



ROYAL SOLOMON ISLANDS POLICE

**TRAFFIC
SIGNS
DISCUSSION
PAPER**

THE SOLOMON ISLANDS LAW AND JUSTICE SECTOR INSTITUTIONAL STRENGTHENING PROJECT IS A BILATERAL PROGRAM OF THE GOVERNMENTS OF AUSTRALIA AND SOLOMON ISLANDS

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Introduction

It is fundamentally important that official traffic signs are erected that regulate the drivers on the roads of Solomon Islands for the safety of all persons using the roads, including pedestrians.

Unless official traffic signs are erected as a matter of priority it is difficult for the *Royal Solomon Islands Police Service* to enforce the traffic law as provided for by the *Traffic Act* (Ch. 131).

The erection of 'speed limit signs', 'give way signs', 'stop signs', 'roundabout signs', 'pedestrian crossing signs', 'bus stop signs' and 'no parking signs' should be considered as a priority together with road markings in the Honiara Speed Limit Area as defined in the suggested *Traffic (Speed Limits) Order*.

Furthermore, it is suggested that the *Traffic Act* (Ch. 131) and the *Traffic Regulation* (Ch. 131) need to be amended, and an Order issued under the provisions of section 68 of the *Traffic Act* (Ch. 131) needs to be revoked and replaced, as specified in this discussion paper.

It is considered that the traffic law should applied equally to all the people of Solomon Islands and it is therefore suggested that the *Notice Limiting Application of Parts II and III of the Traffic Act* as provided for by section 84 of the *Traffic Act* (Ch. 131) should be revoked. Currently the traffic law is applied discriminatory as it does not apply equally to all Solomon Islands. It is suggested that the Minister should consider favourably revoking that Notice. Such a revocation does not need to be approved by the Parliament.

This discussion paper has been completed after a discussion between Mr. Lansley, Assistant Commissioner, Honiara City, Superintendent Kuikui, Director Traffic, Mr. Gibson, Training Adviser, Solomon Islands Law and Justice Sector Institutional Strengthening Project and Mr. Volomo, Ministry of Works for consideration by the Permanent Secretary, Ministry of Works and the Minister for Works.

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Offence

The offence of speeding is provided for by section 41(1) of the *Traffic Act* (Ch. 131) states:

‘Any person who drives a motor vehicle on a road at a speed greater than the speed prescribed by any order under section 68 or the speed prescribed for such vehicle or class of vehicles in any regulations under section 82, shall be guilty of an offence and liable to a fine of five hundred dollars, or in the case of a second or subsequent conviction, to a fine of seven hundred dollars or to imprisonment for six months.’ (emphasis added)

Section 59 of the *Traffic Regulations* (Ch. 131) states:

‘Subject to any directions which the Minister may give under section 67 of the Act, the traffic signs which the highway authority may cause or permit to be placed on or near a road shall, as to size, colour and type, be as directed from time to time by the Commissioner of Police.’

However, there is currently no offence for disobeying an official traffic sign.

The term ‘offence’ is defined in section 16 of the *Interpretation and General Provisions Act* (Ch. 85) as meaning:

‘any crime, felony, misdemeanour or contravention or breach of, or failure to comply with, any written law, *for which a penalty is provided.*’ (emphasis added)

Therefore, unless a penalty is provided there is no offence.

The sections which are specified in Part IV of the *Traffic Regulations* (Ch. 131), titled ‘Regulation of Traffic’, do not provide a penalty, although such sections should do so. Those sections are as follows:

- Section 50 Meeting Or Overtaking Vehicle
- Section 51 Slow – moving Traffic
- Section 52 Duty To Keep Left
- Section 53 Turning Left
- Section 54 Turning Right
- Section 55 Travelling Backwards
- Section 56 Travelling With Part Of Body Outside Vehicle
- Section 57 Filling With Petrol
- Section 58 Priority For Police, Fire Engines And Ambulances
- Section 59 Traffic Signs

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Whilst section 82(1)(w) of the *Traffic Act* (Ch. 131) specifies the maximum penalty which may be imposed, none of the sections in Part IV specifies any penalty that can be imposed for contravening those sections.

It is therefore recommended that penalties be prescribed in respect of each section or that a general penalty for contravening Part IV of the *Traffic Regulations* (Ch. 131) be included.

Speed Limits

Section 68 of the *Traffic Act* (Ch. 131) states:

- (1) A **highway authority** may, with the approval of the Minister, by **order** prescribe speed limits for any area or road in respect of which it is the highway authority:

Provided that where the highway authority is not the local authority having jurisdiction over the area concerned, it shall consult such local authority.

