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**LABOUR ACT  
(Cap. 73)**

**LABOUR (ADVISORY BOARD) RULES 2012**

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**LABOUR ACT**  
(Cap. 73)

**LABOUR (ADVISORY BOARD) RULES 2012**

**PART 1 - PRELIMINARY**

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| Citation       | 1. | These rules may be cited as the Labour (Advisory Board) Rules 2012.  |
| Interpretation | 2. | <p>In these rules, unless the context otherwise requires –</p> <p>“competent authority” means the person or body that holds the authority to ratify international labour conventions.</p> <p>“invite” means any person invited under rule 4(2);</p> <p>“Labour Advisory Board” means the Board established under rule 3;</p> <p>“Minister” means the Minister with responsibility for labour matters;</p> <p>“Ministry” means the Ministry with responsibility for labour matters;</p> <p>“Service commissions” means those public entities established under the Constitution to regulate public sector employment.</p> |

**PART 2 – ESTABLISHMENT AND FUNCTIONS OF THE LABOUR  
ADVISORY BOARD**

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| Establishment of the Board | 3. | <p>(1) The Labour Advisory Board is established by this rule consisting of the following members –</p> <p style="margin-left: 40px;">(a) the Commissioner of Labour, as Chairperson</p> |
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- (b) four public officers as representatives of the Government, with consideration given to representation from the service commissions among this group;
- (c) four representatives of employers nominated by the Solomon Islands Chamber of Commerce and Industry, with consideration being given to the nomination of sectoral representatives including manufacturing, women in business and small business;
- (b) four representatives of workers nominated by the Solomon Islands Council of Trade Unions (whether or not incorporated or registered under any other Act or provision).

(2) The Minister appoints the members under paragraphs (b) to (d) and must invite the specified bodies to make nominations under paragraphs (c) and (d) and must appoint those nominees.

(3) At least one of the appointee under paragraph (1) (b) and at least one of the nominees under each of paragraphs (1)(c) and (d) must be female.

(4) The persons nominated and appointed under paragraph (1) shall have experience or expertise in the areas covered by the functions of the Labour Advisory Board or in employment relations, industrial, commercial, legal, business or administrative matters relevant to the functions of the Board.

(5) The Minister shall appoint a public officer as secretary of the Board who shall not be a member of the Board.

(6) The Labour Advisory Board may regulate its own procedures and must keep proper records of its proceedings.

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Functions and powers of the Board

4. (1) The functions of the Labour Advisory Board are
- (a) to consider and advise the Minister on employment related matters or matters that may impact on employment including issues of policy, legislative and/or regulatory reform, as well as matters provided for by the Act and any other written law;
  - (b) to inquire into and report to the Minister on employment related matters referred to it by the Minister;
  - (c) in liaison with the Ministry, to facilitate the making of rules, codes of practice and guides relating to matters covered by the Act for the Minister's consideration;
  - (d) to advise the Minister on consultation and cooperation between labour and management and how this process may be promoted and strengthened;
  - (e) to advise the Minister on any matter related to the International Labour Organisation including but not limited to items on the International Labour Conference agenda, the submission of newly adopted International Labour Standards to competent authority, the re-examination of unratified International Labour Standards, reporting to the Committee of Experts on the Application of Conventions and Recommendations, and any proposed denunciations of International Labour Standards;
  - (f) to advise the Minister on fair minimum rates of wages in accordance with the exercise of the Minister's power to fix minimum wage rates under the Labour Act subject to the provisions of Part 3 of these rules; and
  - (g) to perform other functions under the Act or any other written law.
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(2) The Labour Advisory Board may appoint a sub-committee to consider and deliberate on matters before the Labour Advisory Board, comprising of members of the Board and any such sub-committee should reflect the tripartite character of the Board.

(3) The Labour Advisory Board or a sub-committee of the Board, may invite any person it considers appropriate to act in an advisory capacity to the Board in its deliberations where the Board considers that such person is competent to offer advice because of his or her experience/and or expertise on the matter or matters on which the advice is sought.

(4) The Labour Advisory Board has powers necessary to carry out its functions and as are conferred on it by these Rules, the Act or any other written law.

5. A member of the Labour Advisory Board appointed under Rule 3(1) (c) or (d), an advisor or a member of a sub-committee (other than the Chairperson) is entitled to allowances to be fixed by the Minister. Allowances

6. (1) Subject to this rule, a member of the Labour Advisory Board holds office for two years, and is eligible for re-appointment. Terms of Office etc

(2) A member may, in writing addressed to the Minister, resign as a member, and resignation takes effect upon receipt by the Minister in writing to the member.

