

Comparative Analysis of Solomon Islands' Legal Framework and Involuntary Resettlement Safeguards in the ADB Safeguard Policy Statement

(A) <i>ADB Safeguard Policy Statement</i>	(B) <i>Corresponding Provisions in National Policy and Legal Instruments¹</i>	(C) <i>Extent of Equivalence² Review comments</i>	(D) <i>Recommendations</i>
Involuntary Resettlement Safeguards			
<p>Objectives: To avoid involuntary resettlement wherever possible; to minimize involuntary resettlement by exploring project and design alternatives; to enhance, or at least restore, the livelihoods of all displaced persons in real terms relative to pre-project levels; and to improve the standards of living of the displaced poor and other vulnerable groups.</p>			
<p>Key element (1): Avoid involuntary resettlement wherever possible</p>	<p>Environment Act 1998 Interpretation 2. In this Act, unless the context otherwise requires -... "environment" includes all natural and social systems and their constituent parts, and the interactions of their constituent parts, including people, communities and economic, aesthetic, culture and social factors;... "mitigation" includes – (a) avoiding an impact by not taking a particular course of action as part of development; (b) minimising an impact by limiting the scale of the action or changing the method of carrying out an action;... "sustainable development" means the management or the human use, development, conservation, protection, maintenance and enhancement of the natural, physical and cultural resources of Solomon Islands in a way or at a rate, which enables people and communities to provide for their social, economic and cultural well-being and for their health and safety while -... (e) avoiding, remedying or mitigating any adverse effects of development on the environment;...</p>	<p>Full equivalence</p> <p>The Environment Act 1998 defines 'environment' to include social systems and social factors and defines 'mitigation' to include avoiding and minimizing impacts.</p> <p>The Act lists settlement and resettlement schemes as 'prescribed developments' which require environmental assessment.</p> <p>The Environmental Guidelines 2010, which do not appear to be legally binding, indicate that resettlement will usually require a full EIS: Box 2. PER or EIS Most prescribed developments will need a Public Environmental Report</p>	

¹ Solomon Islands' legislation from 1981 up to the current year is available online: <http://www.parliament.gov.sb/index.php?q=node/13>. All text is direct citation from the official versions of the policy documents and legal instruments except where otherwise indicated by annotation. Legally-binding provisions are cited in Column B; policy provisions and other non-legally binding measures are cited in Column C.

² "Full Equivalence" denotes that the national legal instruments are in complete harmony with the corresponding ADB Safeguard Objective, Scope and Trigger, Policy Principle or Key Element thereof. "Partial Equivalence" denotes that the national legal instruments are in partial harmony with the corresponding ADB Safeguard Objective, Scope and Trigger, Policy Principle or Key Element; and "No Equivalence" denotes that no legal requirement can be found that corresponds to the particular ADB Safeguard Objective, Scope and Trigger, Policy Principle or Key Element. It is intended that the referenced text of the national policy documents and legal instruments be sufficiently clear to demonstrate the findings of Full Equivalence or No Equivalence without further explanation, except in those instances where an explanation would appear necessary and is given. A finding of Partial Equivalence normally requires the explanation provided. In some cases, there may be full equivalence for one issue, but only partial equivalence or no equivalence for one or more of the other issues governed by a particular legal instrument. In such cases, the degree of equivalence for each issue is indicated.

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	<p>Declaration of prescribed development. 16. (1) Development specified in the Second Schedule shall for purposes of this Act be classified as prescribed development.</p> <p>Applications for approval 17. (1) Any developer who proposes to carry out any Applications for prescribed development in Solomon Islands shall make application to the Director in such form as may be approved by the Minister.</p> <p>(2) On receipt of the application referred to in subsection (1), the Director shall within fifteen working days of such receipt advise the developer to submit - (a) a development application accompanied by a public environmental report, together with any additional requirements as notified by the Director; or (b) a development application accompanied by an environmental impact statement, together with any additional requirements as notified by the Director.</p> <p>Contents of environmental impact statement. 23. An environmental impact statement in respect of proposed and existing prescribed development shall – ... (o) describe residual impacts which cannot be mitigated or can only be mitigated partially;...</p> <p>Second Schedule (Section 16) Prescribed Developments 10. Other ...(c) settlement and resettlement schemes</p>	<p>(PER). However, many major developments like...re-settlements... will need a thorough technical assessment of impacts that will result in the need for Environmental Impact Statement (EIS).</p>	
<p>Key element (2): Minimize involuntary resettlement by exploring project and design alternatives</p>	<p>See Objectives, Key element 1.</p> <p>Environment Act 1998 Contents of public environmental report 20. Any public environmental report in respect of proposed and existing prescribed development shall – (a) describe the prescribed development in summary form, including its objectives and any reasonable alternatives to it;... (c) describe the environment likely to be affected by the prescribed development and any reasonable alternatives to it; (d) indicate the potential or actual impact of the prescribed development on the environment and of any reasonable alternatives to the prescribed</p>	<p>Full equivalence</p> <p>See Objectives, Key element 1.</p>	

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	<p>development, including any enhancement of the environment;...</p> <p>Contents of environmental impact statement.</p> <p>23. An environmental impact statement in respect of proposed and existing prescribed development shall – ...</p> <p>(e) examine any reasonable alternatives to the prescribed development, including alternative sites for it;</p> <p>(f) describe the environment that is or is likely to be affected by the prescribed development and by any reasonable alternatives to it;</p> <p>(g) assess the actual or potential impact on the environment of the prescribed development and of any reasonable alternatives to it...</p> <p>(k) state the methods of predicting and assessing each impact from the construction, operational and where relevant, the de-commissioning phase of an implemented development and for each alternative presented;...</p> <p>Environment Regulations 2008</p> <p>Matters to be taken into account by Director before issuing development consent</p> <p>14. – (1) The Director may issue a Development Consent to an application if the Director is satisfied that –...</p> <p>(c) all reasonable steps will be taken to minimize any risk of environmental harm, as a result of the prescribed development;...</p> <p>Conditions to be imposed on development consent</p> <p>15. In issuing a Development Consent to the applicant, the Director may impose any of the following conditions –...</p> <p>(b) the taking of certain action to minimize the risk of environmental harm;...</p> <p>Schedule 2, Prescribed Forms, Form 1</p> <p>Section 29 – Guidelines to Assist in Preparation of Public Envir[o]nmental Report or Environment Statement etc.</p> <p>2. Description.</p> <p>A description of the prescribed development, including:-...</p> <p>(g) to the extent reasonably practicable, any feasible alternatives to the action, including:-...</p> <p>(ii) a comparative description of the impacts that alternative development might have on the environment...</p>		
Key element (3): Enhance, or at	No corresponding legal provision	No equivalence	Amend the Environment Act 1998, the

