

(Legal Notice No. 102)

**WESTERN PROVINCE RESOURCE MANAGEMENT  
(AMENDMENT) ORDINANCE 1999.**

Passed by the Western Provincial Assembly tenth day of March 1999.

This printed impression has been carefully compared by me and with the Ordinance passed by the Western Provincial Assembly and found by me to be the true copy of the said Ordinance.

Eric M. Kikolo  
Clerk to the Western Provincial Assembly

Made under the Common Seal of the Western Provincial Assembly this tenth day of March 1999.

Honourable Clement Base  
Premier of Western Province

**PROVINCIAL GOVERNMENT ACT 1997**

**WESTERN PROVINCE RESOURCE MANAGEMENT  
(AMENDMENT) ORDINANCE 1999**

**AN ORDINANCE** to amend the Western Province Resource Management Ordinance 1995.

Title and Commencement.	1. This Ordinance shall be cited as the Western Province Resource Management (Amendment) Ordinance 1999 and shall come into force upon approval by the Minister pursuant to Section 30 of the Provincial Government Act 1997.
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Amendments: to S. 2 of No. 61/95.	2. (a) The Western Province Resource Management Ordinance 1995, is hereby amended by inserting in section 4 in the appropriate alphabetic order the following definitions:
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“current customary usage” means the usage of Solomon Islanders obtaining in relation to the matter in question at the time when that question arises, regardless of whether that usage has obtained from time immemorial or any lesser period.

(b) Section 4 of the Western Province Resource Management Ordinance 1995, is hereby further amended by:

- (i) deleting the word 'holding' where it occurs in the definition 'Customary land holding group' and replacing it with the word 'owning', so that the definition reads 'Customary land owning group'.

3. Section 5 of the principal Ordinance is hereby amended to S.5  
by adding immediately after subsection (2) a new subsection  
(3) -

“(3) The Executive or any public officer or provincial employee designated by the Executive, shall as soon as practicable establish and maintain at the Assembly Offices a Register of Policy Statements and Plans on Customary Land, which shall define as accurately as possible the boundaries of each area covered by a Plan or Policy Statement and shall include maps of the area. The said register shall be available for inspection between the hours of 9am and 12 noon and 1pm and 4pm Monday to Friday.”

4. Section 8 of the principal Ordinance is hereby amended to Section 8  
by

- (i) renumbering the existing section as subsection (1) thereof; and
- (ii) delete '\$1,000.00' where it occurs within the renumbered subsection (1) and replacing it with '\$5,000.00'; and
- (iii) by adding thereto immediately after the subsection so renumbered the following subsections (2) and (3) respectively -

“(2) Any body corporate, association or co-operative who breaches any of the provisions of this Part of the Ordinance commits an offence and is liable upon conviction to:

- (i) a fine not exceeding \$50,000; and
- (ii) a penalty not exceeding \$20,000 to be paid to the Provincial Special Fund in accordance with section 21 of this Ordinance.

(3) Where a body corporate, association or co-operative commits an offence under this Ordinance with the consent, participation or connivance of or because of the neglect or omission by an individual, the individual is guilty of the same offence and liable to the same penalties as the body corporate, association or co-operative if at the time of the offence -

- (a) the individual is or was a director, manager, secretary or other senior officer of the body corporate, association or co-operative; or
- (b) the individual is or was purporting to or holding out that individual is such an officer; or
- (c) the individual is or was a member of a body corporate, association or co-operative which is managed by its members."

to S 13 (2) 5. Section 13 subsection (2) of the principal Ordinance is hereby amended by deleting the words 'Form A' and replacing them with the words 'the form set out'.

to S 13 (4) 6. Section 13 subsection (4) of the principal Ordinance is hereby deleted and replaced with the following subsection (4)-

"(4) Upon receipt of the request endorsed with the approval of the Executive the Area Council Secretary shall forthwith cause a copy of the request to be displayed in a conspicuous place in each village within the area affected by the request and also arrange for a public service announcement to be made on the Solomon Islands Broadcasting Corporation. The cost of such announcement to be borne by the Applicants. The Area Council Secretary shall at the time of displaying the request sign it and affix to it the date by which written objections are to be lodged with the Appropriate Committee."

to S 13 (7) 7. Section 13 subsection (7) is hereby deleted and replaced with the following subsection (7) -

“(7) The Objectors shall serve a copy of the notice of objection on the Applicants at their nominated address for service within 7 days of giving the same to the Appropriate Committee. Such persons shall be respondents for the purpose of the objection and entitled to appear and be heard in the Appropriate Committee.”

