

[Legal Notice No. 27]

ISABEL INVESTMENT CORPORATION ORDINANCE 2009

AN ORDINANCE TO

Establish an Investment Corporation for Isabel Province for the purpose of managing and conducting investment for the Province and repeal the Isabel Development Authority Ordinance 1988, as amended.

Enacted by the Isabel Provincial Assembly

and

Assented to by the Minister of Provincial Government

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An Ordinance to establish an Investment Corporation for Isabel Province for the purpose of managing and conducting investment for the Province and repeal the Isabel Development Authority Ordinance 1988, as amended.

PART I

Preliminary

Short title

1. This Ordinance may be cited as the Isabel Investment Corporation Ordinance 2009.

Interpretation

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

“Board” means the Board of Directors of the Corporation;

“Executive” means the Isabel Provincial Executive

“financial year” in relation to the Corporation means a calendar year;

“financial institutions” means any bodies corporate established by the Financial Institutions Act for the purpose of providing finance to the Corporation; and

“General Manager” means the General Manager of the Corporation;

“Government” means the Isabel Provincial Government

PART II

Establishment of the Corporation, Purposes, Functions and Powers

Establishment of the Isabel Investment Corporation

3. (1) There shall be established for the purposes of this Ordinance, a body to be known as the Isabel Investment Corporation (hereinafter referred to as “the Corporation”) which shall be a body corporate within the meaning ascribed to it by the Interpretation and General Provisions Act (Cap. 85).

(2) The provisions of the First Schedule shall operate as the constitution of the Corporation and to matters in relation thereto.

Functions of the Corporation

4. The functions of the Corporation shall be:
 - (a) to carry out Government policy with regard to public sector participation in commercial investment within the Province;
 - (b) to manage and administer the Government's commercial investment portfolio;
 - (c) to promote, participate, identify and initiate commercial investment in Isabel Province in accordance with Government's commercial investment policies; and
 - (d) to perform and promote such other functions in relation to commercial investment in Isabel Province and throughout Solomon Islands, as the Executive may direct.

Powers of the Corporation

5. The Corporation shall have powers to do anything which is not contrary to any law to discharge its functions.
6. The Corporation shall have the power to:
 - (a) acquire, hold and dispose of securities other than equity;
 - (b) act as agent for other persons or appoint agents on its behalf;
 - (c) enter into agreements or arrangements with any person or institution, whether national or international, providing participation, assistance or co-operation with its activities;
 - (d) assist or provide advisory, consultancy, managerial, secretarial, financial, accountancy or other related services;
 - (e) invest moneys on call or for fixed or limited periods;
 - (f) acquire and dispose of movable or immovable property; and
 - (g) establish and maintain reserve funds to meet contingencies and for such other purposes as it may think fit.

7. The Corporation may with the approval of the Executive:
- (a) form subsidiary corporations in compliance with the Companies Act (Cap. 175) to carry on any activities which the Corporation has power under this Ordinance to carry on;
 - (b) form partnerships and enter into joint-ventures;
 - (c) purchase and dispose of equity or other commercial interests in companies, partnerships, enterprises or joint-ventures;
 - (d) make or grant loans to enterprises in which it holds a commercial interest;
 - (e) borrow moneys and issue securities, including guarantees, debentures, stock, bonds, bills or other promissory notes;
 - (f) issue shares on any of its subsidiaries; and
 - (g) establish and manage unit trusts and make available such unit trusts to the public.

Establishment of the Board of Directors

8. There shall be established for the purposes of this Ordinance, a Board of Directors of the Corporation which shall, subject to the provisions of this Ordinance, be responsible for the policy and general administration of the Corporation.
9. The manner in which the Board is to be constituted, governed including the procedures for its meetings and appointments is prescribed by the Second Schedule to this Ordinance.

Powers of the Executive to issue general directions on matters of policy

10. The Executive shall, after consultation with the Chairman, give to the Board such directions of a general character as to the policy to be followed by the Board in the performance of its functions as appear to the Executive to be crucial.

PART III**Financial****Share capital and its increase**

11. (1) The authorised capital of the Corporation shall be one million dollars divided into one million shares of one dollar each.
- (2) The Board may from time to time, with the prior approval of the Executive increase the share capital of the Corporation by new shares of such amount as the Board may determine.