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least restore, the livelihoods of all displaced persons in real terms relative to pre-project levels		The Environmental Guidelines 2010, which do not appear to be legally binding, mention livelihoods only once: Introduction ...The long term aim of EIA is to promote sustainable development by ensuring that development proposals do not undermine...livelihood of the communities and peoples who depend on them...	Environment Regulations 2008, and the Environmental Guidelines 2010 to incorporate the requirement that any project that displaces people must provide for enhancing, or at least restoring, the livelihoods of all displaced persons in real terms relative to pre-project levels.
Key element (4): Improve the standards of living of the displaced poor and other vulnerable groups.	No corresponding legal provision	No equivalence	Amend the Environment Act 1998, the Environment Regulations 2008, and the Environmental Guidelines 2010 to incorporate the requirement that any project that displaces people must provide for improving the standards of living of the displaced poor and other vulnerable groups.
Scope and Triggers: The involuntary resettlement safeguards cover physical displacement (relocation, loss of residential land, or loss of shelter) and economic displacement (loss of land, assets, access to assets, income sources, or means of livelihoods) as a result of (i) involuntary acquisition of land, or (ii) involuntary restrictions on land use or on access to legally designated parks and protected areas. It covers them whether such losses and involuntary restrictions are full or partial, permanent or temporary.			
	See Objectives, Key element 1. Town and Country Planning Act 1979, amended up to 1982, consolidated 1996 Duties of Minister 4. ...it shall be the duty of the Minister to secure consistency and continuity in the framing and execution of a comprehensive policy for the preservation of amenities and the orderly development of land other than customary land throughout Solomon Islands...	Partial equivalence The Environment Act 1998 and Environment Regulations 2008 provide only that prescribed development that involves settlement or resettlement requires environmental assessment, but do not address the scope of and triggers for	Amend the Environment Act 1998, the Environment Regulations 2008, and the Environmental Guidelines 2010 to incorporate involuntary resettlement safeguards that cover physical

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	<p>Part IV Control of Development of Land Application of this Part 13.-(1) The Minister may by notice published in the Gazette order that the provisions of this Part shall apply and have effect in any area of Solomon Islands, and may in like manner amend or revoke any Order as made: Provided that no Order made under this section shall apply to customary land....</p> <p>Protected Areas Regulations 2012 5. Nature Reserves (2) Prior to designating a protected area as a nature reserve, the Minister shall ensure that - (a) no local community is continuously in occupation of the area as its usual place of habitation or residence; or (b) the local community has agreed to relocate to another location or place, in order for the habitat, ecosystems and native species of the intended reserve are preserved in an undisturbed, dynamic and evolutionary state. (3) Except with prior permission of the management committee, public access to a nature reserve shall strictly be restricted and or limited to the purposes for which such reserve is established.</p> <p>Mines and Mineral Act 1990, amended up to 2014 Compulsory acquisition of land for mining 33.-(1) Where there is no prospect of the negotiations provided for in section 32 being concluded on a basis acceptable to the parties, or where the delay in arriving at a satisfactory settlement is not in the public interest the Minister may, in consultation with the Minister charged with responsibility under the Land and Titles Act, require the Commissioner of Lands to exercise the powers conferred by Division 2 of Part V of the Land and Titles Act and any other power vested in him in that behalf. (2) Where any land is compulsorily acquired pursuant to subsection (1), such purpose shall in relation to the exercise of any such powers be deemed to be in the public interest. (3) Where, pursuant to subsection (1), it is determined that the customary land be compulsorily acquired for mining purposes or any purposes of this Act, the Commissioner of Lands shall, as far as practicable, ensure that the interest to be acquired is limited to a fixed</p>	<p>potential resettlement.</p> <p>The Town and Country Planning Act appears to exempt customary land and does not address resettlement.</p> <p>In order to establish a nature reserve, the Protected Areas Regulations 2012 require that any community living in a proposed nature reserve must agree to relocate before the reserve is designated.</p> <p>The Mines and Mineral Act allows compulsory acquisition of customary land for mining but stipulates that, as far as practicable, the interest to be acquired is limited to a fixed term interest.</p> <p>The Environmental Guidelines 2010, which do not appear to be legally binding, indicate that resettlement will usually require a full EIS: Box 2. PER or EIS Most prescribed developments will need a Public Environmental Report (PER). However, many major developments like...re-settlements... will need a thorough technical assessment of impacts that will result in the need for Environmental Impact Statement (EIS).</p>	<p>displacement (relocation, loss of residential land, or loss of shelter) and economic displacement (loss of land, assets, access to assets, income sources, or means of livelihoods) as a result of (i) involuntary acquisition of land, or (ii) involuntary restrictions on land use or on access to legally designated parks and protected areas, whether such losses and involuntary restrictions are full or partial, permanent or temporary.</p> <p>Amend the Land and Titles Act and any implementing regulations, and the Town and Country Planning Act to explicitly: 1. make land use decisions and town and country planning decisions contingent on environmental and social impact assessment; and 2. require involuntary resettlement safeguards in the event of physical or economic displacement resulting from involuntary acquisition of land and involuntary restrictions on land use.</p> <p>Amend the Mines and</p>

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	<p>term interest.</p> <p>(4) Where, pursuant to subsection (1), it is determined that the customary land be purchased, leased or compulsorily acquired, the provisions of Part V of the Land and Titles Act shall <i>mutatis mutandis</i> apply to such purchase, lease or compulsory acquisition.</p>		<p>Minerals Act to require involuntary resettlement safeguards in the event of physical or economic displacement resulting from involuntary acquisition of land and/or involuntary restrictions on land use for mining.</p>
<p>Policy Principle 1: Screen the project early on to identify past, present, and future involuntary resettlement impacts and risks. Determine the scope of resettlement planning through a survey and/or census of displaced persons, including a gender analysis, specifically related to resettlement impacts and risks.</p>			
<p>Key element (1): Screen the project early on</p>	<p>Environment Act 1998 Applications for approval 17. (1) Any developer who proposes to carry out any Applications for prescribed development in Solomon Islands shall make application to the Director in such form as may be approved by the Minister. (2) On receipt of the application referred to in subsection (1), the Director shall within fifteen working days of such receipt advise the developer to submit - (a) a development application accompanied by a public environmental report, together with any additional requirements as notified by the Director; or (b) a development application accompanied by an environmental impact statement, together with any additional requirements as notified by the Director.... (4) Where the Director decides to dispense with the requirements of subsection (2), he shall advise the developer accordingly within the time stipulated in that subsection.</p> <p>Contents of public environmental report 20. Any public environmental report in respect of proposed and existing prescribed development shall – (a) describe the prescribed development in summary form, including its objectives and any reasonable alternatives to it; (b) describe any aspects of the prescribed development having or likely to have a substantial or important impact on the environment; (c) describe the environment likely to be affected by the prescribed development and any reasonable alternatives to it; (d) indicate the potential or actual impact of the prescribed development on the environment and of any reasonable alternatives to the prescribed</p>	<p>Full equivalence</p> <p>The Environmental Impact Assessment Guidelines 2010, which do not appear to be legally binding, clearly state that screening is the first step in the EIA process: Screening Screening is the first step in the EIA process in which the CA makes a decision on whether or not EIA is required for a development proposal. The main purpose of screening is to verify if the proposed development type has potential environmental impact or not. Screening is undertaken using the information provided in the proposal application.</p>	

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	development, including any enhancement of the environment; (e) outline the reasons for choice of the prescribed development; (f) describe and assess the effectiveness of any safeguards or standards intended to be adopted or applied for the protection of the environment; (g) state any intended investigations or studies of the possible impact on the environment before the prescribed development is implemented; (h) state any intended monitoring and reporting of the impact of the prescribed development;...		
Key element (2): Identify past, present, and future involuntary resettlement impacts and risks	No corresponding legal provision	No equivalence	Amend the Environment Act 1998, the Environment Regulations 2008, and the Environmental Guidelines 2010 to explicitly include in the EIA process a requirement that, in the event of involuntary resettlement, project proponents must identify past, as well as present and future, involuntary resettlement impacts and also identify risks.
Key element (3): Determine the scope of resettlement planning through a survey and/or census of displaced persons , including a gender analysis, specifically related to resettlement impacts and	No corresponding legal provision	No equivalence	Amend the Environment Act 1998, the Environment Regulations 2008, and the Environmental Guidelines 2010 to explicitly include in the EIA process a requirement that, in the event of involuntary resettlement, project proponents must determine the scope of resettlement planning through a survey and/or

