

Education Act Review 2013

FINAL REVIEW REPORT

December 2013

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Acronyms

CRC	Convention on the Rights of the Child
EA	Education Authority
ECE	Early Childhood Education
LN	Legal Notice
MEHRD	Ministry of Education and Human Resources Development
NEB	National Education Board
NQF	National Qualifications Framework
PS	Permanent Secretary
PSC	Public Service Commission
RTC	Rural Training Centre
SICHE	Solomon Islands College of Higher Education
SINTA	Solomon Islands National Teacher's Association
SINU	Solomon Islands National University
SIQA	Solomon Islands Qualifications Authority
SIQF	Solomon Islands Qualifications Framework
TSB	Teaching Service Board
TSC	Teaching Service Commission
TSH	Teaching Service Handbook
TVET	Technical and Vocational Education and Training
VRTCs	Vocational and Rural Training Centres
VTC	Vocational Training Centre
WSI	Whole School Inspection

Introduction

This ninth fortnightly report, covering the period from Friday 15th to Friday 29th November 2013, is also the final report of the review of the Education Act. The report documents the proceedings of the review process and focuses largely on the key findings and recommendations of the review. The report also brings to a conclusion the review process, which was undertaken between September and November 2013.

The key output reported on is the first Draft Report of Key Findings and Recommendations of the Education Act review. The Draft Report is work in progress. It will be vetted and verified by stakeholders in a national summit on 6th December and later completed and submitted to the National Education Board on 17th December 2013.

Acknowledgements

A number of key stakeholders have been consulted during the course of the review of the Education Act. The Chairman and members of the Education Act Review Taskforce and the Review Team of national consultants wish to gratefully acknowledge the tremendous assistance and cooperation rendered by all stakeholders during the period of the review process.

- Government ministries e.g. Ministry of Public Service, Ministry of Provincial Government, and the Attorney General's Chambers
- Provincial Secretaries of Temotu Province, Isabel Province, Makira Province, Malaita Province, Honiara City Council;
- Chief Education Officer's, Provincial Education Offices in Temotu, Isabel, Makira, Malaita, Honiara City Council and Guadalcanal;
- Education Directors and Secretaries of Church Education Authorities;
- Education Directors of Private Education Authorities;
- School Principal's, Deputy Principals/Head Teachers, Senior Teachers and Class Teachers;
- Solomon Islands National Teacher's Association, SINTA;
- Government ministries and agencies;
- Heads of Departments of the Ministry of Education; and,
- Parents and students throughout Solomon Islands.

1.0 INTRODUCTION

Over the last two decades of the 20th and the first decade of the 21st century, the Ministry of Education and Human Resources Development, MEHRD, has been responding to the challenges of change within the education system of Solomon Islands. Those changes include, for instance, the recognition and establishments of certain structures and administrative systems, and the approval of policies and practices that were not provided for under existing education legislation. This trend has highlighted the need for an enabling legislation which is futuristic in its scope and responsive to emerging educational needs and aspirations of the society.

The current Education Act (Cap 69), which provides the framework and legal basis for education in Solomon Islands is 35 years old and was based on the education system then. As the education system of Solomon Islands continues to develop in the 21st century, the need has been identified to review the Act to enable it to reflect current and future needs and aspirations of the people of Solomon Islands.

Key stakeholders in education have acknowledged and are in agreement on the need for a contemporary and enabling legislation to guide the education system into the future. A comprehensive review of the Education Act was the necessary next step forward towards achieving the broad goal of a modern and robust education system; one that is capable of adapting to future trends and developments within the country, the region and internationally.

The review of the Education Act was a major undertaking. The Ministry responsible for education had ensured that the necessary resources required to complete the work, both financial and human, were made available. The review took into consideration the need for a fair, transparent and consultative process to ensure ownership and acceptance of the revised Act. The legislative provisions that will be enacted into law must endure the tests of strength, endurance and adaptability in order for it to serve the country well into the future.

This report sets out the aims and scope of the review, outlines the review work plan, and identifies the key findings and recommendations from the review process. The key findings summarize the current legislative framework and the issues and challenges that have emerged which need to be carefully considered and resolved.

2.0 BACKGROUND

The need for a modern and empowering legislation to replace the existing Act has been long-recognized by stakeholders. In 2012, the National Education Board, NEB, established under the Education Act to advise the Minister on educational matters, recommended to the Minister for education, the Minister, that a Review Team be established to supervise the review of the Education Act and that the financial and human resources required to undertake the review be provided for the purpose.

As part of the policy agenda of the Solomon Islands Government, the Minister required a review of the Education Act [Cap 69], the Act, to meet current and future needs of Solomon Islands. The Minister also sanctioned a process for the review with the NEB responsible for oversight of the review work. A Review Team was established to supervise the process and financial and human resources were made available to support the Review Team. The review was officially launched on July 11 2013 by the Minister.

With the establishment of the Review Team, and, with financial support and a team of national consultants, the review process was convened and the research and stakeholder consultations were conducted between September and November 2013. With the timeframe for the review set at six (6) months, the final output of a White Paper was expected to be achieved by December 2013. However, with delays experienced in the implementation of planned activities, meeting the December deadline would have been imprudent as time and care needed to be invested into the preparation of the White paper.

The terms of the review were broad therefore the review took the liberty to look at the entire Act. The review identified issues of inconsistencies, lack of clarity in the Act, the absence of the legal basis for certain supporting policies, and education and administrative systems which were established to support the implementation of the principal legislation and education in general.

That review was completed and this report, with the key findings and recommendations, is the final output of that review process.

3.0 AIMS OF THE REVIEW

The aims of the review, as provided for in the Terms of Reference of the Review Taskforce, include the following:¹

- (i) A new legislation that will provide a legislative framework for the education sector and the subsectors within it, and define the relationships between the stakeholders within these subsectors. This framework will provide clarity about the legal requirements of the State and private agencies that operate in the education sector, as well as the rights and responsibilities of the users and beneficiaries of education services.
- (ii) A fundamental requirement of the new Act is to ensure that the Ministry of Education, the Ministry, focuses on its core business of policy and planning, that financial resources are used efficiently and effectively, and that it, the Ministry, is responsive to emerging educational needs.
- (iii) The Act will also promote delivery of educational services to the citizens of Solomon Islands through appropriate structures and processes that promote access and quality which, when managed well, are responsive to the requirements of learners, parents and communities, and where the opinions of citizens are properly considered as part of decision making processes.

¹ MEHRD, Reform of the Education Act Taskforce Terms of Reference, 2013

4.0 METHODOLOGY

Taskforce

The review process was supervised by a Review Team. In the early stages of the review, a Taskforce was appointed by the Minister to be responsible for oversight of the review by ensuring that the process was systematic, comprehensive, well managed, and implemented in a timely manner. Beside the Taskforce, three national consultants were also contracted to provide technical assistance to the Taskforce and to also conduct the review proper; the research and literature survey, stakeholder consultations and provide timely reporting on the progress of the review.

Literature Research and Survey

The review was conducted in three stages. The first stage, conducted during July/August 2013, involved scoping of the education landscape, research, and a literature survey of existing documents related to the Act. A range of policy documents of the Ministry and Education Acts of neighbouring countries in the Pacific were gathered during the survey. Analysis was also carried out of management and administrative issues, management of the education system, legal and public administration issues, Education Acts of other Pacific countries, and the consistency of approved education policies and the like.

Stakeholder Consultations

The second stage of the review, were the stakeholder consultations, which took place between September and November 2013. A range of stakeholders, both in Honiara and selected provinces were consulted including Provincial Secretaries of Temotu Province, Isabel Province, Makira Province, Malaita Province, Honiara City Council; Chief Education Officer's, Provincial Education Offices in Temotu, Isabel, Makira, Malaita, Honiara City Council and Guadalcanal; Education Directors and Secretaries of Church Education Authorities; Education Directors of Private Education Authorities; School Principal's, Deputy Principals/Head Teachers, Senior Teachers and Class Teachers; Solomon Islands National Teacher's Association, SINTA; Government ministries and agencies; Heads of Departments of the Ministry of Education; and, Parents and students throughout the provinces consulted.

The stakeholder consultations were done through face-to-face interviews, focus group discussions, and submissions by stakeholders living in Solomon Islands and abroad using a Response Form designed purposely for the review.



One of the provincial stakeholder consultations at Auki, Malaita Province, led by Mr. Tione Bugotu (standing far left)

Documentation

The third and final stage of the review is the documentation and submission of the findings of the review. A national education Summit, held in early December 2013, brought together more than 100 stakeholders to vet and verify the key findings and recommendations of the review. Subsequent to the Summit, the final report of the key findings was completed and submitted by the Taskforce of the National Education Board and later the Permanent Secretary of the Ministry of Education in December 2013.

The survey Response Form was emailed to Solomon Islanders living within and abroad and was followed-up with phone calls and emails to maximise response rates. There were 11 survey form returned.



The National Education Summit in November 2013 at KGV School, December 2013

5.0 WORK PLAN

The timeframe or duration for the review of the Education Act was set as six (6) months. The review commenced in July 2013 and culminated in the submission of a draft Education Act White Paper in December 2013.

It was left to the Review Taskforce to determine the specific activities and timeframes for the review. There were six stages planned in order to complete the review process. The table below outlines those estimated timeframe for the performance of the various activities.

STAGES	ACTIVITIES	TIMEFRAME
<i>Stage 1 Preparation and commencement</i>	<ul style="list-style-type: none"> • Terms of Reference, TOR, developed to guide the review process. • The Review Taskforce of key stakeholders to oversight and manage the process appointed by the Minister of Education. • The personnel, a Review Team of 3 national consultants to undertake the review proper recruited and contracted. • The duration of the Review Timeframe determined - July to December 2013. 	July 2013
<i>Stage 2 Planning and Costing of Activities</i>	<ul style="list-style-type: none"> • Work Plans for Taskforce and Review Team, and detailed Implementation Activity Schedule and Budget developed. • Issues with the Act, guided by areas proposed by the National Education Board consolidated. • Budget for financial resources for the review process, funding and logistics, drawn up and approved by Senior Management. 	July/August 2013
<i>Stage 3 Implementation</i>	<ul style="list-style-type: none"> • Desktop literature review and analysis conducted and concluded. • Nationwide consultations with stakeholders conducted using face-to-face interviews, focus group discussions and submissions. • Preparation and submission of Fortnightly Progress Reports • Compile and analyse key findings of the Review. • Review Report completed and submitted to the Permanent Secretary, MEHRD. • National Summit organized for key stakeholders to vet and validate findings of the review. 	September to November 2013
<i>Stage 4 Reporting and Preparation of Draft White Paper</i>	<ul style="list-style-type: none"> • Prepare, review and revise the Draft White Paper. • Present draft White Paper to National Education Board. • Revise and finalize draft White Paper. 	November to December 2013
<i>Stage 5 Submission of Draft White Paper</i>	<ul style="list-style-type: none"> • Finalize and submit draft White Paper to Permanent Secretary, MEHRD and National Education Board. 	December 2013
<i>Stage 6 Conclusion</i>	<ul style="list-style-type: none"> • Review process concluded. 	December 2013

6.0 KEY FINDINGS

This section outlines the key findings of the Education Act review. The findings were reached through a variety of methods namely, face-to-face interviews, focus group discussions, and written submissions by stakeholders using a Response Form designed by the Review Team. The Response Form was modelled on a list provided to the Review Taskforce by the National Education Board and contained (i) Issues with the current Act, and (ii) Issues not covered by the Act.

Following are the key findings:

6.1 PREAMBLE GUIDING PRINCIPLES

- The Act contains the following brief opening statement: “An Act to make provisions for the structure of the education system of Solomon Islands and for matters connected therewith and incidental thereto.”
- The view has been expressed that a preamble with guiding principles for the contents of the Act be included. A preamble, with guiding principles could include, for instance:
 - An Act to consolidate and amend the law relating to education in Solomon Islands.
 - Legislating for a national education system inclusive of early childhood, primary, secondary and tertiary.
 - Provision of an education of a progressively high quality.
 - An enabling legislation for the development of the talents and qualities of all learners.
 - Rights of learners, parents/carers and educators.
 - Responsibility for the organization, governance and funding of education.
 - Establishment of uniform standards for the education of all learners in Solomon Islands.

