

[Legal Notice 119]

**THE PROVINCIAL GOVERNMENT ACT 1997  
(No. 7 of 1997)**

**THE MAKIRA ULAWA PROVINCE PENALTIES FOR OFFENCES  
ORDINANCE 2006**

AN ORDINANCE to provide for the penalties applicable for a breach of any Provincial Ordinance.

ENACTED BY the Provincial Assembly of Makira Ulawa Province.

Arrangement of sections

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Under the powers conferred by Section 30 of the Provincial Government Act 1997, the Makira Ulawa Provincial Assembly makes the following Ordinance -

**1. Title and Commencement**

This Ordinance shall be cited as the Makira Ulawa Province Penalties For Offences Ordinance 2006 and shall come into operation upon assent by the Minister of Provincial Government in accordance with Section 32 of the Provincial Government Act 1997 and publication in the Solomon Islands Gazette.

**2. Interpretation**

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

“Assembly” means Makira Ulawa Provincial Assembly;

“Infringement offence” means an offence defined in **Section 4** of this Ordinance;

“Infringement fee” in relation to an infringement offence means the amount prescribed in any Ordinance or by any Executive Order as the fee for any infringement offence;

“Police” means Royal Solomon Islands Police;

“Province” means Makira Ulawa Province;

“Provincial Government” means the Makira Ulawa Provincial Government;

“Ordinance” means any Ordinance enacted by Makira Ulawa Provincial Assembly;

“Village Peace Council” means a Village Peace Council established under the Village Peace Councils Ordinance;

“Village Peace Councils Ordinance” means the Makira Ulawa Village Peace Councils Ordinance 2006 or its successors.

2) In this Ordinance “ authorised Officer” means:

a) Any officer of the Police

b) Any officer of the Provincial Government authorised to enforce this Ordinance;

c) Any member of a Village Peace Council, to the extent they are authorised under the Village Peace Councils Ordinance to serve infringement notices and collect infringement fees.

### 3. Purpose

The purposes of this Ordinance are:

- a) To provide for infringement offences in Makira Ulawa Province Ordinances, as an option for addressing offending in the first instance;
- b) To provide for a standard range of penalties that may be applied to breaches of any Provincial Ordinance including:
  - (i) The penalties payable to the Province for an infringement offence; and
  - (ii) The penalties that may be imposed by a Court on conviction for any breach of any Ordinance.
- c) To provide for the enforcement of various infringement offences to be delegated to Village Peace Councils, and for Village Peace Councils to substitute a customary penalty for infringement fees with the consent of the offender.

### 4. Infringement Offences

- 1) Any Ordinance of the Assembly may identify all or any breaches of its provisions as an infringement offence:
  - a) Within any of the categories set out in Schedule One, and
  - b) Which is subject to the penalties set out in Schedule One for that category of offence.
- 2) Any person who is alleged to have committed an infringement offence may either be:
  - a) Served with an infringement notice under **section 6**; or
  - b) Proceeded against in Court, in which case the alleged offender shall also be advised of the amount of the infringement fee payable to the Provincial Government and be deemed to have been served with an infringement notice.
- 3) Prosecution of an infringement offence may be commenced by an officer of the Police or any officer of the Provincial Government authorised to enforce this Ordinance.
- 4) If the person who is alleged to have committed the offence is not convicted by the court the infringement notice shall be deemed to have been revoked by the Makira Ulawa Provincial Government.
- 5) A person convicted of an infringement offence:
  - a) May be sentenced to a fine and or imprisonment as set out for that offence in Schedule One;
  - b) In default of payment of any fine imposed by the Court, the court may further award the following terms of imprisonment:
    - (i) For infringement offences in categories one to thirteen, imprisonment of up to one month;
    - (ii) For infringement offences in categories fourteen to twenty-two, up to the maximum sentence of imprisonment for the particular category of offence.

6) Notwithstanding any conviction and sentence imposed by the court, the person charged remains liable to pay to the Makira Ulawa Provincial Government the infringement fee for that offence set out in Schedule One, regardless of whether the matter was commenced by infringement notice or commenced by proceeding directly to court, and:

- a) The infringement fee may be enforced by the process
- b) Where a person has been convicted and served a term of imprisonment in default of payment of any fine, the Provincial Government may, at its discretion, revoke the infringement notice.

**5. Continuing infringement offences**

Any person who commits, or is suspected of committing, a continuing offence may be served a fresh infringement notice for every day the infringement offence is alleged to continue after the first infringement notice is served, and on conviction:

- a) Shall be liable to pay the infringement fee for each infringement offence for which the person is convicted;
- b) May be sentenced to a fine of up to the maximum allowable for each infringement offence for which the person is convicted;
- c) May be sentenced to a period of imprisonment for each infringement offence for which the person is convicted however the aggregate of the prison sentences may not exceed the maximum term of imprisonment that may be ordered for one offence of that category.