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risks			census of displaced persons, including a gender analysis, specifically related to resettlement impacts and risks.
Policy Principle 2: Carry out meaningful consultations with affected persons, host communities, and concerned nongovernment organizations. Inform all displaced persons of their entitlements and resettlement options. Ensure their participation in planning, implementation, and monitoring and evaluation of resettlement programmes. Pay particular attention to the needs of vulnerable groups, especially those below the poverty line, the landless, the elderly, women and children, and Indigenous Peoples, and those without legal title to land, and ensure their participation in consultations. Establish a grievance redress mechanism to receive and facilitate resolution of the affected persons' concerns. Support the social and cultural institutions of displaced persons and their host population. Where involuntary resettlement impacts and risks are highly complex and sensitive, compensation and resettlement decisions should be preceded by a social preparation phase.			
Key element (1): Carry out meaningful consultations with affected persons, host communities, and concerned nongovernment organizations	<p>Environment Act 1998 Publication of public environmental report and procedure in respect of objections and appeal. 22. (1) The Director on being satisfied that a public environmental report meets the requirements of this Act, shall cause the public environmental report to be published in such manner as he considers adequate or most effective for the purpose of bringing it to the attention of all public authorities and other persons, whose interests are likely to be affected by the proposed development.</p> <p>Publication of environmental impact statement and procedure in respect of objections and appeal. 24. (1) The Director on being satisfied that an environmental impact statement meets the requirements of this Act shall cause such statement to be published in such manner as he considers adequate or most effective for the purpose of bringing it to the attention of all public authorities, and other persons whose interests are likely to be affected by the proposed development....</p> <p>Environment Regulations 2008 Additional matter to EIS 5. In addition to the requirements of section 23 of the Act, the EIS shall – ... (b) ensure public participation in the prescribed development;...</p> <p>Notice of application 11. – (1) Where the Director has received the development application</p>	Full equivalence	

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	<p>and the relevant PER or EIS and other information or documents required by the Director from the applicant, the Director shall within 30 days of receipt of the same, bring or cause to be brought to the notice of the public and as the case may require, the following –</p> <p>(a) if the proposed prescribed development is to be undertaken in a rural area, the communities within that rural area;</p> <p>(b) the provincial government of the province in which the proposed prescribed development is to be undertaken;</p> <p>(c) any other relevant organization whom the Director believes would provide useful contribution to the proposed prescribed development; and</p> <p>(d) any other persons whom the Director believes may or likely to be affected by the proposed prescribed development.</p> <p>Meetings to consider application</p> <p>12. –(1) At the meeting convened by the Director...</p> <p>(a) the Director shall explain the contents, recommendations or findings of the Public Environment Report or the Environmental Impact Statement;</p> <p>(b) any person, Provincial Government or organization may make oral or written representation to the Director and the Director shall received [<i>sic</i>] or record any such representation; and</p> <p>(c) the Director shall record the proceedings of the meeting.</p> <p>(2) The Director shall, at the meeting receive and consider any objection in relation to the application.</p>		
<p>Key element (2): Inform all displaced persons of their entitlements and resettlement options</p>	<p>No corresponding legal provision</p>	<p>No equivalence</p>	<p>Amend the Environment Act 1998, the Environment Regulations 2008, and the Environmental Guidelines 2010 to explicitly include in the EIA process a requirement that, in the event of involuntary resettlement, project proponents must inform all displaced persons of their entitlements and resettlement options.</p>

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			Amend the Land and Titles Act and any implementing regulations to explicitly require the Commissioner to inform all displaced persons of their entitlements and resettlement options prior to or, at the latest at the time of, making a declaration that land is required for any public purpose.
Key element (3): Ensure the participation of displaced persons in planning, implementation, and monitoring and evaluation of resettlement programmes	See Policy Principle 3, Key element 1.	Partial equivalence The legal regime requires consultation at the design stage, but not during implementation or monitoring.	Amend the Environment Act 1998, the Environment Regulations 2008, and the Environmental Guidelines 2010 to explicitly include in the EIA process a requirement that, in the event of involuntary resettlement, project proponents must ensure the participation of displaced persons in planning, implementing, and monitoring and evaluating resettlement programmes. Amend the Land and Titles Act and any implementing regulations to explicitly require that persons displaced because land is compulsorily acquired for any public purpose must

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			have an opportunity to participate in planning, implementing, and monitoring and evaluating resettlement programmes.
<p>Key element (4): Ensure the participation in consultations of vulnerable groups, especially those below the poverty line, the landless, the elderly, women and children, and Indigenous Peoples, and those without legal title to land</p>	<p>See Policy Principle 3, Key element 1.</p>	<p>Partial equivalence</p> <p>The legal regime requires consultation with “persons whose interests are likely to be affected by the proposed development”, but does not require ensuring the participation of vulnerable groups, especially those below the poverty line, the landless, the elderly, women and children, affected distinct tribes or lines, and those without legal title to land.</p>	<p>Amend the Environment Act 1998, the Environment Regulations 2008, and the Environmental Guidelines 2010 to explicitly include in the EIA process a requirement that project proponents must ensure the participation in consultations of vulnerable groups, especially those below the poverty line, the landless, the elderly, women and children, affected distinct groups, tribes or lines, and those without legal title to land.</p> <p>Amend the Land and Titles Act and any implementing regulations to explicitly require that vulnerable groups, especially those below the poverty line, the landless, the elderly, women and children, affected distinct groups, tribes or lines, and those without legal title to land must have an opportunity</p>

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			to participate in consultations concerning resettlement programmes.
<p>Key element (5): Establish a grievance redress mechanism to receive and facilitate resolution of the affected persons' concerns</p>	<p>Constitution 1978 amended as of 2014 Protection from deprivation of property 8.-(1) No property of any description shall be compulsorily taken possession of, and no interest or right over property of any description shall be compulsorily acquired, except where the following conditions are satisfied... (c) provision is made by a law applicable to that taking of possession or acquisition -... (ii) securing to any person having an interest in or right over the property a right of access to the High Court, whether direct or on appeal from any other authority, for the determination of his interest or right, the legality of the taking of possession or acquisition of the property, interest or right, and the reasonableness of the compensation and the period of time within which it shall be paid.</p> <p>Land and Titles Act 1968 amended as of 2016³ Appeals 76.- (1) Any person or group of persons having an interest which ceases to subsist by virtue of section 75 may within six calendar months next after the publication of the declaration apply to the High Court for an order quashing the declaration in so far as it applies to the land subject to or affected by the interest. (2) On hearing the application, the Court may, if it considers that the purpose referred to in the declaration is not a public purpose, make an order quashing the declaration; and the Registrar shall on production of the order to him cancel any note made on any registers pursuant to section 75. (3) If, on hearing the application, the Court considers that the land referred to in the application, or any part of the land is not required for the purpose referred to in the declaration (being a public purpose), it may make an order quashing the declaration in so far as it applies to the land not required; and the Registrar shall on production to him of the order cancel any note made pursuant to section 75 on any registers in respect of the land affected thereby.</p>	<p>Partial equivalence</p> <p>The Constitution and the Land and Titles Act guarantee appeals through the courts, but the EIA legal regime does not require the proponents of projects that involve involuntary resettlement to create a project-specific grievance redress mechanism.</p>	<p>Amend the Environment Act 1998, the Environment Regulations 2008, and the Environmental Guidelines 2010 to explicitly include in the EIA process a requirement that project proponents must establish a project-specific grievance redress mechanism.</p>

³ A Land and Titles Regulation 1959 appears to remain in force. The Land and Titles Act 1968 includes the substance of the provisions of the 1959 Regulation.

