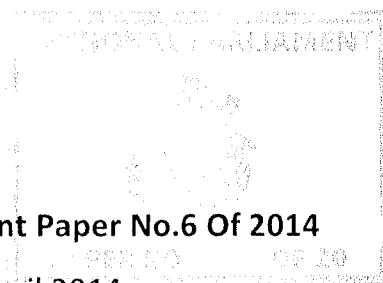


**NATIONAL PARLIAMENT OF SOLOMON ISLANDS
BILLS AND LEGISLATION COMMITTEE**

**Report on the Constitutional
Offices (Terms and Conditions
of Service) (Judicial Reform)
(Amendment) Bill 2014**



National Parliament Paper No.6 Of 2014

Presented on 23 April 2014

National Parliament Office

CONTENTS

EXECUTIVE SUMMARY.....	2
1. INTRODUCTION	3
1.1 Functions of the Committee	3
1.2 Terms of Reference	3
1.3 Membership	4
2 BACKGROUND	5
2.1 Deputy Chief Justice.....	5
2.2 Magistrate.....	5
3 IMPACTS.....	5
3.1 Constitutional Post Holders.....	5
3.2 Costs	6
4 RECOMENDATIONS	6
6 APPENDICES.....	7
APPENDIX 1: MINUTES.....	7
APPENDIX 2: WITNESSES	8

EXECUTIVE SUMMARY

The Bills and Legislation Committee had completed its inquiry into the Constitutional Offices (Terms and Conditions of Service) (Judicial reform) (Amendment) Bill 2014.

In its findings the Committee express its acknowledgement to the Ministry of Justice and Legal Affairs for making this significant development in the Judiciary. The amendment Bill will enable major reforms in the judiciary by establishing the new position of the Deputy Chief Justice and elevate Magistrates to constitutional posts holders. With the new position in the High Court, the Chief Justice will do less administrative matters and concentrate more on presiding over cases. In the Magistrates' Courts the Magistrates will have a new remuneration package and other benefits that will enable them not to involve in other dishonest practices. Further the amendment in the Magistrates will guarantee magistrates not to leave their job after two or three years and probably will attract better qualified legal practitioners to the bench.

The Committee see the benefit in these amendments and so recommend them for passage through Parliament.

1. INTRODUCTION

The Bills and Legislation Committee (“the Committee”) had completed its review of the *Constitutional Offices (Terms and Conditions of Service) (Judicial Reform) (Amendment) Bill 2014* on the 26th of March 2014. The Bill was submitted on the 12th of March 2014 to the Speaker through the Clerk to Parliament as required under the *Standing Orders*¹.

The Committee had its deliberative meeting on the 24th of March and resolved to invite stakeholders² to make presentations on the contents and policy matters of the Bill. The hearing into the Bill with the stakeholders was held on the 26th of March. The minutes of these proceedings are in Appendix 1.

1.1 Functions of the Committee

The Bills and Legislation Committee is established under the *Standing Orders*³. The Order made pursuant to the *Constitution*⁴ has the functions together with the necessary powers to discharge such, to:

- (a) examine such matters as may be referred to it by Parliament or the Government;
- (b) review all draft legislation prepared for introduction into Parliament;
- (c) examine all subsidiary legislation made under any Act so as to ensure compliance with the Acts under which they are made;
- (d) monitor all motions adopted by Parliament which require legislative action;
- (e) review current or proposed legislative measures to the extent it deems necessary;
- (f) examine such other matters in relation to legislation that, in the opinion of the Committee require examination; and
- (g) make a written report to each Meeting of Parliament containing the observations and recommendations arising from the Committee’s deliberations.

1.2 Terms of Reference

Pursuant to its mandate under the *Standing Orders*⁵, the terms of reference of the Committee in this instance is to examine the Bills and to report its observations and recommendations on the Bills to Parliament.

¹*Standing Order 44 (1)*

²See Appendix 2

³*Standing Order 71*

⁴*Section 62, Constitution of Solomon Islands 1978*

⁵*Standing Order 71*

1.3 Membership

The current members of the Bills and Legislation Committee (9th Parliament) are:

Hon. Manasseh D. Sogavare, MP (Chairman)

Hon. Dr Derek Sikua, MP

Hon. Milner Tozaka, MP

Hon. Matthew Cooper Wale, MP

Hon. John Maneniaru, MP

Hon. James Tora, MP

Hon. Douglas Ete, MP

Hon. Sam Iduri, MP

Hon. Johnley Hatimoana, MP

2 BACKGROUND

The Amendment Bill seeks to amend the Constitutional Offices (terms and Conditions of service) Act to add the position of Deputy Chief Justice and Magistrates to the schedule so as to enable them to be constitutional office holders.

2.1 Deputy Chief Justice

In April 2009 the National Parliament passed an amendment to the Constitution to create the position of deputy Chief Justice. However consequential amendment to the Constitution Offices Act was not done. There is intention to fill the position now so there is need to make its conditions of service and regulations under the Act. The Amendment Bill is doing that.

What the Amendment Bill is doing is inserting in the schedule of the Act after the words “Chief Justice”, the words “Deputy Chief Justice”

2.2 Magistrate

The constitutional amendment pursued under the Constitution (Status of Magistrates) (Amendment) Bill 2014 will elevate Magistrates from being ordinary public officers to constitutional post holders. Consequential to that is the amendment under this Bill. The amendment seeks to reinforce this by inserting in the schedule of the Constitutional Offices (Terms and Conditions of Service) Act the word “Magistrate” after the word “Puisne Judge”.

3 IMPACTS

The Amendment Bill will have the following effects;

3.1 Constitutional Office Holders

The Amendment Bill will establish the new position of the Deputy Chief Justice as a Constitutional post and elevate the Magistrate’s positions from public Officers to become constitutional post holders. These two developments in the judiciary are perceived to enable proper administration in the High Court and will improve Magistrates’ remuneration. With the Deputy Chief Justice, the Chief Justice will not bother so much with administrative matters but concentrate more on presiding over cases. The changes made by the amendment Bill with the Magistrates will see them getting new pay structure and other benefits. This is to ensure that Magistrates are not leaving their job after two to three years on the bench and hopefully could attract better qualified legal people to the Magistracy.

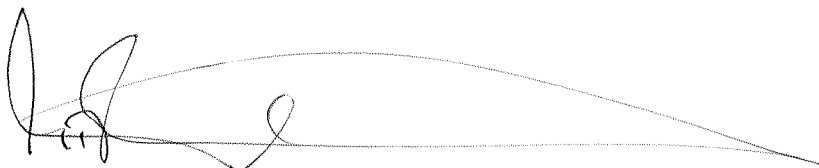
3.2 Costs

The Committee though supports this amendment want to express its concern on the effect this development will have on the Ministry's budget or the consolidated fund. The inclusion of the new Deputy Chief Justice position and the elevation of Magistrates to become Constitutional post holders will create new remuneration packages which will be at a higher level than what is normally budgeted for. According to the Ministry of Justice and Legal Affairs these packages will be 10% below of those above them.

The Committee is concern that the Ministry of Justice might not be able to fund the positions because of its late inclusion in this year's budget.

4 RECOMENDATIONS

1. The Committee recommends the passage of the Bill.



Hon. Manasseh Sogavare

Chairman

Bills and Legislation Committee

23rd April 2014

6 APPENDICES

APPENDIX 1: MINUTES



BILLS AND LEGISLATION COMMITTEE

NATIONAL PARLIAMENT OF SOLOMON ISLANDS

Minutes

Deliberative meeting on the Constitutional Offices (Terms and Conditions of Service) (Judicial Reform) (Amendment) Bill 2014 and the Constitution (Status of Magistrates) (Amendment) Bill 2014.

Held: Monday 24 March 2014,
Venue: Parliament Conference Room 2
Time: 12:08pm – 12:17pm

1. Members Present

Hon. Manasseh D. Sogavare (Chairman)
Hon. Matthew Wale
Hon. John Maneniaru
Hon. James Tora
Hon. Johnley Hatimoana

Secretariat

Wilson Anii, Committee Secretariat

2. Chair's Opening Remarks

The Chair calls the Committee to order and introduced the two Bills.

3. Committees resolution

The Chair invites members to suggest witnesses to be invited to appear before the Committee and suggest date for the inquiry to commence. The Committee resolved to invite the following:

- PMO
- PS Ministry of Justice
- President Solomon Islands Bar Association
- Emma Garo- Former Magistrates

4. Close

Closing prayer by Hon. John Maneniaru

Minutes of Proceedings

Inquiry into the Constitutional Offices (Terms and Conditions of Service) (Judicial reform) (Amendment) Bill 2014

Date: Monday 26 March,
Venue: Parliament Conference Room 2,
Time: 10:18am – 11:35am, 11:42am – 12:57pm

Members Present

Hon. Manasseh Sogavare, MP (Chair)
Hon. Dr. Derek Sikua, MP
Hon. James Tora, MP
Hon. Matthew Wale, MP

Hon. John Maneniaru, MP
Hon. Johnley Hatimoana, MP

Stakeholders (Witnesses)

Pamela Wilde -Legal Policy Adviser
Freddy Mesa- PS Mins of Justice & Legal Affairs
Ranjit Hewagama- Legal Draftsman AGC
Dr. Philip Tagini- Special secretary to Prime Minister

Secretariat

Mr Wilson Anii, Committee Secretary

1. Welcome & Opening Statement

Chairman acknowledges and thanked the stakeholders for their commitment to appear before the committee for the public hearing into the two Bills.

2. Hearing into the Bill

The Chairman made welcome remarks and inform the witnesses on parliament privileges. He then invited those who appear to make opening statements to the Committee on the Bill. The PS Ministry of Justice introduce those who appear. The SSPM, Policy Advisor, President of SIBA and Ms Emma Garo made presentations to the Committee. The Committee questioned, made comments and seek clarification from those who appear on the different issues covered in the Bill. The evidence concluded and the Chair thanked the stakeholders for their attendance.

3. Closing

The hearing closed at 12:57pm.

APPENDIX 2: WITNESSES

The following witnesses appeared before the Bills and Legislation Committee;

Date of appearance	Name	Ministry/Institution represented	Position/Job title
Monday 26 th March 2014	Pamela Wilde	Ministry of Justice & Legal Affairs	Legal Policy Adviser
	Freddy Mesa	Ministry of Justice & Legal Affairs	Permanent Secretary (PS)
	Ranjit Hewagama	AG Chambers	Chief Legal Draftsman
	Dr. Philip Tagini	OPMC	SSPM