**6. Infringement notice**

- 1) An infringement notice may be served on a person if an authorised officer:
  - a) Observes a person committing an infringement offence; or
  - b) Has reasonable cause to believe that an infringement offence is being or has been committed by that person.
- 2) An infringement notice may be served:
  - a) By an authorised officer (not necessarily the person who prepared the notice) personally delivering it (or a copy of it) to the person alleged to have committed the infringement offence; or
  - b) By post addressed to that person's last known place of residence or business.
- 3) An authorised officer serving an infringement notice must retain a copy of the notice.

- 4) An infringement notice must contain the following particulars (a sample form is set out in Schedule Two for guidance):
- a) Details of the alleged infringement offence sufficient to fairly inform a person of the time, place and the nature of the alleged offence;
  - b) The amount of the infringement fee specified for that offence;
  - c) The time within which the infringement fee specified for that offence;
  - d) The address of the place at which the infringement fee must be paid;
  - e) A statement that the person served with the notice has a right to request a hearing within 30 days of being served with the notice;
  - f) A statement of what will happen if after 30 days the person served with the notice has not paid the infringement fee and has not requested a hearing;
  - g) Any other particulars that are prescribed by or under this Ordinance.

**7. Payment of infringement fees**

- 1) Infringement fees for infringement notices served by a Village Peace Council in accordance with the Village Peace Councils Ordinance:
  - a) Shall be payable to the Provincial Government if the person served is convicted in court; and
  - b) In all other cases must be paid to the Village Peace Council.
- 2) All other infringement fees must be paid to the Provincial Government.
- 3) No court proceedings will be taken in respect of the infringement if the infringement fee is paid, in accordance with the details on the infringement notice, within 30 day after the date of service.
- 4) No person or court may vary the amount of any infringement fee.

**8. Right to appeal or have matters considered**

- 1) Any person served with an infringement notice by the Police or the Provincial Government must write to the Provincial Government within 30 days of being served the notice if the person wishes to:
  - a) Raise any matter concerning the circumstances of the alleged offence for consideration by the Provincial Government;
  - b) Deny liability for the offence and request a court hearing.
- 2) Any person served with an infringement notice by a Village Peace Council and who wishes to deny liability or to raise any matter concerning the circumstances of the alleged offence for consideration by the Village Peace Council:

- a) May request the Village Peace Council to consider the case or to consider substituting the infringement fee with an alternative customary penalty; and
- b) Must make the request of the village Peace Council within 7 days of being served the notice; and
- c) Must write to the Provincial Government within 30 days of the notice being served, and include a copy of the notice, if:
  - (i) The Village Peace Council does not revoke the infringement notice; and
  - (ii) The person served wishes to deny liability for the offence and request a court hearing, or wishes to request the Provincial Government to consider the matter.

**9. Village Peace Council may revoke an infringement notice**

A Village Peace Council may revoke an infringement notice served by that Village Peace Council where it is proven to the satisfaction of the Village Peace Council:

- a) That the person served with the infringement notice did not commit the offence alleged;
- b) Any other circumstance that in the opinion of the Village Peace Council it would be unconscionable or manifestly unfair to hold the person responsible for the offence.

**10. Provincial Government may revoke an infringement notice**

The Provincial Government may revoke an infringement notice where it is proven to the satisfaction of the Provincial Government:

- a) That the person served with the infringement notice did not commit the offence alleged;
- b) That the person served with the infringement notice was unable to comply with the relevant Ordinance due to a failure of the Provincial Government;
- c) Any other circumstance that in the opinion of the Provincial Government it would be unconscionable or manifestly unfair to hold the person responsible for the offence.

**11. Discretion to compensate victims or substitute a customary alternative**

- 1) Nothing in this Ordinance affects the rights of victims of offences to seek a civil remedy for any harm suffered by them as a result of the offence, however:

- a) The Village Peace Council who served the infringement notice or the Provincial Government may determine that part of all of an infringement fee be paid to the victim(s) of the offence, and if so they shall pay the victim once the infringement fee has been paid by the offender.
- 2) A Village Peace Council who serves an infringement notice may, with the consent of the person served the infringement notice, substitute a customary penalty for the payment of the infringement fee and such customary penalty:
  - a) May include actions, ceremonies, and payments of not more than the amount of the infringement fee, aimed at bringing about reconciliation with the victims(s) and/or the community;
  - b) Must not breach the Solomon Islands Constitution or any other law of Solomon Islands;
  - c) Must be complied with by the offender within the 28 day period in the infringement notice, or such other timeframe stipulated by the Village Peace Council, and if not complied with in that time then the person may be prosecuted in the same manner as if he or she had failed to pay the infringement fee.

**12. Reporting the outcome of infringement notice process**

- 1) Any Police Officer who issues an infringement notice must provide a copy of the notice to the Provincial Government.
- 2) Every Village Peace Council must maintain a record of the infringement process as outlined in the form set out in Schedule Three, and if the alleged infringement offence is not resolved the Village Peace Council must forward a copy of the infringement notice and completed record to the Provincial Government for considering prosecution.
- 3) The Provincial Government must maintain a record of the infringement process as outlined in the form set out in Schedule Three.

