

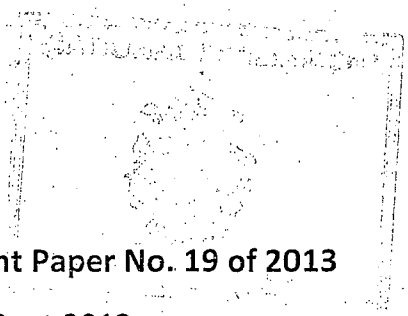


**NATIONAL PARLIAMENT OF SOLOMON ISLANDS  
BILLS AND LEGISLATION COMMITTEE**

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**Report on the Constitution  
(Functions of Electoral  
Commission) (Amendment) Bill  
2013**

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**National Parliament Paper No. 19 of 2013**

Presented on 12<sup>th</sup> Sept 2013

National Parliament Office

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## **EXECUTIVE SUMMARY**

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The Constitution (Functions of Electoral Commission) (Amendment) Bill 2013 was put on notice on the 23<sup>rd</sup> of July 2013 for introduction into Parliament. A deliberative meeting was held on the same date by the Bills and Legislation Committee to organise the scrutiny of this Bill. A hearing with relevant stake holders was conducted on the 26<sup>th</sup> of July. Those who appear before the Committee for the hearing were from the Prime Minister's Office, the Electoral Commission and the Ministry of Home Affairs.

The Bill is proposing to make constitutional amendments to section 58 subsections 1 and 2 of our national Constitution. This section deals with the registration of electors and the conduct of elections of members of Parliament by the Electoral Commission. What the Bill proposed to do is to insert amendments in section 58 to enable the Electoral Commission to perform other functions provided by an Act of Parliament.

The Committee is mindful of section 61 (2) of the Constitution which requires this amendment to be supported at the final voting on two separate readings in Parliament by the votes of not less than three-quarters of all members of Parliament.

The objective of the Constitutional amendment sought by this Bill is to facilitate the introduction of the Political Parties Integrity Bill which is to be tabled later on in Parliament. The changes made by this amendment will see the Electoral Commission carry on the function of the Registrar of Political Parties. This is seen as cost effective because these functions are streamlined into an existing institution rather establishing a new statutory body.

The Committee commends the intention of this Bill because it will facilitate political integrity and stability in our governance system. The Committee whilst agreeing with the intention of the Bill recommend that resources in terms of manpower and funds be allocated to the Electoral Commission to carry out any new function designated by an Act of Parliament. The Committee also recommends the passing before Parliament of other necessary Constitutional amendments that would enable the Political Parties Bill to be consistent with our national Constitution.

After all, the Committee agrees with the objective of this Bill and emphasize that once the necessary amendments have been made, the Electoral Commission is allocated the capacity to perform its new role. Further the Committee calls on the Gov't to make the other necessary constitutional changes required for the

harmonised implementation of the proposed Political Parties Bill before it can be brought to Parliament.

## 1 INTRODUCTION

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The Bills and Legislation Committee ("the Committee") has completed its review of the *Constitution (Functions of Electoral Commission) (Amendment) Bill 2013* ("the Bill"). The Bill was submitted to the Speaker through the Clerk to Parliament as required under the *Standing Orders*<sup>1</sup> on 19<sup>th</sup> July 2013.

The Committee had its deliberative meeting on 23<sup>rd</sup> July and resolved to invite only the relevant stakeholders<sup>2</sup> to make presentations on the contents and policy matters of the Bill. The hearing into the Bill with the relevant stakeholders was held on the 26<sup>th</sup> of July. 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*<sup>3</sup>. The Order made pursuant to the *Constitution*<sup>4</sup> has the functions together with the necessary powers to discharge such, to:

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

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<sup>1</sup> *Standing Order 44 (1)*

<sup>2</sup> See Appendix 2

<sup>3</sup> *Standing Order 71*

<sup>4</sup> *Section 62, Constitution of Solomon Islands 1978*

## 1.2 Terms of Reference

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

## 1.3 Membership

The current members of the Bills and Legislation Committee (9<sup>th</sup> 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

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<sup>5</sup> *Standing Order* 71

## **2 BACKGROUND**

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### **2.1 OBJECTIVE**

The Bill seeks a Constitutional amendment that will facilitate the introduction of the Political Parties Integrity Bill envisaged to come later before Parliament.

The Political Party Integrity Bill had come before Parliament in 2010 with the original intention to establish an independent office of the Registrar of Political Parties. The Chief Technical Adviser responsible for Political Integrity and Stability Project with the Prime Minister's Office when presenting before the Committee mentioned when this matter came before Cabinet, two options were considered. Firstly, a new independent statutory body is to be established to implement the functions of the Registrar of Political Parties. The other is for the functions of the statutory body to be streamlined into any of the existing institutions. The later was appealing as the cost factors surrounding the establishment of the statutory body were considered and there is potential for current institutions to administer the Bill.

