

# REPRINT

## LOCAL COURTS ACT (CAP. 19)

**As in force at: 1 October 2009**

**STATUS: CURRENT**

For details see Endnotes

**AN ACT TO PROVIDE FOR THE ESTABLISHMENT AND CONSTITUTION OF LOCAL COURTS AND TO PRESCRIBE THE JURISDICTION AND POWERS OF SUCH COURTS**

## LOCAL COURTS ACT (CAP. 19)

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# LOCAL COURTS ACT (Cap. 19)

As in force at: 1 October 2009

## 1 Short title

This Act may be cited as the *Local Courts Act*.

## 2 Establishment of local courts

- (1) By warrant under his hand the Chief Justice may establish in Solomon Islands such local courts as he shall think fit which shall exercise over Islanders within such limits as may be defined by such warrant the jurisdiction therein defined and such jurisdiction as may be conferred by any Act on local courts generally.
- (2) The Chief Justice may at any time suspend, cancel or vary any warrant establishing a local court or defining the jurisdiction of any such court or the limits within which such jurisdiction may be exercised.

## 3 Constitution of local courts

A local court shall be constituted in accordance with the law or customs of Islanders of the area in which the court is to have jurisdiction, and a local court purporting to be so constituted shall be deemed to be lawfully constituted in accordance with this Act unless the contrary be shown:

Provided that, if he shall think fit, the Chief Justice may prescribe the constitution of any local court, or the order or precedence among the members thereof, or the powers and duties of any persons acting as assessors to any such court.

## 4 Suspension or dismissal of members of court

The Chief Justice may suspend for such period as he thinks fit, or may remove or dismiss any member of a local court who shall appear to have abused his power or to be unworthy or incapable of exercising his powers justly, or for other sufficient reason.

**5 Appointment of clerks of courts**

The Chief Justice shall appoint for each local court a fit and proper person to be the clerk thereof, who shall keep proper minutes and records of all proceedings of the court. The clerk shall be responsible for the collection of all fines imposed by the court and he shall keep such registers and furnish such returns as the Chief Justice may from time to time prescribe.

**6 Jurisdiction of local courts**

Every local court shall have full jurisdiction, to the extent set forth in its warrant and subject to the provisions of this Act, over causes and matters in which all the parties are Islanders resident or being within the area of the jurisdiction of the court.

**7 Criminal jurisdiction**

The criminal jurisdiction of a local court shall extend, subject to the provisions of this Act, to the hearing, trial and determination of all criminal charges and matters in which any Islander is accused of having wholly or in part within the jurisdiction of the court, committed or been accessory to the committing of an offence against an Islander.

**8 Civil jurisdiction**

- (1) The civil jurisdiction of a local court shall extend, subject to the provisions of this Act, to the hearing, trial and determination of all civil suits and matters in which the defendant is ordinarily resident within the area of the jurisdiction of the court or in which the cause of action shall have arisen within the said area, provided that civil proceedings relating to immovable property shall be taken in the local court within the area of whose jurisdiction the property is situated.
- (2) In any civil suit or matter in which a local court has jurisdiction under subsection (1), the court shall also have jurisdiction within the area of jurisdiction of the court:
  - (a) to enforce by attachment and sale or delivery any order or decision of the court; and

- (b) to commit to prison for a term not exceeding six weeks, or until payment of the sum due, any person who makes default in payment of any debt or instalment of any debt due from him in pursuance of any order or decision of the court or any other local court:

Provided that such jurisdiction shall only be exercised where it is proved to the satisfaction of the court that the person making default either has, or has had since the date of the order or decision, the means to pay the sum in respect of which he has made default, and has refused or neglected or refuses or neglects to pay the same.

For the purposes of this paragraph, any local court may direct any debt due from any person, in pursuance of any order or decision of that court, or any other local court, to be paid by instalments, and may, from time to time, vary or rescind such order.

## **9 Power to confer special jurisdiction**

Notwithstanding anything to the contrary in this Act contained, the Chief Justice may by order confer upon any local court the jurisdiction which any other local court has to hear, try and determine any criminal charge or matter or any civil suit or matter.

