

SUPPLEMENT to the Solomon Islands Gazette

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**THE FISHERIES ACT 1998
(NO. 6 OF 1998)**

**THE MAKIRA ULAWA PROVINCE
FISHERIES ORDINANCE 2009**

ENACTED by the Makira Ulawa Provincial Assembly

THE MAKIRA ULAWA PROVINCE**FISHERIES ORDINANCE 2009**

**PASSED BY THE MAKIRA ULAWA PROVINCIAL ASSEMBLY
THIS TWELVTH DAY OF NOVEMBER 2009.**

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

STANLEY WAISI
Acting Clerk to the Provincial Assembly
MAKIRA ULAWA PROVINCE

Assented to by the Minister of Provincial Government and Institutional Strengthening this twenty-seventh day of November 2009.

HON. MANNASSEH MAELANGA (MP)
Minister of Provincial Government & Institutional Strengthening
SOLOMON ISLANDS GOVERNMENT

**THE FISHERIES ACT 1998
(NO. 6 OF 1998)**

**THE MAKIRA ULAWA PROVINCE FISHERIES
ORDINANCE 2009**

AN ORDINANCE to ensure that a sustainable harvesting and effective management of fisheries resources for the benefit of the populace of Makira Ulawa Province is attained.

ENACTED by the Makira Ulawa Provincial Assembly

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**THE FISHERIES ACT 1998
(NO. 6 OF 1998)**

THE MAKIRA ULAWA PROVINCE FISHERIES ORDINANCE 2009

Under the powers conferred by Section 10 of the Fisheries Act 1998, the Makira Ulawa Provincial Assembly makes the following Ordinance –

PART 1 - PRELIMINARY

1. Title and Commencement

This Ordinance shall be cited as the Makira Ulawa Province Fisheries Ordinance 2009 and shall come into operation upon assent by the Minister of Provincial Government in accordance to Section 10, Sub-section 5 of the Fisheries Act 1998 and publication in the Solomon Islands Gazette.

2. Interpretation

In this Ordinance, except where the context otherwise requires, words have the following meanings:-

“Assembly” means Makira Ulawa Provincial Assembly;

“Customary Fishing Rights” means right of a person or persons, family or family or families, clan or clans, tribe or tribes, community or communities in respect of a fishing ground or grounds as authorized, granted and known by culture, tradition and customary law and within three (3) nautical miles from the high water mark.

“Commercial Fishing” means fishing for the purpose of selling all or some of the fish caught;

“Drift net” means a gillnet or other net or a combination of nets which is more than 2.5 kilometers in length purposely to enmesh, entrap or entangle fish by drifting on the surface of or in the water;

“Drift net fishing” means a fishing activity undertaken to catch, take or harvest fish with the use of a drift net including:

- (a) attempting to catch, take or harvest fish with the use of driftnet;

- (b) engaging in any other activity which can reasonably be expected to result in the catching, taking or harvesting of fish with the use of a driftnet including searching for and locating fish to be taken by that method;
- (c) any operation at sea in support of, or in preparation for the activity described in this definition, including operations of placing, searching for or recovering fish with aggregating devices or associated electronic equipment such as radio beacons;
- (d) aircraft use, relating to activities described in this definition except for flights in emergencies involving health or safety of crew members or safety of a vessel;
- (e) transporting, transshipping and processing any driftnet catch, and co-operation in the provision of food, fuel and other supplies for vessels equipped for or engaged in driftnet fishing;

“Executive” means Makira Ulawa Provincial Executive;

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

“Fishing” means searching and or attempting to search for catching, taking or harvesting and engaging in any activity which can reasonably be expected to result in the locating, catching, taking or harvesting fish as well as placing, searching for or recovering fish aggregating devices or associated electronic equipment such as radio beacons; including –

- (a) any operation at sea directly in support of, or in preparation for any activity described in this definition;
or
- (b) aircraft use, relating to the activities described in this definition, except for flights in emergencies involving health or safety of crew members or safety of a vessel;

“Fishery” means one or more stocks of fish or other aquatic organisms or fishing operations based on such stocks which can be treated as a unit for purposes of conservation and management;

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

“Fishing gear” means any equipment, implement or other thing that may be used in the act of fishing and include diving gear, fishing net, rope, pole, line, float, hook, boom, power block or winch, boat, dinghy, helicopter or aeroplane that may be used;