6.2 EDUCATION GUIDING PRINCIPLES

- That the Act should contain the guiding principles for education. Some of those principles have already been applied to guide education service delivery in Solomon Islands.
- These principles include the following: (i) Access, (ii) Quality, (iii) Equality, (iv) Ethnic Diversity, and (v) Partnership.
- The principles will be elaborated upon in the White Paper.

6.3 INTERPRETATION

- The terms under Section 2, Interpretation, are limited and can be expanded in the revised Act to capture terminologies that reflect current as well as the future education landscape in view of anticipated provisions in the Act for ECE, primary, secondary, further education and training and tertiary education.
- The terms to be defined under Interpretation will be reflective of those terms used in the Act.
- Some terms do not have to be defined under Interpretation but may be subsequently defined under the particular parts of the Act to which they specifically apply. This has been suggested as a preferred approach for the revised Act.

6.4 GENDER EQUITY

- Throughout the Act references are made to the Minister and Permanent Secretary as ‘he,’ ‘him,’ ‘his’ and ‘himself’. Gender neutral language is to be applied as appropriate.
- Some Education Acts of Pacific neighbours particularly Samoa and Vanuatu have adopted gender neutral language.
- Also, it is a statutory requirement under the Vanuatu Act for ‘equity and gender balance representation’ in all authorities of the education system. This applies to the composition of boards, commissions, councils, etc.
- Despite the progress made in the increase of enrolment at all levels in primary, junior high and secondary schools, studies have quoted high attrition and low retention between 2004 and 2009, and primary *push-outs* also increased and most notably for girls.

- It has been suggested that the Act defines appropriate ‘temporary measures’ for girls and young women to encourage progression of girls and women in secondary and tertiary education.

6.5 EDUCATION AUTHORITIES

- Presently there are approximately 31 EAs: Government/Provincial (10), Church (8), and Independent (13). There are no distinctions between the EAs e.g. Government or non-Government, etc.
- Besides the requirements under the Act for the approval of an EA, there are no clear distinctions between the different types of EAs i.e. Government/Provincial, Church and Independent/Private.
- Functions of EAs are provided under Section 12 of the Act and elaborated on under Appendix G of the Teaching Service Handbook, while responsibilities of EAs to the Teaching Service Commission and the Teaching Service Office are covered under Chapter 2 of the same Handbook.
- Functions and powers of EAs do not in any way limit the application of other laws of Vanuatu e.g. Leadership Code, Provincial Government Act, Public Service Act, in the performance of functions and the exercise of powers by EAs.
- The Schedule to section 9 of the Act lists the approved Education Authorities but is dated.
- The relationship between provincial education authorities in terms of budgetary support and staffing needs to be reviewed and legislated for in the Act.
- The Act provides for a person or organization as an EA without requiring proof of legal status e.g. company or trust.
- Among the original EAs, i.e. provincial assemblies and churches, the education authority status is vested in either the executive or an education board.
- The Act must clearly give necessary powers to EAs to effectively manage the delivery of educational services.
- In other Pacific countries authorities are known by different names e.g. Controlling Authority in Fiji or Approved Organization in Samoa.
- The authorities are accorded legal status and recognition by virtue of their registration and listing under the schedule.
- There are no requirements on their legal status apart from their approval by the PS/Minister and gazette.
- Some distinguish between government and non-government schools education authorities, the latter includes private schools.
- Properly constituted Boards of Trustees may soon be established with statutory functions under the Act to manage government schools.
- Public comments support the vesting of powers of the provincial education authorities in a registered Provincial Education Board.
- The view has also been expressed about the need to vest the governance of two or more independent schools under a single governing body if it is in the best interests of education at the schools in question.
- It has been further suggested that all EAs be granted provisional registration for a period of two years from the date of the enactment of the Education Act by Parliament.

6.6 SCHOOLS AND SCHOOL SYSTEMS

Clear Definition of ‘School’

- School is defined under the current Act as "any institution or place at which any secular instruction (whether with or without religious instruction) is regularly given to ten or more pupils outside their own homes, but does not include—
 (a) any institution or place operated by a Church or other religious body which in the opinion of the Minister provides instruction wholly or mainly of a religious character;
 (b) any institution operated by or under the control of the Solomon Islands Government to provide specialised training for periods not exceeding three months in a particular trade or profession, whether on an in-service or pre-service basis.
- Other Acts define school as an institution which provides education from primary to the end of secondary education but does not include education outside of school hours or institutions which provide vocation training.
- The definition needs to be inclusive to provide not only for primary and secondary education but also other emerging education systems such as ECE and TVET.
- The definition of school is to be read along with the classification and registration of schools.

Classification of Schools

- The current Act lacks provision for the classification of schools, which gives effect to their establishment. Rather registration is carried out under establishment and registration of schools in general under Part IV, Sections 13, 14 and 15 of the Act.
- It is necessary to classify and define schools by categories or types such as *kindergartens*, *primary schools*, *junior secondary schools*, *senior secondary schools*, *technical institutes* (RTC, VTC and technical colleges), and tertiary institutions.
- This lack of classification has resulted in the establishment of kindergartens and rural training centres, which belong to education systems that are not provided for under the Act to be registered under the provision of school.

Minimum of 10 students

- The minimum number of 10 students is also legislated for in some Pacific countries, while others do not stipulate any number. This restriction was probably made in the light of the shortage and distribution of teachers and public budgetary allocation.
- Minimum of 10 could restrict small community schools where there is likely to be less than 10 pupils around to form a school and have their untrained teacher up-skilled through formal training and go back to serve in their communities.
- Population and geographical disperse and as the country moves towards compulsory education for school-aged children, the need may arise to reconsider taking into account the augmentation (or otherwise) of revenues flowing into national account.
- Constituency boundaries Act should be considered as the geographical basis to determine minimal size.
- Convention on the Rights of the Child, CRC, requires compulsory schooling for school-aged children. CRC is incorporated into the TSH.

