

SUPPLEMENT to the Solomon Islands Gazette

Monday 9th February, 2015

S.I. No.7

[Legal Notice No. 9]

**THE PROVINCIAL GOVERNMENT ACT 1997
(NO. 7 OF 1997)**

**THE MAKIRA ULAWA PROVINCE RIVERS AND WATERS
ORDINANCE 2014**

ENACTED BY THE MAKIRA ULAWA PROVINCIAL ASSEMBLY

**THE MAKIRA ULAWA PROVINCE RIVERS AND WATERS
ORDINANCE 2014**

PASSED BY THE MAKIRA ULAWA PROVINCIAL ASSEMBLY

THIS FIFTH DAY OF DECEMBER 2014

This printed impression has been carefully compared by me with the bill passed by the Assembly and found by me to be true and correct copy of the bill.

.....
Stanely Waisi
Clerk to the Makira Ulawa Provincial Assembly

.....
Hon. Duddley Kopu
Minister of Provincial Government & Institutional Strengthening
Solomon Islands

**THE MAKIRA ULAWA PROVINCE RIVERS AND WATERS
ORDINANCE 2014**

ARRANGEMENT OF SECTIONS

SECTIONS: - General

1. Title
2. Commencement
3. Purpose
4. Definitions

Part 1 – Protection of water sources

5. Executive may declare water sources protected
6. Executive required to consult with affected communities before making protection order

Part 2 – Environmental damage to water sources

7. Responsibility for reporting environment damage
8. Executive may halt or stop any activity adversely affecting the environment.
9. Pollution, disturbance and damage caused by economic activities
10. Benefit of rehabilitation to be shared between affected communities
11. Immediate and serious damage to water sources

Part 3 – Investigations of environment damage

12. Procedure for determining responsibility of diversion or damage

Part 4 – Responsibilities and delegation

13. Ward Authorities responsible for monitoring activities and damage
14. Executive may delegate responsibilities to Ward authorities
15. Penalty fee in the event of continued pollution, disturbance or damage to water sources
16. Penalties for breaches of this Ordinance
17. Enforcement of penalties in Courts

MAKIRA ULAWA PROVINCE RIVERS AND WATERS ORDINANCE 2014

1. **Title**

This Ordinance may be cited as the Makira Ulawa Province Rivers and Waters Ordinance 2014.

2. **Commencement**

This Ordinance comes into force on the date that it is published in the Solomon Islands *Gazette*.

3. **Purpose**

The purpose of this Ordinance is to:

- (a) provide for the protection of rivers and waters from pollution and contamination;
- (b) secure this resource for the future of the Province and its people;
- (c) prescribe the procedure to be followed in the event of damage or disturbance to waterways and water sources.

4. **Definitions**

In this Ordinance, unless the context otherwise requires –

Act means the Provincial Government Act 1997.

Assembly means the Makira Ulawa Provincial Assembly established under Section 7 of the Act.

Authorized persons means a person appointed under Section 13 to enforce this Ordinance.

Division means the Division within the Provincial Administration responsible for rivers and waterways.

Executive means the Provincial Executive established under Section 9 of the Act.

Persons means an individual, group or persons, community, whether incorporated or not.

Pollution means the presence in or introduction into the environment of a substance which has harmful or poisonous side effects.

Protected means to prevent from harm.

Province means Makira Ulawa Province.

Ward Authorities means the WCC and WDA.

WCC means the Ward Council of Chiefs.

Ward Council of Chiefs means the respective Ward Council of Chiefs established under and in accordance with the Makira Ulawa Province Ward Council of Chiefs Ordinance 2006.

Water Source means any naturally forming pool, pond, spring, lake, water way, mangrove, swamp, aquifers or the like but excludes sea or oceans.

WDA means the Ward Development Authority.

Ward Development Authorities means the respective Ward Development Authority established under and in accordance with the Makira Ulawa Province Ward Development Authority Ordinance 2006.

Waterway means:

- (a) a navigable body of water, or
- (b) a conduit through which water flows.

Part 1 – Protection of Water Sources

5. Executive may declare Water Sources protected.

- (1) The Executive may from time to time order that any water source be protected.
- (2) In considering whether a water source should be protected, the Executive must consider:
 - (a) the number of people and communities with access to that water source;
 - (b) the importance of that water source to the people and communities accessing it;
 - (c) the current state/quality of that water source;
 - (d) the impact, or potential impact, of that water source on other communities such as those living downstream from a river;
 - (e) what the water source is used for.
- (3) A protection order made under subsection (1) may be subject to any terms and conditions, limitations and restrictions that the Executive consider appropriate in the circumstances.

6. Executive required to consult with affected communities before making protection order.

Before making any order under Section 5, the Executive must consult with any person or community that might be affected by the making of such an Order.

Part 2 – Environmental damage to Water Sources

7. Responsibility for reporting environmental damage

- (1) Every person living or residing near a water source is responsible for monitoring the health of that water source and ensuring that it remains fit for human use.
- (2) Any person who believes that a water source is, or is becoming, polluted is responsible for reporting this to their WDA or WCC as soon as possible.

8. Executive may halt or stop any activity adversely affecting the environment

- (1) The Provincial Executive may require any operation to temporarily halt their activities to allow the Provincial Government, or a person acting on its behalf, to assess any damage to the environment and to ascertain the cause, if possible.
- (2) The Provincial Executive may not be sued or be the subject of a legal claim in relation to loss of business or financial benefit as a result of any action taken under subsection (1).