“Fisheries license” means any license issued under the licensing Schedule, Category three (3) of the Makira Ulawa Province Business License Ordinance, 2006;

“Fisheries Officer” means a Fisheries Officer In-charge of the Provincial Fisheries Division and his Assistant;

“Fish Processing Establishment” means any land, jetty, premises, vessel or other place on or in which fish or other aquatic organisms are processed for outward sale from the Province but does not include any place in which fish or other aquatic organisms are processed exclusively for sale by retail to the public or for consumption in the Province;

“Fish Product” means a product of fish processing;

“Fishing Vessel” means any boat, ship or other craft which is used for, equipped to be used for or of a type used for commercial fishing;

“Foreign Fishing Vessel” means a fishing vessel other than a local fishing vessel;

“Fisheries Extension Officer” means an officer other than the Senior or Assistant Fisheries Officers authorized by Provincial Authority to administer fishery services in local fisheries centres;

“Inshore Fisheries Development Projects” means fisheries development within 3 nautical miles from the high water mark;

“Law Enforcement Officer” an officer assigned to enforce laws other than the Village Peace Warden;

“Local Fishing Vessel” means a fishing vessel wholly owned by the Provincial Government, or statutory Provincial bodies and or local companies or one or more natural persons who are citizens of Makira Ulawa Province but does not include fishing vessels registered in a country outside Solomon Islands;

“Locally owned Foreign Fishing Vessel” means a foreign fishing vessel which is based in the Province and lands all its catch in the Province and operates under a joint venture;

“Local Fish Marketing” means an activity of selling fish to members of various communities in Makira Ulawa Province and or the Provincial Headquarter;

“Local Fisheries Centres” means centres established by Makira Ulawa Provincial Government around the Province for the purposes of providing fisheries services to fishing Associations and individual citizens;

“Natural Poisons” means herbs, grapes and or other natural matters used by indigenous Makira Ulawa Citizens to poison and catch fish;

“Offshore Fisheries Development Projects” means fisheries development beyond the 3 nautical miles.

“Operation” means carrying out of an activity of a licensed fishing undertaking whether fully or on and off bases.

“Penalty for Offences Ordinance” an ordinance made by the Makira Ulawa Province Government to impose fee on offenders at the first instance.

“Provincial Waters” means waters within the sea area as defined in Section 3 of the Provincial Government Act 1997 and shall extend to the sea boundaries as defined in Section 4 and paragraph 6 of Schedule 1 of the same Act;

“Provincial Traditional Fishing Zone” means fishing area within the three (3) nautical miles as defined under Section 3 of the Provincial Government Act 1997;

“Provincial Investment Committee” means the Provincial Investment Committee established under Section 4 of the Makira Ulawa Province Business License Ordinance 2006.

“Traditional Fishing Grounds” means fishing areas that extends from seashore out to the edge of reefs and or specific underwater reefs and unique fishing grounds or pools and sea-beds within the three (3) nautical miles;

“Village Peace Warden” means Makira Ulawa Province Village Peace or law enforcement Officer established under the Makira Ulawa Province Village Peace Councils Ordinance 2006;

“Ward Council of Chiefs” means Makira Ulawa Province Ward Council of Chiefs established under the Makira Ulawa Province Ward Council of Chiefs Ordinance 2006;

“Ward Development Authority” means Makira Ulawa Province Ward Development Authority established under the Makira Ulawa Province Ward Development Authorities Ordinance 2006.

3. Purpose

The purpose of this Ordinance is to ensure that a sustainable harvesting and effective management of fisheries resources for the benefit of the populace of Makira Ulawa Province is attained and to provide for the following;

- (a) authority to make decisions both at the Provincial and Community level;
- (b) development measures to be undertaken in the Province in relation to fisheries activities;
- (c) remedy measures to be enforced upon contravention of Provincial Laws and or other Laws of Solomon Islands;
- (d) make provision for subsidiary legislations by the Provincial Executive as and when needed.

PART II - AUTHORITY TO MAKE DECISIONS**4. The Provincial Executive**

- (1) The Provincial Executive shall be the sole determinant of any application to foreign investments and joint-ventures in relation to the Fisheries Sector in Makira Ulawa Province as prescribed under Section 5, Subsection 1; C, E, F and G of the Makira Ulawa Province Business License Ordinance 2006.
- (2) The Provincial Executive's determination and approval or disapproval shall be made upon the recommendation and endorsement of both the Ward Council of Chiefs (whose Ward is affected) and the Provincial Investment Committee.
- (3) All decisions of the Provincial Executive shall be made by a quorum of the Executive.

