office—

(*a*) at the expiration of the period specified in the instrument by which he was appointed; or

(*b*) if any circumstances arise that, if he were not a member of the Commission, would cause him to be disqualified from appointment as such.

(4) The provisions of section 126 of this Constitution shall apply to an appointed member of the Electoral Commission as they apply to a member of the Public Service Commission except that subsection (7) shall apply as if for the words "in accordance with the advice of the Prime Minister" there were substituted the words "in accordance with the advice of the Judicial and Legal Service Commission".

Functions of Electoral Commission.

58.—(1) The Electoral Commission shall have general responsibility for, and shall supervise, the registration of electors for the election of members of Parliament and the conduct of elections of such members and the Commission shall have such powers and other functions relating to such registration and such elections as may be prescribed.

(2) Every proposed Bill and every proposed regulation or other instrument having the force of law relating to the registration of electors for the election of members of Parliament or to the election of such members shall be referred to the Electoral Commission at such time as shall give them sufficient opportunity to make comments thereon before the Bill is introduced in Parliament or, as the case may be, the regulation or other instrument is made.

(3) The Electoral Commission may make such reports to the Governor-General concerning the matters under their supervision, or any draft Bill or instrument that is referred to them, as they may think fit, and if the Commission so request in any such report other than a report on a draft Bill or instrument that report shall be laid before Parliament.

Part II—Legislation and Procedure in Parliament

Power to make laws.

59.—(1) Subject to the provisions of this Constitution, Parliament may make laws for the peace, order and good government of Solomon Islands.

(2) The laws referred to in this section shall take the form of Bills passed by Parliament; and when a Bill has been passed by Parliament it shall be presented to the Governor-General who shall assent to it forthwith on behalf of the Head of State, and when such assent is given the Bill shall become law.

(3) No law shall come into operation until it has been published in the Gazette but Parliament may postpone the coming into operation of any such law and may make laws, subject to section 10(4) of this Constitution, with retrospective effect.

(4) All laws made by Parliament shall be styled "Acts of Parliament" and the words of enactment shall be "Enacted by the National Parliament of Solomon Islands".

Introduction of Bills, etc.

60. Except on the recommendation of the Cabinet signified by a Minister, Parliament shall not—

(*a*) proceed upon any Bill (including any amendment to a Bill) which, in the opinion of the person presiding, makes provision for imposing or increasing any tax, for imposing or increasing any charge on the Consolidated Fund or other funds of Solomon Islands, or for altering any such charge otherwise than by reducing it, or for compounding or remitting any debt due to Solomon Islands;

(*b*) proceed upon any motion (including any amendment to a motion) which would, in the opinion of the person presiding, if the motion were carried, require the introduction of such a Bill as is referred to in paragraph (*a*) to give effect to the motion; or

(*c*) receive any petition which, in the opinion of the person presiding, requests that provision be made for any of the purposes aforesaid.

Alteration of Constitution.

61.—(1) Subject to the provisions of this section, Parliament may alter this Constitution.

(2) A Bill for an Act of Parliament to alter any of the following provisions of this Constitution, that is to say—

(*a*) this section;

(*b*) Chapters II, VII and IX;

(*c*) sections 46 to 58 (inclusive), and 108; and

(*d*) Chapter XIV to the extent that it relates to any of the provisions specified in the preceding paragraphs,

shall not be passed by Parliament unless it is supported at the final voting on two separate readings in Parliament by the votes of not less than three-quarters of all the members of Parliament.

(3) A Bill for an Act of Parliament to alter any provision of this Constitution (but which does not alter any of the provisions of this

Constitution as specified in subsection (2) of this section) shall not be passed by Parliament unless it is supported at the final voting on two separate readings in Parliament by the votes of not less than two-thirds of all the members of Parliament.

(4) Without prejudice to the provisions of subsections (2) and (3) of this section, a Bill for an Act of Parliament under this section shall not be passed by Parliament unless—

(*a*) notice of the Bill has been given to the Speaker at least four weeks before the first reading of the Bill in Parliament; and

(*b*) the Bill is clearly expressed to be a Bill for an Act of Parliament to alter the Constitution.

(5) In this section—

(*a*) references to this Constitution or to any particular provision thereof include references to any other law in so far as that law alters the Constitution or, as the case may be, that provision; and

(*b*) references to altering this Constitution or any particular provision thereof include references—

(i) to repealing it, with or without re-enactment thereof or the making of different provision in lieu thereof;

(ii) to modifying it, whether by omitting or amending any of its provisions or inserting additional provisions in it or otherwise;

(iii) to suspending its operation for any period, or terminating any such suspension; and

(iv) to making any other provision that is repugnant to or otherwise inconsistent with it.

Rules of procedure of Parliament.

62. Subject to the provisions of this Constitution, Parliament may from time to time make, amend and revoke rules and orders for the regulation and orderly conduct of its proceedings and the despatch of business, and for the passing, intituling and numbering of Bills.

Oath of allegiance.

63. No member of Parliament shall be permitted to take part in the proceedings of Parliament (other than proceedings necessary for the purpose of this section) until he has made before Parliament an oath of allegiance in the form set out in Schedule 1 to this Constitution.

The Speaker and Deputy Speaker.

64.—(1) Parliament shall at its first sitting after any general election elect—

(*a*) from among persons who are qualified for election as a member of Parliament, a Speaker; and

(*b*) from among its members, a Deputy Speaker.

(2) The office of the Speaker or the Deputy Speaker shall become vacant—

(*a*) if he announces the resignation of his office to Parliament or if, by writing under his hand addressed to Parliament and received by the Clerk to the Legislature, he resigns that office;

(*b*) if Parliament passes a resolution supported by the votes of not less than two-thirds of all the members thereof requiring his removal;

(*c*) in the case of the Speaker—

(i) if any circumstances arise that would cause him to be disqualified from election as a member of Parliament; or

(ii) when Parliament first sits after a general election; or

(*d*) in the case of the Deputy Speaker—

(i) if he ceases to be a member of Parliament or if, under the provisions of section 51 of this Constitution, he is required to cease to perform his functions as a member of Parliament;

(ii) if he becomes a Minister;

(iii) if he is elected as Speaker; or

(iv) if he becomes a recognised leader in Parliament of any political party.

(3) If the office of Speaker or Deputy Speaker becomes vacant Parliament shall, unless it is sooner dissolved, elect a person qualified under this section to fill the vacancy at its next sitting after the occurrence of the vacancy or as soon as practicable thereafter.

(4) No business shall be transacted in Parliament (other than the election of a Speaker) at any time when the office of Speaker is vacant.

(5) Save as otherwise provided in this Constitution or any other law, the Speaker shall not hold any other office.

Presiding in Parliament.

65. The Speaker or in his absence the Deputy Speaker or in their absence a member of Parliament (not being a Minister) elected by Parliament for the sitting, shall preside at any sitting of Parliament:

Provided that at the first sitting of Parliament after any general election, until a Speaker is elected there shall preside the person who last held office as Speaker or, in his absence, the person who last held office as Deputy Speaker.

Leaders of opposition and independent groups in Parliament.

66.—(1) If at any time it appears to the Governor-General, acting in accordance with the advice of the Speaker, that the leader of an opposition group, by reason of the numerical strength of that opposition group or by reason of the support which he receives from the members of opposition groups generally, should be appointed as Leader of the Official Opposition, the Governor-General shall appoint him as such leader.

(2) If at any time it appears to the Governor-General, acting in accordance with the advice of the Speaker, that the leader of an independent group, by reason of the numerical strength of that independent group or by reason of the support which he receives from the members of independent groups generally, should be appointed as Leader of the Independent Members, the Governor-General shall appoint him as such leader.

(3) If the Governor-General, acting in accordance with the advice of the Speaker, considers that the Leader of the Official Opposition is no longer the person who, if the office of Leader of the Official Opposition were vacant, would be appointed thereto under subsection (1) of this section, the Governor-General shall remove the Leader of the Official Opposition from office.

(4) If the Governor-General, acting in accordance with the advice of the Speaker, considers that the Leader of the Independent Members is no longer the person who, if the office of Leader of the Independent Members were vacant, would be appointed thereto under subsection (2) of this section, the Governor-General shall remove the Leader of the Independent Members from office.

(5) Before tendering advice to the Governor-General under subsections (1) and (3) of this section, the Speaker shall consult with the leaders and members of the opposition groups and such other persons as he deems appropriate, and before tendering advice under subsections (2) and (4) of this section, the Speaker shall consult with the leaders and members of the independent groups and such other persons as he deems appropriate.

(6) If the Leader of the Official Opposition or the Leader of the Independent Members—

(*a*) is required under section 51 of this Constitution to cease to perform his functions as a member of Parliament;

(*b*) otherwise ceases to be such a member; or

(*c*) is elected as Deputy Speaker,

his office shall become vacant.

(7) For the purposes of this section—

"opposition group" means a group of members of Parliament in opposition to the Government, whose number includes a leader who commands their support;

"independent group" means a group of members of Parliament whose members are independent both of the Government and of any opposition group and whose number includes a leader who commands their support.

(8) Parliament may by resolution supported by an absolute majority of the members thereof prescribe the minimum number of members of opposition or independent groups there must be before the Leader of the Official Opposition or of the Independent Members, as the case may be, is appointed under this section.

Quorum.

67. If objection is taken by any member of Parliament present that there are present in Parliament (besides the person presiding) less than half of all the members thereof and, after such interval as may be prescribed in the rules of procedure of Parliament, the person presiding ascertains that the number of members present is still less than half of all the members, he shall thereupon adjourn Parliament.

Proceedings in Parliament.

68. Subject to the provisions of the preceding section, Parliament shall not be disqualified from the transaction of business by reason of any vacancy in its membership, and any proceedings in Parliament shall be valid notwithstanding that some person who was not entitled to do so took part in those proceedings.

Privileges of Parliament an its members.

69. Parliament may prescribe the privileges, immunities and powers of Parliament and its members.

Proceedings of Parliament to be held in public.

70. The proceedings of Parliament shall be held in public except in so far as its rules of procedure otherwise provide.

Voting.

71.—(1) Subject to the provisions of this Constitution, all questions proposed for decision in Parliament shall be determined by a majority of the votes of the members present and voting.

