

THE SIMBO MEGAPODE MANAGEMENT AREA ORDINANCE 1990

Consolidation: This is a consolidation of the principal Ordinance and amendments or intended amendments as at 1 August 1999. Errors in spelling or grammar or omissions of words in the Gazetted Ordinance have been corrected in this Consolidation. This is not an authorised version of the Ordinance.

The principal Ordinance came into effect on 3 August 1990 upon Gazettal under LN 99/90.

The enactments consolidated are:

WP Simbo Megapode Management Area Ordinance 1990.
WP Simbo Megapode Management Area
(Amendment) Ordinance 1999 passed by the WP
Assembly in March 1999 and to be Gazetted

AN ORDINANCE passed at the request of the people of Simbo to conserve and manage the Megapode population and the habitat of Megapodes on Simbo and to allow for the harvesting of Megapode eggs on a sustainable basis.

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1. Title and Commencement - This Ordinance may be cited as the Simbo Megapode Management Area Ordinance 1990 and shall come into force upon receiving the assent of the Minister in accordance with section 32 of the Provincial Government Act 1981 and publication in the Gazette

2. Interpretation - In this Ordinance except where the context requires otherwise:

"Authorised officer" means any Police Officer, Village Organiser, Warden, Office

bearer of the Simbo Megapode Management Committee or Office Bearer of a sub-committee therefore or an officer of the Environment and Conservation division of the Ministry of Natural Resources.

"closed seasons" means the period from 1st July to 30th September in each year

"Customary Owner" means the person or group of persons or the community or line who according to the customary usage of Simbo is or are regarded as the owners of the land;

"field" means the areas known as Ove, Buna, Popou-Lavata, Mamagini, Bope Maingini, Kerere, Vavo and Mizanga where Megapodes lay their eggs;

"Field owner" means the customary owner or owners of the field;

"resident" means a person ordinarily resident on the islands of Simbo or Musa Simbo

"Simbo Megapode Management Area" means the area comprising the fields as herein defined

"Simbo Megapode Management Committee [or SMMC]" means the Committee established under Section 5(2)(c) of this Ordinance

"Simbo Area Council" means the Area Council established by the Western Province Area Council Ordinance 1989;

3. Rules - (1) Subject only to section 7, no person, whether resident, field owner or otherwise is permitted to do any of the actions listed in section 3(2)

(2) (a) Take, hold, interfere with, injure or kill any Megapode

(b) Work in, dig for, take or harvest from a field any Megapode egg on any day, except Thursday, and on that day, not before 10.00 hours (on or after 17.00 (5pm);

(c) Dig for, take or harvest from a field any Megapode egg in the closed season.

(d) Cut down any tree or bush, except Sago Palm or Bamboo, in or around a field unless such tree or bush is in a dangerous state and a risk to residents;

(e) Burn any tree or bush within the Simbo Megapode Management Area for clearance purposes.

(f) Cause any damage to or interfere with a Megapode House (known locally as tape house") which does not belong to them

(g) Cause any damage to, deface or interfere with any property of the Simbo Megapode Management Committee.

(3) Subject only to section 7 no person other than a resident or field owner is permitted to dig for, take or harvest Megapode eggs.

(4) For the purposes of any proceedings under this Ordinance for an offence under Section 3(2)(b) and (c) where it is proved that a person (other than an Authorised Officer) has been found within a field outside of permitted hours or inside of the closed season, it shall be presumed, unless the contrary is proved, that the person is there to dig, take or harvest Megapode eggs.

(5) (a) All residents and field owners must keep dogs under control and must use their best efforts to reduce or eradicate the dog population.

Without limiting the generality of subsection (5)(a)

(b) Where any cat or dog is found inside a field, or is found to have injured or killed any Megapode bird whether the bird is inside a field or not, then the owner of that cat or dog shall be guilty of an offence and liable to a fine in accordance with Section 4

(c) Where that same cat or dog is found inside a field or is found to have injured or killed any Megapode bird whether inside a field or not, on a second occasion, then the cat or dogs may be destroyed by an Authorised Officer

4. Offences - (1) Any person who contravenes the provisions of section 3(2)(a), (b), (d), (e), (f) or (g) or Section 3(5) is guilty of an offence and liable to an "on the spot fine" of \$5000, such sum to be paid to the SMMC within 14 days of the date of the offence. The "on the spot fine" shall be reduced to \$3000 if payment is made within 24 hours.

(2) Any person who contravenes the provisions of section 3(2)(c) or section 3(3) is guilty of an offence and liable to an "on the spot fine" of \$10000 such sum to be paid to the SMMC within 14 days of the date of the offence. The "on the spot fine" shall be reduced to \$50.00 if payment is made within 24 hours.