**13. Executive may make Orders and Regulations**

Makira Ulawa Provincial Executive may make Orders and Regulations for all or any of the following purposes:

- a) Providing for further particulars in infringement notices;
- b) Regulating procedures under this Ordinance;
- c) Providing guidelines to assist the Provincial Government or Village Peace Councils in exercising their discretion under **sections 9, 10 or 11** of this Ordinance.

**PASSED BY THE MAKIRA ULAWA PROVINCIAL ASSEMBLY**

**THIS 8TH DAY OF JUNE 2005**

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

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**George Kuata**  
**Clerk to the Makira Ulawa Provincial Assembly**

**ASSENTED TO BY THE MINISTER FOR PROVINCIAL GOVERNMENT**

**THIS TWELFTH DAY OF DECEMBER 2006**

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**Honourable Japhet Waipora (MP)**  
**Minister for Provincial Government & Constituency Development**



**SCHEDULE ONE**  
(Section 4)

Category of offence:	Infringement fee:	On conviction, the infringement fee and maximum fine and/or imprisonment of up to:	
		FINE	IMPRISONMENT
One	\$ 10.00	\$ 10.00	--
Two	\$ 20.00	\$ 15.00	--
Three	\$ 30.00	\$ 20.00	--
Four	\$ 40.00	\$ 25.00	--
Five	\$ 50.00	\$ 35.00	--
Six	\$ 75.00	\$ 50.00	--
Seven	\$ 100.00	\$ 75.00	--
Eight	\$ 125.00	\$ 100.00	--
Nine	\$ 150.00	\$ 125.00	--
Ten	\$ 200.00	\$ 150.00	--
Eleven	\$ 250.00	\$ 200.00	-
Twelve	\$ 300.00	\$ 250.00	--
Thirteen	\$ 400.00	\$ 300.00	--
Fourteen	\$ 500.00	\$ 400.00	30 days
Fifteen	\$ 750.00	\$ 500.00	40 days
Sixteen	\$ 1,000.00	\$ 750.00	50 days
Seventeen	\$ 1,500.00	\$ 1,000.00	60 days
Eighteen	\$ 2,000.00	\$ 1,500.00	90 days
Nineteen	\$ 3,000.00	\$ 2,000.00	120 days
Twenty	\$ 5,000.00	\$ 3,000.00	6 months
Twenty-one	\$ 10,000.00	\$ 7,000.00	9 months
Twenty-two	\$30,000.00	\$20,000.00	18 months



**Notes for person served with Infringement Notice:**

- (1) You have the right to request a court hearing, and must make your request within 30 days of being served with the Notice.
- (2) You should write to the Provincial Government within 30 days of being served te Notice if you wish to:
  - (a) Raise any matter concerning the circumstances of the allege offence for consideration by the Provincial Government; or
  - (b) Deny liability for the offence and request a court hearing.
- (3) If you were served the Notice by a Village Peace Council and you wish to deny liability or to raise any matter concerning the circumstances of the alleged offence for consideration by the Village Peace Council:
  - (a) You have the right to request the Village Peace Council to consider your case; and
  - (b) You must make your request to th Village Peace Council within 7 days of being served the notice; and
  - (c) If the Village Peace Council does not revoke the Infringement Notice, and you still wish to deny liability for the offence or request the Provincial government to consider the matter, you must write to the Provincial Government within 30 days of the Notice being served.
- (4) If after 30 days you have not paid the infringement fee and have not requested a court hearing, you may by proceeded against in court and if you are convicted of the offence:
  - (a) You will be required to pay the infringement fee; and
  - (b) You may also be sentenced to pay a fine; and
  - (c) For offences of Category Eight and higher, you may also be sentenced to a period of imprisonment.

**SCHEDULE THREE**  
**(Section 12)**  
**MAKIRA ULAWA PROVINCE**  
**INFRINGEMENT RECORD**

1. Person charged and address: .....

2. Infringement Notice served on ..... by .....  
 (date) (RSIP, MUPG, or name of Village Peace Council)

3. If served by a Village Peace Council did the person request the Village Peace Council to consider the matter? Yes/No.

**If yes, what was the outcome of the Village Peace Council considering the matter?**

Infringement revoked? Yes / No Reason for decision: .....

Customary penalty substituted? Yes / No If yes, what was the customary penalty?.....

Did the person agree to the customary penalty? Yes /No

If yes, did the person carry out all or some of the customary penalty? Yes / No

If yes, which parts of the penalty did the person carry out .....  
 and which parts have not been carried out?.....

**Amount and date(s) of any payments of the infringement fee:** .....

**Attach a copy of the Infringement Notice and any letter or notes provided by the person served**

Authorised Officer completing report for Village Peace Council .....  
 (Signature) (date)

4. Did the person request the Provincial Government to consider the matter? Yes /No

**If yes, what was the outcome of the Provincial Government considering the matter?**

Infringement revoked? Yes /No Reason for decision: .....

Date the person was notified of decision: ..... By post / Served personally

Amount and date(s) of any payments of the infringement fee: .....

Has the person requested a court hearing? Yes / No

**Attach a copy of the Infringement Notice and any letter or notes provided by the person served**

Authorised Officer completing report for MUPG or RSIP .....  
 (Signature) (date)