

SOLOMON ISLANDS

NO. 11 OF 1977



Assented to in Her Majesty's name and on Her Majesty's behalf this twenty-ninth day of August 1977.

COLIN H. ALLAN
Governor

AN ORDINANCE

TO AMEND THE LAND AND TITLES ORDINANCE PROVIDING FOR THE UTILIZATION OF LAND TO PROMOTE THE PUBLIC BENEFIT AND FOR CONNECTED PURPOSES.

[Date of publication] Date of Commencement.

*Land and Titles (Amendment)
Ordinance 1977 - No. 11 of 1977*

ENACTED by the Governor of the Solomon Islands with the advice and consent of the Legislative Assembly of the Solomon Islands, as follows:-

- Short title. 1. This Ordinance may be cited as the Land and Titles (Amendment) Ordinance 1977.
- Amendment of section 2 of Cap. 93. 2. Section 2 of the Land and Titles Ordinance (hereinafter referred to as the principal Ordinance) is amended by deleting the definition of "Solomon Islander" and substituting the following new definition -
 " 'Solomon Islander' means a person born in the Solomon Islands who has two grand-parents who were members of a group, tribe or line indigenous to the Solomon Islands;".
- Amendment of section 10 of Cap. 93. 3. Section 10 of the principal Ordinance is amended by the addition of the following subsection, namely -
 "(6) This section is to be read and construed and be subject to the provisions of Part VIA and subsections (3) and (4) of section 102 of this Ordinance."
- Amendment of Cap. 93 by the addition of a new section 13A. 4. Part III of the principal Ordinance is amended by the insertion of a new section immediately after section 13, namely -
 "Compulsory application for registration and penalty. 13A. (1) Any person claiming to be the owner of a freehold or leasehold interest shall prior to the 1st December 1977 make an application to the Registrar (which may not be withdrawn) either to register his freehold or leasehold interest or to surrender the whole or any part of his freehold or leasehold interest to the Commissioner and in default of so doing shall be liable for each day after the 1st December 1977 to a fine of \$50.00 which shall be deemed to be on the date when judgement is obtained a debt due to the Commissioner and a charge in his name over such freehold or leasehold interest.

(2) On application for registration in accordance with subsection (1) above any survey fees which become payable consequent upon the application shall be payable over a period of five years or over such longer period in cases of genuine hardship as the Commissioner may agree.

(3) Where any person applies under subsection (1) above to surrender the whole or any part of his freehold or leasehold interest then the Commissioner shall provide a document for execution by any such person to give effect to the surrender.

(4) Any person who applies to surrender any part of his freehold or leasehold interest shall not thereby avoid the requirement of subsection (1) above to apply for the registration of the remainder of his freehold or leasehold interest and a person claiming to be the owner of both freehold and leasehold interests must register both."

5. Subsection (2) of section 78 of the principal Ordinance is amended by deleting the word "The" and inserting the words "Within three months of any claim the" immediately before the words "Commissioner" in line one thereof and by deleting the full-stop at the end and adding the words and punctuation -

Amendment
of section 78
of Cap. 93.

": Provided that where the offer is accepted by the claimant the Commissioner shall cause payment to be made within three months of the receipt by him of such acceptance."

6. The principal Ordinance is amended by inserting the following new Part immediately before Part VII -

Amendment
of Cap. 93
by the addition of a
new Part VIA.

Land and Titles (Amendment)
Ordinance 1977 - No. 11 of 1977

"PART VIA - LAND OWNERSHIP

Conversion
of estates
held by
persons
other than
Solomon
Islanders.

98A. (1) With effect from the 31st December 1977, any perpetual estate registered in the name of, or on behalf of, any person who is not a Solomon Islander shall automatically convert to a fixed-term estate of 75 years at an annual rent after the first seven years (which shall be a rent-free period) calculated as a percentage of the unimproved capital value of such estate at a rate not exceeding 8 per centum.

(2) When a freehold interest is registered under the provisions of this Ordinance and that interest is shown to be owned by a person who is not a Solomon Islander then the provisions of subsection (1) above shall apply to convert such interest to a fixed-term estate in like manner as that applicable to a perpetual estate.

(3) "Unimproved capital value" referred to in subsection (1) above shall have the same meaning as "unimproved value" as defined by section 2 of the Local Government (Rating of Land) Regulations.

Cap. 14
Sub. leg.
p. 831.

Reduction
of fixed-
term estates
and regis-
tered interests
to 75
years.

98B. (1) Any fixed-term estate, lease or other registered interest presently vested in a person who is not a Solomon Islander being an estate or interest for a period the unexpired portion of which is in excess of 75 years calculated from the 31st December 1977 shall be deemed to be a fixed-term estate, lease or other registered interest for a period of 75 years from the 31st December 1977.

(2) From and after the 31st December 1977 no person other than a

Solomon Islander shall be granted fixed-term estate, lease or any interest in land whatsoever for a period in excess of 75 years.

(3) All other interests in land and all charges secured on land held on the 31st December 1977 by a person who is not a Solomon Islander shall determine not later than 75 years from that date.

Commissioner to hold perpetual estates.

98C. Perpetual estates converted under the provisions of this Part of this Ordinance shall be held by the Commissioner on behalf of the Government of the Solomon Islands.

Provision for development of land.

98D. Where under the provisions of section 98A a fixed-term estate has been created then the Commissioner, in addition to the matters referred to in subsection (1) of section 98A, may, after giving the person who owns such fixed-term estate the opportunity to submit development proposals within a reasonable length of time, impose such conditions as shall be fair and reasonable for the future development of such land and in default of complying with such conditions within the time limits set out therein the fixed-term estate shall be forfeited to the Commissioner.