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	<p>Compensation for customary land</p> <p>84.- (3) Any dispute as to whether any persons, being members of a group, constitute a majority of the group shall, unless the parties otherwise agree, be determined by a Magistrate's Court.</p> <p>(4) Where any compensation or compensation rental is payable to a group of persons claiming rights or interests in land according to current customary usage, such compensation or compensation rental shall be payable to the group and for the benefit of all of them; and any dispute among the members of the group, as to the manner in which the compensation or compensation rental shall be dealt with when received, shall be determined by a local court.</p> <p>(5) Where any compensation or compensation rental is payable to a group of persons claiming rights or interests in land according to current customary usage, if the Commissioner has any doubt as to-</p> <p>(a) whether an offer thereof has been accepted by all the members of the group, he may apply to the High Court for directions; or</p> <p>(b) the persons to whom he should make, or order the making of, any payment in respect thereof, he may apply for directions to the local court having jurisdiction.</p>		
<p>Key element (6): Support the social and cultural institutions of displaced persons and their host population</p>	<p>No corresponding legal provision</p>	<p>No equivalence</p>	<p>Amend the Environment Act 1998, the Environment Regulations 2008, and the Environmental Guidelines 2010 to explicitly include in the EIA process a requirement that, in the event of involuntary resettlement, project proponents must prepare a resettlement plan that provides for supporting the social and cultural institutions of displaced persons and their host populations.</p> <p>Amend the Land and Titles Act and any</p>

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			implementing regulations to explicitly require supporting the social and cultural institutions of displaced persons and their host populations in the event of compulsory acquisition of land for any public purpose.
Key element (7): Where involuntary resettlement impacts and risks are highly complex and sensitive, compensation and resettlement decisions should be preceded by a social preparation phase .	No corresponding legal provision	No equivalence	Amend the Environment Act 1998, the Environment Regulations 2008, and the Environmental Guidelines 2010 to explicitly include in the EIA process a requirement that, in the event of highly complex and sensitive involuntary resettlement, project proponents must carry out a social preparation phase before developing any plans for resettlement and compensation.
Policy Principle 3: Improve, or at least restore, the livelihoods of all displaced persons through (i) land-based resettlement strategies when affected livelihoods are land based where possible or cash compensation at replacement value for land when the loss of land does not undermine livelihoods, (ii) prompt replacement of assets with access to assets of equal or higher value, (iii) prompt compensation at full replacement cost for assets that cannot be restored, and (iv) additional revenues and services through benefit sharing schemes where possible.			
Key element (1): Improve, or at least restore, the livelihoods of all displaced persons through land-based resettlement	Constitution 1978 amended as of 2014 Protection from deprivation of property 8.-(1) No property of any description shall be compulsorily taken possession of, and no interest or right over property of any description shall be compulsorily acquired, except where the following conditions are satisfied... (c) provision is made by a law applicable to that taking of possession or acquisition -	Partial equivalence Under the Land and Titles Act, it appears that land-based resettlement is available only for owners of customary land. When customary land is acquired for a public purpose, the State may offer other land in lieu	Amend the Environment Act 1998, the Environment Regulations 2008, and the Environmental Guidelines 2010 to explicitly include in the EIA process a

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<p>strategies when affected livelihoods are land based, where possible, or cash compensation at replacement value for land when the loss of land does not undermine livelihoods</p>	<p>(i) for the payment of reasonable compensation (the valuable consideration of which may take the form of cash or some other form and may be payable by way of lump sum or by instalments) within a reasonable period of time having due regard to all the relevant circumstances;...</p> <p>Non-customary land 111. Parliament may, in regard to land which has ceased to be customary land:-...</p> <p>(c) prescribe the criteria to be adopted in regard to the assessment and payment of compensation for...compulsory acquisition (which may take account of, but need not be limited to, the following factors: the purchase price, the value of improvements made between the date of purchase and the date of acquisition, the current use value of the land, and the fact of its abandonment or dereliction).</p> <p>Land and Titles Act 1968 amended as of 2016 Effect of declaration 75. On the publication of a declaration that land is required for a public purpose, all interests in or affecting the land specified in the declaration shall, subject to section 76, cease to subsist, and, subject to section 78, the right to use, occupy and enjoy the land and any buildings thereon and its produce shall vest in the Commissioner for and on behalf of the Government, and where the land is registered land the Registrar shall, upon application to him by the Commissioner accompanied by proof of the declaration, make a note in the registers relating to the interests in that land that the perpetual estate therein free from all other interests is vested in the Commissioner subject to appeal under section 76.</p> <p>Claim for compensation 79.- (1) Any person who claims to be entitled to an interest which, by reason of section 75, ceases to subsist may within three months from the date of the publication of the declaration under that section, or within such further period as the Commissioner for good reason may allow, claim compensation from the Commissioner. (2) Within three months of any claim, the Commissioner shall, after considering the claim, and, if the claimant so desires, hearing the claimant, reject the claim or make in the prescribed form an offer to pay to the claimant such amount of compensation as he may think proper, and shall serve upon the claimant notice of the rejection of his claim or the offer:</p>	<p>of cash compensation. If persons displaced from customary land do not accept the offer of replacement land within three months, the offer is withdrawn.</p> <p>The Land and Titles Act provides that displaced persons must apply for cash compensation within three months of the date their land is declared as required for a public purpose.</p> <p>Under the Mines and Mineral Act, the Land and Titles Act applies to compulsory acquisition of land for mining.</p> <p>There is no legal requirement to improve or restore the livelihoods of displaced persons.</p>	<p>requirement that, in the event of involuntary resettlement, project proponents must prepare a resettlement plan that provides for restoring the livelihoods of all displaced persons through land-based resettlement strategies when affected livelihoods are land-based, where possible, or cash compensation at replacement value for land when the loss of land does not undermine livelihoods.</p> <p>Amend the Land and Titles Act and any implementing regulations to explicitly extend the option of an estate in land in lieu of cash compensation for persons whose livelihoods are land-based and whose land has been declared necessary for any public purpose.</p>

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	<p>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.</p> <p>(3) If the claim has been rejected or the claimant is dissatisfied with the offer, he may within three months from the service upon him of the notice or the offer as aforesaid, appeal to the High Court, which may confirm the Commissioner's rejection of the claim or his offer, or assess such amount of compensation (if any) as to it may seem just, or remit the matter to the Commissioner with a direction that an offer be made under subsection (2).</p> <p>(4) If, having been served with an offer under subsection (2), the claimant does not within the period specified in subsection (3), appeal to the Court, he shall be deemed to have accepted the offer.</p> <p>Special provisions as to easement</p> <p>80.- (1) Where a claim for compensation is made in respect of an easement which ceases to subsist by virtue of section 75, and that easement subsisted for the benefit, in whole or in part, of an estate or lease which continues to subsist, then if the Commissioner is of opinion that the continued subsistence of the easement would not prejudicially affect the carrying out of the public purpose specified in the declaration made pursuant to section 71, he shall inform the Minister accordingly.</p> <p>(2) The Minister may thereupon make an order that the right to enjoy the easement shall be restored to the claimant, and the Commissioner shall furnish a copy of the order to the Registrar, who shall register it.</p> <p>(3) When an order under subsection (2) has been made, no compensation in respect of the easement shall be payable to the claimant, other than compensation for any temporary interruption of the enjoyment of the easement which may have occurred.</p> <p>Payment of compensation</p> <p>81.- (1) When an offer for compensation in respect of a claim has been accepted, or has become deemed to be accepted, or when the amount of such compensation has been assessed, the Commissioner or the High Court, as the case may be, shall furnish the claimant with an order for payment.</p> <p>(2) The order for payment shall direct the payment to the claimant, in such manner and subject to such trusts and conditions (if any) as may be specified in the order, of the compensation together with interest thereon up to the date of payment at five per centum per annum from such date as shall be specified in accordance with subsection (3).</p>		