5. Ward Council of Chiefs

- (1) The Ward Council of Chiefs shall be responsible to make decision on any local applications pertaining to fish purchasing and selling in their Wards upon the recommendation of the Ward Development Authority and or the Provincial Investment Committee as stipulated under Section 19 of the Makira Ulawa Province Business License Ordinance 2006.
- (2) The decision of the Ward Council of Chiefs which should include recommendations and terms and conditions shall be referred to the Provincial Executive for final endorsement.

6. Powers of Ward Council of Chiefs to make Bye-Law

- (1) Subject to the provisions of other Provincial Ordinances each Ward Council of Chiefs may make Bye-laws not inconsistent with this Ordinance or any regulation made under this Ordinance for the regulation of fisheries within its Ward boundaries.

- (2) Bye-Laws made under this Section may provide for any or all of the following:--
- (a) terms and conditions for fishing project in their Wards
 - (b) close or banning of areas and any species of fish
 - (c) prohibited methods of fishing
 - (d) prohibited type of fishing gear
 - (e) prohibition on identified breeding sites
 - (f) prohibition for the destruction of mangroves
 - (g) record and registration of customary fishing grounds and rights, their boundaries, and the person/persons, tribe/tribes entitled to those rights
- (3) Any bye-laws adopted under this Section shall be notified forthwith to the Provincial Executive and shall come into force upon the Executive's approval.
- (4) The Ward Council of Chiefs shall also make orders and or other subsidiary instruments to enforce their bye-laws.

PART III - DEVELOPMENT MEASURES**7. Development of Fisheries in Provincial Waters**

- (1) For the purpose of this Ordinance, the powers and functions in relation to Fisheries Development and management provided under this Ordinance shall be exercised by the Provincial Executive.
- (2) In the case of inshore and customary fishing grounds, the Executive shall devolve powers and functions that should enable Ward Council of Chiefs to monitor and control fisheries developments and managements in their Wards.
- (3) The objective of fisheries development and management in Makira Ulawa Province shall be to ensure the long-term conservation and sustainable utilization of the fishery resources of Makira Ulawa Province for the benefit of the people of Makira Ulawa Province.

8. Approval of Fisheries Development Projects

- (1) Any decision of approval or disapproval in relation to offshore Fisheries Development Projects in Makira Ulawa Provincial Water is entirely vested on the Provincial Executive.
- (2) Any decision of approval and disapproval in relation to inshore fisheries development projects that would use and affect traditional fishing grounds shall be vested on the Ward Council of Chiefs with the consent of the Provincial Executive.
- (3) Any decision made by the Executive and or the Ward Council of Chiefs in relation to these development projects shall be final unless required procedures and other requirements are not met.

9. Process and Procedures

- (1) Any application in relation to offshore fisheries operations and development projects in Provincial Waters shall be made to the Provincial Investment Committee.
- (2) The Provincial Investment Committee shall refer the application with its recommendations to the Provincial Executive for approval or otherwise.
- (3) Any application in relation to inshore fisheries operation and development projects shall be made to the Provincial Investment Committee but must be referred to the Ward Council of Chiefs.
- (4) The Ward Council of Chiefs shall refer the application with its recommendation and terms and conditions to the Provincial Executive for endorsement or otherwise.
- (5) The Executive shall formally convey to both the Investment Committee and the Ward Council of Chiefs its decision.
- (6) As a matter of requirement, any fisheries operation and development projects in operation within Provincial Waters must make submission for renewal of license annually. It shall be an offence to operate without an application for renewal. Penalty for this act shall be under category eighteen of the Makira Ulawa Penalty for Offences Ordinance 2006 and in compliance with Section 10, K of the Fisheries Act 1998 (No.6 of 1998).