Registration of schools

- According to the current Act, the Permanent Secretary is required to maintain a Register of schools.
- New schools are to be established with Provincial Assembly approval. This is understood to have been upheld in collaboration between the Education Authority applying and the Provincial Education Office.
- There is a dated schedule listing secondary schools which does not include primary schools, rural training centres or tertiary institutions.
- This is covered under provisions of Part IV sections 13, 14, 15 and 16 of the Act.

- There needs to be more expressly explicit provision given in accordance with the classification of school types, size, level and other particulars.
- The existing provision is too general. This could be catered for as an amendment or inclusion in the Act.
- There is a need for the Act to specify minimum standards for registration of schools, which would also serve as quality assurance standards for ongoing registration.
- Registration of tertiary and further education and training institutions must be provided for separately from schools.

Home schooling, distance schooling, and extension schools etc.

Recommendation: Enabling provisions in the legislation for Minister to approve these modes of schooling and for the Ministry of Education to develop policies and regulations for the management and operation of these forms of schools.

Age of entry

- The Act provides for the minimum age of 6 years and a maximum of 9 years.
- This provision is for the entry ages into primary education.
- With the inclusion of ECE, there should be provision for entry ages for ECE, which are 3 - 5 years.

Enrolment and Hours of instruction

- Hours of instruction are specified in the Teaching Service Handbook Ch. 7.3.
- The amount of time students spend in organized learning activities influences their academic performance and development. The total amount of time spent in school depends upon the length of the school day, the number of days in which actual learning activities take place, the length of the school year, and the number of years a student attends school.

The current school calendar is as follows:

Days of instruction	198 days
School holidays	60 days
Public holidays during days of instruction	3 days
Weekends	104 days

Total days	365 days
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- Although the school calendar of terms and holidays prescribes the total days of instruction of 200 days, given the school holidays, public holidays and weekends, in effect there can only 198 days.
- The TSH allows for a minimum of 190 days of instruction in a year.
- ***The Act will clearly stipulate the minimum hours of instruction per annum to avoid misinterpretations, and compliance will be a statutory obligation or requirement.***

6.7 LEGAL NAME OF THE MINISTRY FOR EDUCATION

- The terms "education and training" are coupled in the Act under section 2, the interpretations of "the Minister" and "the Ministry", and also sections 3(1) and 11(3). "Education and training" implies an integrated approach, and a shift from the view of learning which distinguished between "academic" and "non-academic", "theory" and "practical", and "knowledge" and "skills".
- Other Acts of Solomon Islands and Education Acts of Pacific countries refer to the 'Ministry responsible for Education' or the 'Ministry responsible for education from time to time' as portfolios may change with successive executive governments.
- The roles and responsibilities of the Ministry in the management and of government schools, i.e. King George VI and Waimapuru, will be relinquished to boards of trustees with statutory powers as education authorities. This will enable the Ministry to 'focus on

its core business of policy, planning, ensuring financial resources are used efficiently and effectively and being responsive to emerging educational needs.’

- This arrangement would require MEHRD to delegate many of its previous implementation activities to external providers, EAs or schools. At this stage no decisions have been made as to how this would be done but such arrangements would have to be provided for through legislation.

6.8 EDUCATION SYSTEM BOARDS AND COMMISSIONS

The National Education Board

- The Board serves in an advisory capacity to the Minister.
- Its powers are limited and certain powers and function currently vested in the Permanent Secretary and the Minister ought to be delegated to the Board. Those powers and functions will be defined in due course.
- The functions of the Board, Section 6(a), (b) and (c) are broad, general and vague
- The relevancy of the membership of the Ministry of Home Affairs has been questioned. The Ministry of Home Affairs was responsible for Children’s Affairs in the past and that may have been the reason for their membership. It is still responsible for national identity and may be considered on that basis.
- Other Pacific countries have equivalent authorities but termed differently e.g. Education Forum in Fiji, Education Advisory Council in Vanuatu.
- The power of the Minister to terminate the appointment of any member of the Board, Section 4(6), is capricious. This could be limited through the insertion of ‘on reasonable grounds’ or ‘in consultation with’, or ‘on the advice of’ to the appropriate sub-section.
- It has been proposed that the National Education Board becomes the National Education Commission.

Recommendations: Membership of the Board will be reviewed to include a set of professional qualities and attributes, capacity, reputation, expertise and specialization in the various fields of the education system

Teaching Service Commission

- The Teaching Service Commission, TSC, is not provided for under the Education Act as it was established separately through the Constitution (Amendment) Act 1982.
- Under the Constitution (Amendment) Act 1982, the Chairman of the Public Service Commission, PSC, is also the chair of the TSC.
- The TSC has since been vested with the power to make appointments, including the power to confirm appointments of teachers, a function under the Education Act that was performed by the Teaching Service Board, TSB.
- The transfer of this function to the TSC has resulted in the understanding that the TSC has superseded the Teaching Service Board.
- Since the TSC has superseded the TSB, a number of functions of the TSB under the Education Act, which are deemed important for the Solomon Islands Teaching Service, have to be transferred to or be legislated for under the TSC.
- Such functions include for instance,
 - (i) to exercise general oversight on all matters relating to the terms of service and welfare of members of the Solomon Islands Teaching Service;
 - (ii) to advise the Minister on salaries and conditions of service for members of the Solomon Islands Teaching Service; and
 - (iii) to consider and act upon recommendations made by Education Authorities or their appointed Boards or Committees in matters of discipline within the Solomon Islands Teaching Service, and to consider any appeals made by teachers against those recommendations.²

² Education Act [Cap 69], Section 36, 1996.

- According to the Constitution (Amendment) Act 1982, the Teaching 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 or to any provincial government officer.³
- Through the Teaching Service Delegation Resolution, the power to confirm teacher appointments has been delegated to the Permanent Secretary, the Under-Secretary (Administration), and the Director of the Teaching Service Division of the Ministry.⁴
- An independent, autonomous TSC, independent of the PSC.
- It has also been suggested that the Teaching Service Commission be renamed the Teaching Service Authority.