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	<p>(3) The interest on the compensation shall be in respect of the period from the date on which the declaration under section 71 was published up to and including the date of payment, except that where the claimant has been exercising the liberties conferred by section 78(1) it shall be in respect of the period from the date on which the claimant ceased to exercise the said liberties up to and including the date of payment.</p> <p>Temporary occupation of land 82.- (1) Whenever the Commissioner is of opinion that the temporary occupation and use of any land is required for any public purpose, he may...serve notice on the occupiers, or...give notice...for the purpose of bringing it to the attention of all persons affected thereby, requiring the occupiers (if any) to give up possession of the land to him for a specified period not exceeding three years, and the occupiers shall be bound to give up possession, and the Commissioner shall in any event be entitled to enter and take possession, in accordance with the terms of such notice.</p> <p>(2) Compensation rental for the temporary occupation and use of the land shall be paid by the Commissioner to the lawful occupier or person entitled to possession, and it shall be deemed to accrue due from day to day.</p> <p>(3) At the end of the specified period possession of the land shall be restored to the persons lawfully entitled thereto, and there shall be paid to any person having an interest in or affecting the land compensation for the diminution in value (if any) of such interest consequent upon any damage done to the land during the specified period.</p> <p>(4) Any compensation or compensation rental payable under subsections (2) or (3) shall be claimed, and offered and accepted, or assessed, in like manner as compensation payable under section 79; and the provisions of section 81 shall apply to the payment of compensation under subsection (3).</p> <p>(5) If, during or within three months next after the end of the specified period, the Minister is of opinion that-</p> <p>(a) the damage (if any) done to the land during the specified period is so substantial and of so permanent a nature that it would be just to the persons having interests in the land that the Commissioner should permanently retain the use and occupation thereof; or</p> <p>(b) the land has been developed during the specified period and that the value of the development ought to be secured for the benefit of the people of Solomon Islands, the Minister may make a declaration to that effect, and the declaration shall have the same effect as a declaration</p>		

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	<p>that the land is required for a public purpose; and the provisions of this Division shall apply thereto accordingly, save that for reference therein to the date on which a declaration under section 71 was published there shall be substituted references to the date on which the declaration under this subsection was made.</p> <p>Assessment of compensation 83. The amount of any compensation or compensation rental which under the provisions of this Division falls to be assessed by the High Court shall be such amount as the Court in its absolute discretion thinks just, having regard to-</p> <p>(a) the condition of the land concerned, as it existed-</p> <p>(i) at the date on which the declaration under section 71 was published, in the case of compensation payable under section 79; or</p> <p>(ii) in any other case, at the date on which possession of the land was given to the Commissioner under section 82(1), and</p> <p>(b) all such other matters and circumstances as the Court may consider relevant and in particular in assessing compensation rental shall have regard to any diminution in value to the occupier of the land concerned of land contiguous thereto.</p> <p>Compensation for customary land 84.- (1) Where the land to be acquired is customary land, the Commissioner may, by notice in writing, offer to transfer or grant, as the case may be...to the person or group of persons entitled to the compensation for the land acquired an estate in land in lieu of paying to such person or group of persons any compensation claimed by him or them, and shall in such notice identify the land offered and set out the nature of the estate offered together with the terms and conditions (if any) affecting the same.</p> <p>(2) If an offer made under subsection (1) be not accepted within three months after the date of the notice or, where the offer is made to a group of persons, by a majority of such group, it shall be deemed to have been refused...</p> <p>National Parks Act 1954, amended up to 1978, consolidated 1996 Acquisition of land in national park 4. The Minister may, either by purchase or otherwise, acquire any private land, situated within a national park if he considers it necessary or desirable in the interests thereof, paying therefor such compensation as may be agreed upon.</p>		

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<p>Key element (2): Improve, or at least restore, the livelihoods of all displaced persons through prompt replacement of assets with access to assets of equal or higher value</p>	<p>Constitution 1978 amended as of 2014 Non-customary land 111. Parliament may, in regard to land which has ceased to be customary land:-... (c) prescribe the criteria to be adopted in regard to the assessment and payment of compensation for...compulsory acquisition (which may take account of, but need not be limited to, the following factors: the purchase price, the value of improvements made between the date of purchase and the date of acquisition, the current use value of the land, and the fact of its abandonment or dereliction).</p> <p>Land and Titles Act 1968 amended as of 2016 Regulations 260.- (1) The Minister may make such regulations as may seem to him expedient for carrying into effect any of the purposes or provisions of this Act. (2) In particular and without prejudice to the generality of the foregoing, such regulations may -... (n) provide for the payment, to the owners of estates, or of any specified class of estates, of compensation for any buildings erected on or other improvements made to the land comprised in such estates during their subsistence...</p>	<p>No equivalence</p> <p>The Constitution gives Parliament the discretion to provide for the value of improvements. The Land and Titles Act empowers the Minister to make regulations to do this. Such regulations, if they have been issued, were not available for this assessment.</p>	<p>Amend the Environment Act 1998, the Environment Regulations 2008, and the Environmental Guidelines 2010 to explicitly include in the EIA process a requirement that, in the event of involuntary resettlement, project proponents must prepare a resettlement plan that provides for improving, or at least restoring, the livelihoods of all displaced persons through prompt replacement of assets with access to assets of equal or higher value.</p> <p>Issue regulations under the Land and Titles Act that provide for prompt replacement of assets with access to assets of equal or higher value for persons displaced because their land has been declared necessary for any public purpose. If such regulations have been issued, amend them, if necessary, to provide as specified in the previous sentence.</p>
<p>Key element (3): Improve, or at least restore, the livelihoods of all</p>	<p>No corresponding legal provision</p>	<p>No equivalence</p>	<p>Amend the Environment Act 1998, the Environment Regulations 2008, and the</p>

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displaced persons through prompt compensation at full replacement cost for assets that cannot be restored			<p>Environmental Guidelines 2010 to explicitly include in the EIA process a requirement that, in the event of involuntary resettlement, project proponents must prepare a resettlement plan that provides for prompt compensation at full replacement cost for assets that cannot be restored.</p> <p>Issue regulations under the Land and Titles Act that provide for prompt compensation at full replacement cost for assets that cannot be restored for persons displaced because their land has been declared necessary for any public purpose. If such regulations have been issued, amend them, if necessary, to provide as specified in the previous sentence.</p>
Key element (4): Improve, or at least restore, the livelihoods of all displaced persons through additional revenues and services through benefit	No corresponding legal provision	No equivalence	Amend the Environment Act 1998, the Environment Regulations 2008, and the Environmental Guidelines 2010 to explicitly include in the EIA process a requirement that, in the event of involuntary

