

# REPRINT

## **PROTECTION OF WRECKS AND WAR RELICS ACT (CAP. 150)**

**As in force at: 1 October 2009**

**STATUS: HISTORICAL**

This version is that in force at the date stated above. It does not include amendments made since that date.

For list of amendments see Endnotes

**AN ACT TO SECURE THE PROTECTION OF WRECKED VESSELS AND AIRCRAFT AND WAR RELICS LYING IN SOLOMON ISLANDS FROM INTERFERENCE BY UNAUTHORISED PERSONS, TO CONTROL THE EXPORT OF WAR RELICS, AND FOR CONNECTED PURPOSES.**

## **PROTECTION OF WRECKS AND WAR RELICS ACT (CAP. 150)**

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# PROTECTION OF WRECKS AND WAR RELICS ACT (Cap. 150)

As in force at: 1 October 2009

## 1 Short title

This Act may be cited as the *Protection of Wrecks and War Relics Act*.

## 2 Interpretation

In this Act, unless the context otherwise requires:

**“excavation”** means any operation or act designed to aid in the recovery of an object lying in or on the ground or sea bed;

**“Minister”** means the Minister for the time being charged with Cultural Affairs;

**“restricted area”** means an area so designated under section 3;

**“the sea bed”** means any area submerged by the sea and includes any area submerged at high water of ordinary spring tides;

**“site”** means the site identified by an order made under section 3;

**“Solomon Islands waters”** means any part of the sea within the seaward limits of Solomon Islands territorial water as defined by order made under the provisions of section 5 of the *Delimitation of Marine Water Act*;

**“war relic”** includes any object or artifact brought into Solomon Islands by or for the use of any combatants in World War II.

## 3 Order designating site of wreck

(1) If the Minister is satisfied with respect to any site in Solomon Islands including, without prejudice to the generality of the foregoing, any site in Solomon Islands waters that:

(a) it is, or may prove to be, the site of a vessel or aircraft lying

wrecked or is a site upon which lies, or may prove to lie, a substantial quantity of war relics; and

- (b) on account of the importance of the vessel or aircraft or of any objects contained or formerly contained in it which may be lying in or near the wreck or of the war relics, the site ought to be protected from unauthorised interference,

he may by order published in the *Gazette* designate an area round the site as a restricted area.

- (2) An order under this section shall identify the site where the vessel or aircraft or substantial quantity of war relics lies or formerly lay, or is supposed to lie or have lain, and:
  - (a) the restricted area shall be all the area within such distance of the site as is specified in the order; and
  - (b) the distance specified for the purposes of paragraph (a) shall be whatever the Minister considers appropriate to ensure protection for the wreck or the war relics.
- (3) Before making an order under this section, the Minister shall consult with such persons as he considers appropriate (including any person claiming rights in or over the land or waters and the Provincial Assembly in whose area the site stands) having regard to the order; but this consultation may be dispensed with if he is satisfied that the case is one in which an order should be made as a matter of immediate urgency.

#### **4 Protection of wrecks**

- (1) Subject to section 8, a person commits an offence if, in a restricted area, he does any of the following things otherwise than under the authority of a licence granted by the Minister:
  - (a) he tampers with, damages, or removes any part of a vessel or aircraft lying wrecked, any object formerly contained in such a vessel or aircraft, or any war relics; or
  - (b) he carries out excavation, diving or salvage operations directed to the exploration of any site or to removing objects from it or

from the ground or sea bed, or uses equipment constructed or adapted for any purpose of excavation or diving or salvage operations; or

- (c) he deposits in the case of a restricted area in Solomon Islands waters, so as to fall and lie abandoned on the sea bed, anything which, if it were to fall on the site of a wreck (whether it so falls or not), would wholly or partly obliterate the site or obstruct access to it, or damage any part of the wreck,

and also commits an offence if he causes or permits any of those things to be done by others in a restricted area, otherwise than under the authority of such a licence.

- (2) A licence granted by the Minister for the purposes of subsection (1) shall be in writing and:

- (a) the Minister shall in respect of a restricted area grant licences only to persons who appear to him either:

- (i) to be competent, and properly equipped, to carry out excavation or salvage operations in a manner appropriate to the historical importance of any wreck or war relics which may be lying in the area and of any objects contained or formerly contained in a wreck; or

- (ii) to have any other legitimate reason for doing in the area that which can only be done under the authority of a licence;

- (b) may be granted subject to conditions (including without prejudice to the generality of the foregoing conditions as to payments to be made to persons claiming rights in or over the land or waters designated as a restricted area) or restrictions, and may be varied or revoked by the Minister at any time after giving not less than one week's notice to the licensee; and

- (c) anything done contrary to any condition or restriction of a licence shall be treated for the purposes of subsection (1) as done otherwise than under the authority of the licence.