- (2) ***Notwithstanding anything to the contrary contained in subsection (1), the Minister may by order amend or revoke any order made under that subsection, and may in like manner prescribe limits for any area or road.***

Section 65(2) of the *Interpretation and General Provisions Act* (Ch. 85) states:

‘Any subsidiary legislation may be amended, in the same manner as it was made, by the authority who made it [...].’

An ‘order’ is subsidiary legislation as defined in section 16 of the *Interpretation and General Provisions Act* (Ch. 85).

- (3) Subject to section 67, a highway authority shall erect and maintain **traffic signs** so as plainly to indicate to drivers entering or leaving such areas or roads the speed limits and where they begin and end.
- (4) Any speed limits prescribed under this section shall be in addition to and not in derogation of any limits prescribed under section 82(1).’ [There has been no speed limits so prescribed.] (emphasis added)

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The term '**highway authority**' is defined in section 2 of the *Traffic Act* (Ch. 131) as meaning:

‘the Permanent Secretary of the Ministry of Public Works and utilities **except** where the Minister, by notice, appoints any other person, body, authority or organization to be a highway authority, and the Minister may appoint a highway authority either generally or in respect of any particular area or road’.
(emphasis added)

The term '**traffic sign**' is defined in section 2 of the *Traffic Act* (Ch. 131) as meaning:

‘any sign, notice, signal, light or other device erected or in any way displayed or caused or permitted to be so erected or displayed by the highway authority under section 67, for the purpose of regulating, restricting or prohibiting traffic or vehicles of any kind, on a road’.

THE TRAFFIC (SPEED LIMITS) (HONIARA) ORDER (Section 68)

1. This Order may be cited as the *Traffic (Speed Limits) (Honiara) Order*.
2. In this Order, “the Honiara speed limit area” means the area defined in the Second Schedule.
3. In the First Schedule the classes of motor vehicles specified in the first column shall observe the speed limits specified in the second column in relation thereto in the areas specified in the third column in relation thereto.
4. ***Any person who drives a motor vehicle at a speed in excess of that permitted by paragraph 3 shall be guilty of an offence and liable to a fine of ten dollars.***

FIRST SCHEDULE

Class of Vehicle	Speed Limits	Area
Private motor cars, light goods vehicles, light public service vehicles and motor cycles	30 miles per hour	Honiara speed limit area
Others	20 miles per hour	Honiara speed limit area
	30 miles per hour	All parts of Solomon Islands outside the Honiara speed limit area.

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SECOND SCHEDULE

The Honiara speed limit area shall comprise –

- (a) all roads and tracks within the area of authority of the Honiara Town Council as defined by warrant under section 3 of the Local Government Act, except that portion of the main road known as Mendana Avenue which runs from the eastern boundary of the said area of the Honiara Town Council for a distance of 1,960 yards more or less in an approximately westerly direction; and
- (b) that portion of the main road which runs from the westerly boundary of the said area of the Honiara Town Council for a distance of 2,530 yards more or less in an approximately westerly direction,

as marked by speed limit notices on the said main road and more particularly delineated on Plan No. 1016 deposited and available for inspection at the office of the Commissioner of Lands.'

The *Traffic (Speed Limits) (Ngalimbiu) Order* was also issued under section 68 of the *Traffic Act* (Ch. 131) and applies all of that portion of the road running from Honiara to Tetere.

Erection Of Official Traffic Signs

Section 67 of the *Traffic Act* (Ch. 131) states:

- (1) ***Subject to and in conformity with such general or other directions as may be given by the Minister, the highway authority, after consultation with the Commissioner of Police may cause or permit traffic signs to be erected, placed or displayed on or near a road in respect of which it is the highway authority:***

Provided that where the highway authority is not the local authority having jurisdiction over the area concerned, it shall also consult such local authority.

- (2) ***Notwithstanding anything to the contrary contained in subsection (1), the Minister may in writing require the highway authority to remove, erect, place or display any traffic sign on or near any road under or within the area of its jurisdiction, within such reasonable time as he may specify, and the highway authority shall comply with such requirement.***

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(3) ***Traffic signs shall be of the prescribed size, colour and type except where the Commissioner of Police authorises the erection or retention of a sign of another character.***

(4) After the commencement of this Act, no traffic signs shall be placed on or near any road except under and in accordance with the preceding provisions of this section:

Provided that nothing in this subsection shall apply to any notice in respect to the use of a bridge.