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sharing schemes where possible			resettlement, project proponents must prepare a resettlement plan that provides for improving, or at least restoring, the livelihoods of all displaced persons through additional revenues and services through benefit sharing schemes where possible.
Policy Principle 4: Provide physically and economically displaced persons with needed assistance, including the following: (i) if there is relocation, secured tenure to relocation land, better housing at resettlement sites with comparable access to employment and production opportunities, integration of resettled persons economically and socially into their host communities, and extension of project benefits to host communities; (ii) transitional support and development assistance, such as land development, credit facilities, training, or employment opportunities; and (iii) civic infrastructure and community services, as required.			
Key element (1): Provide physically and economically displaced persons, if there is relocation, with secured tenure to relocation land, better housing at resettlement sites with comparable access to employment and production opportunities , integration of resettled persons economically and socially into their host communities, and extension of project benefits	Land and Titles Act 1968 amended as of 2016 Compensation for customary land 84.- (1) Where the land to be acquired is customary land, the Commissioner may, by notice in writing, offer to transfer or grant, as the case may be...to the person or group of persons entitled to the compensation for the land acquired an estate in land in lieu of paying to such person or group of persons any compensation claimed by him or them, and shall in such notice identify the land offered and set out the nature of the estate offered together with the terms and conditions (if any) affecting the same. (2) If an offer made under subsection (1) be not accepted within three months after the date of the notice or, where the offer is made to a group of persons, by a majority of such group, it shall be deemed to have been refused...	Partial equivalence The Land and Titles Act appears to provide for secure tenure to relocation land for displaced owners of customary land, but not for owners of non-customary land. The legal regime does not address the issues of housing, employment, or benefits for host communities.	Amend the Environment Act 1998, the Environment Regulations 2008, and the Environmental Guidelines 2010 to explicitly include in the EIA process a requirement that, in the event of involuntary resettlement, project proponents must prepare a resettlement plan that provides for providing physically and economically displaced persons, if there is relocation, with secured tenure to relocation land, better housing at resettlement sites with comparable access to employment and production opportunities, integration of resettled

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to host communities			<p>persons economically and socially into their host communities, and extension of project benefits to host communities.</p> <p>Amend the Land and Titles Act and any implementing regulations to explicitly extend the option of an estate in land in resettlement sites in lieu of cash compensation for persons whose land has been declared necessary for any public purpose.</p>
<p>Key element (2): Provide physically and economically displaced persons with transitional support and development assistance, such as land development, credit facilities, training, or employment opportunities</p>	No corresponding legal provision	No equivalence	<p>Amend the Environment Regulations 2008, and the Environmental Guidelines 2010 to explicitly include in the EIA process a requirement that, in the event of involuntary resettlement, project proponents must prepare a resettlement plan that provides physically and economically displaced persons with transitional support and development assistance, such as land development, credit facilities, training, or employment opportunities.</p> <p>Amend the Town and</p>

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			Country Planning Act to explicitly require planning for resettlement sites.
Key element (3): Provide physically and economically displaced persons with civic infrastructure and community services	No corresponding legal provision	No equivalence	Amend the Environment Regulations 2008, and the Environmental Guidelines 2010 to explicitly include in the EIA process a requirement that, in the event of involuntary resettlement, project proponents must prepare a resettlement plan that provides physically and economically displaced persons with civic infrastructure and community services. Amend the Town and Country Planning Act to explicitly require planning for resettlement sites that includes providing physically and economically displaced persons with civic infrastructure and community services.
Policy Principle 5: Improve the standards of living of the displaced poor and other vulnerable groups, including women, to at least national minimum standards. In rural areas provide them with legal and affordable access to land and resources, and in urban areas provide them with appropriate income sources and legal and affordable access to adequate housing.			
Key element (1): Improve the standards of living of the displaced poor and other	No corresponding legal provision	No equivalence	Amend the Environment Regulations 2008, and the Environmental Guidelines 2010 to explicitly include in the EIA process a

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vulnerable groups, including women, to at least national minimum standards			requirement that, in the event of involuntary resettlement, project proponents must prepare a resettlement plan that provides for improving the standards of living of the displaced poor and other vulnerable groups, including women, to at least national minimum standards.
Key element (2): In rural areas provide them with legal and affordable access to land and resources	See Policy Principle 4, Key element 1.	Partial equivalence See Policy Principle 4, Key element 1.	Amend the Environment Regulations 2008, and the Environmental Guidelines 2010 to explicitly include in the EIA process a requirement that, in the event of involuntary resettlement, project proponents must prepare a resettlement plan that includes mechanisms for providing displaced persons in rural areas with legal and affordable access to land and resources. Amend the Land and Titles Act and any implementing regulations to explicitly extend the option of an estate in land in resettlement sites in lieu of cash compensation for persons whose land has

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<p>Key element (3): in urban areas provide them with appropriate income sources and legal and affordable access to adequate housing</p>	<p>No corresponding legal provision</p>	<p>No equivalence</p> <p>The Town and Country Planning Act appears to exempt customary land and does not address resettlement.</p> <p>The legal regime does not address the issue of housing.</p>	<p>been declared necessary for any public purpose.</p> <p>Amend the Environment Regulations 2008, and the Environmental Guidelines 2010 to explicitly include in the EIA process a requirement that, in the event of involuntary resettlement, project proponents must prepare a resettlement plan that includes mechanisms for providing displaced persons in urban areas with appropriate income sources and legal and affordable access to adequate housing.</p> <p>Amend the Town and Country Planning Act to explicitly require planning for resettlement sites.</p> <p>Amend the Land and Titles Act to explicitly guarantee legal and affordable access to adequate housing for persons displaced because their land is declared necessary and acquired for any public purpose.</p>
<p>Policy Principle 6: Develop procedures in a transparent, consistent, and equitable manner if land acquisition is through negotiated settlement to ensure that those people who enter into negotiated settlements will maintain the same or better income and livelihood status.</p>			
<p>Key element (1):</p>	<p>Constitution 1978 amended as of 2014</p>	<p>Partial equivalence</p>	<p>Amend the Land and</p>

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<p>Develop procedures in a transparent, consistent, and equitable manner if land acquisition is through negotiated settlement</p>	<p>112. Parliament shall provide, in relation to any compulsory acquisition of customary land or any right over or interest in it, that:- (a) before such land is compulsorily acquired, there shall be prior negotiations with the owner of the land, right or interest; (b) the owner shall have a right of access to independent legal advice; and (c) so far as practicable the interest so acquired shall be limited to a fixed-term interest.</p> <p>Land and Titles Act 1968 amended as of 2016 Occupier may remain in possession pending notice to vacate 78.- (1) Notwithstanding the provisions of section 75, any person who, immediately before the publication of the declaration, was lawfully occupying any land, or lawfully exercising any right affecting any land specified in the declaration as required for a public purpose, may continue to occupy the land or exercise the right until he is ordered in writing by the Commissioner to cease from so doing... (2) A person occupying land in exercise of the liberty conferred by subsection (1) shall not carry out any development of the land without the consent in writing of the Commissioner, which consent may be given on such terms and may embody such agreements (including agreements for the payment of compensation by the Commissioner) as the Commissioner thinks fit.</p> <p>Dealings in customary land 240. Subject to the provisions of this Act, every transaction or disposition of or affecting interests in customary land shall be made or effected according to the current customary usage applicable to the land concerned.</p> <p>Mines and Minerals Regulations 1996, amended up to 2011 8. No applicant for or holder of a mineral right or representative shall hold meetings with landowners for the purpose of negotiating or acquiring surface access rights for prospecting or mining unless the Director or his representative is present. 9. (1) Each agreement between an applicant or a holder and a landowner for surface rights shall be in writing, and shall indicate accurately the area to which the agreement pertains. (2) Prior to the execution of any such agreement, the applicant or holder shall submit a draft of the agreement to the Director who shall cause a copy to be sent to the Attorney General for the latter's comment. Such</p>	<p>The Constitution guarantees prior negotiation with owners of customary land before customary land can be acquired for a public purpose. The Land and Titles Act provides that custom governs every transaction affecting interests in customary land, which appears to mean that customary procedures for negotiations would apply.</p> <p>With respect to non-customary land, the Land and Titles Act provides only for agreement with landowners related to remaining in possession pending notice to vacate their land. Section 78 refers to agreements for the payment of compensation, but such agreements appear to apply only to customary land. There is no legal requirement to negotiate the acquisition of non-customary land for a public purpose and no corresponding requirement to develop transparent procedures for doing so.</p> <p>Under the Mines and Mineral Act, the Land and Titles Act applies to compulsory acquisition of land for mining.</p> <p>The Mines and Mineral Act presumes that there will be negotiations for land to be acquired for mining and the Mines and Minerals Regulations 1996 provides for how those negotiations must be conducted.</p>	<p>Titles Act and any implementing regulations to explicitly require developing procedures for transparent negotiations with holders of rights and interests in non-customary land whose land is declared necessary for any public purpose.</p>