- (3) Where a person is authorised, by a licence of the Minister granted

under this section, to carry out excavation diving or salvage operations, it is an offence for any other person to obstruct that person in doing anything which is authorised by the licence, subject however to section 8.

## **5 Prohibition on approaching dangerous wrecks**

- (1) If the Minister is satisfied with respect to a vessel or aircraft or war relic lying in Solomon Islands that:
  - (a) because of anything contained in it, the vessel, aircraft or war relic is in a condition which makes it a potential danger to life or property; and
  - (b) on that account it ought to be protected from unauthorised interference,he may by order designate an area round the vessel or aircraft or war relic as a prohibited area.
- (2) An order under this section shall identify the vessel, aircraft or war relic and the place where it is lying and:
  - (a) the prohibited area shall be all within such distance of the vessel, aircraft or war relic as is specified by the order; and
  - (b) the distance specified for the purposes of paragraph (a) shall be whatever the Minister thinks appropriate to ensure that unauthorised persons are kept away from the vessel, aircraft or war relic.
- (3) Subject to section 8, a person commits an offence if, without authority in writing granted by the Minister, he enters a prohibited area, whether on the surface or under water.

## **6 Export of war relics**

- (1) A person commits an offence if he exports or attempts or causes to be exported from Solomon Islands any wrecked vessel, aircraft or war relic or any part thereof or article formerly lying therein, whether or not the vessel or aircraft concerned is one upon which salvage operations have been carried out pursuant to a licence granted under

section 4(2), without having first obtained the consent of the Minister to the export thereof.

- (2) The Minister may by order exempt any class of war relic as may be specified in the order from the provisions of this section and any person may export any war relic in that class without committing an offence.

## **7 Annulment or variation of orders**

An order under section 3, section 5 or section 6 shall be subject to annulment in pursuance of a resolution of Parliament and may be varied or revoked by a subsequent order under the same section; and the Minister shall revoke any such order if:

- (a) in the case of an order under section 3 designating a restricted area, he is of opinion that there is not, or is no longer, any wreck in the area which requires protection under this Act;
- (b) in the case of an order under section 5 designating a prohibited area, he is satisfied that the vessel is no longer in a condition which makes it a potential danger to life or property.

## **8 Supplementary provisions regarding offences**

- (1) Nothing is to be regarded as constituting an offence under this Act (other than the offence created by section 6) where it is done by a person:
  - (a) in the course of any action taken by him for the sole purpose of dealing with an emergency of any description; or
  - (b) in exercising, or seeing to the exercise of functions conferred by or under an enactment on him or a body for which he acts; or
  - (c) out of necessity due to stress of weather or navigational hazards; or
  - (d) in exercise of rights which exist in law in or over land or waters.
- (2) A person guilty of an offence under this Act shall be liable on summary conviction to a fine not exceeding 5,000 penalty units or

six months imprisonment or both such fine and imprisonment.



## ENDNOTES

### 1 KEY

|                       |                               |
|-----------------------|-------------------------------|
| amd = amended         | Pt = Part                     |
| Ch = Chapter          | rem = remainder               |
| Div = Division        | renum = renumbered            |
| exp = expires/expired | rep = repealed                |
| GN = Gazette Notice   | Sch = Schedule                |
| hdg = heading         | Sdiv = Subdivision            |
| ins = inserted        | SIG = Solomon Islands Gazette |
| lt = long title       | st = short title              |
| LN = Legal Notice     | sub = substituted             |
| nc = not commenced    |                               |

#### NOTE

This Reprint comprises the Act and amendments as in force on 1 March 1996 and published as Chapter 150 of the Revised Edition of the Laws of Solomon Islands, together with amendments made to the Act from that date to 1 October 2009.

### 2 LIST OF LEGISLATION

#### ***Protection of Wrecks and War Relics Act (Cap. 150)***

*Constituent legislation:* 11 of 1980 (Commenced 9 May 1980)

#### ***Penalties Miscellaneous Amendments Act 2009 (No. 14 of 2009)***

|             |                |
|-------------|----------------|
| Assent date | 29 July 2009   |
| Gazetted    | 1 October 2009 |
| Commenced   | 1 October 2009 |

### 3 LIST OF AMENDMENTS

s 8 amd by Act No. 14 of 2009