Teaching Service Board

- The Teaching Service Board, the Board, was established under the Education Act 1978 and its functions retained in the 1996 revised Education Act. Its functions and duties, amongst others, included the power “to confirm all appointments made to schools and the relevant salary scale entry points.”⁵
- The Constitution (Amendment) Act 1982 established the Teaching Service Commission, TSC, and duly vested in the TSC the power to appoint teachers, including the power to confirm appointments.⁶
- Since the establishment of the TSC, it was implied that the Board has been superseded by the TSC. Consequently the Board has ceased to perform its functions.
- By ceasing to function, other functions of the Board, which are deemed important by the Solomon Islands Teaching Service, have been neglected. Those functions include: (i) to exercise general oversight on all matters relating to the terms of service and welfare of members of the Solomon Islands Teaching Service; (ii) to advise the Minister on salaries and conditions of service for members of the Solomon Islands Teaching Service; and (iii) to consider and act upon recommendations made by Education Authorities or their appointed Boards or Committees in matters of discipline within the Solomon Islands Teaching Service, and to consider any appeals made by teachers against those recommendations.⁷
- It has been popularly supported that those functions be vested in an existing body and provided for by legislation.

Recommendation: Repeal the Teaching Service Board and transfer its functions to the Teaching Service Commission.

Education Authority Boards

(i) Board as Education Authority

- The entity which the EA status is vested in varies amongst EAs from the Provincial Assembly, the Provincial Executive, a Provincial Education Board, Church Executive, Church Education Board, or a Board of Management.
- This requires the Act to establish the entity, which shall be the EA, and that this body should apply consistently to all EAs.
- This body shall be established by legislation with appropriate powers, functions and regulations governing membership, meetings, and the like.

Recommendation: Legislate for and regulate establishment of Education Boards of EAs.

(ii) School Boards

³ Constitution (Amendment) Act 1982, Section 116 B (2).

⁴ Teaching Service Handbook, Appendix A, 2011.

⁵ Education Act [Cap 69], Section 36(c). The Education Act 1978, revised 18 years later in 1996 retained the Teaching Service Board with its functions.

⁶ Constitution (Amendment) Act 1984, No 14 of 1982,

⁷ Education Act [Cap 69], Section 36.

- School Boards are established by EAs.
- No specific provision provided under the Act to give legal status to various school Boards and Committees, although their roles and responsibilities are outlined as Appendix H in the TSH.
- The legal status of school boards and committees and their roles and responsibilities are not provided for in the Act.
- School boards will be properly established by appropriate legislative provisions.
- School boards will have statutory functions provided for to ensure, through the Principal and staff, effective management and provision at the school
- Given the growing importance of school boards and committees, there should be provision in the Act for their establishment, their roles and responsibilities, and regulations governing such matters as board membership, composition, meetings, and the like.

Recommendations: (i) Legislate for establishment and regulate for operations of school boards under EAs and (ii) Ensure School Boards are accountable to Education Authority

6.9 INSPECTION

- There are different types of schools inspection of which only one is catered for under section 19 of the Act.
- There does not appear to be provision for Whole School Inspection (WSI) which also involves assessment of the quality of teaching and learning in Schools and Teacher Appraisal.
- This needs to be adequately provided for in the Act, including provision for autonomy of the Inspectorate.
- Chapter 8 of the Teaching Service Handbook covers this in some detail without the necessary legal provision.

Inspection of schools

- Current powers of the Permanent Secretary in the Act are broad with details in the TSH.
- The Vanuatu Act is detailed; the Samoa Act spells out the powers and responsibilities of the inspection services.
- Structure of inspection services, its functions and powers are not specified and should be included in a new Act. In TSH – Ch. 8 – Power Purpose of Inspection
- The Act vests the duty to cause inspection with the Permanent Secretary. It is not explicit on the inspection of teachers.
- The TSH vests the power to inspect schools and teachers with the Ministry to be executed through the Inspectorate Division and EAs.
- The main purpose of inspection is to assess the quality of teaching and learning and monitor, among other things, the quality and utilization of the Whole School Development Plans and Standards.
- Powers to inspect schools and teachers are also delegated to EAs.
- Principals/head teachers with the school committees/boards are responsible for regular appraisal of teachers and make recommendations to the Inspectorate Division on teachers' confirmation or termination of probationary teachers, trial promotion and overseas teachers.
- Principals/head teachers with the school committees/boards may recommend to the Inspectorate Division on Whole School Inspection, WSI, or Inspection visits for teachers through EA for confirmation of appointment, renewal of contracts, perceived misconduct, unsatisfactory performance and retirement on medical grounds.
- The types of Inspection in the TSH are WSI and Special Inspection.
- There is an explicit mention in the TSH of the inspection of school premises for purposes of health and safety - has there been a system in place with MHMS for medical practitioner and public health officer (Health Environmental Act) for this clause and has it been used? - closure of school clause in the Act involves medical, police and public service officers/provincial government

officer and PS to agree on closure due to endangered reasons, e.g. flood prone school areas. No provision on TSH on school premises.

- The Inspectorate Services will be the main agency for overall quality assurance in the primary and secondary school system. The Inspectorate will also monitor, evaluate and report on the standards and quality of the delivery of educational services at school levels.

6.10 NATIONAL CURRICULUM AND EXAMINATIONS

- Minister has power to approve curricula to be used in schools.
- The Minister also has power to determine number, type and contents of any test or examinations and may delegate this power to a committee.
- There is a Curriculum Development Division of the Ministry and a National Curriculum Committee and sub-committees of the Curriculum Division.
- Vanuatu uses the National Education Commission to approve curriculum and syllabus.
- Fiji vests power with PS to approve and layout curricula and syllabus.
- Samoa vest power with Minister to specify curricula, ECE and students with special needs.
- There is no provision in the Act on ECE and TVET/RTCs curricula but TSH specifies hours of instruction for ECE and RTCs.
- There are schools of Independent EAs that are using foreign curricula e.g. Zion Christian Academy uses the US-based Accelerated Christian Education, ACE curricula.
- The view has been expressed on whether it should be mandatory for these foreign curricula to 'integrate' the national curricula to provide the option for children to matriculate for purposes of government scholarships at the end of their equivalent year.
- In view of the recent shift in the school system to school-based internal assessments and the removal of the Solomon Islands Secondary Entrance in Year Six by 2015, whether Part V, Curricula and Examinations should become Curricula and Assessment.
- There is a National Examinations and Assessment Board; whether that too should now be the National Curricula and Assessment Board.

Religious instruction

- Section 27 on religious instruction resonates with the fundamental rights and freedoms of the individual under the Constitution of Solomon Islands.
- An EA may direct a church Minister to give religious instruction to pupils of any particular religious denomination for one hour per week.
- Although the reference is to a church Minister, when used together, defining the term 'religious denomination' may be problematic. For e.g. does 'religious denomination' refer to a world religion, or does it refer to the various denominations within the Christian religion such as Catholic, Anglican, United Church, etc.?
- The Act does not provide for exemptions from religious instructions upon the request of a guardian. However, the Constitution of Solomon Islands protects the right of a person who has not attained the age of eighteen years, who attends any place of education, from being required to receive religious instruction or to take part in any religious ceremony or observance if that instruction, ceremony or observance relates to a religion other than his or her own.
- In the Vanuatu Act, a parent/carer may request and be permitted exemption of a child from religious instruction.
- In Fiji, teachers shall not be compelled to attend and exemption can be given to pupils upon parents' request.
- This right of exemption ought to be upheld in the Education Act.
- While the Act should recognize and support schools that were established on denominational ethos the rights of the minority who may not subscribe to the school ethos but who for various reasons do not have the option to attend another school have to be provided for and protected in a caring manner.

6.11 TEACHERS

Teacher Registration

- The Act allows only registered teachers to be employed to teach in schools and the PS determines who is registered, and maintains the Register.
- The reality and practice have been contrary to this. Teachers apply to and are appointed by EAs prior to application for confirmation and registration.
- Act provides for NEB to advise the Minister on matters concerning the operation and development of the education system with no explicit mention of quality; nothing explicit under EA; schools will not be registered if curriculum approved by Minister is not followed (implied quality); certified teacher's qualifications are contained in the TSH.
- The TSH provides for provisional registration for 'qualified' teachers. 'Qualified' teachers have a trades or specialist qualification without a teaching qualification. They are qualified but not trained teachers.
- Fiji Act is not explicit on quality and is generic like the SI Act. The latter is specific in the TSH under Inspection.
- TSH vests the TSO with the responsibility to manage and keep under review the Register of Teachers.
- It also provides for a registration process through a registration form (Appendix k), and
- It provides for minimum academic qualification to be considered for registration.
- Other countries do as well e.g. the Samoa Act requires a registration system under regulations.
- TSC has no direct role in teachers' registration. The TSO performs that function.

Teaching Service Handbook

- The Teaching Service Handbook is provided for under section 37 of the Act.
- Are the areas covered in TSH too wide and should be more narrowly defined. Where would the rest go into then, the Act?
- Teaching Service scheme/cadre different from Public service scheme - Unified structure.
- Vanuatu has no provision in the Act on teachers' terms and condition.
- Samoa provides only for teaching standards.
- Fiji Act does not provide for teachers terms and conditions.
- Provisions for teachers' salaries, terms and conditions, teacher absenteeism, student's allowances should be legislated for.

Payment system for teacher's salaries

- Provision under subsidiary legislation LN 44/1979 Part B relates only to secondary school teachers in accordance with provisions under the TSH and does not include Primary, ECE or TVET.
- This is strictly an administrative arrangement and is covered in some detail under Chapter 13 of the TSH and Financial Instructions. This however does not provide for a system or method of how payments should be made to teachers.

Teacher Code of conduct and Teaching standards

- The Act must legislate for the National Professional Standards for Teacher's and the Codes of Professional Conduct under chapters 10 and 11 of the TSH.
- In the event that individual schools so wish, in view of denominational or school ethos, the Act must provide the legal basis for school boards and committees to adopt a code of conduct for teachers after consultation with parents and teachers of the school.

6.12 FINANCING OF EDUCATION

Grants Code

- Section 38(1) and (2) provide for grants for educational purposes to be paid to approved Education Authorities and, to publish an administrative code known as the Grant Code for purpose of ensuring control over such grants.

- Ch. 69 LN 44/79 provides for this code relating to rates and condition of government financial assistance to EAs. The same LN stipulates that grants from the Government (Schedule on Grant Code LN 44/ 1979) shall be paid to approved Education Authorities.
- The current practice however is that grants are paid direct to EAs as well as to schools. This practice needs legal provision.
- Act provides for pupils holiday travel to be paid from grants, EAs to account for grants, and an annual audit of accounts.
- Fiji - Controlling Authority - Education Forum - Districts
- Vanuatu - EAs or Provincial Education Boards - Funding Agreement with the Government through Minister as some EA or Provincial Education Board may want to be independent.
- In some countries, government funding to schools/education is clearly included under the various levels of the school system such as primary, secondary, vocational education, and tertiary.
- The same also applies to government funding of private or independent education authorities and their schools.
- The current Public Finance Management bill is yet to go to Parliament. The Education Act needs to be aligned to that.

School fees

- EAs are legally not permitted to charge fees without the prior approval of the Minister [Section 40 (2)] - Schedule of school fees LN10/1989.
- Section 40(2) which requires the prior approval of the Minister for fees charged has not been complied with.
- This LN 10/1989 is out-dated as schools currently charge much higher fees than these and questions the attachment of the LN to the principal legislation as prescribed fees are subject to change before the Act is amended.
- The Act provides for remission of fees [Section 41]. School fee remission was supported but most fee payers were ignorant of this provision.
- In Samoa fees are approved by the Minister by way of a notice to effect the approval.
- In Fiji, fees to be paid in Government schools are prescribed by the Minister.
- The Fee Free Basic Education Policy has been a recurring theme during the consultations. It is controversial and considered by stakeholders to be unsustainable.

