

SUPPLEMENT to the Solomon Islands GazetteTuesday 23rd March, 2010

S.I. No.13

[Legal Notice No. 15]

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HONIARA CITY COUNCIL (MARKETS) BILL 2009

A BILL FOR

AN ORDINANCE made pursuant to sections 34 and 35 of the Honiara City Act 1999 (Act No. 2 of 1999) to provide for the regulation of public markets in Honiara City and for related purposes.

ENACTED by the Honiara City Council as follows

PART 1 - PRELIMINARY

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|------------------------------|----|---|
| Short title and commencement | 1. | This Ordinance may be cited as the Honiara City Council (Markets) Ordinance 2009 and commences on the date it is published in the <i>Gazette</i> . |
| Repeal of Ordinances | 2. | The Honiara City (Markets) Ordinance is repealed. |
| Interpretation | 3. | In this Ordinance, unless the context otherwise requires – <p>“<i>Act</i>” means the <i>Honiara City Act 1999</i>;</p> <p>“<i>appropriate fee</i>” means any fee prescribed in the Honiara City Council (Fees, Rates and Charges) Ordinance 2009 for the purposes of the provision in which the term appears;</p> <p>“<i>authorised officer</i>” means a person authorised under section 24;</p> <p>“<i>City Clerk</i>” means the Chief Executive of the Council appointed under section 42(1) of the Act;</p> <p>“<i>City Fund</i>” means the general fund for Honiara City established under section 39 of the Act;</p> <p>“<i>Council</i>” means the Honiara City Council established under section 4 of the Act;</p> <p>“<i>conduct a market</i>” includes causing or permitting a market to be conducted;</p> <p>“<i>facility</i>” includes a parking space;</p> <p>“<i>promotional activity</i>” includes an activity advocating a political or religious belief or cause;</p> <p>“<i>public market</i>” means a market conducted by the Council.</p> |

PART 2 - CONDUCT OF MARKETS

4. The Council may conduct public markets on land which the Council owns, occupies, controls or manages.

Council may
conduct public
markets

5. (1) The Council may make the following determinations in relation to a public market:

Determinations
about public
markets

- (a) opening hours for the public market;
- (b) types of goods that may or may not be sold at the public market;
- (c) maximum prices that may be charged for types of goods at the public market.

(2) The Council must display a written notice of any determination made under subsection (1):

- (a) in a conspicuous place at the Council's main office during office hours; and
- (b) in a conspicuous place at the market to which the determination relates.

6. (1) The Council may, upon payment of the appropriate fee, permit any person:

Fees for
public
markets

- (a) to sell types of goods at a public market; or
- (b) to use types of equipment or facilities at a public market.

7. (1) An owner or occupier of land who conducts a market on the land without prior written permission from the Council commits an offence and is liable on conviction to:

Offences
relating to
private
markets

- (a) a fine not exceeding 10,000 penalty units; and
- (b) a fine not exceeding 50 penalty units for each day on which the offence continues after the day on which any notice is given to the owner or occupier under subsection (2).

(2) An authorised officer who reasonably believes that an owner or occupier has committed an offence under subsection (1) may give the owner or occupier a written notice to this effect.

PART 3 - POWERS OF MARKET MANAGER

8. The Council may appoint a Market Manager for each public market.

Council may
appoint Market
Manager

Market
Manager
may issue
directions

9. (1) Subject to section 10, the Market Manager for a market may issue directions for the purpose of promoting:

- (a) the orderly functioning, safety, cleanliness or amenity of the market; or
- (b) the safety of foodstuffs or other goods sold at the market.

(2) A direction under subsection (1) may be issued to the public or to an individual.

(3) The Market Manager must place a notice of any direction issued to the public under subsection (1) in a conspicuous place at the market.

(4) Without limiting subsection (1)(a), directions issued under that subsection may relate to:

- (a) parking;
- (b) placement of goods or other items; or
- (c) refuse disposal.

(5) Without limiting subsection (1)(b), directions issued under that subsection may relate to the preparation and storage of foodstuffs.

(6) Subject to section 10, if the Market Manager for a market considers that a person's presence in the market represents an immediate or serious threat to the orderly functioning, safety, cleanliness or amenity of the market, the Market Manager may issue directions:

- (a) requiring the person to leave the market; or
- (b) requiring the person to refrain from entering the market for a specified period.