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	<p>agreement shall not be executed until at least thirty days after the date of such submission.</p> <p>10. (1) Upon the Board's approval of the mineral right, the Director shall give not less than thirty days' notice to the landowners in the prospective mining area to appoint representatives to a landowners' Prospecting and Mining Coordinating Committee...to represent the landowners' interests and to act as a liaison body between the holder, the Central Government and Provincial Government. The members of the committee shall keep the landowners in the area fully informed of the holder's operations...</p> <p>Mines and Mineral Act 1990, amended up to 2014 Compulsory acquisition of land for mining 33.-(1) Where there is no prospect of the negotiations provided for in section 32 being concluded on a basis acceptable to the parties, or where the delay in arriving at a satisfactory settlement is not in the public interest the Minister may, in consultation with the Minister charged with responsibility under the Land and Titles Act, require the Commissioner of Lands to exercise the powers conferred by Division 2 of Part V of the Land and Titles Act and any other power vested in him in that behalf. (2) Where any land is compulsorily acquired pursuant to subsection (1), such purpose shall in relation to the exercise of any such powers be deemed to be in the public interest. (3) Where, pursuant to subsection (1), it is determined that the customary land be compulsorily acquired for mining purposes or any purposes of this Act, the Commissioner of Lands shall, as far as practicable, ensure that the interest to be acquired is limited to a fixed term interest. (4) Where, pursuant to subsection (1), it is determined that the customary land be purchased, leased or compulsorily acquired, the provisions of Part V of the Land and Titles Act shall <i>mutatis mutandis</i> apply to such purchase, lease or compulsory acquisition.</p>		
<p>Key element (2): Ensure that those people who enter into negotiated settlements will maintain the same or better income and livelihood status</p>	<p>Constitution 1978 amended as of 2014 112. Parliament shall provide, in relation to any compulsory acquisition of customary land or any right over or interest in it, that:- (a) before such land is compulsorily acquired, there shall be prior negotiations with the owner of the land, right or interest; (b) the owner shall have a right of access to independent legal advice; and (c) so far as practicable the interest so acquired shall be limited to a fixed-term interest.</p>	<p>No equivalence</p> <p>The Constitution guarantees negotiation for the acquisition of customary land, but does not guarantee that persons displaced through involuntary resettlement will maintain their livelihoods.</p> <p>The Protected Areas Regulations</p>	<p>Amend the Environment Regulations 2008, and the Environmental Guidelines 2010 to explicitly include in the EIA process a requirement that, in the event of involuntary resettlement, project proponents must</p>

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	<p>Protected Areas Regulations 2012</p> <p>5. Nature Reserves</p> <p>(2) Prior to designating a protected area as a nature reserve, the Minister shall ensure that -</p> <p>(a) no local community is continuously in occupation of the area as its usual place of habitation or residence; or</p> <p>(b) the local community has agreed to relocate to another location or place,</p> <p>in order for the habitat, ecosystems and native species of the intended reserve are preserved in an undisturbed, dynamic and evolutionary state.</p> <p>(3) Except with prior permission of the management committee, public access to a nature reserve shall strictly be restricted and or limited to the purposes for which such reserve is established.</p>	<p>2012 imply a negotiated settlement in providing that a community occupying an area proposed as a nature reserve must agree to relocate before the reserve is designated, but make no provision for the livelihood status of a community that agrees to relocate in such a case.</p>	<p>prepare a resettlement plan that includes mechanisms to ensure that those people who enter into negotiated settlements will maintain the same or better income and livelihood status.</p>
<p>Policy Principle 7: Ensure that displaced persons without titles to land or any recognizable legal rights to land are eligible for resettlement assistance and compensation for loss of nonland assets.</p>			
	<p>Land and Titles Act 1968 amended as of 2016</p> <p>Duty of provincial secretary to assists [<i>sic</i>] claimants and others</p> <p>74. It shall be the duty of the Provincial Secretary to assist any person or group of persons requesting him so to do to draw up and submit any document which such person or group of persons may desire to draw up and submit for the purpose of exercising or claiming, or in connection with the exercise or claim of, any right or liberty conferred on him or them by the provisions of this Division; but no action shall lie against a Provincial Secretary for any failure to perform such duty or for anything done in good faith in the performance or purported performance of such duty.</p>	<p>Partial equivalence</p> <p>The Land and Titles Act provides that the Provincial Secretary must assist anyone who needs help to claim compensation when their land is declared necessary for a public purpose, but does not guarantee them any other type of assistance.</p>	<p>Amend the Environment Regulations 2008, and the Environmental Guidelines 2010 to explicitly include in the EIA process a requirement that, in the event of involuntary resettlement, project proponents must prepare a resettlement plan that includes mechanisms to ensure that displaced persons without titles to land or any recognizable legal rights to land are eligible for resettlement assistance and compensation for loss of non-land assets.</p>
<p>Policy Principle 8: Prepare a resettlement plan elaborating on displaced persons' entitlements, the income and livelihood restoration strategy, institutional arrangements, monitoring and reporting framework, budget, and time-bound implementation schedule.</p>			
	<p>No corresponding legal provision.</p>	<p>No equivalence</p>	<p>Amend the Environment</p>

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		<p>The Environment Act 1998 does not require an environmental management plan or any document similar to a resettlement plan.</p> <p>The Environment Regulations 2008 are contradictory and do not require, or make discretionary, a document similar to a resettlement plan. Regulation 15 stipulates that an environmental management plan is at the discretion of the Director, while Schedule 2 indicates that at least an outline of one is mandatory: Conditions to be imposed on development consent</p> <p>15. In issuing a Development Consent to the applicant, the Director may impose any of the following conditions –...</p> <p>(d) preparation and carrying out of an environmental programme;...</p> <p>Schedule 2 (regulation 28) Prescribed Forms Form 3 Section 29 – PER or EIS Forms Guidelines to drafting the Public Environmental Report or the Environmental Impact Statement Modification may be made to this, depending on the nature of the development.</p> <p>5. Proposed Safeguards and Mitigation Measures. ... (g) Mitigation and Environmental Management Plan</p> <p>The Environmental Impact Assessment Guidelines 2010, which do not appear to be legally binding,</p>	<p>Act 1998, the Environment Regulations 2008, and the Environmental Impact Assessment Guidelines 2010 to explicitly require preparation of a resettlement plan that elaborates on displaced persons' entitlements, the income and livelihood restoration strategy, institutional arrangements, monitoring and reporting framework, budget, and time-bound implementation schedule.</p>