8. The principal Ordinance is hereby amended by inserting therein immediately after section 13 the following new section 13A - Insertion of new S. 13A

“13A. The Executive or any public officer designated by the Provincial Secretary, shall as soon as practicable establish and maintain at the Assembly Offices a Register of Resource Management Orders. It shall contain a copy of each Resource Management Order together with a map of the area covered by the Resource Management Order. The said Register shall be available for inspection between the hours of 9am and 12 noon and 1pm and 4pm Monday to Friday.”

9. The principal Ordinance is hereby amended by inserting therein immediately after section 14 the following new section as section 14A - Insertion of new S. 14A

“14A.

(1) It is lawful for any authorised officer to make enquiries to ascertain whether any breach of the Resource Management Order has been committed.

(2) Where an authorised officer has reasonable grounds for believing that a breach of the Resource Management Ordinance has been committed, that person may without a warrant:

- (i) stop, board and search any local or foreign vessel, canoe or vehicle which he believes has been used in the commission of that offence
- (ii) seize any species or resource prohibited or protected by the Resource Management Ordinance which he believes has been taken in breach of the Order and return it to its natural habitat forthwith

- (iii) seize any equipment, gear or other substance which he/she believes has been used in the commission of the breach of the Resource Management Order which may be detained pending legal proceedings.
- (iv) A written receipt shall be given for any thing seized under subsection (2) (iii)."

to S 15

10. Section 15 of the principal Ordinance is hereby amended as follows:

- (i) in subsection (2), in paragraph (a) be deleting '\$1,000' and replacing it with 'up to \$5,000.00'
- (ii) by deleting subsection (2) paragraph (c) and by adding immediately after subsection (2) (b) the following new paragraphs as paragraphs (c), (d), (e) and (f) respectively -

"(c) Any body corporate, association or co-operative who breaches any of the provisions of a Resource Order commits an offence and is liable upon conviction to a fine not exceeding \$50,000.00".

"(d) Any body corporate, association or co-operative who is convicted of an offence under this section shall be liable to pay such sum not exceeding \$100,000.00 as the Court deems just to the Executive for payment to the customary land owners by way of restitution for the resource damage caused.

"(e) Where a body corporate, association or co-operative commits an offence under this Ordinance with the consent, participation or connivance of or because of neglect or omission by an individual, the individual is guilty of the same offence and liable to the same penalties as the body corporate, association or co-operative if at the time of the offence -

- (i) the individual is or was a director, manager, secretary or other senior officer of the body corporate, association or co-operative; or

- (ii) the individual is or was purporting to or holding out that individual is such an officer; or
  - (iii) the individual is or was a member of a body corporate, association or co-operative which is managed by its members.
- (f) On receipt of payment under paragraph (b) or (d) of this subsection the Executive shall forthwith pay the restitution to the signatories to the Resource Order request or their administrators or assigns."

11. Section 20 of the principal Ordinance is hereby deleted to S. 20 and replaced with the following section 20 -

"20 (1) Any person in breach of any of the provisions of this Part of the Ordinance commits an offence and shall be liable upon conviction of a fine of up to \$5,000.00 or imprisonment for a term of up to 3 months or to both such fine and imprisonment.

(2) Any body corporate, association or co-operative who breaches any of the provisions of this Part of the Ordinance commits an offence and liable upon conviction to

- (i) a fine not exceeding \$50,000.00; and
- (ii) a penalty not exceeding \$20,000.00 to be paid to the Provincial Special Fund established in accordance with section 21 of this Ordinance.