(2) If the person presiding is—

(*a*) the Speaker, he shall have neither an original nor a casting vote;

(*b*) the Deputy Speaker or a member elected by Parliament for the sitting under section 65 of this Constitution, he shall not have an original vote but shall have and shall exercise a casting vote if on any question the votes are equally divided.

(3) Subject to the provisions of subsection (2)(*b*) of this section, if upon any question the votes are equally divided the motion shall be declared lost.

Sessions of Parliament.

72.—(1) Subject to the provisions of this section, each session of Parliament shall be held at such place within Solomon Islands and shall commence at such time as the Governor-General may appoint by proclamation published in the Gazette.

(2) Sessions of Parliament shall be held so that a period of twelve months does not intervene between the end of one session and the first sitting of Parliament in the next session.

Prorogation and dissolution.

73.—(1) If at any time Parliament decides by resolution supported by the votes of an absolute majority of the members of Parliament that Parliament should be prorogued or dissolved, the Governor-General shall forthwith prorogue or, as the case may be, dissolve Parliament by proclamation published in the Gazette.

(2) A motion for a resolution under the preceding subsection shall not be passed by Parliament unless notice of the motion has been given to the Speaker at least seven clear days before it is introduced.

(3) Parliament, unless sooner dissolved under subsection (1) of this section, shall continue for four years from the date of the first sitting of Parliament after any general election and shall then stand dissolved.

General elections.

74. There shall be a general election at such time within four months of every dissolution of Parliament as the Governor-General shall appoint by proclamation published in the Gazette.

CHAPTER VII

THE LEGAL SYSTEM

Part I — The Application of Laws

Application of laws.

75.—(1) Parliament shall make provision for the application of laws, including customary laws.

(2) In making provision under this section, Parliament shall have particular regard to the customs, values and aspirations of the people of Solomon Islands.

Common law and customary law, etc.

76. Until Parliament makes other provision under the preceding section, the provisions of Schedule 3 to this Constitution shall have effect for the purpose of determining the operation in Solomon Islands—

(*a*) of certain Acts of the Parliament of the United Kingdom mentioned therein;

(*b*) of the principles and rules of the common law and equity;

(*c*) of customary law; and

(*d*) of the legal doctrine of judicial precedent.

Part II — The Judiciary

(a) The High Court

Establishment of High Court.

77.—(1) There shall be a High Court for Solomon Islands which shall have unlimited original jurisdiction to hear and determine any civil or criminal proceedings under any law and such other jurisdiction and powers as may be conferred on it by this Constitution or by Parliament.

(2) The judges of the High Court shall be the Chief Justice and such number of puisne judges, if any, as may be prescribed by Parliament:

Provided that the office of a judge shall not be abolished while any person is holding that office unless he consents to its abolition.

Appointment of judges of High Court.

78.—(1) The Chief Justice shall be appointed by the Governor-General, acting in accordance with the advice of the Judicial and Legal Service Commission.

(2) The puisne judges shall be appointed by the Governor-General, acting in accordance with the advice of the Judicial and Legal Service Commission.

(3) A person shall not be qualified for appointment as a judge of the High Court unless—

(*a*) he holds, or has held, high judicial office in any country in the Commonwealth or in any country outside the Commonwealth that may be prescribed by Parliament; or

(*b*) he is qualified to practise as a barrister or solicitor in such a country and he has been so qualified for not less than five years.

(4) In computing, for the purposes of the preceding subsection, the period during which any person has been qualified to practise as a barrister or solicitor, any period during which he has held judicial office after becoming so qualified shall be included.

Acting judges and Commissioners of High Court.

79.—(1) If the office of Chief Justice is vacant or if the person holding that office is for any reason unable to perform the functions of his office, the Governor-General, acting in accordance with the advice of the Judicial and Legal Service Commission, may appoint a puisne judge or some other person qualified for appointment as a judge of the High Court to act as Chief Justice.

(2) If the office of a puisne judge is vacant or if a person holding the office of puisne judge is acting as Chief Justice or is for any reason unable to perform the functions of his office, the Governor-General, acting in accordance with the advice of the Judicial and Legal Service Commission,

may appoint a person qualified for appointment as a judge of the High Court to act as a puisne judge.

(3) Any person appointed under the provisions of this section to act as a judge of the High Court shall, unless he earlier resigns his acting office or is removed therefrom under the next following section, continue so to act until the end of the period for which he was appointed or, if he was not appointed for a specified period, until his appointment is revoked by the Governor-General, acting in accordance with the advice of the Judicial and Legal Service Commission:

Provided that a person whose appointment has expired or whose appointment has been revoked may continue to act as such for so long thereafter as may be necessary to enable him to deliver judgment or to do any other thing in relation to any proceedings that were commenced before him previously thereto.

(4) Whenever he is satisfied that no judge of the High Court is available to attend to the business of the Court, the Governor-General, acting in accordance with the advice of the Judicial and Legal Service Commission, may appoint some person to perform—

(*a*) all or any of the functions of judge, either generally or in respect of any particular case or class of cases;

(*b*) such functions of a judge as it shall appear to that person require to be performed without delay,

subject to such limitations and conditions, if any, as may be specified in the instrument of appointment.

(5) Any person appointed under the provisions of the preceding subsection shall be styled a Commissioner of the High Court; all things done by him in accordance with the terms of his appointment shall have the same validity and effect as if they had been done by a judge of the High Court; in respect thereof he shall have the same powers and enjoy the same immunities as if he had been a judge of the High Court; and, notwithstanding that the period of his appointment has expired or his appointment has been revoked, he may sit as a Commissioner of the High Court for the purpose of delivering judgment or doing any other thing in relation to any proceedings that were commenced before him whilst his appointment was subsisting.

Tenure of office of judges of High Court.

80.—(1) Subject to the provisions of this section, a judge of the High Court shall hold office until he attains the age of sixty years.

(2) Notwithstanding the preceding subsection, a person who is not a citizen of Solomon Islands and is over the age of sixty years may be appointed as a judge of the High Court for a term of years and shall cease to hold office at the expiration of that term, and shall not otherwise cease to hold office except in accordance with this section.

(3) Nothing done by a judge of the High Court shall be invalid by reason only that he has attained the age at which he is required by this section to vacate his office.

(4) A judge of the High Court may be removed from office only for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour and shall not be so removed except in accordance with the provisions of this section.

(5) A judge of the High Court shall be removed from office by the Governor-General if the question of the removal of that judge from office has been referred to a tribunal appointed under the next following subsection and the tribunal has advised the Governor-General that he ought to be removed from office for inability as aforesaid or for misbehaviour.

(6) If the Governor-General considers that the question of removing a judge of the High Court from office for inability as aforesaid or for misbehaviour ought to be investigated, then—

(*a*) the Governor-General shall appoint a tribunal which shall consist of a chairman and not less than two other members, selected by the Governor-General from among persons who hold or have held high judicial office in some part of the Commonwealth; and

(*b*) the tribunal shall enquire into the matter and report on the facts thereof to the Governor-General and advise the Governor-General whether that judge should be removed under this section.

(7) If the question of removing a judge of the High Court from office has been referred to a tribunal under the preceding subsection, the Governor-General may suspend the judge from performing the functions of his office, and any such suspension may at any time be revoked by the Governor-General and shall in any case cease to have effect if the tribunal advises the Governor-General that that judge should not be removed from office.

(8) Except as provided in subsection (5) of this section, the functions of the Governor-General under this section shall be exercised by him in his own deliberate judgment.

Judge may sit after appointment has terminated.

81. A judge of the High Court whose appointment has terminated otherwise than by reason of his removal from office may sit as a judge of that Court for the purpose of delivering judgment or doing any other thing in relation to any proceedings that were commenced before him while his appointment was subsisting.

Seal of High Court.

82. The High Court shall have a seal bearing on it the words "The High Court of Solomon Islands" and such device as Parliament shall approve by resolution.

Jurisdiction of High Court in constitutional questions.

83.—(1) Subject to the provisions of sections 31(3) and 98(1) of, and paragraph 10 of Schedule 2 to, this Constitution, if any person alleges that any provision of this Constitution (other than Chapter II) has been contravened and that his interests are being or are likely to be affected by such contravention, then, without prejudice to any other action with respect to the same matter which is lawfully available, that person may apply to the High Court for a declaration and for relief under this section.

(2) The High Court shall have jurisdiction, in any application made by any person in pursuance of the preceding subsection or in any other proceedings lawfully brought before the Court, to determine whether any provision of this Constitution (other than Chapter II) has been contravened and to make a declaration accordingly:

Provided that the High Court shall not make a declaration in pursuance of the jurisdiction conferred by this subsection unless it is satisfied that the interests of the person by whom the application under the preceding

subsection is made or, in the case of other proceedings before the Court, a party to those proceedings, are being or are likely to be affected.

(3) Where the High Court makes a declaration in pursuance of the preceding subsection that any provision of the Constitution has been contravened and the person by whom the application under subsection (1) of this section was made or, in the case of other proceedings before the Court, the party in those proceedings in respect of whom the declaration is made, seeks relief, the High Court may grant to that person such remedy, being a remedy available against any person in any proceedings in the High Court under any law for the time being in force in Solomon Islands, as the Court considers appropriate.

(4) Nothing in this section shall confer jurisdiction on the High Court to hear or determine any such question as is referred to in section 52 of this Constitution otherwise than upon an application made in accordance with the provisions of that section.

High Court and subordinate courts.

84.—(1) The High Court shall have jurisdiction to supervise any civil or criminal proceedings before any subordinate court and may make such orders, issue such writs and give such directions as it may consider appropriate for the purpose of ensuring that justice is duly administered by any such court.

(2) Where any question as to the interpretation of any provision of this Constitution other than Chapter II arises in any subordinate court and the court is of opinion that the question involves a substantial question of law, the court shall refer the question to the High Court.

(3) Where any question is referred to the High Court in pursuance of the preceding subsection, the High Court shall give its decision upon the question and the court in which the question arose shall dispose of the case in accordance with that decision or, if that decision is the subject of an appeal to the Court of Appeal, in accordance with the decision of the Court of Appeal.

(b)—The Court of Appeal

Establishment of Court of Appeal.