9. Pollution, disturbance and damage caused by economic activities

- (1) Any person that causes disturbance or damage to a water source in pursuance of economic activities must follow a report prepared under Section 12, to remedy and rectify that damage including, but not limited to:
 - (a) Removing any blockage;
 - (b) Repairing any bridge or road;
 - (c) Cleaning and clearing any damaged waterway;
 - (d) Rehabilitating the environment affected by the pollution or damage.
- (2) Any action taken above is at the expense and effort of the person who caused the damage.
- (3) In the event that a landowner causes disturbance and damage on his or her own land, they must remedy or rectify the damage to the extent that the disturbance and damage impacts on other landowners.

10. Benefit of rehabilitation to be shared between affected communities

- (1) Any taking or benefit gained as a result of rehabilitation under Section 9(1) (d) is a public asset and as much as possible, must be shared between affected communities and resource owners.
- (2) It is the responsibility of any person or community who believes they are entitled to any benefit under 9(1) (d) to pursue and, to that extent negotiate for their involvement and potential share.
- (3) The Provincial Executive shall facilitate the signing of a formal sharing agreement, that must be signed by all entitled parties before it is able to be enforced.

11. Immediate and serious damage to water sources

- (1) Notwithstanding Section 9, if there is an immediate and serious threat to the integrity of any water source the Executive may order either the landowner or the business that they reasonably believe to be causing the pollution, damage, or disturbance to take immediate steps to rectify the problems.
- (2) Any rectification under subsection (1) shall:-
 - (a) in terms of cost, be borne by the party responsible for the rectification under subsection (1);
 - (b) be carried out to the satisfaction of the Executive;
 - (c) be in addition to any action taken under Section 9(1);
- (3) For the avoidance of doubt, this section includes pollution, damage and disturbances caused by either economic or non-economic activities.

Part 3 – investigations of environmental damage

12. Procedure for determining responsibility of diversion or damage

- (1) Where there is disturbance or damage to a waterway, the WCC or WDA will prepare a report detailing:
 - (a) the nature of the disturbance or damage;
 - (b) the extent of the disturbance or damage;
 - (c) the cause of the disturbance or damage;
 - (d) any recommendation for appropriate action to be taken under Section 9(1).

- (2) The report shall be sent to the Division who must forward it to the person alleged to have caused the damage within fourteen (14) days of receipt.
- (3) The person alleged to have caused the damage may provide comment, to be received by the Division not later than twenty-one (21) days from date of receipt of the report to respond.
- (4) Any response made under subsection (3) shall be in writing and forwarded to the Division who shall consider the information provided and make a final recommendation to the Provincial Executive regarding:
 - (a) the cause of the disturbance or damage; and
 - (b) the culpability of any person in relation to this disturbance or damage.
- (5) The Provincial Executive shall, by Executive Order:
 - (a) approve the recommendation(s);
 - (b) decline the recommendation(s); or
 - (c) request further information.
- (6) To assist them in their deliberations, the Executive may invite any persons they think might help them in their consideration to make oral submissions at the meeting. Any decision of the Provincial Executive is final and must be compiled with by those persons, being subject to the Order.

Part 4 – responsibilities and delegations

13. Ward Authorities responsible for monitoring activities and damage

- (1) Notwithstanding Section 7, WCCs and WDAs are responsible for:
 - (a) monitoring economic activities near rivers and waterways to ensure that National and Provincial laws are being adhered to;
 - (b) enforcing this Ordinance in their respective Wards.
- (2) If WCCs or WDAs have reason to believe that any person is not complying with National and Provincial laws, they must notify the Division immediately through the relevant Village Peace Wardens.

14. Executive may delegate responsibilities to Ward authorities

Notwithstanding Section 13, the Provincial Executive may at any time delegate in writing any function under this Ordinance to the WDA, WCC, Village Peace Warden, or Provincial Officer.

15. Penalty fee in the event of continued pollution, disturbance or damage to water sources

- (1) In the event water sources do not run clear within 6 months of the date of original contamination or disturbance, the person who caused the pollution, disturbance or damage may also be required to pay a penalty fee set by the Provincial Executive.
- (2) Any penalty fee imposed under subsection (1)
 - (a) is in addition to any action taken under Section 9(1); and
 - (b) shall not exceed ten thousand dollars (\$10,000.00).

16. Penalties for breaches of this Ordinance

- (1) Any person who provides false or misleading information in relation to an economic activity commits an infringement offence and shall be liable to pay an infringement fee as provided for in category 20 of the Penalty for Offences Ordinance 2006.
- (2) Any person who obstruct or impedes any person authorised under Section 13 commits an infringement offence and shall be liable to pay a penalty under category 18 of the Penalty for Offences 2006.
- (3) Any person or entity that fails to deliver the requirements for rehabilitation commits an infringement offence under category 22 of the Penalty for Offences Ordinance 2006 in addition an order requiring the immediate cessation of business operations in and around the affected area.

17. Enforcement of penalties in Courts

Either the Provincial Executive WDA, WCC or a land owner may seek enforcement of this Ordinance in a court of competent jurisdiction.

Honiara, Solomon Islands
Printed under the authority of the
Solomon Islands Government
Printed by Pacific Printers Limited.