Registration of fixed-term estate.

98E. Any person who has become entitled to a fixed-term estate under this Part of this Ordinance shall, within six months of the receipt of the same from the Commissioner, submit the grant of the fixed-term estate to the Registrar for registration free from all fees and stamp duties.

Land and Titles (Amendment)
Ordinance 1977 - No. 11 of 1977

Companies to be caught by this Part.

98F. Where a company, referred to in subsection (4) of section 102, permits the transfer or issue of shares so that Solomon Islanders hold less than 60 per centum of the equity in that company, then this Part of this Ordinance shall apply to any perpetual estates, fixed-term estates or other interests held by such company and it shall be the duty of the secretary of the company to report the change in the holding of the shares in the company to the Registrar within 28 days of the happening of such alteration and in default of so doing the secretary and each director shall be liable to a fine of \$1,000.

Prohibition of leasing prior to receiving a fixed-term estate.

98G. No person whose perpetual estate, fixed-term estate or lease is converted or reduced by virtue of sections 98A or 98B shall grant a lease or sub-lease or otherwise deal in any interest in land held by him prior to the 31st December 1977 except to a Solomon Islander or a person described in subsection (4) of section 102 of this Ordinance, without obtaining the prior written consent of the Commissioner.

Compensation provisions.

98H. Any person who is deprived of any interest in or right over land by virtue of this Part of this Ordinance may claim compensation in writing from the Commissioner and the provisions of subsections (2) to (5) inclusive of section 78 shall apply to any such claim without prejudice to the rights of any such person to apply to the High Court for other relief as specified in section 6(1)(c)(ii) of the Constitution.

Exempt
persons.

98I. Where a perpetual or fixed-term estate, lease or freehold or leasehold interest is held by any of the persons described in subsection (4) of section 102 of this Ordinance then the provisions of this Part of this Ordinance shall not apply."

7. Section 102 of the principal Ordinance is amended by the addition of the following subsections, namely -

Amendment
of section
102 of
Cap. 93.

"(3) For the avoidance of doubt no perpetual estate shall be vested in a person who is not a Solomon Islander unless he is a person who falls within one of the categories in subsection (4) below.

(4) The class of person who may be registered as an owner of a perpetual estate although not a Solomon Islander is as follows -

- (a) a person holding such estate on trust for a Solomon Islander subject to the filing of a statutory declaration to this effect with the Registrar and in a form required by the Registrar;
- (b) a trustee in bankruptcy;
- (c) a liquidator appointed under the provisions of any existing law;
- (d) a local council;
- (e) a company registered in the Solomon Islands where at least 60 *per centum* of the equity is held beneficially by persons who are Solomon Islanders;
- (f) the Commissioner;
- (g) the Official Administrator;
- (h) a personal representative or guardian;
- (i) the Public Trustee;
- (j) Statutory bodies incorporated by any written law of the Solomon Islands;
- (k) registered co-operatives under the Cooperative Societies Ordinance."

Land and Titles (Amendment)
Ordinance 1977 - No. 11 of 1977

- Amendment of section 132 of Cap. 93. 8. Subsection (1) of section 132 of the principal Ordinance is amended by deleting the full-stop at the end of subparagraph (iii) and adding the words and punctuation -
“; (iv) this section shall not apply to fixed term estates created by section 98A.”.
- Amendment of section 160 of Cap. 93. 9. Subparagraph (c) of subsection (2) of section 160 of the principal Ordinance is amended by the deletion of the full-stop and the addition of the following proviso and punctuation -
“: Provided that no such order shall be made in respect of a person who is not a Solomon Islander.”.
- Amendment of section 161 of Cap. 93. 10. (1) Subsection (1) of section 161 of the principal Ordinance is amended by the deletion of the full-stop and the addition of the following proviso and punctuation -
“: Provided that he shall not be entitled to transfer his interest in any perpetual or fixed term estate or lease or other interest where such estate or interest is held for a period in excess of 75 years to a person who is not a Solomon Islander or a class of person as set out in subsection (4) of section 102.”.
(2) Section 161 of the principal Ordinance is further amended by the addition of a new subsection, namely -
“(7) The Registrar may refuse to accept a transfer unless and until it is accompanied by a statutory declaration sworn by the transferer and transferee declaring that the transferee is a Solomon Islander or otherwise qualifies to hold an estate lease or other registered interest in accordance with subsection (4) of section 102 of this Ordinance.”.
- Amendment of Cap. 93 by the addition of a new section 197A. 11. Part XVII of the principal Ordinance is amended by the insertion of the following new section, namely -
“197A. This Part of this Ordinance shall be read and construed subject to the provisions of Part VIA, and subsection (3) of section 102.”.
- Amendment of section 204 of Cap. 93. 12. Subsection (1) of section 204 of the principal Ordinance is amended by inserting the words and letters “subject to Part VIA of this Ordinance” after the word “acquired” in line two thereof.

13. Part XXIII of the principal Ordinance is amended by the insertion of a new section immediately after section 221, namely -

Amendment
of Cap. 93
by the addi-
tion of a
new section
221A.

“Declaration
of land as
customary
land.

221A. The Commissioner may by declaration to be published in the Gazette declare any land held in his name free from any encumbrances to be customary land and shall in the case of registered land notify the Registrar who will thereupon remove any such land from the register.”

Passed by the Legislative Assembly this fifteenth day of August one thousand nine hundred and seventy-seven.

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

J.A. JONES
Clerk to the Legislative Assembly