85.—(1) There shall be a Court of Appeal for Solomon Islands which shall have such jurisdiction and powers to hear and determine appeals in civil and criminal matters as may be conferred on it by this Constitution or by Parliament.

(2) The judges of the Court of Appeal shall be—

(*a*) a President and such number of other Justices of Appeal, if any, as may be prescribed by Parliament; and

(*b*) the Chief Justice and the puisne judges of the High Court, who shall be judges of the Court *ex officio*.

Appointment of judges of Court of Appeal.

86.—(1) The President of the Court of Appeal shall be appointed by the Governor-General, acting in accordance with the advice of the Judicial and Legal Service Commission.

(2) The other Justices of Appeal shall be appointed by the Governor-General, acting in accordance with the advice of the Judicial and Legal Service Commission.

(3) A person shall not be qualified to be appointed under subsection (1) or (2) of this section unless he is qualified for appointment as a judge of the High Court.

(4) A judge of the Court of Appeal shall not sit as a judge of the Court on the hearing of an appeal—

(*a*) from any decision given by himself or any decision given by any court of which he was sitting as a member; or

(*b*) against a conviction or sentence if he was the judge by or before whom the appellant was convicted.

(5) If the office of President of the Court of Appeal is vacant or if the person holding that office is for any reason unable to perform the functions of his office, then, until a person has been appointed to and has assumed the functions of that office or until the holder thereof has resumed those functions, as the case may be, the Governor-General, acting in accordance with the advice of the Judicial and Legal Service Commission, may appoint one of the other judges of the Court of Appeal or some other person qualified for appointment to that office to act as President of the Court of Appeal:

Provided that a person appointed under this subsection who is not a judge of the Court of Appeal may, notwithstanding the assumption or resumption of the functions of the office of President of the Court of Appeal by the holder of that office, continue to act as a judge of the Court of Appeal for so long thereafter as may be necessary to enable him to deliver judgment or do any other thing in relation to any proceedings that were commenced before him previously thereto.

(6) Nothing in this section or the preceding section shall preclude the offices of Chief Justice and President of the Court of Appeal from being held by the same person.

Tenure of office of judges of Court of Appeal.

87.—(1) Subject to the provisions of this section, a judge of the Court of Appeal shall hold office until he attains the age of sixty years.

(2) Notwithstanding the preceding subsection, a person who is not a citizen of Solomon Islands and is over the age of sixty years may be appointed as a judge of the Court of Appeal for a term of years and shall cease to hold office at the expiration of that term, and shall not otherwise cease to hold office except in accordance with this section.

(3) Nothing done by a judge of the Court of Appeal shall be invalid by reason only that he has attained the age at which he is required by this section to vacate his office.

(4) A judge of the Court of Appeal may be removed from office only for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour, and shall not be so removed except in accordance with the provisions of this section.

(5) A judge of the Court of Appeal shall be removed from office by the Governor-General if the question of the removal of that judge from office has been referred to a tribunal appointed under the next following subsection and the tribunal has advised the Governor-General that he ought to be removed from office for inability as aforesaid or for misbehaviour.

(6) If the Governor-General considers that the question of removing a judge of the Court of Appeal from office for inability as aforesaid or for misbehaviour ought to be investigated, then—

(*a*) the Governor-General shall appoint a tribunal which shall consist of a chairman and not less than two other members, selected by the

Governor-General from among persons who hold or have held high judicial office in some part of the Commonwealth; and

(*b*) the tribunal shall enquire into the matter and report on the facts thereof to the Governor-General and advise the Governor-General whether that judge should be removed under this section.

(7) If the question of removing a judge of the Court of Appeal from office has been referred to a tribunal under the preceding subsection, the Governor-General may suspend the judge from performing the functions of his office, and any such suspension may at any time be revoked by the Governor-General and shall in any case cease to have effect if the tribunal advises the Governor-General that that judge should not be removed from office.

(8) Except as provided in subsection (5) of this section, the functions of the Governor-General under this section shall be exercised by him in his own deliberate judgment.

Judge may sit after appointment has terminated.

88. A judge of the Court of Appeal whose appointment has terminated otherwise than by reason of his removal from office may sit as a judge of that Court for the purpose of delivering judgment or doing any other thing in relation to any proceedings that were commenced before him while his appointment was subsisting.

Seal of Court of Appeal.

89. The Court of Appeal shall have a seal bearing on it the words "The Court of Appeal of Solomon Islands" and such device as Parliament shall approve by resolution.

(c)—Rules of Court

Rules of court.

90. There shall be a Rules Committee, consisting of the Chief Justice, the President of the Court of Appeal and the Attorney-General (who shall constitute a quorum) and such other persons as the Governor-General, acting after consultation with the Chief Justice, may appoint, which may make rules of court regulating the practice and procedure of the High Court and the Court of Appeal, prescribing the fees to be paid in respect of any proceeding and generally for making provision for the proper and effectual exercise of the jurisdiction of the High Court and the Court of Appeal, including the procedure for the making and hearing of appeals to the High Court from subordinate courts and for the making and hearing of appeals to the Court of Appeal from the High Court:

Provided that rules regulating the admission of legal practitioners to practise as barristers and solicitors or in either of these capacities, or prescribing or affecting the amount of any fees or the recovery thereof, shall not come into operation unless approved, either before or after being made, by Parliament.

Part III — The Director of Public Prosecutions and the Public Solicitor

Director of Public Prosecutions.

91.—(1) There shall be a Director of Public Prosecutions whose office shall be a public office.

(2) The Director of Public Prosecutions shall be appointed by the Governor-General, acting in accordance with the advice of the Judicial and Legal Service Commission.

(3) A person shall not be qualified to hold or act in the office of Director of Public Prosecutions unless he is entitled to practise in Solomon Islands as an advocate or as a barrister and solicitor.

(4) The Director of Public Prosecutions shall have power in any case in which he considers it desirable to do so—

(*a*) to institute and undertake criminal proceedings against any person before any court (other than a court-martial) in respect of any offence alleged to have been committed by that person;

(*b*) to take over and continue any such criminal proceedings that have been instituted or undertaken by any other person or authority; and

(*c*) to discontinue at any stage before judgment is delivered any such criminal proceedings instituted or undertaken by himself or any other person or authority.

(5) The powers of the Director of Public Prosecutions under the preceding subsection may be exercised by him in person or through other persons acting in accordance with his general or specific instructions.

(6) The powers conferred on the Director of Public Prosecutions by paragraphs (*b*) and (*c*) of subsection (4) of this section shall be vested in him to the exclusion of any other person or authority:

Provided that where any other person or authority has instituted criminal proceedings, nothing in this subsection shall prevent the withdrawal of those proceedings by or at the instance of that person or authority and with the leave of the court.

(7) In the exercise of the powers conferred on him by this section the Director of Public Prosecutions shall not be subject to the direction or control of any other person or authority:

Provided that, where any case in any way concerns the defence, security or international relations of Solomon Islands, the Director of Public Prosecutions shall bring the matter to the attention of the Minister responsible for justice and shall, in the exercise of his powers in relation to that case, act in accordance with any directions that Minister may give to him.

(8) For the purposes of this section, any appeal from any judgment in any criminal proceedings before any court, or any case stated or question of law reserved for the purpose of any such proceedings to any other court, shall be deemed to be part of those proceedings:

Provided that the power conferred on the Director of Public Prosecutions by paragraph (*c*) of subsection (4) of this section shall not be exercised in relation to any appeal by a person convicted in any criminal proceedings or to any case stated or question of law reserved at the instance of such a person.

(9) During any period when the office of Director of Public Prosecutions is vacant or the holder of that office is for any reason unable to perform the functions of his office, those functions shall be performed by the Attorney-General.

Public Solicitor.

92.—(1) There shall be a Public Solicitor, whose office shall be a public office.

(2) The Public Solicitor shall be appointed by the Governor-General, acting in accordance with the advice of the Judicial and Legal Service Commission.

(3) A person shall not be qualified to hold or act in the office of Public Solicitor unless he is entitled to practise in Solomon Islands as an advocate or as a barrister and solicitor.

(4) The functions of the Public Solicitor are to provide legal aid, advice and assistance to persons in need in such circumstances and subject to such conditions as may be prescribed by Parliament, and in particular—

(*a*) to provide legal aid, advice and assistance to any person in need who has been charged with a criminal offence; and

(*b*) to provide legal aid, advice and assistance to any person when directed to do so by the High Court.

(5) A person aggrieved by a refusal of the Public Solicitor to provide legal aid, advice and assistance to him may apply to the High Court for a direction under paragraph (*b*) of the preceding subsection.

(6) Parliament may make provision for the Public Solicitor to make a reasonable charge for services provided by him to persons in need whom he considers are able to make a contribution towards the cost of those services.

(7) Except as provided in paragraph (*b*) of subsection (4) of this section, in the exercise of the functions conferred on him by or under this section the Public Solicitor shall not be subject to the direction or control of any other person or authority.

CHAPTER VIII

LEADERSHIP CODE

Application of this Chapter.

93. The provisions of this Chapter apply to and in relation to—

(*a*) the Governor-General;

(*b*) the Prime Minister and the other Ministers;

(*c*) the Leader of the Official Opposition and the Leader of the Independent Members;

(*d*) all other members of Parliament;

(*e*) the Speaker;

(*f*) members of any Commission established by this Constitution;

(*g*) public officers;

(*h*) provincial government officers and members of provincial assemblies;

(*i*) officers of statutory corporations and Government agencies; and

(*j*) such other officers as Parliament may prescribe.

Responsibilities of office.

94.—(1) A person to whom this Chapter applies has a duty to conduct himself in such a way, both in his public or official life and his private life, and in his associations with other persons, as not—

(*a*) to place himself in a position in which he has or could have a conflict of interests or in which the fair exercise of his public or official duties might be compromised;

(*b*) to demean his office or position;

(*c*) to allow his integrity to be called into question; or

(*d*) to endanger or diminish respect for and confidence in the integrity of the government of Solomon Islands.

(2) In particular, a person to whom this Chapter applies shall not use his office for personal gain or enter into any transaction or engage in any enterprise or activity that might be expected to give rise to doubt in the public mind as to whether he is carrying out or has carried out the duty imposed by the preceding subsection.