Issue of shares

12. The Board may allot the share capital of the Corporation:
- (a) to the Premier, in shares equivalent to the Government's contribution to the capital of the Corporation; and
- (b) with the prior approval of the Executive to:
- (i) any body corporate established by law in Solomon Islands;
 - (ii) any international body corporate; or
 - (iii) any indigenous person of Isabel Province

Disposal of shares

13. Shares may be sold or otherwise disposed of:
- (a) with the approval of the Executive at face value; or
- (b) in accordance with any written agreement for the sale of shares

Record of ownership of shares to be maintained

14. The General Manager shall at all times:
- (a) maintain a record of the ownership of the shares; and
- (b) notify the Executive and the Board of any change in the ownership of shares

Share redemption

15. The Board may, with the approval of the Executive, elect to reduce the share capital on issue subject to the repurchase of shares being made at face value from all shareholders in proportion to their shareholding.

Liability of holder

16. The liability of a shareholder shall be limited to the amount (if any) unpaid on the shares held by him.

Dividends

17. (1) Subject to the provisions of subsection (2), the Board may, distribute by way of dividends not more than half the Corporation's operating surplus from any financial year.

(2) Where the Board is satisfied that it could distribute profits in excess of half the previous year's surplus, it shall submit a proposal to the Executive for its approval and any such distribution shall be in such a manner and on conditions as the Executive thinks fit.

Annual estimates

18. (1) The Corporation shall in each financial year, not later than three months before the commencement of the next financial year submit to the Executive for his approval its estimates of revenue and expenditure for the ensuing financial year.

(2) The estimates submitted to the Executive pursuant to subsection (1) shall as far as practicable include details of domestic and overseas borrowing requirements in relation to all enterprises of the Corporation for the ensuing financial year.

(3) The Executive may either approve such estimates subject to such reservations, if any, as it may consider necessary, or reject such estimates.

(4) Where the Executive rejects or does not approve the estimates submitted to it before the commencement of the next financial year, the Corporation may continue its recurrent operations at the same level as the previous year and continue on-going borrowing and investment programmes, so however, that it shall not increase levels of recurrent expenditure, or undertake any new investments or borrowings until such time as the estimates are approved by the Executive.

Annual reports

19. (1) The Chairman of the Corporation shall in each year submit to the Executive a report of its activities during the previous year.
- (2) The Executive shall lay before the Assembly a copy of the annual report.

Accounts and audit

20. (1) The Corporation shall keep proper accounts and other records in relation to its business and shall prepare annually a statement of accounts in a form satisfactory to the Executive, being a form which conforms with established accounting principles.
- (2) The accounts of the Corporation shall be audited annually by an auditor appointed by the Corporation and approved by the Auditor-General.
- (3) The Corporation shall on receipt of the audited statement of accounts submit to the Executive a copy of such statement together with any report made by the auditor.
- (4) The Board shall cause a copy of the audited annual statement of accounts together with the auditor's report to be distributed to all shareholders.
- (5) The Executive shall cause a copy of the annual statement of accounts together with the auditor's report to be laid before Assembly.

Exemption from taxation and stamp duties

21. (1) The income and revenues of the Corporation shall, subject to the Income Tax Act of Solomon Islands, not be subject to taxation under any law.
- (2) All instruments executed by or on behalf of the Corporation shall be exempt from stamp duty.

PART IV**Miscellaneous****Shareholders' meetings**

22. The meetings of the shareholders including the procedures of the meeting shall be governed by the provisions of the Third Schedule.

Confidentiality

23. (1) All members of the Board, employees of the Corporation and all directors or chairman appointed by the Corporation to subsidiary corporations or other companies shall not either directly or indirectly, except in the performance of a duty under or in connection with this Ordinance, divulge or communicate to any person, any information concerning the affairs of the Corporation or any of its subsidiary corporation or company, as the case may be.
- (2) Any person who contravenes the provisions of this section shall be guilty of an offence and on conviction be liable to a fine not exceeding five hundred dollars or a term of imprisonment not exceeding six months.

Regulations

24. The Executive may, after consultation with the Board, make regulations generally for the proper carrying out of the provisions and purposes of this Ordinance, and in particular, but without prejudice to the generality of the foregoing, may make regulations:
- (a) for the guidance of directors appointed by the Corporation to enterprises in which the Corporation holds commercial interest; and
 - (b) for the procedure to be followed and the form and manner in which information relating to the Corporation's affairs is to be reported.

Repeal and savings

25. (1) The Isabel Development Authority Ordinance 1988 (hereinafter referred to as the repealed Ordinance) is hereby repealed.
- (2) Notwithstanding such repeal from and after the date of coming into operation of this Ordinance:
- (a) all assets and liabilities of the former Authority immediately prior to that date shall be transferred to and vest in the Corporation without further assurance, and the Corporation shall have all the powers necessary to take possession of, recover and deal with such assets and discharge such liabilities;
 - (b) every agreement in writing and every deed, bond or other instrument to which the former Authority was a party immediately before that date shall have effect as if the Corporation were a party;
 - (c) all officers of the former Authority shall become the corresponding officers of the Corporation but the Executive shall employ such other officers as it sees fit.
- (3) In this section "former Authority" means the Isabel Development Authority established under the repealed Ordinance.