The Electoral Commission was chosen as the Institution and the Commission to supervise and administer the implementations of the Political Party Integrity Bill. It is seen that it will be cost effective for the Commission to house this body to administer the incoming Political Party Integrity Bill.

This approach has been practiced in other countries where the responsibility to administer Political Parties is vested in the Electoral Commission. In Fiji under the 'Political Parties (Registration, Conduct, Funding and Disclosures) Decree 2013,' the Registrar of Political Parties is the Permanent Secretary responsible for elections. According to the Chief Technical Adviser, such a situation also exists in Australia and New Zealand.

### **2.2 REFORMS**

During the inquiry into this Bill the Chief Technical Adviser with the PMO stated that the Gov't is now pursuing overall reforms on the governance mechanisms in the country. According to him a nationwide consultation had been held last year which a lot of Solomon Islanders made a lot of recommendations contained in a report produced after these consultations. From this report the Gov't decided on five priorities.

**i. Political Party Bill**

According to him the first priority for the Gov't is for the Political Party Bill to be brought back to the house for enactment.

**ii. Leadership Code Commission**

The second priority is the Reform to the Leadership Code Commission which they have already started on. A propose legislation for a new leadership code bill is proposed to come in the November session of Parliament.

**iii. Integrity Commission**

The third priority is the establishment of the Integrity Commission which again will be established by way of a new leadership code bill. This new legislation will replace the leadership code commission; which will instead have an Integrity commission that will house other offices as well, such as the Anticorruption office and the office of the Ethics adviser. The Ethics office is a new phase of the Leadership Code where it deals more proactively with helping leaders should they face potential areas of doubt in terms of their action where it might give rise to a conflict of interest.

**iv. Anticorruption Office**

The fourth one will be the anticorruption office which will come under the corruption act that will be developed sometimes next year. It is the commitment of government after rectifying the United Nations convention against corruptions.

**v. Electoral Commission**

Finally, the fifth priority is the Electoral Commission itself. The overwhelming view after the nationwide consultation is the need to change our electoral system from first past the post to a type that will guarantee that all members of the house will be elected into Parliament by no less than fifty per cent plus one of the valid vote cast in our constituencies.

### 3 CONTENTS

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The amendment sought by the Bill seeks to create additional functions to the Electoral Commission in section 58 of the Constitution.

The Bill had two clauses; clause one is the short title and commencement provision. Clause two is where the amendments are made.

According to the amendments, changes are made to section 58 subsection (1) of the Constitution where the word "and" is deleted following the word "Parliament" and a comma is substituted instead. Also after the words "such members", the following words "and such other matters as are assigned to it by an Act of Parliament" are inserted. Further the words "and such elections" are deleted and substituted with the words ", elections and other matters"

So the amended section 58 (1) shall read;

*"The Electoral Commission shall have general responsibility for, and shall supervise, the registration of electors for the election of members of Parliament, the conduct of elections of such members and such other matters as are assigned to it by an Act of Parliament and the Commission shall have such powers and other functions relating to such registration, elections and other matters."*

In section 58 subsection (2) the words "Parliament or to the election of such members" are deleted and substituted with the words "Parliament, the conduct of elections of such members, or to such other matters as are assigned to the Commission by an Act of Parliament."

The amended section 58 (2) then shall read;

*"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, the conduct of elections of such members, or to such other matters as are assigned to the Commission by an Act of Parliament shall be referred to the Electoral Commission at such time as shall give 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."*

As stated earlier on, these amendments are necessary for the facilitation of the Political Parties Integrity Bill. Once the proposed Bill is enacted it will authorise the Electoral Commission to become the statutory body for the Registrar for Political Parties, alongside its other normal functions prescribe by the Constitution.

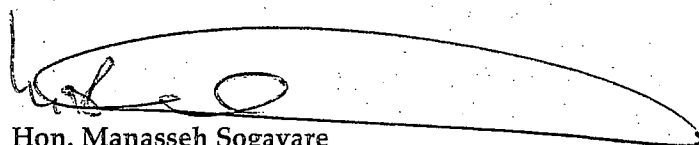


#### 4 RECOMMENDATIONS

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It is recommended that;

1. The Gov't through the relevant Ministries allocate the necessary capacity in manpower and resources to the Electoral Commission to perform the new functions sanctioned by the amendment.
2. Other Constitutional amendments required for the Constitutional legality of the Political Parties Bill be brought to Parliament, before any consideration on the Political Parties Bill itself.