(7) A person who is required to leave a market or refrain from entering a market under a direction issued under subsection (6) may ask the Council to revoke the direction under section 10(b).

Council
may
require
Market
Manager
to issue
directions
etc

10. The Council may:

- (a) require the Market Manager to issue a direction under section 9(1); or
- (b) revoke a direction issued by the Market Manager under section 9(1).

11. A person who fails to comply with a direction of the Market Manager issued under section 9(1)(a) commits an offence and is liable on conviction to a fine not exceeding 1,000 penalty units.

Offence:
failing to
comply
with
Market
Manager's
directions

12. A person who fails to comply with a direction of the Market Manager issued under section 9(1)(b) commits an offence and is liable on conviction to a fine not exceeding 10,000 penalty units.

Offence:
failing to
comply
with
Market
Manager's
directions
regarding
food safety

PART 4 - GENERAL OFFENCES

13. A person who sells or exposes for sale any goods in a public market without paying the appropriate fee commits an offence and is liable on conviction to a fine not exceeding 1,000 penalty units.

Selling
goods
without
paying fee

14. A person who enters or remains in a public market outside of any opening hours determined by the Council under section 5(1)(a) without permission from the Market Manager commits an offence and is liable on conviction to a fine not exceeding 1,000 penalty units.

Entering
market out
side of
opening
hours

15. A person who sells or exposes for sale any goods in a public market other than goods of a type which the Council has determined may be sold in the market under section 5(1)(b) commits an offence and is liable on conviction to a fine not exceeding 1,000 penalty units.

Selling
unap-
proved
goods

16. A person who sells or exposes for sale any goods in a public market for a price exceeding any price determined by the Council for those types of goods under section 5(1)(c) commits an offence and is liable on conviction to a fine not exceeding 1,000 penalty units.

Selling
overpriced
goods

17. A person who engages in public speaking, broadcasting or promotional activities in a public market without prior written permission from the City Clerk commits an offence and is liable on conviction to a fine not exceeding 1,000 penalty units.

Public
speaking
etc

PART 5 - MISCELLANEOUS

18. (1) The Council, or any officer or employee of the Council, shall not be liable for:

Exclusion
of liability
for harm
to persons
and
property

(a) any personal injury sustained by a person at a public market which is caused by any act or omission of a third party;

(b) any personal injury sustained by a person which is caused by any thing brought into a public market by a third party, including without limitation any foodstuffs;

(c) any personal injury sustained by a person at a public market which is caused by an officer or employee of the Council acting in the execution or purported execution of his or her official duties; or

(d) any loss of or damage to property within a market.

(2) For the purposes of subsection (1), "*personal injury*" includes death.

General powers of authorised officers 19. An authorised officer may require a person to state his or her name and address for any purpose connected with the enforcement of this Ordinance.

Powers of enforcement officers to arrest without warrant 20. (1) For the purposes of section 37 of the Act, an enforcement officer employed under that section may, without warrant, arrest

(a) any person who is committing or about to commit or whom the officer suspects upon reasonable grounds of having committed an offence under this Ordinance; or

(b) any person for whom the officer has reasonable cause to believe a warrant of arrest has been issued with respect to an offence under this Ordinance.

(2) An enforcement officer shall, without unnecessary delay, take any person arrested under subsection (1) to a police officer, or to the nearest police station or a magistrate.

Authorised officers may prosecute offences 21. (1) An authorised officer may prosecute any offence under this Ordinance in the magistrate's court.

(2) A person who is an authorised officer for the purposes of subsection (1) has the right to appear before a magistrate and the power to conduct proceedings in the magistrate's court in respect of any offence under this Ordinance.

Failure to comply with Market Manager's directions additional consequences 22. If a person fails to comply with a direction issued by the Market Manager under section 9(1), the Council may do anything that the direction required the person to do and recover its costs from the person as a civil debt.

Penalties payable to Council 23. All monetary penalties including any civil debt collected pursuant to this Ordinance shall be paid into the City Fund.

Authorised officers 24. The City Clerk may, in writing, authorise any officer of the Council or other person for the purposes of this Ordinance.

PASSED by the Honiara City Council this 24th day of November 2009.

Cr. Andrew Mua
Mayor
Honiara City Council

ASSENTED TO by the Minister for Home Affairs this 24th day of November 2009.

Minister for Home Affairs