RECOMMENDATION: *Regulate for fees and approved fees to be by way of a notice by the Minister*

6.13 RIGHTS AND LIMITATIONS

Rights of students

- Rights of students are taken to be synonymous with the rights of the child.
- In legislating for the rights of the child, the Education Act should satisfy international conventions and be informed by relevant international human rights laws.
- One such convention is the United Nations Convention on the Rights of the Child, CRC. Articles 23, 28 and 29 of the CRC refer to the right of the child to education.
- The right of the child to education is not explicitly provided for in the Constitution of Solomon Islands so this must be settled by legislation.
- There are other constitutional rights of a child such as the right to equal access to a school, the right not to be discriminated against based on ethnicity or religion, protection against forced or child labour, and other rights which have to be identified, defined and legislated.
- The rights of students can only be adequately enforced if provided for in the Act. The rights of the child should in fact be in line with the Education Policy on fee free basic Education, or Compulsory Education, however there are major setbacks with this policy especially given Government's on-going obligation for its sustainability in view of its financial limitations. Giving legal effect will further commit Government.

Rights of Parents

- In traditional Solomon Islands societies the primary educators of the child in its formative years were the parents and the extended family.
- In some societies it is an inalienable right and duty of parents to educate their child.
- This means parents have the right to participate in their child's education, and the right to be consulted and informed of the child's educational needs and development.
- Parents also have responsibilities to fulfil by supporting the child and cooperating with the school in educating the child.
- Parents are and will more and more be playing a major role in the education of their children. Their rights and responsibilities need to be provided for in the Act.

Recommendation: That rights and limitations of parents, students and teachers be provided for by legislation.

International Students

- Provision should be provided to cater for children of expatriate workers entering our system.
- This should also provide for the type of curricula and examinations to be undertaken. Particularly if an external curricula is required to be introduced and run parallel with the mainstream Curriculum.

6.14 ENROLMENT

Restrictions on Enrolments

- The Education Act of Solomon Islands does not provide for restrictions on enrolments.
- The Education Act of Fiji legislates against denial of admission "solely on grounds of race or religion."⁸
- Restrictions on enrolment must be understood together with the right of equal access to a school or educational institution.
- The Constitution of Solomon Islands protects the right of a person not to be deprived of his or her personal liberty for the purpose of his or her education.
- The Constitution also protects a person from being treated in a discriminatory manner.⁹
- The right of equal access is based on these constitutional provisions and ensures that there is equality and non-discriminatory enrolment policies or practices.
- However, while an educational institution may operate non-discriminatory admission policies, this does not mean that any school or educational institution is obliged to enrol every person who applies to be enrolled. Such policies may be limited by a number of factors including the physical capacity of the school, the educational and religious programs of the school, and the right of the institution to retain its institutional ethos.
- The Constitution of Solomon Islands provides for the right of religious communities to establish and maintain places of education and to manage any place of education which it wholly maintains.¹⁰ This implies that religious ethos is the defining characteristic of such school or educational institution and its prospective clientele. Again, the interpretation of the right of equal access to educational institutions is affected by the constitutional right to establish these types of schools or educational institutions.
- The purpose of legislation is to ensure that the authority responsible for determining conditions for enrolment apply those conditions equally to all applicants, without unfair discrimination on any grounds, whether directly or indirectly.
- Restrictions on enrolment based on teacher-student ratios are to maintain quality of the teaching and learning process.

⁸ Education Act of Fiji, Section 29, Establishment and Registration of Schools Regulations, sub-section 9(1).

⁹ 1978 Constitution, Section 5(1).

¹⁰ 1978 Constitution, Section 11(2).

- An application for enrolment of a child at a school must include information which the EA may require in order to grant approval for admission and subsequent enrolment.
- The Permanent Secretary may specify application forms for enrolment.

Compulsory Education

- The Fiji Education Act, Section 28(1) makes provision for the Minister, with the consent of Parliament, through an order, to “specify any area or areas of Fiji in which all children of such age or ages as may be specified in such order shall be required to attend a school.”¹¹
- In Samoa compulsory education and specific regulations governing compulsory education are provided for by legislation.
- In Solomon Islands education is not compulsory. The “Fee Free Basic Education” intends to increase access but is not compulsory education.
- Solomon Islands can provide legislation in which, when any order has been made under the appropriate provisions, the Minister may make regulations to ensure that every child of the age specified in such order shall receive education in a school.

Suspension and expulsion of students

- Under the Samoa Education Act, section 57 provides the legislative framework for suspension and expulsion of students.
- Such provisions outline the terms and conditions under which the School Principal may suspend or expel a student.
- This implies that school rules and student’s codes of behaviour must conform to those provisions.
- The legislative framework may also clearly define the power of the school to develop school rules and power of the Principal to suspend or expel students.

Enrolment and Attendance of students

- The Samoa Education Act spells out specific details of enrolment and attendance with mechanisms to monitor and ensure enrolment and attendance.
- It is the responsibility of a parent or a guardian to ensure a child is enrolled at a school.
- A child who turns 5 by 1 June of the current school year must be enrolled at a school in that school year.
- A child who turns 5 after 1 June of the current school year must be enrolled at a school in the following year.
- A child is enrolled at a school following his or her acceptance by the Principal and after their registration in the class register.

Compulsory Enrolment

- Compulsory enrolment may be mandatory only under compulsory education.
- Legislating for compulsory education will pose dual legal requirements: (i) compulsory provision, and (ii) compulsory attendance.
- Compulsory provision will require responsible authorities to provide educational opportunities of acceptable quality to every child during the period of compulsory education. This means that no child can be denied access to schooling for the compulsory period.
- Compulsory attendance places a legal obligation on guardians of children covered by the compulsory education period to ensure that a child attends school for that period. However, a child's parents cannot be required to ensure the child's attendance if no educational facilities is available to them.
- Compulsory attendance follows compulsory enrolment. From the first school day of the year in which the child reaches the age of 6 to 9 years until the last school day of the year in which such learner reaches the end of the compulsory education period, the child is required to attend school.
- Solomon Islands faces and will continue to face a huge challenge in fulfilling both requirements in terms of its capacity to provide educational facilities to enable every child attends school and to monitor the attendance of compulsory-aged children as will be required by law.