Hon. Manasseh Sogavare

Chairman

Bills and Legislation Committee

8<sup>th</sup> August 2013

## 5 APPENDICES

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### APPENDIX 1: MINUTES



#### BILLS AND LEGISLATION COMMITTEE

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#### NATIONAL PARLIAMENT OF SOLOMON ISLANDS

##### **Deliberative meeting**

**Minutes of meeting on the Constitution (Functions of Electoral Commission) (Amendment) Bill 2013, Financial Institutions (Amendment) Bill 2013 and the Political Parties Integrity Bill 2013.**

Held: Tuesday 23<sup>rd</sup> July 2013

Venue: Parliament Conference Room II

Time: 10:21am.

##### **1. Members Present**

Hon. Manasseh D. Sogavare (Chairman)

Hon. Mathew Cooper Wale

Hon. John Maneniaru

Hon. Milner Tozaka

Hon. Douglas Ete

##### **Secretariat**

Mr Wilson Anii, Committee Secretariat

**Opening Prayer:** Hon. Douglas Ete

##### **2. Chair's Opening Remarks**

The Chair welcomed and thanked members for attending. The Chair introduces the three new Bills. He suggested discussing the two short amendment Bills first before the Political Parties Integrity Bill.

##### **3. Constitution (Functions of Electoral Commission Bill 2013**

The Chairman introduces the Bill and Invite members to suggest relevant stakeholders required to appear before the Committee. Members discussed and resolved on the following stakeholders;

- Rep from the Prime Minister's Office
- Rep from the Electoral Commission
- Legal Draftsman
- Permanent Secretary of the Ministry of Home Affairs

Members directed the Committee Secretariat to upload the three Bills on the Parliament website and advertise them, calling for submission in the Solomon Star newspaper.

#### **4. Financial Institution (Amendment) Bill 2013**

Chairman invite suggestions for stakeholder required to appear before the Committee. The Committee resolved for the following to be invited;

- Rep from the Ministry of Finance
- Rep from the Central Bank of Solomon Islands (CBSI)
- Reps from all the commercial Banks currently operating here
- The Solomon Islands Chamber of Commerce
- The Solomon Islands Forests Association

Members directed the Secretariat to have copies of the Financial Institution Act and the Central Bank of Solomon Islands Act ready for the Committee.

#### **5. Political Parties Integrity Bill 2013**

Chairman once again invites members to suggest relevant stakeholders required to appear before the Committee. The following was suggested by members;

- Reps from each Political Parties in the country
- Rep from PMO
- Civil society organizations
- Women
- Young women parliamentary Group (YWPG)
- Youths

#### **6. Schedule**

Members of the Committee agreed to start with the hearing on Thurs 25<sup>th</sup> July after Parliament adjourned for the two amendment Bills and the Political Parties Integrity Bill will start on Tuesday the 30<sup>th</sup> July.

The secretariat was reminded to seek the consultation report on the political parties Bill from the PMO and to ask Albert Kabui to draft a tabulated comparative analysis of the previous Political Parties Bill and the current Bill for Parliament.

#### **7. Close**

Closing prayer by Hon. John Maneniaru

Meeting closed at 11:30am.

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### **Hearing Minutes of Proceedings**

Date: Friday 26 July,

Venue: Parliament Conference Room 2,

Time: 10:52am

#### **Members Present**

Hon. Manasseh Sogavare, MP (Chair)

Hon. John Maneniaru, MP

Hon. Mathew Wale, MP

Hon. Douglas Ete, MP

Hon. Johnley Hatimoana

## **Secretariat**

Mr Wilson Anii, Committee Secretary

### **Stakeholders (Witnesses)**

Fred Fakarii	-	PS, Min of Home Affairs
Mose Saitala	-	Chief Technical Adviser, PMO
Polycarp Haununu	-	CEO, SIEC
Ranjit Hewagama	-	Legal Draftsman, AGC
Anthony A Makabo	-	Senior Crown Council (Drafting), AGC

### **1. Welcome & Opening Statement**

Chairman acknowledges and thanked the stakeholders for their commitment to appear before the committee for the public hearing into the 'Constitution (Functions of Electoral Commission) (Amendment) Bill 2013.'

### **2. Hearing into the Bill**

The Chairman made welcome remarks and inform the witnesses on parliament immunities and privileges.

He then invited those who appear to make opening statements to the Committee on the Bill.

The Chief Electoral Officer introduces the group and hand over to the Chief Technical Advisor to make the first presentation.

The PS of Min of Home Affairs also made presentation.

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 11:33am.

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## APPENDIX 2: WITNESSES

The following witnesses appeared before the Bills and Legislation Committee;

Date of appearance	Name	Ministry/Institution represented	Position/Job title
Fri 26 <sup>th</sup> July 2013	Fred Fakarii	Min of Home Affairs	PS
	Mose Saitala	PMO	Chief Technical Adviser
	Polycarp Haununu	Sol Is Electoral Comission	Chief Electoral Officer
	Ranjit Hewagama	Attorney General Chambers	Legal Draftsman
	Anthony A Makabo	Attorney General Chambers	Senior Crown Council (Drafting)