(3) A member's office becomes vacant if –

- (a) the member resigns under paragraph (2);
  - (b) the appointment of the member is terminated under paragraphs (4) or (5);  
or
  - (c) the member fails to attend two consecutive meetings of the Labour Advisory Board without the prior approval of the Chairperson.
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(4) The Minister may terminate the appointment of a representative of Government appointed under Rule 3 (1) (b) for misbehaviour, bankruptcy or other good reason in the opinion of the Minister following a recommendation from the Board.

(5) The Minister may terminate the appointment of a representative of the employers or workers appointed under Rule 3 (1) (c) and (d) only following consultation with the nominating body and only where the Minister has reasonable grounds to conclude that the representative has behaved in a way which has undermined the purposes or operations of the Board in a serious manner (such as conviction for a serious criminal offence, physical or mental incapacity, or gross misconduct) or in the opinion of the nominating body has acted in a way that is contrary to their interests.

(6) For the avoidance of doubt, the Minister may not terminate the appointment of the Chairperson who serves as a result of his or her office.

(7) In the event of a vacancy the position shall be filled in accordance with Rule 3.

Meetings of the  
Board

7. (1) The Chairperson must call meetings of the Labour Advisory Board at least once every four months as are necessary for the performance of its functions and the exercise of its powers.

(2) Members shall be notified in writing of the time, date, place and agenda of the meeting, at least five working days prior to the date of the meeting.

(3) Where more than four months have elapsed since the last meeting of the Labour Advisory Board a meeting must be called in accordance with paragraph (2) upon receipt by the Secretary of a letter signed by at least four members in which those members designate the date for the meeting.

(4) At a meeting of the Labour Advisory Board –

- (a) at least six members constitute a quorum;
- (b) in the absence of the Chairperson the members present shall elect a Chairperson from among them for the meeting.

- (c) in all its deliberations the Board should endeavour to reach a consensus. However in the event that consensus is not reached any votes should be recorded and reported with any advice to the Minister. In the event of equal votes for a motion the motion shall be declared lost.

(5) The Labour Advisory Board may delegate a decision on a specified matter to a sub-committee established under Rule 4(2) provided that –

- (a) where such delegation occurs the sub-committee must deliberate by consensus and in the event that there is no consensus must refer the matter back to the Labour Advisory Board; and
- (b) any decision made must be reported to the Labour Advisory Board members in writing within 14 days of the decision.

8. (1) The Labour Advisory Board shall provide its advice in writing to the Minister from time to time and the Minister may attend Board meetings at his/her discretion for the purpose of consultation and discussion. Reports of the Board

(2) The Labour Advisory Board must prepare and submit to the Minister a report of its operations annually.

(3) The Labour Advisory Board's report must be included in the Ministry's annual report.

### **PART 3 – SPECIAL PROVISIONS RELATING TO ADVISING THE MINISTER ON MINIMUM WAGES**

9. The Labour Advisory Board should carry out the function in Rule 4 (1) (f) annually and must do so at least every two years. Frequency of reviews

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Procedure for  
reviews

**10.** In carrying out the function in Rule 4 (1) (f) the Labour Advisory Board shall –

- (1) invite submissions from, and consult actively worker and employer representatives, and in particular with representatives of employers and workers in the sectors, occupations or geographical areas with the lowest wages; and
- (2) shall request relevant information and analysis from the Commissioner of Labour; and
- (3) shall invite and/or receive submissions from such other interested parties as it considers appropriate; and
- (4) may appoint a sub-committee or committees on minimum wages in accordance with the rules so as to consult those affected, access and analyse data and information, and may invite representatives of employers and workers most likely to be impacted by the minimum wages under consideration to act as advisors to such a committee in accordance with these Rules.

Relevant criteria

**11.** In considering its advice to the Minister the Labour Advisory Board should consider as is practicable to do so with reference to data and information available to it –

- (1) whether changes in the cost of living since the last minimum wage determination have affected the real value of the minimum wage; and
- (2) whether other social protection measures have compensated for such cost increase; and
- (3) whether increases in average wages have resulted in substantially greater inequality between workers earning the minimum wage and other workers; and
- (4) any other information, including information submitted to it by worker and employer representatives and other interested parties, relating the reasonableness of any wage, including information of a financial or economic nature either at the national level or in relation to an industry, sector or geographic area; and

(5) any other matters the Labour Advisory Board determines are relevant to assessing the needs of workers and their families, taking into account the general level of wages in the country, the cost of living, social security benefits, and the relative living standards of other social groups, and economic factors, including the requirements of economic development, levels of productivity and the desirability of attaining and maintaining a high level of employment.

12. The Labour Advisory Board shall submit a report to the Minister <sup>Report to</sup> setting out its recommendation regarding minimum wage rates, giving reasons <sup>Minister</sup> for its recommendation (including any recommendation against changes to rates).

HON. ELIJAH DORO MUALA  
Minister for Commerce, Industry, Labour and Immigration

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