^{11 11} Education Act of Fiji, Section 29, Establishment and Registration of Schools Regulations, sub-section 9(1).

- Where enrolment is compulsory, every guardian must ensure a child within the defined compulsory age for whom he or she is responsible is enrolled at a school.

Special Education Services/Special Needs

- Not specifically provided for under the Act. This may include special schools for the physically handicapped; the blind; the deaf and a variety of other special needs.
- Provision can be included in the Principal Act with details in a regulation if required.
- Policy exists

Recommendation: Legislative provision required

Early Childhood Education

- Currently there is no legal provision as such, however practice has overtaken legislation.
- Should be catered for under the Education Act giving legal authority for its establishment.
- Assumed in the structure provided for primary education.

Roles and responsibilities of Head teachers/Principals

- The roles and responsibilities of Head Teachers and Principals are regulated under Appendix I of the TSH.
- The legal basis for this though is not and therefore should be provided for under the Act.

Rights of Ministry to take over management of unsatisfactory schools

- Given the limited capacity and resources of the Ministry, it is not advisable to expect the Ministry to take on such additional responsibility.
- The Ministry should concentrate on its core function of governance and not management.
- The Ministry's role is to intervene, establish an interim management/administration with EA, monitor and report on progress, and return full administration to EA as and when quality assurance standards have been satisfied.
- Legislation should require respective EAs be held responsible and given specific timelines to rectify such situations or have its school closed as the last resort.
- Establishment and closure of schools belongs to the Ministry.

Student's Code of Conduct/School Rules

- The Act must provide legal basis for school boards and committees to adopt a code of conduct or school rules after consultation with the students, parents and teachers of the school.
- School rules must be aimed at establishing a disciplined and purposeful school environment, dedicated to the improvement and maintenance of the quality of the learning process.
- The Minister may, after consultation with the NEB, determine guidelines for the consideration of school boards in adopting a code of conduct.
- The Act must support school rules i.e. nothing contained in the Act should exempt a student from the obligation to comply with school rules of the school which the student attends.
- School rules must contain provisions of due process safeguarding the interests of a student and any other party involved in disciplinary proceedings.

Competency and Disciplinary procedures for school staff

- The Act must make provision for Chapters 10.5 and 12 of the Teaching Service Handbook.
- This is an internal regulatory mechanism and is best provided for as a regulation, rather than in the main Principal Act.

Head Teacher/Principal Standards

- Could be addressed together with Teacher standards as a separate clause specifically addressing Head Teachers and Principals.

6.14 TERTIARY EDUCATION

Provisions for tertiary education - University and Technical Institutions (Public and Private)

- The current Act does not specifically provide for the establishment of tertiary education in any way. Both SICHE and SINU established under separate Acts of Parliament. Whilst this is so, the Education Act, which is the Principal Act, still needs to give legal effect to the provision and establishment of tertiary institutions, whether public or private.
- The TVET Division, MEHRD does not at this stage have a robust process for auditing or checking of data to ensure accuracy. Amongst the VRTC's there was little clarity about the obligations and process to ensure that VRTC's were eligible to receive grant payments.

Solomon Islands Qualifications Framework

- A draft national qualifications act is expected to be tabled in Parliament in late 2013. It will establish the Solomon Islands Qualifications Authority, SIQA, and the Solomon Islands Qualifications Framework, SIQF.
- The Ministry of Education must recognize the intrinsic interest of the Ministry of Labour in its active labour market policy, of which the promotion of skills development outside the formal system for education and training is an integral part.
- Other Government Ministries are also responsible for skills development and professional training within their areas of competence.
- More and more Solomon Islanders now have access to institutions, both private and public, which provide and examine professional education and training locally, regionally and internationally.
- The establishment of the NQF will enable all existing public and private sector education and training providers to assist in establishing appropriate national standards in their specialist fields through the respective accrediting bodies, and to seek recognition for their programs in terms of such defined standards.
- Quality assurance auditing systems will be developed by all institutions under the overall direction of the SIQA.
- This novel concept will have a great impact on education and training and skills development both within the established formal system and outside of it.
- The draft Qualifications Bill will be completed and will become legislation ahead of the revised Education Act. The understanding has been established within the Ministry that the Education Act will remain the principal legislation while the Qualification Act will be included as a subsidiary legislation to the principal act.

Management of Student and School Data

- This can be given general mention under the Act, with further reference to Schools' respective Education Authorities as having responsibility to manage and maintain their respective schools.

Student Juvenile Offenders

- Can some form of continuity in schooling be offered to student juveniles through out-of-school arrangements with other stakeholders while being inmates?

Pregnant students

- Can some form of continuity in schooling be offered through out-of-school arrangements until they can be reintegrated into the formal education system?

7.0 LEGISLATIVE AND POLICY FRAMEWORKS

- The Constitution is the nation's supreme law. Certain provisions of the Constitution have a bearing directly or indirectly on education. However, the meaning and the implications of each of the provisions of the Constitution which relate to education are not straightforward. Nevertheless, it is the intention, under this review, to highlight those provisions, for the purpose of ensuring that

legislation, policies and regulations uphold and are in accordance with the meaning of those provisions of the Constitution.

- Besides the Constitution, the Act must be read along with the other relevant national legislations, and accompanying regulations and policy documents which have been developed and approved to support the implementation of the Act.
- The Act must provide provisions for other legislations and any future policies developed and approved to support the implementation of the Act.

8.0 CONCLUSION

With the Review completed, the key issues identified and verified by stakeholders, the National Education Board, at its final meeting in December 2013 decided to advise the Minister to extend the timeframe for the work to cater for the write up of the White Paper. The White Paper, a key output of the Review could not be completed between September and December 2013 as that period was devoted to the review and stakeholder consultations.

Therefore, some work is expected in early 2014, and it is expected that that would result in the completion of the White Paper and the preparation of the revised Education Bill.

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