(3) It is the further duty of a person to whom this Chapter applies—

(*a*) to ensure, as far as is within his lawful power, that his spouse and children and any other persons for whom he is responsible, including nominees, trustees and agents, do not conduct themselves in a way that might be expected to give rise to doubt in the public mind as to his complying with his duties under this section; and

(*b*) if necessary, publicly to dissociate himself from any activity or enterprise of any of his associates, or of a person referred to in paragraph (*a*) of this subsection, that might be expected to give rise to such a doubt.

(4) A person to whom this Chapter applies who—

(*a*) is convicted of an offence in respect of his office or position or in relation to the performance of his functions or duties;

(*b*) fails to carry out the obligations imposed by the preceding subsections of this section; or

(*c*) commits any act or omission prescribed under section 95 of this Constitution as constituting misconduct in office,

is guilty of misconduct in office.

Further provisions.

95. Subject to the provisions of this Constitution, for the purposes of this Chapter, Parliament—

(*a*) may make provision for the disclosure of the personal and business incomes and financial affairs of persons to whom this Chapter applies, and of their families and associates, and in particular of interests in contracts with governmental bodies and of directorships and similar offices held by them (including powers to nominate directors, trustees or agents, or similar officers);

(*b*) may make provision for the disposal or temporary control of the assets or income of a person to whom this Chapter applies where this seems to be desirable for attaining the objects of this Chapter;

(*c*) may prescribe specific acts or omissions as constituting misconduct in office;

(*d*) may create offences (including offences by persons to whom this Chapter applies and offences by other persons) and prescribe penalties for such offences;

(*e*) shall provide for the investigation of cases of alleged or suspected misconduct in office;

(*f*) shall provide for the reference of cases of alleged or suspected misconduct in office to such independent courts or tribunals as may be prescribed, and for the investigation and determination by such courts or tribunals of any such cases that may be referred to them in the manner prescribed;

(*g*) shall make provision with respect to the powers and procedure of such courts or tribunals as may be prescribed under the preceding paragraph and shall prescribe the penalties or other consequences that may result from a lawful determination by any such court or tribunal that a person to whom this Chapter applies is guilty of misconduct in office; and

(*h*) may make such other provision as may appear necessary or expedient for attaining the objects of this Chapter.

CHAPTER IX

THE OMBUDSMAN

Office of Ombudsman.

96.—(1) There shall be an Ombudsman, whose office shall be a public office.

(2) The Ombudsman shall be appointed by the Governor-General, acting in accordance with the advice of a committee consisting of the Speaker, the Chairman of the Public Service Commission and the Chairman of the Judicial and Legal Service Commission.

(3) If the person appointed as Ombudsman is a member of Parliament or a provincial assembly, he shall forthwith cease to be such a member.

(4) The Ombudsman shall not perform the functions of any other public or provincial government office, and shall not, without the approval of the Governor-General in each particular case, hold any other office of emolument than the office of the Ombudsman or engage in any occupation for reward outside the duties of his office.

(5) Subject to the provisions of the next following subsection, the Ombudsman shall vacate his office at the expiration of five years from the date of his appointment.

(6) The Ombudsman may be removed from office only for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour and shall not be so removed except in accordance with the procedure for the removal of a judge of the High Court as set out in subsections (4) to (7) of section 80 of this Constitution.

Functions of Ombudsman.

97.—(1) The functions of the Ombudsman shall be to:—

(*a*) enquire into the conduct of any person to whom this section applies in the exercise of his office or authority, or abuse thereof;

(*b*) assist in the improvement of the practices and procedures of public bodies; and

(*c*) ensure the elimination of arbitrary and unfair decisions.

(2) Parliament may confer additional functions on the Ombudsman.

(3) This section applies to members of the public service, the Police Force, the Prisons Service, provincial governments, and such other offices, commissions, corporate bodies or public agencies as may be prescribed by Parliament:

Provided that it shall not apply to the Governor-General or his personal staff or to the Director of Public Prosecutions or any person acting in accordance with his instructions.

(4) Nothing in this section or in any Act of Parliament enacted for the purposes of this Chapter shall confer on the Ombudsman any power to question or review any decision of any judge, magistrate or registrar in the exercise of his judicial functions.

Discharge of functions of Ombudsman.

98.—(1) In the discharge of his functions the Ombudsman shall not be subject to the direction or control of any other person or authority and no proceedings of the Ombudsman shall be called in question in any court of law.

(2) The Ombudsman shall not conduct an investigation in respect of any matter if he has been given notice by the Prime Minister that the investigation of that matter would not be in the interests of the security of Solomon Islands.

(3) The Ombudsman shall make an annual report and may make such additional reports to Parliament as he deems appropriate concerning the discharge of his functions, and may draw attention to any defects which appear to him to exist in the administration or any law.

Further provisions.

99. Parliament may make provision for such supplementary and ancillary matters as may appear necessary or expedient to give effect to the provisions of this Chapter.

CHAPTER X

FINANCE

Consolidated Fund and Special Funds.

100.—(1) All revenues or other moneys raised or received by or for the purposes of the Government (not being revenues or other moneys that are payable by or under any law into some other fund established for any specific purpose or that may, by or under any law, be retained by the authority that received them for the purpose of defraying the expenses of that authority) shall be paid into and form one Consolidated Fund.

(2) Parliament may make provision for the establishment of Special Funds, which shall not form part of the Consolidated Fund.

(3) The receipts, earnings and accruals of Special Funds established under this section and the balance of such funds at the close of each financial year shall not be paid into the Consolidated Fund but shall be retained for the purposes of those funds.

Withdrawal of money from the Consolidated Fund.

101.—(1) No money shall be issued from the Consolidated Fund except upon the authority of a warrant under the hand of the Minister of Finance.

(2) No warrant shall be issued by the Minister of Finance for the purpose of meeting any expenditure unless—

(*a*) the expenditure has been authorised for the financial year during which the issue is to take place by an Appropriation Act;

(*b*) the expenditure has been authorised in accordance with the provisions of section 103 or 104 of this Constitution; or

(*c*) it is statutory expenditure.

Authorisation of expenditure.

102.—(1) The Minister of Finance shall cause to be prepared and laid before Parliament before the commencement of each financial year estimates of the revenues and expenditure of the Government for that year, provided that in exceptional circumstances which shall be explained to Parliament the Minister may cause the estimates to be laid before Parliament not later than ninety days after the commencement of the financial year.

(2) The heads of expenditure contained in the estimates (other than statutory expenditure) shall be included in a bill to be known as an Appropriation Bill which shall be introduced into Parliament to provide for the issue from the Consolidated Fund of the sums necessary to supply those heads and the appropriation of those sums for the purposes specified therein.

(3) If in respect of any financial year it is found that the sum appropriated by the Appropriation Act for any purpose is insufficient or that a need has arisen for expenditure for a purpose for which no sum has been appropriated by that law, a supplementary estimate showing the sums required shall be included in a Supplementary Appropriation Bill for appropriation.

(4) If at the close of account for any financial year it is found that any moneys have been expended on any head in excess of the sum appropriated for that head by an Appropriation Act or for a purpose for which no money has been appropriated, the excess or the sum expended but not appropriated as the case may be shall be included in a statement of heads in excess which, together with the report of the Public Accounts Committee thereon, shall be presented to Parliament.

(5) Statutory expenditure shall not be voted on by Parliament but, without further authority of Parliament, shall be paid out of the Consolidated Fund by warrant under the hand of the Minister of Finance.

Authorisation of expenditure in advance of appropriation.

103.—(1) If the Appropriation Act in respect of any financial year has not come into operation by the beginning of that financial year, Parliament by resolution may empower the Minister of Finance to authorise the issue of moneys from the Consolidated Fund for the purpose of meeting

expenditure necessary to carry on the public services at a level not exceeding the level of these services in the previous financial year, until the expiration of four months from the beginning of that financial year or the coming into operation of the Appropriation Act, whichever is the earlier.

(2) Where in respect of any financial year the Minister is satisfied that an urgent and unforeseen need has arisen to authorise for any purpose issues from the Consolidated Fund for expenditure in excess of the sum appropriated for that purpose by an Appropriation Act, or for a purpose for which no sum has been so appropriated, he may, subject to the provisions of any law or regulations for the time being in force in that regard, authorise, with the prior approval of the Cabinet, such issues by warrant and shall include such amount in a Supplementary Appropriation Bill for appropriation at the meeting of Parliament next following the date on which the warrant was issued:

Provided that if there shall be no further meeting in the same financial year, the Bill may be deferred to any meeting held before the end of the following financial year.

(3) No expenditure shall be authorised or incurred under the preceding subsection unless Parliament has specified in advance of the expenditure the maximum amount of expenditure that may be incurred under that subsection.

Delay in Appropriation Act owing to dissolution.

104. Where at any time Parliament has been dissolved before any provision or any sufficient provision is made under this Chapter of this Constitution for the carrying on of the government of Solomon Islands, the Minister of Finance may issue a warrant for the payment out of the Consolidated Fund of such sums as he may consider necessary for the continuance of the public services until the expiry of a period of three months commencing with the date on which Parliament first meets after that dissolution, but a statement of the sums so authorised shall, as soon as practicable, be laid before Parliament and the aggregate sums shall be included, under the appropriate heads, in the next Appropriation Bill.

Public debt and borrowing.

105.—(1) There shall be charged on the Consolidated Fund all debt charges for which the Government is liable.

(2) For the purposes of this section debt charges include interest, sinking fund charges, the repayment or amortisation of debt, and all expenditure in connection with the raising of loans on the security of the revenue of the Government or the Consolidated Fund and the service and redemption of debt thereby created.

(3) The Government shall not borrow money nor enter into a guarantee involving any financial liability except in accordance with such provisions as may be prescribed by Parliament.

Imposition of taxation.

106. No taxation shall be imposed or altered except by or under an Act of Parliament.

Remuneration of certain officers.

107.—(1) There shall be paid to the holders of the offices to which this section applies such salary or other remuneration and such allowances as may be prescribed by Parliament.

(2) The remuneration and allowances payable to the holders of those offices are hereby charged on and shall be paid out of the Consolidated Fund.