## **10 Validation of certain proceedings**

- (1) Notwithstanding anything to the contrary in this or any other Act contained, no decision of a local court in any civil suit or matter shall be invalid by reason only of the defendant not having been resident or the cause of action not having arisen or the immovable property to which the suit or matter relates not being situated, within the area of the court's jurisdiction; and for this purpose, in the case of:

- (a) civil proceedings relating to immovable property, the property shall be deemed to be and always to have been situated within the area of the court's jurisdiction, and
- (b) other civil proceedings, the defendant shall be deemed to have been ordinarily resident at all material times, and the cause of action to have arisen, within the area of the court's jurisdiction:

Provided that this subsection shall not apply to any suit or matter in

which:

- (i) any party thereto, during or immediately before the proceedings, objected to determination of the suit or matter by the court upon the ground that he being the defendant was not ordinarily resident, or that the cause of action did not arise or that the immovable property to which the proceedings related was not situated, within the area of the court's jurisdiction; or
- (ii) an appeal has been lodged within the prescribed period upon any of the grounds specified in the preceding paragraph of this proviso.

## **11 Interpretation of certain expressions**

For the purposes of sections 12, 13 and 14 the expression:

**“chiefs”** means chiefs or other traditional leaders residing within the locality of the land in dispute and who are recognised as such by both parties to the dispute;

**“customary land”** has the same meaning as that assigned to it under the *Land and Titles Act*;

**“customary land dispute”** means a dispute in connection with the ownership of, or, of any interest in, customary land or the nature or extent of such ownership; and

**“dispute”** means customary land dispute.

## **12 Limitations on local jurisdiction to hear disputes**

- (1) Notwithstanding anything contained in this Act or in any other law, no local court shall have jurisdiction to hear and determine any customary land dispute unless it is satisfied that:
  - (a) the parties to the dispute had referred the dispute to the chiefs;
  - (b) all traditional means of solving the dispute have been exhausted; and
  - (c) no decision wholly acceptable to both parties has been made

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by the chiefs in connection with the dispute.

- (2) It shall be sufficient evidence that the requirements of paragraphs (a) and (c) of subsection (1) have been fulfilled if the party referring the dispute to the local court produces to the local court a certificate, as prescribed in Form 1 of the Schedule, containing the required particulars and signed by two or more of the chiefs to whom the dispute had been referred.
- (3) In addition to producing a certificate pursuant to subsection (2), the party referring the dispute to the local court shall lodge with the local court a written statement setting out:
  - (a) the extent to which the decision made by the chiefs is not acceptable; and
  - (b) the reasons for not accepting the decision.

### **13 Powers of local court when hearing dispute**

When hearing and determining any dispute it has jurisdiction to hear and determine, the local court may:

- (a) have regard to the decision made by the chiefs in connection with the dispute;
- (b) hear evidence from:
  - (i) any or all of the witnesses who gave evidence before the chiefs at the hearing of the dispute; or
  - (ii) any other witness called by the parties;
- (c) call one or more of the chiefs who took part in making the decision to give evidence on the customary law which:
  - (i) is applicable within the locality of the land in dispute; and
  - (ii) governs the issues in the dispute;
- (d) substitute for the decision made by the chiefs such decision as may to it seem just; or

- (e) refer the dispute to the chiefs with such directions as it may consider necessary.

**14 Local court to record decisions by chiefs**

- (1) Where, in any dispute referred to the chiefs, a decision wholly acceptable to both parties has been made by the chiefs, the chiefs or any of the parties to the dispute may, within three months from the date of the decision, cause a copy of the decision to be recorded by the local court.
- (2) A copy of the decision referred to in subsection (1) shall be in such form as prescribed in Form II of the Schedule and shall contain the particulars prescribed in that form and signed by the parties and two or more of the chiefs who took part in making the decision.
- (3) Any decision recorded by the local court pursuant to subsection (1) shall be deemed to be a decision of the local court for the purpose of any law.

**15 Examination on oath**

Any person appearing before a local court to give evidence in any case, civil or criminal, may be examined or give evidence on oath in the form, or with the ceremony, that he declares to be binding on his conscience.

