

Passed by the Temotu Provincial Assembly this 28th day of October 2010.

This printed impression has been carefully compared by me against the ordinance passed by the Temotu Provincial Assembly and is found to be a true and correct copy of the Ordinance.

Emma Moiya
Clerk to the Temotu Provincial Assembly

Assented to by the Honourable Minister of Provincial Government this 3rd day of March 2011.

Hon. Braddley Tovosia
Minister of Provincial Government

[Legal Notice No. 25]

**TEMOTU PROVINCE FISHERIES AND MARINE PROTECTION
ORDINANCE 2010**

**AN ORDINANCE TO PROVIDE FOR THE DEVELOPMENT AND
REGULATION OF FISHERIES IN PROVINCIAL WATERS**

1. This Ordinance may be cited as the Temotu Province Fisheries and Marine Protection Ordinance 2010 and shall come into effect after assent by the Minister of Provincial Government and publication in the *Gazette*. Short title

Interpretation

2. In this Ordinance, unless the context requires otherwise:

“Act” means the Fisheries Act.

“Customary fishing rights holder” in respect of any area within Temotu Province means such person or persons as may be authorised under customary law to give on behalf of owners of customary fishing rights permission to fish.

“Driftnet” means gillnet or other net or a combination of nets which is more than 2.5 kilometres in length, the purpose of which is to enmesh, entrap or entangle fish by drifting on the surface of the water.

“Fish” includes any aquatic animal, whether piscine or not and the eggs thereof and includes shell fish.

“Fish aggregating device” means a man-made floating device intended for the purpose of aggregating fish, and includes a natural floating object on which a device has been placed to facilitate its location.

“Minister” means the Provincial Minister assigned responsibility for the administration of fisheries.

“Person” includes companies

“Provincial waters” means waters within the area of Temotu Province as defined in section 3 of the Provincial Government Act 1997.

Purpose

3. The Temotu Provincial Government wishes to ensure the long-term conservation and the sustainable utilization of the fishery resources of the Province for the benefit of the people of Temotu Province.

4. (1) The Provincial Executive may establish a Provincial Fisheries Advisory Committee hereinafter referred to as the Committee, under this Ordinance.

Provincial
Fisheries
Advisory
Committee

(2) The Committee shall consist of the Chairman of the Committee, the Provincial Fisheries Officer, who shall act as Secretary of the Committee, and such other persons, knowledgeable in fisheries matters as the Minister may appoint.

- (3) The Committee shall advise the Provincial Executive on:
- a. the preparation of fisheries management and development plans under section 7 of the Fisheries Act 1998;
 - b. procedures for recording customary fishing rights under section 8 of this Ordinance;
 - c. fisheries research, survey and development projects;
 - d. provincial policy for fisheries and marine protection;
 - e. proposals for Regulations in relation to this Ordinance;
 - f. proposals for the amendment of the present Ordinance; and
 - g. such other matters as may be referred to it.

5. Where agreement is sought from the Provincial Executive by the National Minister of Fisheries before authorising research, surveys, development or test fishing in Provincial waters, the Provincial Executive and Committee (if established) will consult with residents, fishermen, business owners and customary fishing rights holders of the area affected. Affected parties may negotiate for compensation from parties planning to conduct research, surveys, development or test fishing.

Research and
Survey Projects

Fisheries
Development
Projects

6. (1) The following procedures shall be followed for consideration and approval of fisheries development projects involving fishing operations in areas subject to customary fishing rights:

- a. Preliminary agreement on the nature and location of the proposed fisheries development project shall be reached with:
 - i. The customary fishing right holders concerned; and
 - ii. The Provincial Executive
- b. Notice of the proposed development project, including details of the location of the project, and the names and addresses of the customary fishing rights owners involved shall be published in the locality of the proposed project by the Minister or Committee.
- c. Within a period of 90 days from the date of publication of the notice, any person claiming to be affected by the project may lodge an objection in writing to the Minister or Committee on any of the following grounds:
 - i. That he or she is not the person or persons that the notice indicates is the rightful owner of the reef, lagoon area or other area of waters indicated in the notice as the site of the development project;
 - ii. That the development is likely to have a significant and detrimental impact on the fish resources or other aspect of the ecology of the area, or would be seriously harmful to other essential interests of the community in the area.

- d. On the receipt of any objection lodged under this section, the Minister or Committee shall, within a period of 30 days following the closure of the period for the lodging of objections, convene a public meeting to consider the objections.
 - e. A public meeting convened under this section may recommend to the Minister:
 - i. That the objections should be dismissed; or
 - ii. That further investigations be carried out regarding the substances of the objections; or
 - iii. That action be taken to verify and record customary fishing rights claimed in respect of the reefs, lagoon areas or other areas concerned in accordance with section 7 of this Ordinance; or
 - iv. That the objections be upheld
 - f. Any public meeting convened under this section shall operate by consensus
 - g. The Minister concerned may, where the Minister decides that it is necessary to ensure full representation of the views of the customary right owners and other interested persons, convene a second public meeting within such period of time as he or she may think appropriate, to continue consideration of the proposed project.
 - h. Decisions reached by the Minister or Provincial Executive concerned on the basis of the recommendations of the public meeting shall be binding on all customary fishing right holders and other interested persons in the locality.
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Limits of
Customary
Fishing Rights

7. (1) With the exception of customary fishing rights in the areas described in accordance with the Temotu Province Customary Land Registration Ordinance 1992, no customary fishing rights entailing exclusive rights to fish shall extend beyond three (3) nautical miles from the outermost limits of the reefs.