Transitional Provisions

26. (1) In the transition towards establishing the Corporation, the Executive shall appoint such members to the Board who shall form the interim Board.
- (2) The Executive may upon the establishment of the Corporation appoint any person including such members in the interim Board to continue to sit as members of the Board.

**FIRST SCHEDULE
(Section 3)**

The Isabel Investment Corporation

Authentication of seal and documents

1. (1) The seal of the Corporation shall be authenticated by the signature of the Chairman or the Deputy Chairman or a member of the Board authorised to act in that behalf and an officer of the Corporation so authorised.
- (2) All documents other than those required by law to be under seal, made by, and all decisions of the Corporation may be signified under the hand of the Chairman or the Deputy Chairman or any member of the Board authorised to act in that behalf or an officer of the Corporation so authorised.

Powers to appoint officers and servants

2. The Corporation may appoint and employ at such remuneration and on such terms and conditions as it thinks fit, a General Manager of the Corporation and such other officers, agents and servants as it thinks necessary for the proper carrying out of its functions.

Expenses of the Corporation

3. (1) The expenses of the Corporation (including remuneration of the staff thereof, members of the Board, the Chairman, and directors and chairmen appointed to subsidiary companies) shall be defrayed out of the income of the Corporation.
- (2) In this paragraph "income" means interest or dividends earned or obtained on loans or investments made by the Corporation.

Accounts, audit and estimates

4. The Corporation shall keep proper accounts and other records in relation to its business and prepare annual statements of account and reports as set out in Part III of this Ordinance.

Powers of the Executive to require returns

5. The Corporation shall furnish the Executive with such returns, accounts and other information as it requires with respect to its activities, and shall afford to it the facilities for verifying such information in such manner and at such times as it may reasonably require.

Executive to review the operations of the Corporation

6. At the end of each financial year, the Executive shall review the operations of the Corporation with a view to determining:
 - (a) whether the Corporation has operated in accordance with the annual estimates and any approved operating plan; and
 - (b) whether the assets of the Corporation are sufficient to meet the liabilities of the Corporation having regard to any claims or liabilities which may arise during the next ensuing year.

**SECOND SCHEDULE
(Section 9)**

The Board of Directors of the Corporation

Board membership

1. (1) The Board shall consist of the following members, namely:
 - (a) 3 directors appointed by the Executive;
 - (b) the Provincial Legal Advisor or any representative nominated by him; and
 - (c) directors appointed by anybody or institution holding ten per centum or more of the shares of the Corporation; and
- (2) The General Manager of the Corporation shall be an ex officio member of the Board.
- (3) Each member appointed pursuant to paragraph (1), shall nominate an alternate member to act on his behalf, with full powers of proxy, if for any reason the member is unable to act.

Chairman

2. (1) The Executive shall appoint one of the members of the Board to be Chairman and another to be Deputy Chairman thereof.
- (2) In the case of the absence or inability to act of the Chairman and the Deputy Chairman, the Executive may appoint any other person to perform the functions of the chairman.

Tenure of office

3. (1) The appointment of every member (other than ex officio members) shall be evidenced by instrument in writing, and such instrument shall state the period of office of the member, which shall not exceed two years.
- (2) Every member of the Board shall be eligible for reappointment.
- (3) The Executive may at any time revoke the appointment of any member of the Board appointed it.

Resignation of Board Member

4. (1) Any member of the Board other than the Chairman, may at any time resign his office by instrument in writing addressed to the Premier and transmitted through the Chairman, and from the date of the receipt by the Premier of such instrument such member and any alterate member nominated by him, shall cease to be a member of the Board.
- (2) The Chairman may at any time resign his office by instrument in writing addressed to the Premier and such resignation shall take effect as from the date of receipt of such instrument.

Publication

5. The names of all members of the Board as first constituted and every change in the membership thereof shall be published in the Gazette.

Vacation of office

6. Any member of the Board who:
 - (a) is declared a bankrupt; or
 - (b) is sentenced to imprisonment for three months or more for a criminal offence; or
 - (c) fails to attend three consecutive meetings of the Board or appoint an alternate member; or
 - (d) is in breach this Ordinanceshall automatically ceased to be a member

Procedure, quorum and meetings

7. (1) The Board shall meet at such times as may be necessary or expedient for the transaction of its business, so however, that it shall not be less than three meetings in any calendar year.