(3) The remuneration prescribed in pursuance of this section in respect of the holder of any such office and his other terms of service (other than allowances that are not taken into account in computing, under any law in that behalf, any pension payable in respect of his service in that office) shall not be altered to his disadvantage after his appointment except as part of any alteration generally applicable to holders of offices specified in this section.

(4) Where a person's remuneration or other terms of service depend upon his option, the remuneration or terms for which he opts shall, for the purposes of the preceding subsection, be deemed to be more advantageous to him than any others for which he might have opted.

(5) This section applies to the offices of Governor-General, any judge of the High Court or the Court of Appeal, Speaker, Ombudsman, Director of Public Prosecutions, Public Solicitor, Auditor-General, Commissioner of Police, and member of any Commission established by this Constitution.

Auditor-General.

108.—(1) There shall be an Auditor-General whose office shall be a public office.

(2) The Auditor-General shall be appointed by the Governor-General, acting in accordance with the advice of the Public Service Commission.

(3) The public accounts of Solomon Islands, of all Ministries, offices, courts and authorities of the Government, and of all provincial governments, shall be audited and reported on annually by the Auditor-General, and for that purpose the Auditor-General or any person authorised by him in that behalf shall at all times be entitled to access to all books, records, returns and other documents relating to such accounts.

(4) The Auditor-General shall submit his reports to the Speaker who shall cause them to be laid before Parliament; and he shall also send a copy of each report to the Minister of Finance and the Minister concerned.

(5) In the exercise of his functions under this section, the Auditor-General shall not be subject to the direction or control of any other person or authority.

(6) Nothing in this section shall prevent the performance by the Auditor-General of—

(a) such other functions in relation to the accounts of the Government and the accounts of other public authorities and other bodies administering public funds in Solomon Islands as may be prescribed by Parliament; or

(b) such other functions in relation to the supervision and control of expenditure from public funds in Solomon Islands as may be so prescribed.

Interpretation.

109. In this Chapter of this Constitution—

"financial year" means the twelve months ending on the 31st December in any year or on such other date as may from time to time be prescribed by Parliament;

"statutory expenditure" means expenditure charged on the Consolidated Fund or on the general revenues and assets of Solomon Islands by virtue of any of the provisions of this Constitution or by virtue of any provision of any other law for the time being in force in Solomon Islands.

CHAPTER XI

LAND

Land.

110. The right to hold or acquire a perpetual interest in land shall vest in any person who is a Solomon Islander and only in such other person or persons as may be prescribed by Parliament.

Non-customary land.

111. Parliament may, in regard to land which has ceased to be customary land:—

(*a*) provide for the conversion into a fixed-term interest of any perpetual interest in such land held by a person who is not entitled under the preceding section to hold such a perpetual interest;

(*b*) provide for the compulsory acquisition where necessary of such land or any right over or interest in such land;

(*c*) prescribe the criteria to be adopted in regard to the assessment and payment of compensation for such conversion or compulsory acquisition (which may take account of, but need not be limited to, the following factors: the purchase price, the value of improvements made between the date of purchase and the date of acquisition, the current use value of the land, and the fact of its abandonment or dereliction).

Customary land.

112. Parliament shall provide, in relation to any compulsory acquisition of customary land or any right over or interest in it, that:—

(*a*) before such land is compulsorily acquired, there shall be prior negotiations with the owner of the land, right or interest;

(*b*) the owner shall have a right of access to independent legal advice; and

(*c*) so far as practicable the interest so acquired shall be limited to a fixed-term interest.

Savings and interpretation.

113.—(1) Nothing in this Chapter shall be construed as enabling Parliament to make any provision which is inconsistent with the provisions of section 8 (1) (*c*) of this Constitution.

(2) In this Chapter "Solomon Islander" has the same meaning as in the Land and Titles Ordinance (**a**).

CHAPTER XII

PROVINCIAL GOVERNMENT

Provincial government.

114.—(1) Solomon Islands shall be divided into provinces, the number and boundaries of which shall be prescribed by Parliament after considering the advice of the Constituency Boundaries Commission.

(2) Parliament shall make provision for the government of the provinces established under this section and consider the role of traditional chiefs therein.

(**a**) Cap. 93.

CHAPTER XIII

THE PUBLIC SERVICE

Public Service Commission.

115.—(1) There shall be a Public Service Commission for Solomon Islands which shall consist of a Chairman and not less than two nor more than four other members appointed by the Governor-General for such period, being not less than three nor more than six years, as may be specified in their respective instruments of appointment.

(2) A person shall be disqualified for appointment as a member of the Public Service Commission if he is a member of Parliament or a public officer or an officer of any society or association which the Governor-General, in his own deliberate judgment, is satisfied is of a political nature.

(3) A person shall not, while he holds or is acting in the office of a member of the Public Service Commission or within a period of five years commencing with the date on which he last held or acted in that office, be eligible for appointment to or to act in any public office.

(4) The office of a member of the Public Service Commission shall become vacant—

(*a*) at the expiration of the period specified in the instrument by which he was appointed;

(*b*) if he becomes a member of Parliament;

(*c*) if he becomes an officer of any society or association which the Governor-General, in his own deliberate judgment, is satisfied is of a political nature; or

(*d*) if he is removed from office in accordance with section 126 of this Constitution.

(5) Whenever the office of the Chairman of the Public Service Commission is vacant or the holder thereof is for any reason unable to perform the functions of his office, such one of the other members of the Public Service Commission as the Governor-General shall appoint may act in the office of the Chairman.

(6) If the office of a member of the Public Service Commission other than the Chairman is vacant or the holder thereof is acting as the Chairman or is for any reason unable to perform the functions of his office, the Governor-General may appoint a person who is qualified for appointment as a member of the Commission to act as such a member; and any person so appointed may, subject to the provisions of subsection (4) of this section, continue to act until he is notified by the Governor-General that the circumstances giving rise to the appointment have ceased to exist.

(7) Except as provided in subsections (2) and (4) (*c*) of this section, the powers conferred on the Governor-General by this section shall be exercised by him acting in accordance with the advice of the Prime Minister.

Appointments etc. of public officers.

116.—(1) Subject to the provisions of this Constitution, power to make appointments to public offices (including power to confirm appointments) and to remove and to exercise disciplinary control over persons holding or acting in such offices is vested in the Public Service Commission.

(2) The Public Service Commission may, subject to such conditions as it thinks fit, delegate any of its powers under this section by directions in writing to any member of the Commission or to any public officer.

(3) The provisions of this section shall not apply in relation to—

(*a*) the office of any judge of the High Court or the Court of Appeal;

(*b*) the office of Ombudsman, Director of Public Prosecutions, Public Solicitor or Auditor-General;

(*c*) any office to which section 118 of this Constitution applies;

(*d*) the office of any member of the Police Force or the Prisons Service;

or

(*e*) any office to which section 127 of this Constitution applies.

(4) The Public Service Commission shall not exercise any of its powers in relation to any office on the personal staff of the Governor-General or in relation to any person holding or acting in any such office without the concurrence of the Governor-General, acting in his own deliberate judgment.

(5) Before making any appointment to any office on the staff of the Ombudsman, the Public Service Commission shall consult the Ombudsman.

(6) Before making any appointment to the office of Clerk to the Legislature, the Public Service Commission shall consult the Speaker.

Judicial and Legal Service Commission.

117.—(1) There shall be a Judicial and Legal Service Commission for Solomon Islands.

(2) The members of the Commission shall be—

(*a*) the Chief Justice, who shall be Chairman of the Commission;

(*b*) the Attorney-General; and

(*c*) the Chairman of the Public Service Commission.

(3) An additional member may be appointed if the Governor-General, acting in his own deliberate judgment, so decides, and if he so decides he shall appoint such a member acting in accordance with the advice of the Prime Minister.

(4) The office of the member of the Commission appointed under the preceding subsection shall become vacant—

(*a*) at the expiration of three years from the date of his appointment;

(*b*) if he becomes a member of Parliament or a public officer other than a judge of the High Court or the Court of Appeal; or

(*c*) if he is removed from office in accordance with section 126 of this Constitution.

Appointments etc. of judicial and legal officers.

118.—(1) Power to make appointments to the offices to which this section applies (including power to confirm appointments) and to remove and to exercise disciplinary control over persons holding or acting in such offices is vested in the Judicial and Legal Service Commission.

(2) This section applies to—

(*a*) all public offices for which a legal qualification is required, except those of Attorney-General, judge of the High Court or the Court of Appeal, Director of Public Prosecutions and Public Solicitor;

(*b*) magistrates engaged in full time judicial and related duties; and

(*c*) such other officers, including registrars of the High Court and the Court of Appeal, as may be prescribed.

Police and Prisons Service Commission.

119.—(1) There shall be a Police and Prisons Service Commission for Solomon Islands.

(2) The members of the Commission shall be—

(*a*) the Chairman of the Public Service Commission, who shall be Chairman of the Commission;

(*b*) the Chairman of the Judicial and Legal Service Commission; and

(*c*) a person appointed by the Governor-General, acting in accordance with the advice of the Prime Minister.

(3) If the office of the member of the Commission appointed under subsection (2) (*c*) of this section is vacant or the holder thereof is for any reason unable to perform the functions of his office, the Governor-General, acting in accordance with the advice of the Prime Minister, may appoint some other person to act in the office of that member; and any person so appointed may continue to act until he is notified by the Governor-General, acting as aforesaid, that the circumstances giving rise to the appointment have ceased to exist.

Appointments of officers in Police Force.

120.—(1) Save as provided in section 43(2) of this Constitution, power to make appointments (including power to confirm appointments) to offices in the Police Force of or above the rank of Inspector is vested in the Police and Prisons Service Commission.

(2) Power to make appointments (including power to confirm appointments) in the Police Force below the rank of Inspector is vested in the Commissioner of Police.

(3) There shall be in the Police Force such number of Police Promotion Boards, each consisting of officers in the Police Force above the rank of Inspector, as may be prescribed by regulations made under subsection (5) of this section.

(4) In the exercise of the powers to make appointments to offices in the Police Force vested in him, the Commissioner of Police may refer any question relating to the promotion of an officer in the Police Force to a rank below that of Inspector to a Police Promotion Board for their advice, but he shall not be obliged to act in accordance with the advice given him by any such Board.