(2) Nothing in this Ordinance limits the rights of chiefs or customary fishing rights holders to declare temporary closed seasons for the purposes of protecting threatened species within their customary fishing rights area.

Recording of
Customary
Rights

8. Customary Rights shall be recorded in accordance with the Temotu Province Customary Land Registration Ordinance 1992 which includes land covered by water.

Endorsement
of Licenses

9. (1) Any person seeking an endorsement of a licence under the Fisheries Act 1998 section 14(7) regarding local fishing or section 16(9) regarding foreign fishing shall apply to the Provincial Secretary.

(2) Provided that where a licence has been issued to a local fishing vessel in respect of bait fishing operations on established bait grounds under a written agreement with customary fishing rights holders, endorsement of the licence shall not be unreasonably refused or delayed by the Provincial Executive. This only applies to local, not foreign licences.

(3) No fee shall be payable for endorsement of a local licence under section 14(7) of the Fisheries Act 1998 in respect of a canoe operating solely within the waters of a single province. However the Provincial Executive may make an Ordinance for the licensing of canoes operating within the waters of the province and for the payment of a fee for any such licence.

(4) Fees shall be payable for every endorsement under section 16 as prescribed by the National Minister for Fisheries.

10. (1) No person shall set out a fish aggregating device in any area of waters subject to customary rights without the consent of the customary fishing right owner.

Marine
Aggregating
Devices

(2) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not less than one thousand dollars and not exceeding two thousand dollars and/or imprisonment of six months.

11. (1) The Provincial Executive may declare protected places and species in accordance with the Temotu Province Environmental Protection Ordinance 1993.

Marine
Protected Areas
and Protected
Species

(2) The marine areas described in accordance with the Temotu Province Environmental Protection Ordinance 1993 are declared to be marine reserves for the purposes of this Ordinance.

(3) No person shall within a marine reserve without the written permission of the Executive:

- a. Fish or hunt any specimens of the species listed in respect of that marine reserve, or fish other than for subsistence by means of a hand line or hand-held spear;
- b. Collect coral or shells;
- c. Disturb any wreck;
- d. Dredge or quarry any sand, mud or rocks, discharge any polluting substance or otherwise disturb the ecology of the area
- e. Construct any building, jetty or other premises



(4) The Provincial Executive may specify in a Schedule to this Ordinance minimum size limits for any species to provide increased protection in Provincial waters. These minimum limits must be larger than those of the national regulations.

(5) Any person who contravenes the provisions of this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding two thousand dollars and/or imprisonment for a period not exceeding two years.

Mangroves

12. (1) No person shall clear any area of non-cultivated mangroves, without the written permission of the Minister or Provincial Executive and in accordance with such conditions as the Minister or Provincial Executive may specify.

(2) Any person who contravenes the provisions of this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding two thousand dollars and/or imprisonment for a period not exceeding two years.

Nets

13. (1) The minimum mesh size of any net to be used in Provincial waters shall be 2.5 inches.

(2) The use of driftnets, as defined section 2 above, is prohibited under the Fisheries Act 1998 and penalties are outlined in that Act.

(3) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding two thousand dollars and/or imprisonment for a period not exceeding two years.

Fishing with
Explosives or
Poisons

14. (1) The Provincial Executive may authorise the use of specified natural poisons indigenous to the Solomon Islands for fishing in specified areas of Provincial waters. No authorisation will be given unless the Provincial Executive has determined that the use of the natural poison is customary practice in the area in which such poison is intended to be used and that the continued use of such poison will not significantly impair the ecology of such area.

(2) Subject to subsection 1, use of all other explosives, poisons and other noxious substances are prohibited under the Fisheries Act 1998 and no Provincial authorisation may be granted.

(3) Any person who fishes with poisons as per subsection (1) without authorisation shall be guilty of an offence and shall be liable on conviction to a fine not exceeding two thousand dollars and/or imprisonment for a period not exceeding two years.

15. (1) No person shall, without the written permission of the Provincial Executive:

Pollution of
Provincial
Waters

- a. dump or discharge any wastes or other polluting matter into any river, lake, lagoon or other body of water in the Province in such a way as to harm fish or other living resources or to destroy, endanger or alter the ecology of the river, lake, lagoon or other body of water; or
- b. carry out activities on the bank or shore adjoining any river, lake, lagoon or other body of water in the Province that is likely to cause such harm or effects on the ecology of the river, lake, lagoon or other body of water;
- c. Any person who contravenes the provisions of this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding two thousand dollars and/or imprisonment for a period not exceeding two years.

Conflict
Law

16. (1) In the event that this Ordinance is inconsistent with the law of the Solomon Islands the relevant Act will prevail.

(2) In the event that Ordinance is inconsistent with other Temotu Province Ordinances, the decision on interpretation rests with the Provincial Executive.

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