(3) "On the spot fines" may be recovered by the SMMC as a civil debt.

(4) Where a person denies contravening the provisions of Section 3 (2)(a),(b),(d),(e),(f) or (g) or Section 3(5) such person may be charged under this Ordinance and upon conviction shall be liable to:

(a) a fine not exceeding \$200.00 or in default of payment to imprisonment not exceeding three (3) months; and

- (b) an order for compensation not exceeding \$400.00 to be made to the SMMC
- (5) What a person denies contravening the provisions of Section 3(2)(c) or Section 3(3), such person may be charged under this Ordinance and upon conviction shall be liable to:
 - (a) a fine not exceeding \$400 or in default of payment to imprisonment not exceeding six (6) months; and
 - (b) an order for compensation not exceeding \$800 to be made to the SMMC.
- (6) The penalties prescribed in section 4(1), 4(2), 4(4) and 4(5) are applicable in respect of each and every occasion a person Contravenes the provisions of the Sections.
- (7) Where an offence is committed under this Ordinance by a young person between the ages of 9 and 14 years (inclusive), any penalty therefore shall be liable to be paid by the lawful guardian or person responsible for that young person.
- (8)
 - (a) On the spot fines may only be imposed by two authorised officers
 - (b) The Authorised Officer concerned shall give a written receipt for any on the spot fine' which is paid.

5. Ownership and Management - (1) This Ordinance does not affect customary ownership of the land within the Simbo Megapode Management Area.

(2) For the better management of the Simbo Management Area and for the good administration of this Ordinance the residents and the field owners may meet together from time to time and may;

- (a) Record in writing the customary owners of the fields.
 - (b) Without affecting the customary ownership of a field allocate to named persons, a family or line management of a field or part of a field which management right or duty or power may include the exclusive right to dig for, take or harvest Megapode eggs from that field or part of a field
 - (c) Appoint or elect, as they think fit, representatives of the field owners and/or residents to form a Simbo Megapode Management Committee
 - (d) Discuss any matters arising concerning the Simbo Megapode Management Area and this Ordinance.
- (3) Where a Simbo Megapode Management Committee is formed in accordance with Section 5 (2)(c) of this Ordinance the Committee shall adopt a Constitution which shall regulate the structure, functions and procedures of the SMMC, and the SMMC must thereafter carry out its functions, duties and procedures in accordance with the provisions

of that Constitution.

(4) The residents and field owners or the Simbo Megapode Management Committee must forward a detailed written report of every such meeting of residents and field owners to the Secretary of the Simbo/Ranogga Area Council, and / or the Provincial Secretary.

6. Enforcement - (1) The residents and field owners are primarily responsible for the enforcement of this Ordinance.

(2) (1) Without limiting the generality of Section 6(1) and subject to section 6(3) the residents and field owners or the Simbo Megapode Management Committee may appoint a warden or wardens to be responsible for the enforcement of this Ordinance in a particular field or fields.

(2) The appointment of a warden must be in writing and a warden must produce such letter of appointment upon demand as identification and evidence of the warden's authority.

(3) Unless the Simbo Management Committee or the residents or field owners otherwise determine, the office of warden is a voluntary position and the warden is not entitled to receive any pay or allowances. The Simbo Megapode Management Committee or the residents or field owners may determine to make a gratuity to a warden from time to time.

(3) It is lawful for any authorised officer to make enquiries to ascertain whether any breach of this Ordinance is being or has been committed and to enforce this Ordinance.

7. Permits - (1) A person may make written application on Form 1 of the Schedule hereto for a permit to enter a field or fields within the Simbo Megapode Management Area for scientific or educational study or research

(2) A tourist operator may make written application on Form 2 of the Schedule hereto for a permit to bring tourists to, or take across, a field or fields within the Simbo Megapode Management Area.

(3) Applications for permits must be forwarded to the Provincial Secretary of Western Province who must forward the applications to the Simbo Megapode Management Committee or if there is no such committee in existence, to the Secretary of the Simbo/Ranogga Area Council. The Provincial Secretary may refer such applications to the Environment and Conservation Division of the Ministry of Natural Resources for advice concerning the merits of the research.

(4) The Simbo Megapode Management Committee is entitled to approve applications and issue permits on such terms and conditions as it thinks fit or to reject applications without giving reasons.

(5) If there is no Simbo Megapode Management Committee in existence the Secretary of the Simbo/Ranogga Area Council must refer the applications to the appropriate residents and/or field owners affected by the application for their decision. The residents and/or field owners are entitled to approve the application on such terms and conditions as they think fit or to reject applications without giving reasons. The Secretary of the Simbo/Ranogga Area Council must issue the permit on behalf of the residents and/or field owners to the applicant or communicate the reject of the application.