**16 Law to be administered**

Subject to the provisions of this Act, a local court shall administer the law and custom of Islanders prevailing in the area of the jurisdiction of the court, so far as the same has not been modified by any Act.

**17 Chief Justice may empower local court to enforce specified laws**

The Chief Justice may by order confer on any local court jurisdiction to enforce all or any of the provisions of any law specified in such order subject to such restrictions and limitations, if any, as the Chief Justice may specify.

## **18 Punishments**

For offences against the law or custom of Islanders a local court may, subject to the provisions of this Act, impose a fine or may order imprisonment or both a fine and imprisonment, or may inflict any punishment authorised by the law or custom of Islanders, provided that such punishment is not repugnant to natural justice and humanity, and the fine or other punishment shall in no case be excessive but shall always be proportioned to the nature and circumstances of the offence.

## **19 Mode of imprisonment**

- (1) Notwithstanding any law, Act or Rule to the contrary in force in Solomon Islands, a person sentenced by a local court to a term of imprisonment of two months or less shall be deemed to be undergoing such imprisonment if on every day, exclusive of Sundays, during the term of imprisonment imposed, he performs such communal work as the court prescribes for a period of nine hours daily:

Provided that the court may in its discretion order such person to be detained in a prison established under the provisions of the *Prisons Act*.

- (2) Any person undergoing imprisonment as aforesaid, who absents himself from such work without lawful excuse when he should be engaged thereat, shall be guilty of an offence, and shall, on conviction before a local court, be liable to a further term of imprisonment not exceeding one month.

## **20 Imprisonment for more than two months**

Where a local court sentences a person to imprisonment for any period exceeding two months he shall, upon confirmation of the sentence by a Magistrate, be detained in a prison established under the *Prisons Act*, and the term of imprisonment shall commence on the day on which the person sentenced is taken into custody in pursuance of the confirmation of the sentence as aforesaid.

**21 Binding over accused**

A local court may, in any case, in lieu of fine or imprisonment, in view of the age of the accused or because of the trivial nature of the offence bind over the accused in such sum either in custom money or in the currency which for the time being is legal tender in Solomon Islands, as the court may prescribe, to be of good behaviour for such period as to the court seems fit, but not exceeding a period of one year.

**22 Power of court on conviction**

A court by whose conviction any sum is adjudged to be paid may do all or any of the following things, namely:

- (a) order imprisonment unless the sum be paid forthwith; or
- (b) allow time for the payment of the said sum; or
- (c) direct payment of the said sum to be made by instalments; and
- (d) in default of the payment of any fine or any instalment of the same when due, may order that the defendant be imprisoned.

**23 Recovery of fines**

The period of imprisonment inflicted by a court under this Act in respect of the non-payment of any sum of money adjudged to be paid or in respect of the default of payment of any instalment of that sum, shall be according to the scale prescribed by section 26(1) of the *Penal Code*.

**24 Compensation to aggrieved person**

A local court may direct any fine, or such part thereof as it shall deem fit, to be paid to the person injured or aggrieved by the act or omission in respect of which such fine has been imposed, on condition that such person, if he shall accept the same, shall not have or maintain any suit for the recovery of damages for the loss or injury sustained by him by reason of such act or omission.

**25 Mode of securing attendance of accused persons and witnesses**

The attendance of accused persons and witnesses before a local court shall be secured in accordance with the custom prevailing in the area of the court, and any person summoned to attend, who fails so to do shall be liable to a fine of twenty penalty units and in default of payment to imprisonment for three months.

**26 Chief Justice to have access to local courts**

The Chief Justice shall at all times have access to all local courts in Solomon Islands.

**27 Revisionary powers of Magistrate**

Every Magistrate shall at all times have access to local courts in his district and to the records of such courts, and on the application of any person concerned or of his own motion may:

- (a) revise any of the proceedings of a local court, whether civil or criminal, and may make such order or pass such sentence therein as the local court could itself have made or passed, provided that no sentence of fine or imprisonment or other sentence in any criminal proceeding shall be increased without first giving the accused an opportunity to be heard; and provided further that if any such sentence shall be increased upon revision by a Magistrate, there shall be an appeal from the order of the Magistrate to the Chief Justice, who may reduce, remit, or increase any such sentence;
- (b) order any case to be re-tried either before the same court or before any other local court of competent jurisdiction or may at any stage of the proceedings, either before or after judgment has been delivered, transfer any case for hearing before a Magistrate's Court.

**28 Appeals**

Any person aggrieved by any order or decision of a local court may within thirty days from the date of such order or decision appeal therefrom to the Magistrate's Court having jurisdiction in the area.

**29 Power of Magistrate on appeal**

A Magistrate in the exercise of appellate jurisdiction in any cause or matter under this Act may require the aid of such persons as assessors as he shall think fit and may:

- (a) make any such order or pass any such sentence as the local court could have made or passed in such cause or matter;
- (b) order any such cause or matter to be reheard before the local court or before any other local court.

**30 Rules**

The Chief Justice may make rules governing the procedure and practice of local courts, and generally for the effectual exercise of jurisdiction by such courts and may by such rules prescribe the fees payable in such courts.

**SCHEDULE**

9 of 1985, s. 3

LOCAL COURTS ACT

FORM I

(Section 12(2))

CUSTOMARY LAND DISPUTE

(Unaccepted Settlement)

1 Name and address of  
chiefs involved in the  
decision

2 Name and address of the Parties

(a) Complainant:

(b) Defendant:

3 Name and address of witnesses;

(a) For the Complainant:

(b) For the Defendant:

4 Description of the land relating to the dispute:

5 Description of the nature of the dispute:

6 Summary of evidence on behalf of:

(a) Complainant:

(b) Defendant:

7 Summary of findings/decision by the chiefs:

8 Date and place where dispute was heard:

Dated at                      this                      day of                      19

Certified by chiefs:

LOCAL COURTS ACT

FORM II

(Section 14(2))

CUSTOMARY LAND DISPUTE

(Accepted Settlement)

1 Name and address of chiefs involved in the decision:

2 Name and address of the Parties:

(a) Complainant:

(b) Defendant:

3 Name and address of the witnesses:

(a) For the Complainant:

(b) For the Defendant:

4 Description of the land relating to the dispute:

5 Description of the nature of the dispute:

6 Summary of the evidence on behalf of the:

(a) Complainant:

(b) Defendant:

7 Summary of findings/decision by chiefs:

8 Date and place where dispute was heard:

9 Declaration of acceptance:

(a) I, \_\_\_\_\_, Complainant, accept the decision made by the chiefs in connection with this dispute and I hereby undertake to abide by it.

Signed:.....

Witnessed by Chiefs:

(b) I, \_\_\_\_\_, Defendant, accept the decision made by the chiefs in connection with this dispute and I hereby undertake to abide by it.

Signed:.....

Witnessed by Chiefs:

Dated at                      this                      day of                      19

Certified by chiefs:.....

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## ENDNOTES

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### KEY

amd = amended	Pt = Part
Ch = Chapter	rem = remainder
Div = Division	renum = renumbered
exp = expires/expired	rep = repealed
GN = Gazette Notice	Sch = Schedule
hdg = heading	Sdiv = Subdivision
ins = inserted	SIG = Solomon Islands Gazette
lt = long title	st = short title
LN = Legal Notice	sub = substituted
nc = not commenced	

### NOTE

This Reprint comprises the Act and amendments as in force on 1 March 1996 and published as Chapter 19 of the Revised Edition of the Laws of Solomon Islands, together with amendments made to the Act since that date.

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### LIST OF LEGISLATION

#### ***Local Courts Act (Cap. 19)***

<i>Constituent legislation:</i>	2 of 1942 (Commenced 8 December 1942)
	1 of 1943
	1 of 1952
	(Special)
	17 of 1957
	13 of 1959
	12 of 1963
	6 of 1967
	4 of 1968
	1 of 1974
	6 of 1974
	8 of 1974
	LN 46A of 1978
	LN 88 of 1978
	9 of 1985

#### ***Penalties Miscellaneous Amendments Act 2009 (No. 14 of 2009)***

Assent date	29 July 2009
Gazetted	1 October 2009
Commenced	1 October 2009

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**LIST OF AMENDMENTS**

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amd by Act No. 14 of 2009