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		mention an environmental management plan only once, in the context of monitoring, and do not refer to a document similar to a resettlement plan.	
<p>Policy Principle 9: Disclose a draft resettlement plan, including documentation of the consultation process in a timely manner, before project appraisal, in an accessible place and a form and language(s) understandable to affected persons and other stakeholders. Disclose the final resettlement plan and its updates to affected persons and other stakeholders.</p>			
<p>Key element (1): Disclose a draft resettlement plan, before project appraisal, in an accessible place and a form and language(s) understandable to affected persons and other stakeholders</p>	<p>Environment Regulations 2008 Additional matter to EIS 5. In addition to the requirements of section 23 of the Act, the EIS shall – ... (b) ensure public participation in the prescribed development;...</p> <p>Notice of application 11. – (1) Where the Director has received the development application and the relevant PER or EIS and other information or documents required by the Director from the applicant, the Director shall within 30 days of receipt of the same, bring or cause to be brought to the notice of the public and as the case may require, the following – (a) if the proposed prescribed development is to be undertaken in a rural area, the communities within that rural area; (b) the provincial government of the province in which the proposed prescribed development is to be undertaken; (c) any other relevant organization whom the Director believes would provide useful contribution to the proposed prescribed development; and (d) any other persons whom the Director believes may or likely to be affected by the proposed prescribed development.</p> <p>Meetings to consider application 12. –(1) At the meeting convened by the Director...– (a) the Director shall explain the contents, recommendations or findings of the Public Environment Report or the Environmental Impact Statement; (b) any person, Provincial Government or organization may make oral or written representation to the Director and the Director shall received [<i>sic</i>] or record any such representation; and (c) the Director shall record the proceedings of the meeting. (2) The Director shall, at the meeting receive and consider any objection</p>	<p>Partial equivalence</p> <p>The Environment Act 1998 lists settlement and resettlement schemes as ‘prescribed developments’ which require environmental assessment and the Environmental Regulations 2008 require disclosing a draft PER or EIS, but there is no legal requirement to prepare and disclose a resettlement plan.</p>	<p>Amend the Environment Act 1998, the Environment Regulations 2008, and the Environmental Impact Assessment Guidelines 2010 to explicitly provide that, where a project involved involuntary resettlement, the project proponent must prepare and disclose a draft resettlement plan, before project appraisal, in an accessible place and a form and language(s) understandable to affected persons and other stakeholders.</p>

(A) ADB Safeguard Policy Statement	(B) Corresponding Provisions in National Policy and Legal Instruments¹	(C) Extent of Equivalence² Review comments	(D) Recommendations
	in relation to the application.		
Key element (2): Disclose the final resettlement plan and its updates to affected persons and other stakeholders.	No corresponding legal provision.	No equivalence The Environment Regulations 2008 require publication of the final decision, but not of the final EIS or of any updates. The EIA legal regime does not require a document similar to a resettlement plan.	Amend the Environment Act 1998, the Environment Regulations 2008, and the Environmental Impact Assessment Guidelines 2010 to explicitly provide that, where a project involved involuntary resettlement, the project proponent must disclose a final resettlement plan and its updates to affected persons and other stakeholders.
Policy Principle 10: Conceive and execute involuntary resettlement as part of a development project or programme. Include the full costs of resettlement in the presentation of project's costs and benefits. For a project with significant involuntary resettlement impacts, consider implementing the involuntary resettlement component of the project as a stand-alone operation.			
Key element (1): Conceive and execute involuntary resettlement as part of a development project or programme	No corresponding legal provision	No equivalence	Amend the Environment Act 1998, the Environment Regulations 2008, and the Environmental Impact Assessment Guidelines 2010 to explicitly include in the EIA process a requirement to conceive and execute involuntary resettlement as part of a development project or programme. Amend the Town and Country Planning Act to explicitly require conceiving and executing involuntary resettlement as part of local planning schemes and approvals

(A) ADB Safeguard Policy Statement	(B) Corresponding Provisions in National Policy and Legal Instruments¹	(C) Extent of Equivalence² Review comments	(D) Recommendations
			<p>of permissions for development.</p> <p>Amend the Land and Titles Act to explicitly require conceiving and executing involuntary resettlement when land is declared necessary for any public purpose and to harmonize such amendments with similar amendments to the Town and Country Planning Act, the Environment Act 1998, the Environment Regulations 2008, and the Environmental Impact Assessment Guidelines 2010.</p>
<p>Key element (2): Include the full costs of resettlement in the presentation of project's costs and benefits</p>	<p>No corresponding legal provision</p>	<p>No equivalence</p>	<p>Amend the Environment Act 1998, the Environment Regulations 2008, and the Environmental Impact Assessment Guidelines 2010 to explicitly include in the EIA process a requirement to include the full costs of resettlement in the presentation of project's costs and benefits.</p>
<p>Key element (3): For a project with significant involuntary resettlement impacts, consider implementing the</p>	<p>No corresponding legal provision</p>	<p>No equivalence</p>	<p>Amend the Environment Act 1998, the Environment Regulations 2008, and the Environmental Impact Assessment Guidelines 2010 to explicitly require</p>

(A) ADB Safeguard Policy Statement	(B) Corresponding Provisions in National Policy and Legal Instruments¹	(C) Extent of Equivalence² Review comments	(D) Recommendations
involuntary resettlement component of the project as a stand-alone operation			project proponents to document the alternative of implementing the involuntary resettlement component of a project as a stand-alone operation and to justify the choice of the alternative selected.
Policy Principle 11: Pay compensation and provide other resettlement entitlements before physical or economic displacement. Implement the resettlement plan under close supervision throughout project implementation.			
Key element (1): Pay compensation and provide other resettlement entitlements before physical or economic displacement	No corresponding legal provision	No equivalence See Policy Principle 3, Key element 1. There is no legal requirement for compensation to be paid before displacement.	Amend the Environment Regulations 2008, and the Environmental Guidelines 2010 to explicitly include in the EIA process a requirement that, in the event of involuntary resettlement, project proponents must prepare a resettlement plan that provides for paying compensation and providing other resettlement entitlements before physical or economic displacement. Amend the Land and Titles Act and any implementing regulations to explicitly require paying compensation for land declared as necessary for any public purpose, and any assets associated with that land, before physical or economic displacement.

(A) ADB Safeguard Policy Statement	(B) Corresponding Provisions in National Policy and Legal Instruments¹	(C) Extent of Equivalence² Review comments	(D) Recommendations
Key element (2): Implement the resettlement plan under close supervision throughout project implementation	No corresponding legal provision	No equivalence	Amend the Environment Regulations 2008, and the Environmental Guidelines 2010 to explicitly include in the EIA process a requirement that, in the event of involuntary resettlement, project proponents must prepare a resettlement plan and implement that plan under close supervision throughout project implementation.
Policy Principle 12: Monitor and assess resettlement outcomes, their impacts on the standards of living of displaced persons, and whether the objectives of the resettlement plan have been achieved by taking into account the baseline conditions and the results of resettlement monitoring. Disclose monitoring reports.			
Key element (1): Monitor and assess resettlement outcomes, their impacts on the standards of living of displaced persons, and whether the objectives of the resettlement plan have been achieved by taking into account the baseline conditions and the results of resettlement monitoring	No corresponding legal provision	No equivalence	Amend the Environment Regulations 2008, and the Environmental Guidelines 2010 to explicitly include in the EIA process a requirement that, in the event of involuntary resettlement, project proponents must prepare a resettlement plan that includes commitments and mechanisms for monitoring and assessing resettlement outcomes, their impacts on the standards of living of displaced persons, and whether the objectives of the resettlement plan have been achieved by taking

(A) ADB Safeguard Policy Statement	(B) Corresponding Provisions in National Policy and Legal Instruments¹	(C) Extent of Equivalence² Review comments	(D) Recommendations
			into account the baseline conditions and the results of resettlement monitoring.
Key element (2): Disclose monitoring reports	No corresponding legal provision	No equivalence	Amend the Environment Regulations 2008, and the Environmental Guidelines 2010 to explicitly include in the EIA process a requirement that, in the event of involuntary resettlement, project proponents must prepare a resettlement plan that includes commitments and mechanisms for monitoring and for disclosing all monitoring reports.