(5) The Police and Prisons Service Commission may by regulations make provision for all or any of the following matters—

(*a*) the number of Police Promotion Boards which shall be established for the Police Force;

(*b*) the composition of any Police Promotion Board and the method of appointment and tenure of office of the members thereof; and

(*c*) the manner in which a Police Promotion Board shall perform its functions.

(6) The power to make appointments under subsection (1) of this section shall not extend to postings or transfers within the Police Force of officers in that Force, and the power to make such postings and transfers is vested in the Commissioner of Police.

Removal and discipline of members of Police Force.

121.—(1) Save as provided in section 129 of this Constitution and subsection (2) of this section, power to remove and to exercise disciplinary control over persons holding or acting in offices in the Police Force is vested in the Police and Prisons Service Commission.

(2) The following powers are vested in the Commissioner of Police—

(*a*) in respect of officers of or above the rank of Assistant Superintendent, the power to administer reprimands;

(*b*) in respect of Inspectors, the power to exercise disciplinary control other than removal or reduction in rank; and

(*c*) in respect of officers below the rank of Inspector, the power to exercise disciplinary control including the power of removal.

(3) The Commissioner of Police may, by directions in writing, and subject to such conditions as he thinks fit, delegate to any officer in the Police Force of or above the rank of Inspector any of his powers under subsection (2) (*c*) of this section other than the power of removal, but an appeal from any award of punishment by such an officer shall lie to the Commissioner.

Appeal.

122. Any police officer upon whom the Commissioner has imposed any punishment which includes—

(*a*) reduction in rank; or

(*b*) removal,

may appeal to the Police and Prisons Service Commission against either the finding or the punishment or both, and the Commission may confirm, set aside or vary the finding and confirm, set aside, reduce, suspend or otherwise vary the punishment:

Provided that nothing in this section shall be construed as empowering the award of any greater punishment than could have been awarded by the officer inflicting the punishment.

Appointments of officers in Prisons Service.

123.—(1) Power to make appointments (including power to confirm appointments) to offices in the Prisons Service of or above the rank of Assistant Prison Officer is vested in the Police and Prisons Service Commission.

(2) Power to make appointments (including power to confirm appointments) in the Prisons Service below the rank of Assistant Prison Officer is vested in the Superintendent of Prisons.

(3) The power to make appointments under subsection (1) of this section shall not extend to postings or transfers within the Prisons Service of officers in that Service, and the power to make such postings and transfers is vested in the Superintendent of Prisons.

Removal and discipline of members of Prisons Service.

124.—(1) Save as provided in subsection (2) of this section, power to remove and to exercise disciplinary control over persons holding or acting in offices in the Prisons Service is vested in the Police and Prisons Service Commission.

(2) The following powers are vested in the Superintendent of Prisons—

(*a*) in respect of officers of or above the rank of Prison Officer, the power to administer reprimands;

(*b*) in respect of Assistant Prison Officers, the power to exercise disciplinary control other than removal or reduction in rank; and

(*c*) in respect of officers below the rank of Assistant Prison Officer, the power to exercise disciplinary control including the power of removal.

(3) The Superintendent of Prisons may, by directions in writing, and subject to such conditions as he thinks fit, delegate to any officer in the Prisons Service of or above the rank of Assistant Prison Officer any of his powers under subsection (2)(*c*) of this section other than the power of removal, but an appeal from any award of punishment by such an officer shall lie to the Superintendent of Prisons.

Appeal.

125. Any officer in the Prisons Service upon whom the Superintendent of Prisons has imposed any punishment which includes:

(*a*) reduction in rank; or

(*b*) removal,

may appeal to the Police and Prisons Service Commission against either the finding or the punishment or both, and the Commission may confirm, set aside or vary the finding and confirm, set aside, reduce, suspend or otherwise vary the punishment:

Provided that nothing in this section shall be construed as empowering the award of any greater punishment than could have been awarded by the officer inflicting the punishment.

Removal from office of members of Commissions.

126.—(1) A person holding an office to which this section applies (in this section referred to as "a Commissioner") may be removed from office only for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour and shall not be so removed except in accordance with the provisions of this section.

(2) A Commissioner shall be removed from office by the Governor-General if the question of his removal from that office has been referred to a tribunal appointed under the next following subsection and the tribunal has advised the Governor-General that he ought to be removed from office for inability as aforesaid or for misbehaviour.

(3) If the Governor-General considers that the question of removing a Commissioner ought to be investigated, then—

(*a*) the Governor-General shall appoint a tribunal in accordance with the provisions of subsection (6) of this section; and

(*b*) that tribunal shall inquire into the matter and report on the facts thereof to the Governor-General and advise the Governor-General whether the Commissioner ought to be removed under this section.

(4) If the question of removing a Commissioner has been referred to a tribunal under this section, the Governor-General may suspend the Commissioner from performing the functions of his office, and any such suspension may at any time be revoked by the Governor-General, and shall in any case cease to have effect if the tribunal advises the Governor-General that the Commissioner should not be removed.

(5) The offices to which this section applies are those of members of the Public Service Commission, member of the Judicial and Legal Service Commission appointed under section 117(3) of this Constitution, and member of the Police and Prisons Service Commission appointed under section 119(3) of this Constitution.

(6) A tribunal appointed under this section shall consist of a chairman and two other members, and

(*a*) in the case of a tribunal to investigate the removal of the member of the Judicial and Legal Service Commission appointed under section 117(3) of this Constitution, all members of the tribunal shall be persons who hold or have held high judicial office in some part of the Commonwealth; and

(*b*) in any other case, the chairman shall be a person who holds or has held such office.

(7) Except as provided in subsection (2) of this section, the functions of the Governor-General under this section shall be exercised by him in accordance with the advice of the Prime Minister.

Appointments etc. to particular offices.

127.—(1) Power to make appointments to the offices to which this section applies (including power to confirm appointments) and to remove and to exercise disciplinary control over persons holding or acting in such offices is vested in the Governor-General, acting in accordance with the advice of the Prime Minister tendered after the Prime Minister has consulted the Public Service Commission.

(2) The offices to which this section applies are those of Ambassador, High Commissioner or other principal representative of Solomon Islands in any other country or accredited to any international organisation.

Appointment of Permanent Secretaries.

128.—(1) Power to make appointments to the office of Permanent Secretary shall vest in the Public Service Commission acting with the concurrence of the Prime Minister.

(2) Power of posting or transfer of a person holding the office of Permanent Secretary shall vest in the Prime Minister, acting after consultation with the Public Service Commission.

Tenure of office of certain public officers.

129.—(1) The provisions of this section shall apply in relation to persons holding the offices of Auditor-General, Director of Public Prosecutions, Public Solicitor and Commissioner of Police.

(2) Subject to the provisions of this section, a person to whom this section applies shall vacate his office when he attains the age of fifty-five years:

Provided that the Governor-General may permit a person to whom this section applies who attains the age of fifty-five years to continue in office until he has attained such later age as may have been agreed between the Governor-General and that person.

(3) A person to whom this section applies may be removed from office only for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour and shall not be so removed except in accordance with the provisions of this section.

(4) A person to whom this section applies shall be removed from office by the Governor-General if the question of his removal from office has been referred to a tribunal appointed under subsection (5) of this section and the tribunal has recommended to the Governor-General that he ought to be removed from office for inability as aforesaid or for misbehaviour.

(5) If the Governor-General considers that the question of removing a person to whom this section applies from office for inability as aforesaid or for misbehaviour ought to be investigated, or if the Prime Minister represents to the Governor-General that that question ought to be investigated, then—

(*a*) the Governor-General shall appoint a tribunal, which shall consist of a Chairman who is a person who holds or has held high judicial office in some part of the Commonwealth, and not less than two other members; and

(*b*) the tribunal shall inquire into the matter and report on the facts thereof to the Governor-General and recommend to the Governor-General whether the person ought to be removed from office for inability as aforesaid or for misbehaviour.

(6) If the question of removing a person to whom this section applies has been referred to a tribunal under subsection (5) of this section, the Governor-General may suspend the person from performing the functions of his office, and any such suspension may at any time be revoked by the Governor-General and shall in any case cease to have effect if the tribunal recommends to the Governor-General that the person should not be removed.

(7) Except as provided in subsection (4) of this section, the functions of the Governor-General under this section shall be exercised by him—

(*a*) in relation to the office of Auditor-General, in accordance with the advice of the Public Service Commission;

(*b*) in relation to the office of Director of Public Prosecutions or Public Solicitor, in accordance with the advice of the Judicial and Legal Service Commission; and

(*c*) in relation to the office of Commissioner of Police, in his own deliberate judgment.

(8) The provisions of this section shall not apply in relation to a person appointed to act in any office referred to in subsection (1) of this section during any period when that office is vacant or the holder thereof is unable to perform the functions of his office; and the appointment of such a person may be revoked by the Governor-General at any time before the expiration of that period.

(9) (*a*) Nothing in this section shall prevent the appointment of a person who is not a citizen of Solomon Islands to any office to which this section applies for a term of years.

(*b*) A person appointed to an office to which this section applies under this subsection shall cease to hold office on the expiration of the term for which he was appointed but shall otherwise be removed from office only in accordance with the provisions of this section.

Applicability of pensions law.

130.—(1) Subject to the provisions of section 132 of this Constitution, the law applicable to the grant and payment to any officer, or to his widow, children, dependants or personal representatives, of any pension, gratuity or other like allowance (in this section and in sections 131 and 132 of this Constitution referred to as an "award") in respect of the service of that officer in a public office shall be that in force on the relevant day or any later law not less favourable to the person concerned.

(2) For the purposes of this section the relevant day is—

(*a*) in relation to an award granted before Independence Day, the day on which the award was granted;

(*b*) in relation to an award granted or to be granted on or after Independence Day to or in respect of a person who was a public officer before that day, the day immediately before that day;

(*c*) in relation to an award granted or to be granted to or in respect of a person who first becomes a public officer on or after Independence Day, the day on which he becomes a public officer.

(3) For the purposes of this section, in so far as the law applicable to an award depends on the option of the person to or in respect of whom it is granted or to be granted, the law for which he opts shall be taken to be more favourable to him than any other law for which he might have opted.

Pensions etc. charged on the Consolidated Fund.

131. Awards granted under any law for the time being in force in Solomon Islands are (except so far as they are a charge on some other fund and are duly paid out of that fund to the person to whom payment is due) hereby charged on and shall be paid out of the Consolidated Fund.

Grant and withholding of pensions etc.

132.—(1) The power to grant any award under any pensions law for the time being in force in Solomon Islands (other than an award to which, under that law, the person to whom it is payable is entitled as of right) and, in accordance with any provisions in that behalf in any such law, to withhold, reduce in amount or suspend any award payable under any such law shall vest in the Governor-General.

(2) The power vested in the Governor-General by subsection (1) of this section shall be exercised by him—

(*a*) in the case of an award payable in respect of the services of any person who, having been a public officer, was, immediately before the date on which he ceased to hold public office, serving as a judge of the High Court or the Court of Appeal, or Commissioner of Police, in his own deliberate judgment;

(*b*) in the case of an award payable in respect of the services of any person who, having been a public officer, was, immediately before the date aforesaid, serving as Ombudsman, Director of Public Prosecutions, or Public Solicitor, or in any office to which section 118 of this Constitution applies at the date of the exercise of the power, in accordance with the advice of the Judicial and Legal Service Commission;

(*c*) in the case of an award payable in respect of the services of any person who, having been a public officer, was, immediately before the date aforesaid, serving in any office in the Prisons Service or in the Police Force other than the office of Commissioner of Police, in accordance with the advice of the Police and Prisons Service Commission; and

(*d*) in the case of an award payable in respect of the services of any other person for whom no other statutory or other provision has been made, in accordance with the advice of the Public Service Commission.

(3) In this section, "pensions law" means any law relating to the grant to any person, or to the widow, children, dependants or personal representatives of that person, of an award in respect of the services of that person in a public office.

CHAPTER XIV

MISCELLANEOUS

Powers of appointment and acting appointments.

133.—(1) Any reference in this Constitution to power to make appointments to any public office shall be construed as including a reference to power to make appointments on promotion and transfer to that office and to power to appoint a person to act in that office during any period during which it is vacant or the holder thereof is unable to perform the functions of that office.

(2) In this Constitution, unless the context otherwise requires, a reference to the holder of an office by the term designating his office shall be construed as including a reference to any person who is for the time being lawfully acting in or performing the functions of that office.

(3) Where by this Constitution any person is directed, or power is conferred on any person or authority to appoint a person, to act in or otherwise to perform the functions of an office if the holder thereof is unable to perform the functions of that office, the validity of any performance of those functions by the person so directed or of any appointment made in exercise of that power shall not be called in question in any court on the ground that the holder of the office is not unable to perform the functions of the office.

Reappointments and concurrent appointments.

134.—(1) Where any person has vacated any office established by this Constitution, he may, if qualified, again be appointed or elected to hold that office in accordance with the provisions of this Constitution.

(2) Whenever the holder of any office constituted by or under this Constitution, or any public office otherwise constituted, is on leave of absence pending relinquishment of his office—

(*a*) another person may be appointed to that office; and

(*b*) that person shall, for the purpose of any function of that office, be deemed to be the sole holder of that office.

Removal from office.

135.—(1) References in this Constitution to the power to remove a public officer from his office shall be construed as including references to any power conferred by any law to require or permit that officer to retire from the public service and to any power or right to terminate a contract on which a person is employed as a public officer and to determine whether any such contract shall or shall not be renewed:

Provided that—

(*a*) nothing in this subsection shall be construed as conferring on any person or authority power to require any judge of the High Court or the Court of Appeal, the Ombudsman, the Director of Public Prosecutions, the Public Solicitor, the Commissioner of Police or the Auditor-General to retire from the public service; and

(*b*) any power conferred by any law to permit a person to retire from the public service shall, in the case of any officer mentioned in the preceding paragraph or an officer who may be removed from office by some person or authority other than a Commission established by this Constitution, vest in the Commission or other authority that, if that officer had retired, would be the appropriate Commission or authority in relation to the awards of that officer under section 132 of this Constitution.

(2) Any provision of this Constitution that vests in any person or authority power to remove any public officer from his office shall be without prejudice to the power of any person or authority to abolish any office or to any law providing for the compulsory retirement of public officers generally or any class of public officer on attaining an age specified therein.

Resignations.

136. Save as otherwise provided in sections 34, 50 and 64 of this Constitution, any person who is appointed to or to act in any office established by this Constitution may resign from that office by writing under his hand addressed to the person by whom he was appointed; and the resignation of any person from any such office (including any seat in Parliament) by writing under his hand addressed in accordance with this Constitution to any other person shall take effect, and the office shall accordingly become vacant—

(*a*) at such time or on such date (if any) as may be specified in the writing; or

(*b*) when the writing is received by that other person,

whichever is the later:

Provided that the resignation may be withdrawn before it takes effect if the person to whom the resignation is addressed consents to its withdrawal.

Performance of functions of Commissions, etc.

137.—(1) Any Commission established by this Constitution may by regulations make provision for regulating and facilitating the performance by the Commission of their functions under this Constitution.

(2) Any decision by any such Commission shall require the concurrence of a majority of all the members thereof and, subject as aforesaid, the Commission may act notwithstanding the absence of any member:

Provided that if in any particular case a vote of all the members is taken to decide the question and the votes cast are equally divided the chairman shall have and shall exercise a casting vote.

(3) Subject to the provisions of this section, any such Commission may regulate their own procedure.

(4) In the exercise of their functions under this Constitution, no such Commission shall be subject to the direction or control of any other person or authority, except where otherwise provided by this Constitution.

(5) In addition to the functions conferred upon them by or under this Constitution any such Commission shall have such powers and other functions (if any) as may be prescribed.

(6) The validity of the transaction of business of any such Commission shall not be affected by the fact that some person who was not entitled to do so took part in the proceedings.

(7) The provisions of subsections (1), (2), (3) and (4) of this section shall apply in relation to the Committee on the Prerogative of Mercy as they apply in relation to a Commission established by this Constitution.

(8) The provisions of subsections (1), (2), (3) and (4) of this section shall apply in relation to a tribunal established for the purposes of section 14(4), 16(8), 80(6), 87(6), 126(3) and 129(5) of this Constitution as they apply in relation to a Commission established by this Constitution, and any such tribunal shall have the same powers as the High Court in respect of the attendance and examination of witnesses (including the administration of oaths and the examination of witnesses abroad) and in respect of the production of documents.

Saving for jurisdiction of courts.

138. No provision of this Constitution that any person or authority shall not be subject to the direction or control of any other person or authority in the exercise of any functions under this Constitution shall be construed as precluding a court of law from exercising jurisdiction in relation to any question whether that person or authority has performed those functions in accordance with this Constitution or any other law or should not perform those functions.

Power to amend and revoke instruments, etc.

139. Where any power is conferred by this Constitution to make any proclamation, regulation, order or rule, or to give any direction or instructions, the power shall be construed as including the power, exercisable in like manner, to amend or revoke any such proclamation, regulation, order, rule, direction or instructions.

Consultation.

140.—(1) Where any person or authority other than the Governor-General is directed by this Constitution to exercise any function after consultation with any other person or authority, that person or authority shall not be obliged to exercise that function in accordance with the advice of that other person or authority.

(2) Where any person or authority is directed by any law to consult any other person or authority before taking any decision or action, that other person or authority must be given a genuine opportunity to present his or its views before the decision or action, as the case may be, is taken.

Oaths.

141.—(1) Before entering upon the functions of his office a person to whom this section applies shall take and subscribe the oath of allegiance and such other oath (if any) as may be prescribed by Parliament.

(2) This section applies to any person appointed to hold or to act in—

(*a*) the office of any judge of the High Court or the Court of Appeal;

(*b*) such other public offices as may be prescribed by Parliament; and

(*c*) the office of member of any Commission established by this Constitution or of the Committee on the Prerogative of Mercy.

142. There shall be a national seal bearing on it such device as Parliament shall approve by resolution. National Seal.

143. The offices specified in sections 91 (Director of Public Prosecutions), 92 (Public Solicitor) and 96 (Ombudsman) shall be established no later than 8th July 1981. Establishment of certain offices.

144.—(1) In this Constitution, unless the context otherwise requires— Interpretation.

"absolute majority" means at least one half of all the members plus one;

"the Commonwealth" means Solomon Islands and any country to which section 24 of this Constitution for the time being applies, and includes the dependencies of any such country;

"the Crown" means the Crown in right of Solomon Islands;

"customary law" means the rules of customary law prevailing in an area of Solomon Islands;

"functions" includes rights, duties and powers;

"the Gazette" means the Solomon Islands Gazette;

"the Government" means Her Majesty's Government of Solomon Islands;

"the Governor-General" means the Governor-General of Solomon Islands;

"the High Court" and "the Court of Appeal" mean respectively the High Court and the Court of Appeal established by this Constitution;

"high judicial office" means the office of judge of a court having unlimited jurisdiction in civil and criminal matters or a court having jurisdiction in appeals from any such court;

"Independence Day" means 7th July 1978;

"legal representative" means a person entitled to practise as an advocate or a barrister and solicitor in Solomon Islands;

"meeting" in relation to Parliament means any sittings of Parliament commencing when Parliament first meets after being summoned at any time, and terminating when Parliament is adjourned *sine die* or at the conclusion of a session;

"oath" includes affirmation;

"oath of allegiance" means such oath of allegiance as is prescribed in Schedule 1 to this Constitution;

"Parliament" means the National Parliament of Solomon Islands established by this Constitution;

"the Police Force" means the Solomon Islands Police Force;

"prescribed" means prescribed in a law:

Provided that—

(*a*) in relation to anything that may be prescribed only by Parliament, it means prescribed in an Act of Parliament; and

(*b*) in relation to anything that may be prescribed only by some other specified person or authority, it means prescribed in an order made by that other person or authority;

"the Prisons Service" means the Solomon Islands Prisons Service;

"provincial government officer" means a person holding or acting in any office of emolument in the service of a provincial government authority;

"public office" means, subject to the provisions of the next following section, an office of emolument in the public service;

"public officer" means a person holding or acting in any public office;

"public service" means the service of the Crown in a civil capacity in respect of the government of Solomon Islands;

"session" means the sittings of Parliament commencing when Parliament first meets after its prorogation or dissolution at any time and ending when Parliament is prorogued or dissolved without having been prorogued;

"sitting" means, in relation to Parliament, a period during which Parliament sits without adjournment and includes any period during which Parliament is in committee;

"Solomon Islands" means the territory which immediately before Independence Day constituted the territory under Her Majesty's protection known as the Solomon Islands;

"the Speaker" means the Speaker of Parliament.

(2) The provisions referring to Her Majesty shall extend to Her Majesty's Heirs and Successors in the sovereignty of the United Kingdom of Great Britain and Northern Ireland.

(3) Save as otherwise provided in this Constitution, the Interpretation Act 1889(a) shall apply, with the necessary adaptations, for the purpose of interpreting this Constitution, and otherwise in relation thereto, as it applies for the purpose of interpreting, and in relation to, Acts of the Parliament of the United Kingdom.

References to public office, etc.

145.—(1) In this Constitution the expression "public office" shall be construed—

(*a*) as including the office of any judge of the High Court or the Court of Appeal and the office of member of any other court of law in Solomon Islands, unless the context otherwise requires;

(*b*) as not including—

(i) the office of any Minister, Leader of the Official Opposition, Leader of the Independent Members, Speaker or member of Parliament; or

(ii) the office of member of any Commission established by this Constitution or of the Committee on the Prerogative of Mercy.

(2) For the purposes of this Constitution a person shall not be treated as holding, or acting in, a public office by reason only that he—

(*a*) is on leave of absence pending relinquishment of a public office, or is on leave of absence without salary from a public office;

(*b*) is receiving a pension or other like allowance from the Crown;

(*c*) is a special constable or a retired or reserve member of Her Majesty's forces;

(*d*) is a provincial government officer; or

(a) 1889 c.63.

(*e*) is the holder of an office in the service or appointment of the Crown, or is performing any functions on behalf of the Crown, if the only payments he receives in respect of that office or those functions are by way of travelling or subsistence allowances or a refund of out-of-pocket expenses.

SCHEDULE 1 TO THE CONSTITUTION

Sections 29, 39, 63 and 141

FORMS OF OATHS AND AFFIRMATIONS

1. Oath of Allegiance

I, ..., do swear [*or* solemnly affirm] that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth II, Her Heirs and Successors, according to law. [So help me God.]

2. Oath for the due execution of the office of Governor-General

I, ..., do swear [*or* solemnly affirm] that I will well and truly serve Her Majesty Queen Elizabeth II, Her Heirs and Successors, in the office of Governor-General of Solomon Islands. [So help me God.]

3. Oath for the due execution of the office of member of the Cabinet.

I, ..., being a member of the Cabinet, do swear [*or* solemnly affirm] that I will to the best of my judgment, at all times when so required, freely give my counsel and advice to the Governor-General of Solomon Islands (or any other person for the time being lawfully performing the functions of that office) for the good management of the public affairs of Solomon Islands, and I do further swear [*or* solemnly affirm] that I will not on any account, at any time whatsoever, disclose the counsel, advice, opinion or vote of any particular member of the Cabinet, and that I will not, except with the authority of the Cabinet and to such extent as may be required for the good management of the affairs of Solomon Islands, directly or indirectly reveal the business or proceedings of the Cabinet or any matter coming to my knowledge in my capacity as a member of the Cabinet and that in all things I will be a true and faithful member of the Cabinet. [So help me God.]

Section 33 (1)

SCHEDULE 2 TO THE CONSTITUTION

ELECTION OF PRIME MINISTER

Calling of election meeting.

1. As soon as possible after a general election of members of Parliament, or whenever there is a vacancy in the office of Prime Minister, the Governor-General shall convene a meeting of members for the purpose of electing a Prime Minister by issuing to each member a notice stating—

(*a*) the date, place and time of the election meeting;

(*b*) the place at and the date and time on which nomination papers are to be delivered to the Governor-General which time shall be not later than four days before the date appointed for the election meeting.

List of candidates.

2. A list specifying all candidates nominated and their respective nominators shall be submitted by or by direction of the Governor-General to each member prior to the election meeting.

Candidature.

3.—(1) All members shall be eligible for candidature.

(2) No member shall be a candidate unless he is nominated as such by four other members, and no member may nominate more than one candidate.

(3) Any candidate may withdraw his candidature at any time before the conclusion of the election.

Election may be countermanded or suspended.

4. If, at any stage of the election, a candidate dies or in the opinion of the Governor-General is seriously incapacitated, or if for any other reason the election in the opinion of the Governor-General cannot or is unlikely to be successfully completed in accordance with paragraph 7 of this Schedule, the Governor-General may either—

(*a*) countermand the election in which case the electoral procedure shall be commenced *de novo;* or

(*b*) suspend the election proceedings until some later time or day.

Method of voting.

5.—(1) The election shall be by secret ballot.

(2) Each member shall have only one vote at the first and at each subsequent ballot, if any, held in accordance with paragraph 7 of this Schedule.

Conduct of meeting.

6.—(1) The election meeting shall be presided over and the election conducted by the Governor-General.

(2) The Governor-General may for the purpose of counting votes and for any other purpose relating to the conduct of the election enlist the assistance of such number of public officers as he shall consider necessary.

(3) No person other than the Governor-General, a member, or a public officer whose assistance is enlisted under the preceding subparagraph shall be present at an election meeting.

Voting procedure.

7.—(1) If any candidate should at any ballot receive an absolute majority of votes he shall thereby be elected Prime Minister.

(2) If no candidate should receive an absolute majority of votes at the first ballot a further ballot shall be held wherein—

(*a*) the candidate who received fewest votes at the first ballot shall thereby be eliminated; or

(*b*) if there is a tie between two or more candidates for the fewest number of votes received at the first ballot, the Governor-General shall decide by lot which one of such candidates shall be eliminated.

(3) If in a second ballot no candidate should receive an absolute majority of votes, subject to subparagraph (5) of this paragraph, further ballots shall be held until one candidate receives an absolute majority of votes.

(4) The procedure specified in subparagraphs (1) and (2) of this paragraph relating to the first and second ballots shall apply in relation to subsequent ballots.

(5) If, after one or more ballots, all candidates save two have been eliminated, only one further ballot shall be conducted to decide the election between these two candidates at which the candidate receiving the greater number of votes shall be elected Prime Minister.

(6) If the ballot conducted in accordance with the preceding subparagraph results in a tie between the two candidates, one further ballot shall be conducted to decide the election between these two candidates and if there is a tie between them again, the Governor-General shall countermand the election and the election procedure shall be commenced *de novo*.

(7) No ballot shall be held within a period of less than six hours after the conclusion of the preceding ballot.

Announcement of results.

8. When the count has been completed in any ballot the Governor-General shall forthwith announce to the meeting the number of votes received by each candidate and, where any candidate has received an absolute majority of votes, or the greater number of votes under paragraph 7 (5) or (6) of this Schedule, shall declare such candidate to have been elected Prime Minister.

Notification of result.

9. Upon the election of a Prime Minister, the Governor-General shall cause that fact and the identity of the Prime Minister—

(*a*) to be made known to the public in such manner as to him may seem appropriate; and

(*b*) to be published as soon as may be in the Gazette.

Disputes.

10. Any dispute arising out of or in connection with the calling or conduct of any election meeting or the election of the Prime Minister under this Schedule shall be determined by the Governor-General whose determination of the matter in dispute shall be final and conclusive and shall not be questioned in any proceedings whatsoever.

Functions of Governor-General.

11. The functions conferred upon the Governor-General by this Schedule shall be exercised by him in his own deliberate judgment.

Section 76

SCHEDULE 3 TO THE CONSTITUTION

APPLICATION OF LAWS

1. Subject to this Constitution and to any Act of Parliament, the Acts of the Parliament of the United Kingdom of general application and in force on 1st January 1961 shall have effect as part of the law of Solomon Islands, with such changes to names, titles, offices, persons and institutions, and as to such other formal and non-substantive matters, as may be necessary to facilitate their application to the circumstances of Solomon Islands from time to time.

2.—(1) Subject to this paragraph, the principles and rules of the common law and equity shall have effect as part of the law of Solomon Islands, save in so far as:—

(*a*) they are inconsistent with this Constitution or any Act of Parliament;

(*b*) they are inapplicable to or inappropriate in the circumstances of Solomon Islands from time to time; or

(*c*) in their application to any particular matter, they are inconsistent with customary law applying in respect of that matter.

(2) The principles and rules of the common law and equity shall so have effect notwithstanding any revision of them by any Act of the Parliament of the United Kingdom which does not have effect as part of the law of Solomon Islands.

3.—(1) Subject to this paragraph, customary law shall have effect as part of the law of Solomon Islands.

(2) The preceding subparagraph shall not apply in respect of any customary law that is, and to the extent that it is, inconsistent with this Constitution or an Act of Parliament.

(3) An Act of Parliament may:—

(*a*) provide for the proof and pleading of customary law for any purpose;

(*b*) regulate the manner in which or the purposes for which customary law may be recognised; and

(*c*) provide for the resolution of conflicts of customary law.

4.—(1) No court of Solomon Islands shall be bound by any decision of a foreign court given on or after 7th July 1978.

(2) Subject to the preceding provisions of this Schedule or any provision in that regard made by Parliament, the operation in Solomon Islands of the doctrine of judicial precedent shall be regulated by practice directions given by the Chief Justice.

5. The provisions of this Schedule are without prejudice to the provisions of section 5 of the Order to which the Constitution is scheduled.

EXPLANATORY NOTE

(This Note is not part of the Order.)

By virtue of the Solomon Islands Act 1978, Solomon Islands will attain independence within the Commonwealth on 7th July 1978. This Order makes provision for a Constitution for Solomon Islands to come into effect on that day, including provision for the legislature, the executive government, the legal system and the public service. The Constitution also contains provisions relating to citizenship of Solomon Islands and fundamental rights and freedoms of the individual.

SI 1978/783
ISBN 0-11-083783-5