10. Record and Registration of Fishing Rights

- (1) The powers and functions to record and register of fishing rights shall be vested on the Ward Council of Chiefs acting upon the advice of the Provincial Executive.
- (2) The Ward Council of Chiefs may request in writing the formal advice of the Provincial Executive.
- (3) The process and procedures of recording and registration shall be in the following manner:

- (a) the Ward Council of Chiefs shall identify and record communities, tribes, clans, families or individuals that has or claim to have fishing rights to reefs, fishing grounds and pools as well as fishing sea-beds.
- (b) the Ward Council of Chief shall display a 30 days notice on the record for public awareness and possible verification.
- (c) in case of dispute, the Executive Council of the Ward Council of Chiefs shall convene a meeting with those in dispute to dialogue and resolve the matter.
- (d) the disputants shall resolve this in court once no agreement is reached hereafter before registration could take place.

11. Operational Seasons and Closure

- (1) Turtles shall not be harvested during the months of November to February and June to August except for traditional or death ceremonies and rituals.
- (2) The Ward Council of Chiefs shall determine the operational and closure seasons for their Wards, especially for Trochus, Sea Cucumber and Crayfish.

12. Prohibited or Protected Fish Species

- (1) The prohibited or protected fish species shall be as follows;
 - (a) Prohibited Species
 - (i) All turtle nests and eggs
 - (ii) Crayfish with eggs
 - (iii) Leather Back turtles
 - (b) Protected Species
 - (i) Coconut crab
 - (ii) Sand fish
 - (iii) Crocodile

- (2) Others shall be determined by Ward Council of Chiefs on the advice of Fisheries Officers.

13. Minimum Mesh Sizes

- (1) The Ward Council of Chiefs shall determine;
 - (a) Minimum Mesh Sizes to be used in their Wards
 - (b) Or to ban the use of mesh in their Wards

14. Minimum Species Sizes

- (1) The minimum species sizes to be harvested for sale shall be as provided for under the Solomon Islands Fisheries Regulations;
 - (a) Trochus - not under eight (8) cm diameter and over 12 cm diameter
 - (b) Crayfish - under eight (8) cm
 - (c) Coconut Crab - under eight (8) cm
 - (d) Others shall be determined by the Ward Council of Chiefs on the advice of Fisheries Officers

15. Number of Fishing Vessels

- (1) The Provincial Executive shall determine the number of fishing vessels to be used in Provincial Waters in a given period of time upon the recommendation of the Provincial Investment Committee.
- (2) In the case of Wards, the Ward Council of Chiefs shall determine the number of fish and marine resource buyers in their Wards.

16. Prohibited types of Fishing Gears

- (1) The prohibited types of fishing gears from inshore Fisheries operation shall be as follows;
 - (a) Long line
 - (b) Driftnet
 - (c) Dynamite
 - (d) Chemical and poisons
 - (e) Log-lines
 - (f) Others to be decided by Ward Council of Chiefs

17. Prohibited methods of Fishing from Inshore Fishing Operations

- (1) The prohibited methods of fishing shall be fishing with the use of the above prohibited types of fishing gears as well as the following;
 - (a) Pursuing
 - (b) Turtle Hunting with Spear - Hook - and Lines
 - (c) Others to be decided by Ward Council of Chiefs

18. Identification and Protection of breeding sites

- (1) The Ward Council of Chiefs shall be responsible to identify and to determine prohibited breeding sites with the advice of Fisheries Officers and with the consent of the site Owners.

19. Use of Natural Poisons

- (1) All natural poison shall be prohibited for catching fish. The Ward Council of Chief shall identify and record them for community awareness.

PART IV - ENFORCEMENT AND OFFENCES**20. Monitoring by Ward Council of Chiefs**

- (1) Each Ward Council of Chief shall be responsible to monitoring of local licensed fishing operations in their respective wards in accordance to Section 21 of the Makira Ulawa Province Business Licence Ordinance 2006.

21. Process and Reporting of Offences

- (1) The Ward Council of Chiefs must consult the Ward Development Authority to carry out immediate assessments.
- (2) The Ward Development Authority may further consult the Village Peace Warden to make the assessment if the operation is established and or incident falls within the jurisdiction of any Village Peace Council.

- (3) When any assessment is completed, the Ward Council of Chiefs shall;
- (a) Dwell on the report and make recommendations
 - (b) Provide a copy of the report as well as their recommendation to each responsible authority for further decisions and or actioning as provided for in Part IV, Section 23, 24, 25, 26, 27 and 28 of the Makira Ulawa Province Business License Ordinance 2006.