(2) The Chairman may at any time call a special meeting of the Board and shall call a special meeting to be held within seven days of a written request for that purpose addressed to him by two or more members of the Board.

(3) The Chairman or Deputy Chairman shall preside at all meetings of the Board and in the case of absence of both the Chairman and the Deputy Chairman from any meeting, the members present and forming a quorum shall elect one of their number to preside at the meeting.

(4) The decision of the Board shall be by a majority of votes, and in addition to an original vote, the Chairman or any other person presiding at a meeting shall have a casting vote in any case in which the vote is equal.

(5) The General Manager, and such other officers as the Chairman decides, shall attend meetings.

(6) Minutes in proper form of each meeting of the Board shall be kept.

(7) The Board shall determine its quorum for any particular meeting.

(8) The validity of any proceedings of the Board shall not be affected by any vacancy amongst the members thereof or by any defect in the appointment of a member thereof.

Remuneration of members

8. There shall be paid to the Chairman and other members of the Board, such remuneration (whether by way of honorarium, salary or fees) and such allowances as the Executive may determine.

Protection of members

9. No action, suit or prosecution or other proceedings shall be brought against any member of the Board in respect of any act done bona fide in pursuance or execution or intended execution of the provisions, of this Ordinance.

Offices not public offices

10. The office of the Chairman or other member of the Board shall not be a public office for the purposes of Chapter XIII of the Constitution.

THIRD SCHEDULE
(Section 22)

Shareholders' Meetings

Annual meetings

1. The Corporation shall convene within twelve months of the end of each financial year a general meeting of shareholders to consider:
 - (a) the Chairman's report;
 - (b) the audited statement of accounts and the auditor's report thereon;
 - (c) the borrowing and investment programme for the next ensuing year; and
 - (d) any other matter notified under the provisions of this Schedule.

Shareholders' meetings

2. (1) The Board shall convene a shareholders' meeting before:
 - (a) the issuing of new shares;
 - (b) redeeming shares;
 - (c) disposing of or acquiring any commercial interest which represents or is likely to represent ten per centum or more by value of its total portfolio;
 - (d) raising or making new loans of a value exceeding twenty per centum of the Corporation's liabilities; or
 - (e) making any recommendations to the Executive to effect any amendments to this Ordinance or any regulations made thereunder.
- (2) The requirement of holding a shareholders' meeting in terms of sub-paragraph (1) shall not apply where the aforesaid matters were raised and sanctioned at an annual general meeting.

Notice of special meeting

3. (1) The Board shall within thirty days of the receipt of a written request from a shareholder or shareholders, holding ten per centum or more of the shares convene a special meeting.
- (2) The Board shall before calling a special meeting in terms of sub-paragraph (1), give the shareholders the required notice.

Notices and agenda

4. (1) The General Manager shall after giving at least thirty days notice before a meeting, distribute to every shareholder copies of:
 - (a) notices of meetings together with the minutes of the last meeting;
 - (b) reports; and
 - (c) motions and any other documents that are to be considered at the meeting.
- (2) Any one or more shareholders owning ten per centum or more of the shares may by notice in writing made at least fourteen days before the date of the meeting, add any other motion which relates to the exercise of functions and powers under this Ordinance and such additional matters shall be brought to the notice of the shareholders at least seven days before the meeting.
- (3) Notice of the date, time and place of every general meeting shall be published in advance in any one or more newspapers having wide circulation in Solomon Islands or by broadcast through Solomon Islands Broadcasting Corporation.

Conduct of meetings

5. (1) Any shareholder who wishes to be represented by an agent at a meeting shall give notice in writing to the General Manager, stating the name of the person appointed to represent and vote on his behalf.

- (2) The Chairman or Deputy Chairman of the Board shall preside at all meetings of shareholders.
- (3) The General Manager shall attend all meetings and keep minutes in proper form.
- (4) Shareholders' representatives shall be eligible to vote and such votes shall be recorded in proportion to their shareholding.
- (5) Motions moved at meetings shall be decided by a simple majority of the shares being voted.
- (6) Unless the Executive otherwise directs, all general meetings of shareholders shall be held in public, and the General Manager shall ensure that the public is afforded reasonable access.

Passed by the Isabel Provincial Assembly this nineteenth day of March 2009.

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

Eric Notere
Clerk to the Isabel Provincial Assembly

Assented to by the Honourable Minister for Provincial Government and Institutional Strengthening this 6th day of April 2009.

Honourable David Day Pacha
Minister of Provincial Government and Institutional Strengthening