(3) Where a body corporate, association or co-operative commits an offence under this Ordinance with the consent, participation or connivance of or because of neglect or omission by an individual, the individual is guilty of the same offence and liable to the same penalties as the body corporate, association or co-operative is at the time of the offence -

- (i) the individual is or was a director, manager, secretary or other senior officer of the body corporate, association or co-operative; or

- (ii) the individual is or was purporting to or holding out that individual is such an officer; or
- (iii) the individual is or was a member of a body corporate, association, co-operative which is managed by its members."

Insertion of  
new section  
21

12. The principal Ordinance is hereby amended by inserting therein immediately after section 20 the following new section 21 -

"21(1) In accordance with Part VI 'Special Funds' of the Western Province Financial Management Ordinance 1984, the Executive shall set up a Special Fund to be called the Resource Management Fund ("the Fund").

(2) Rules made in respect of the Fund in accordance with section 37 of the Western Province Financial Management Ordinance shall include provisions that the Fund must be applied

- (i) for the administration of this Ordinance
- (ii) for any survey of other work undertaken for the purposes of managing marine, wildlife and forest resources of the Province
- (iii) for the establishment and maintenance of Public Registers of both Plans and Policy Statements, and of Resource Management Orders,
- (iv) for public awareness programmes and publications relating to the management of marine, wildlife and forest resources of the Province.

Insertion of  
new Part V,  
Enforcement  
S 21.

13. The principal Ordinance is hereby amended by inserting therein immediately after section 21 the following new Part as Part V -

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PART V  
ENFORCEMENT

**22. Powers of authorised officers.**

For the purposes of ascertaining whether there is or has been any contravention of the provisions of this Ordinance, any authorised officer may:

(1) at all reasonable hours enter any establishment and premises, other than a premises used exclusively as a dwelling house;

(2) stop, board and search any foreign or local vessel or canoe within the waters of the Western Province;

(3) stop and search any vehicle transporting or reasonably suspected of transporting any prohibited or protected species or products thereof;

(4) make such examination and inquiry as may appear necessary to him concerning any premises, establishment, vessel or vehicle in relation to which any of the powers conferred by this section have been or may be exercised and take samples of any prohibited or protected species found therein;

(5) require any person to produce his licence or his authority if it appears to the authorised officer that such person is doing any act for which a licence or other authority is required under this Ordinance and take copies of such licence or other authority.

**23. Powers of authorised officers without a warrant.**

(1) Where an authorised officer has reasonable grounds for believing that an offence against the provisions of this Ordinance has been committed, he may without a warrant:

(a) stop, board, search any local or foreign vessel, canoe or vehicle which he believes has been used in the commission of that offence or in relation to which he believes such offence has been committed;

(b) search the packages belonging to any person, whether in their personal possession or found within any premises, vehicle, vessel or canoe;

- (c) arrest any person whom he believes has committed such an offence, and if the authorised officer making such arrest is not a police officer, he shall unnecessary delay, hand over such person to a police officer or in the absence of a police officer, shall take such person to the nearest police station;
- (d) seize any equipment, gear explosive, poison or other noxious substance which he believes has been used, carried, possessed or controlled in the commission of such offence;
- (e) seize any species of Forest, Wildlife or Marine Resource, or product thereof, which he believes to have been taken in contravention of this Ordinance.

(2) The authorised officer concerned shall give a written receipt for anything seized under subsection (1) to the person from whom the seizure is made.

(3) Anything seized under subsection (1) (d) may be detained pending the outcome of any legal proceedings under this Ordinance.

(4) Any species of Forest, Wildlife or Marine resource, or product thereof, seized under subsection (1) (e) may be returned to its natural habitat forthwith where that is considered by the authorised officer to be necessary for its survival, or may otherwise be detained pending the outcome of any legal proceedings under this Ordinance.

**24. Wilful obstruction.**

Any person who wilfully obstructs, assaults or threatens with violence an authorised officer in the exercise of his powers shall be guilty of an offence and liable upon conviction to a fine not exceeding \$1,000.00 and/or imprisonment for up to 3 months.

**25. Failure to comply with enquiry.**

Any person who fails to comply with any lawful enquiry made by any authorised officer under this Ordinance, shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding \$500.00

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**26. Identificaiton of authorised officers.**

Any authorised officer acting in the exercise of his powers under his powers under this Ordinance shall, on demand, produce such document of identification or other evidence as may be reasonably sufficient to show that he is an authorised officer for the purposes of this Ordinance.

**27. Non - liability of authorised officers.**

No authorised officer shall be personally liable in respect of any act done by him in good faith in the execution or purported execution of his powers and duties under this Ordinance.

**28. Destroying of evidence.**

Any person who destroys any species or product thereof, or any equipment, gear, explosive, poison, noxious substance or any other thing whatsoever with the intent to avoid the seizure of the said substance or thing, or the detection of any offence under this Ordinance, shall be guilty of an offence and liable to a fine not exceeding one thousand (\$1,000.00) dollars.

**29. Power of forfeiture.**

Where any person is convicted of an offence under this Ordinance, the court may, in addition to any other penalty it may impose, order that any species, product thereof, equipment, gear or other substance used in the commission of such offence or in respect of which such offence has been committed, or the proceeds of sale of such species or product thereof or equipment, gear or other substance used in the commission of such offence, shall be disposed of in such manner as the Court may direct.

30. For the purposes of this Part of the Ordinance, any reference to the word 'person' means any person, persons, body corporate, association, co-operative and any other body of persons."

14. Schedule 1 of the principal Ordinance is hereby amended as follows: to Schedule 1

- (a) in Part A by
  - (i) inserting the words 'of the following' between the words 'Any' and 'live'.
  - (ii) by adding to the list of prohibited marine resource 'Holothuria scabra, sandfish'

- (iii) by adding to the list of prohibited marine resource 'Oyster shell of the genus Pinctada'
  - (iv) by adding to the list prohibited marine resources 'All turtles of whatever species'.
  - (v) by adding to the list of prohibited marine resources 'Any female crayfish of what ever species which is carrying eggs externally or from which the eggs have been removed'.
  - (vi) by adding to the list of prohibited marine resources 'Any coconut crab of whatever species which is carrying eggs or from which eggs have been removed'.
- (b) in Part B by
    - (i) deleting the word 'marine' and replacing or with the word 'wildlife'.
    - (ii) inserting the words 'of the following' between the words 'Any' and 'live'.
  - (c) in Part C by inserting the words 'of the following' between the words 'Any' and 'live'.

to Schedule 2 15. Schedule 2 of the principal Ordinance is hereby amended as follows:

- (a) in Part A
  - (i) by deleting from the list contained therein 'Holothuria scabra, sandfish 8cm dry (min)'
  - (ii) by adding to the list contained therein 'Panulirus, crayfish 8cm (min) carapace length when measured along the midline from immediately behind the rostral horn to the rear edge of the carapace.'

- (iii) by adding to the list contained therein  
'Birgus latro, coconut crab 9cm (min)  
when measured along the carapace from  
immediately behind the rostral horn to the  
rear edge of the carapace in the mid-line'.
- (iv) by adding to the list contained therein  
'Any trochus shell 8cm (min) 12cm (max)  
measured across the base.'
- (b) in Part C by adding to the list contained therein  
'Turtle nests or eggs, of whatever species, June,  
July, August, November, December, January.'

16. Schedule 3 of the principal Ordinance is hereby amended by adding immediately after paragraph 5 the following paragraph (6) - to Schedule 3

“(6) The address for correspondence with and service of any notices on the applicants is:.....”

Enacted by the Western Provincial Assembly this tenth day of March 1999.

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Clerk to Western Provincial Assembly

Assented to by the Hon. Minister of Provincial Government this eighteenth day of August 1999.

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Minister of Provincial Government