22. Contravention of any part of this Ordinance and or related laws and bye-laws

- (1) Any person and or other entity who contravenes any part of this Ordinance and or other related laws and bye-laws commits an infringement offence.
- (2) In the case of Provincial Ordinances the person or entity shall be liable to pay infringement fee up to two (2) thousand dollars, under category Eighteen (18) of the Makira Ulawa Province Penalty for Offense Ordinance 2006 and in compliance with Section 10, K, of the Fisheries Act 1998 (No. 6 of 1998).
- (3) In the case of Ward Bye-Laws the person or entity shall be liable to pay infringement fee of up to one (1) thousand dollars, under category sixteen (16) of the Makira Ulawa Province Penalty for Offences Ordinance 2006 and in compliance with Section 10, K, of the Fisheries Act 1998 (No.6 of 1998)

23. Continuing Offences

- (1) For the purpose of this Ordinance and the Penalty for Offences Ordinance 2006 ‘continuing Offences’ are both applied to failure to follow right procedures and agreement for access, and failure to meet legal requirements such as operating without valid License and non-compliance to terms and conditions like;
 - (a) Direct and or indirect facilitation of operating a fish buying entity and harvesting of fish.
 - (b) Use of prohibited fishing gears.

- (c) Destruction of breeding and preservation sites and environments..
 - (d) Practice of prohibited type of fishing.
 - (e) Use of prohibited natural or other poisons.
 - (f) Contravention of closure seasons and sites.
 - (g) Contravention of Chiefs by-laws in relation to marine resources.
 - (h) Harvesting of prohibited fish species and size for sale.
- (2) Any person founding breach of Section 23, Subsection 1, (h), above shall be liable to pay an infringement fee of One Hundred dollars (\$100.00) fee under category seven of the Makira Ulawa Province Penalty for Offenses Ordinance and in compliance with Fisheries Regulations.

24. Offence to provide false or misleading information in relation to operation

- (1) Any person who provides false or misleading information on any fishing undertaking and or related activity shall be liable to pay an infringement fee under category twenty of the Penalty for Offences Ordinances 2006.

25. Operating without proper procedures

- (1) Securing a fishing operation without proper procedures is an Offence and any foreigner who is not a citizen of Solomon Islands who commits this act shall be liable to a charge of an infringement fee provided for under category Eighteen of the Penalties for Offences Ordinance.
- (2) Any Citizen of Solomon Islands and or Makira Ulawa Province who commits the same act in Sub-section 1 of Section 25 of this Ordinance shall be liable to pay an infringement fee provided for under category eighteen of the Penalties for Offences Ordinance.

26. Power of Officer and Offence to obstruct Officers

- (1) Any officer of the Province authorized by the Provincial Executive and or the Premier in writing may at any appropriate time make;
 - (a) enquiries and assessments to ascertain any allegation on fishing operations or undertakings.
 - (b) recommendations for further decisions and actions by the Executive or other legal authority established by the Provincial Executive.
 - (c) may seize or confiscate fish products when seen and seem necessary.
- (2) Any person who obstructs or impedes any authorized officer when acting in due exercise of his/er powers by non-compliance to enquiries, no producing of relevant or valid legal documents and data shall be guilty of category fourteen infringement offence as provided for under the Penalty for Offences Ordinance.

27. Auditing of Fishing Operational Activities

- (1) The auditing of any fishing operation shall be the responsibility of the Chief/Senior Fisheries Officer acting upon the advice of the Provincial Executive via the Provincial Secretary.
- (2) For purposes of effective execution of this Section the Fisheries Officer shall be accompanied by his Assistant, a Police Officer and a Trade and Investment Officer.
- (3) A copy of the audit report shall be presented to the Executive for considerations.

28. Suspension and Cancellation of License and Operations

- (1) The process and requirements to be met by all parties whether the Provincial Government or the Operator shall be as provided for in Section 28, of the Makira Ulawa Province Business License Ordinance 2006.

PART V - MISCELLANEOUS**29. Subsidiary Legislations**

- (1) For the purpose of effecting the enforcement of this Ordinance the Executive may make orders and regulations for any of the following matters;
- (a) Seize and confiscate of fish products and disposal
 - (b) Nullification of fishing agreements.
 - (c) Legal notices for fish breeding sites and environment
 - (d) Charges for unforeseen circumstance in relation to Fisheries in the Province