(5) ***All traffic signs shall be deemed to be of the prescribed or authorised size, colour and type and to have been lawfully erected, placed or displayed until the contrary is proved.***

(6) A police officer of or above the rank of Inspector may, by notice in writing, require the owner or occupier of any land on which there is a traffic sign or any object which so closely resembles a traffic sign that it might reasonably be taken to be such a sign to remove it, and if any person fails to comply with such notice the police officer may effect the removal, doing as little damage as may be, and may recover as a civil debt from the person so in default the expense incurring in so doing:

Provided that the provisions of this subsection shall not apply in the case of any sign or object so long as its retention is expressly authorised by the highway authority.' (emphasis added)

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Recommendations

- [1] Arrange for the Minister to issue an Order revoking the *Traffic (Speed Limits) (Honiara) Order* and the *Traffic (Speed Limits) (Ngalimbiu) Order* as provided for by section 68(2) of the *Traffic Act* (Ch. 131) by contacting the Legal Draftsman, Mr. Hewagama, from the Office of the Attorney – General.

The Minister can issue that Order without the need for it being tabled in Parliament.

- [2] Arrange for the Minister to issue an Order prescribing speed limits in Solomon Islands as provided for by section 68(1) of the *Traffic Act* (Ch. 131) by contacting the Legal Draftsman, Mr. Hewagama, from the Office of the Attorney – General, see page 8.

The Minister can issue that Order without the need for it being tabled in Parliament.

- [3] Upon approval the Director Traffic to commence a comprehensive traffic speed limit awareness program together with a representative from the Ministry of Works.

- [4] Arrange for the ‘highway authority’ to obtain such general and other directions as may be given by the Minister in relation to the erection of official traffic signs in compliance with section 67(1) of the *Traffic Act* (Ch. 131).

- [5] Arrange for a meeting with the Honiara City Council to discuss the erection of official traffic signs in compliance with section 67(1) of the *Traffic Act* (Ch. 131).

- [6] Consult with the Commissioner of Police to discuss the erection of official traffic signs in compliance with section 67(1) of the *Traffic Act* (Ch. 131).and discuss details of the prescribed size, colour and type, see section 67(3) of that Act.

- [7] Arrange for the funding for any additional official traffic signs as deemed appropriate.

- [8] Arrange for the erection of the official traffic signs on the on the roads as considered necessary as may in writing be specified by the Minister, see section 67(2) of the *Traffic Act* (Ch. 131).

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Suggested Order

THE TRAFFIC (SPEED LIMITS) ORDER (Section 68)

1. This Order may be cited as the *Traffic (Speed Limits) Order*.
2. In this Order, “the Honiara Speed Limit Area” means the area defined in the Second Schedule.
3. In the First Schedule the classes of motor vehicles specified in the first column shall observe the speed limits specified in the second column in relation thereto in the areas specified in the third column in relation thereto.

FIRST SCHEDULE

Class of Vehicle	Speed Limits	Area
All classes of vehicles	60 kilometres per hour	Honiara Speed Limit Area as indicated by official traffic signs.
All classes of vehicles	50 kilometres per hour	All other roads.
All classes of vehicles	80 kilometres per hour	As indicated by official traffic signs.

SECOND SCHEDULE

The “Honiara Speed Limit Area” shall comprise –

- ‘(a) all roads and tracks within the area of authority of the Honiara Town Council as defined by warrant under section 3 of the Local Government Act, except that portion of the main road known as Mendana Avenue which runs from the eastern boundary of the said area of the Honiara Town Council for a distance of 1,960 yards more or less in an approximately westerly direction; and
- (c) that portion of the main road which runs from the westerly boundary of the said area of the Honiara Town Council for a distance of 2,530 yards more or less in an approximately westerly direction,

as marked by speed limit notices on the said main road and more particularly delineated on Plan No. 1016 deposited and available for inspection at the office of the Commissioner of Lands.’

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Section 4 of the original Order has not been included because the penalty prescribed was inconsistent with section 41 of the *Traffic Act* (Ch. 131).

Proof Of Speeding

The prosecution can prove that a defendant drove at a certain speed or at a range of speeds, either by:

- an observation of the speedometer of the police motor vehicle;
- by an estimation of the speed of the defendant's motor vehicle. However, section 41(2) of the *Traffic Act* (Ch. 133) states:

‘A person prosecuted for such an offence as aforesaid shall *not* be liable to be convicted solely on the evidence of one witness to the effect that in the opinion of the witness that person prosecuted was driving the vehicle at a speed exceeding a specified limit.’ (emphasis added)

or

- an admission by the defendant.

There is no provision in the *Traffic Act* (Ch. 131) allowing for the use of radar.

As regards the *accuracy of speedometers* in motor vehicles, it has been held that such technical, if not scientific, instruments are *presumed to function accurately, unless the contrary is shown*, see *Thompson v Kovacs* [1959] ALR 636 & *Peterson v Holmes* [1927] SALR 419.

If it is intended to rely on an estimation of a police officer, the prosecution *must* lay the basis for such evidence.

Factors which may assist include:

- the types of motor vehicles able to be driven;
- the length of time being the holder of a driver's license; and
- policing experience in the detection of speeding offences.