(6) Permits must be issued either in Form 3 or Form 4 of the Schedule hereto.

(7) The Simbo Megapode Management Committee or, in the absence of such a committee, the residents and/or field owners may charge a fee for the issue of permits, for the taking of eggs by permit holders in accordance with the terms of the permit or for any services provided to permit holders. The Simbo Megapode Management Committee or, in the absence of such a committee the residents and/or field owners must arrange for the issue of receipts for all such fees collected and must decide how or for what purposes the funds accumulated from such fees is to be applied.

(8) The issue of permits may be restricted or suspended at any time of restriction or suspension is necessary to achieve the aims of this Ordinance.

(9) A Tourist Operator Permit does not entitle the Operator to bring tourists into a field during the closed season.

(10) Officers of the Environment and Conservation Division of the Ministry of Natural Resources do not require a permit to enter the Simbo Megapode Management Area or to take eggs for research or monitoring purposes but such officer must obtain the prior permission of the field owners to enter the fields for research or monitoring purposes and for taking eggs.

(11) Occasional and unscheduled visitors may be admitted to a field to view Megapodes and their habitat and take photographs at the discretion and under the supervision of the residents and/or field owners present at the time. The provisions of this Ordinance apply to such visitors and the residents and/or field owners may charge a fee.

SCHEDULE

FORM 1

SIMBO MEGAPODE MANAGEMENT AREA APPLICATION FOR A SCIENTIFIC OR EDUCATIONAL RESEARCH/STUDY PERMITS

NAME:

ADDRESS:

NATIONALITY:

DATE OF PROPOSED VISIT:

DURATION OF PROPOSED VISIT:

SCIENTIFIC OR EDUCATION QUALIFICATIONS OF APPLICANT RELEVANT
TO THE PERMIT:

SCIENTIFIC OR EDUCATIONAL PURPOSE OF VISIT:

DO YOU WISH TO TAKE HARVEST EGGS? IF SO.

HOW MANY?

DO YOU REQUIRE ANY SERVICES FROM FIELD OWNERS OR MANAGERS? IF
SO PLEASE SPECIFY:

GIVE DETAILS OF Two REFEREES FROM SCIENTIFIC OR EDUCATIONAL
INSTITUTIONS:

1.

(Name)

(Position held)

(Address)

(Telephone Number)

(Facsimile Number)

(Name)

(Position held)

(Address)

(Telephone Number)

(Facsimile Number)

ANY OTHER RELEVANT INFORMATION:

SIGNED:

DATE:

FORM 2

APPLICATION BY TOURIST OPERATOR FOR PERMIT SIMBO MEGAPODE MANAGEMENT AREA

INAME OF APPLICATION:

TOURIST BUSINESS/COMPANY/TRADE NAME:

ADDRESS OF TOURIST BUSINESS:

PERIOD FOR WHICH PERMIT IS REQUIRED: Six months / One year

COMMENCEMENT DATE OF PERMIT PERIOD:

NUMBER OF DAYS PER WEEK OR. PER MONTH:

WHICH DAYS OF THE WEEK?

DURATION OF EACH VISIT:

MAXIMUM NUMBER OF TOURISTS ON ANY VISIT:

DO YOU REQUIRE THE SERVICES OP A GUIDE TO THE FIELD(S)?

DO YOU REQUIRE ANY OTHER SERVICES FOR THE TOURIST?

WHICH VILLAGES/MEGAPODE FIELDS DO YOU WISH TO VISIT?

ANY OTHER RELEVANT INFORMATION:

SIGNED:

DATED:

FORM 3

**SIMBO MEGAPODE MANAGEMENT AREA
SCIENTIFIC OR EDUCATIONAL RESEARCH STUDY PERMIT**

THE SIMBO MEGAPODE MANAGEMENT COMMITTEE
OR. THE RESIDENT AND/OR FIELD OWNERS

HEREBY PERMIT

OF:

TO ENTER AND REMAIN IN THE SIMBO MEGAPODE MANAGEMENT AREA
FOR THE PURPOSES SET OUT IN

THE APPLICATION OF:

FROM:

TO:

AT THE FOLLOWING TIMES:

AND ON THE FOLLOWING TERMS AND CONDITIONS:

- 1.
- 2.
- 3.
- 4.

SIGNED for and on behalf of

THE SIMBO MEGAPODE MANAGEMENT COMMITTEE OR

SIGNED for and on behalf of the residents and/or field owners by the Secretary, Simbo }
Ranogga Area Council:

Date: