

THE WESTERN PROVINCE HARBOUR ORDINANCE 1993

[Consolidation - This is a consolidation of the principal Ordinance and amendments or intended amendments as at 1 October 1995. 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 20/8/93 Upon Gazettal under LN 176/93.

The enactments consolidated are:

Western Province Harbour Ordinance 1993

AN ORDINANCE to provide for the provision and Maintenance of provincial harbours within Western Province and for the levying of fees on ships, goods and persons using provincial harbours and harbour services provided by the Western Provincial Executive.

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PART I SHORT TITLE AND INTERPRETATION*

1. Short Title and Commencement - This Ordinance may be cited as the Western Province Harbours Ordinance 1993 and shall come into effect on the date assented to by the Minister in accordance with section 32 of the Provincial Government Act 1981.

2. Interpretation - In this Ordinance and in any orders rules or regulations made pursuant to it, unless the context otherwise requires:

"Authorised Officer" means any person authorised to carry out Executive functions pursuant to section 14 of this Ordinance.

"disembark" means exiting or leaving a ship at any place within Western Province, having been transported to such place by such ship.

"embark means entering a ship berthed within Western Province for the purpose of being transported by that ship to another place within or outside Western Province.

"Executive' means the Western Provincial Executive fees means fees levied

pursuant to this Ordinance "Gazette" means the Solomon Islands Gazette.

"harbour" means a harbour appointed under section 4 of this Ordinance.

"master or owner" means the lawful owner of a ship or the person having command or charge of the ship for the time being, but does not include a pilot.

"passenger ship" means a ship engaged in transporting paying passengers whether or not the ship is also carrying cargo or carrying out any other function.

"passenger" means a person paying to be transported by ship.

"Premier" means the person for the time being holding the office of Premier of Western Province.

"Provincial harbour property" means any property, real or personal held by or on behalf of the Premier for use in connection with the provision or maintenance of harbours and harbour facilities by the Western Provincial Assembly or Executive.

"ship" includes any ship, vessel or boat of any kind propelled by engine, steam or wind but does not include canoes with or without outboard motors or boats propelled solely by manpower.

3. Power to amend First Schedule - The Executive may by order published in the Gazette add to or delete from or amend the First Schedule.

PART II APPOINTMENT OF HARBOURS

4. Power to appoint Ports, their limits and approaches - (1) The Executive may by order published in the Gazette-

(a) appoint any place in the Western Province of Solomon Islands and any navigable channel leading into such place to be a harbour within the meaning of this Ordinance;

(b) declare the limits of any harbour appointed in accordance with paragraph (a) of this subsection.

(2) The places specified in the First Schedule shall be deemed to be harbours.

PART III HARBOUR FEES

5. Levy of Fees - (I) The Executive may by rules a copy of which shall be made available forthwith upon demand to any member of the public

(a) levy ships fees by way of light buoyage, anchorage, mooring, buoy or berthing fees on any ship in relation bits use of any harbour.

(b) levy service fees for the use of any works or equipment provided or any services performed by the Executive in respect of any ship or goods including the landing, shipping, wharfage, storage, handling, removal, carriage or damage of goods. –

(c) levy service fees for the use in relation to any ships. its crew or passengers of any works equipment or labour provided by the Executive.

(d) levy service fees for the use or supply in relation to any ship, its crew or passengers of water supplied by the Executive.

(e) levy service fees for passengers embarking or disembarking from a ship.

6. Liability to pay harbour fees levied - (1) The following persons shall be liable to pay harbour fees, levied on a ship pursuant to paragraphs (a) to (e) of section 5 subsection (1).

(a) the master or owner; or –

(b) as to harbour fees payable in respect of cargo inwards the consignor or owner of the cargo.

(c) as to harbour fees payable in respect of cargo outwards the consignor or owner of the cargo.

as to harbour fees payable in respect of passengers the master or owner.

PART IV ENFORCEMENT AND PENALTIES

7. Recovery of harbour fees - (1) If the person liable according to section 6 of this Ordinance to pay harbour fees levied pursuant to this Ordinance refuses or neglects to pay such fees upon demand and the Executive may recover such outstanding fees as a civil debt, and in cases where more than one person is liable to pay such fees those persons are liable jointly and severally to pay such fees,

8. Power to seize detain and sell - (1) In respect of harbour fees incurred with respect to the consignment of goods if the person or persons liable according to section 6 of this Ordinance to pay such fees refuses or neglects to pay such fees on demand the Executive may seize the goods and detain them until the amount so due is paid.

(2) If the fees payable to the Executive together with any costs of seizure and detention of such goods are not paid to the Executive within sixty days of such seizure the Executive

may cause the goods seized, or so much of then, as is necessary to meet the fees together with any costs of seizure and detention and costs of sale, to be sold.

(3) Twenty days before sale in accordance with this section the Executive shall post at Provincial Headquarters and such other places as it deems fit, notices of such sale, and if the name and address of the owner are known, shall send notice of such sale to the owner of the goods, but failure to send such notice shall not invalidate the title of bona fide purchasers of the goods, nor shall any purchaser be bound to enquire whether such notice was sent.

(4) The proceeds of any sale of goods made in accordance with this section shall be applied –

(a) first in payment of the expenses of the seizure detention and sale, then –

(b) in payment of the fees due to the Executive; and the surplus if any shall be paid to the owner of the goods.

9. Unclaimed goods - If any goods remain unclaimed for one month after they are found on any wharf shed or other Provincial harbour property, the Executive shall turn such goods over to the Police to be disposed of in accordance with the Police Act.

10. Power to recover expenses due to damage to harbours - If any expenses have been incurred in repairing any wharf or other structure within a harbour maintained by the Executive due to or caused by contact with any ship or excessive weight of any goods the Executive may recover by civil suit from the owner of the ship or goods causing such damage the amount of any expenses incurred in repairing the damage.

11. Offence to evade fees - Any master or owner of any ship or other person liable pursuant to this Ordinance or orders, rules or regulations made pursuant to this Ordinance to pay fees who by any means whatsoever evades, or attempts to evade any of the fees leviable under this Ordinance shall be guilty of an offence and shall be liable on conviction to imprisonment for two months or to a fine not exceeding five hundred dollars or to both such fine and imprisonment and shall in addition be liable to pay to the Executive as penalty double the amount of fees he evaded or attempted to evade.

12. Offence to make false statement - Any person who makes, either knowingly or recklessly any statement which is false in any material particular, in any return, claim or other document which is required or authorised to be made by or under the provisions of this Ordinance or orders, rules or regulations made pursuant to this Ordinance, shall be guilty of an offence and shall be liable on conviction to imprisonment for two months or to a fine not exceeding five hundred dollars or to both such imprisonment and fine.

13. Offence to fail to supply Information - Any person who is required by this Ordinance to provide information whether by supplying lists, documents receipts or of any kind whatsoever to the Executive, who having been requested in writing by the

Executive to supply such information neglects or refuses to do so within a reasonable time shall be guilty of an offence and shall be liable on conviction to imprisonment for two months or to a fine not exceeding five hundred dollars or to both, such fine and imprisonment.

PART V AUTHORISED OFFICERS

14. Authorised Officers - (1) The Executive may, by instrument in writing authorise any provincial government officer or public officer to exercise any powers or perform any duties of the Executive under this Ordinance, subject to the general directions of the Executive and any conditions prescribed in the instrument.

(2) No authorised officer shall be personally liable in respect of any act done or omitted to be done by him in good faith in the execution of his powers and duties under this Ordinance.

15. Powers of Authorised Officers - (1) Without limiting the powers which the Executive may delegate to authorised officers, an authorised officer may on production of his authority, make such enquiries to determine whether with respect to the use of any harbour any fees are payable under this Ordinance or whether a breach of this Ordinance has been committed.

(2) Any person who obstructs an authorised officer acting in the due exercise of his powers under this Ordinance or who refuses or fails to answer any reasonable questions put to him by such authorised officer or who makes a false statement to such authorised officer shall be guilty of an offence and liable upon conviction to a fine not exceeding five hundred dollars or imprisonment for a period not exceeding two months or both such imprisonment and fine.

PART VI PASSENGER SERVICE FEES

16. Notwithstanding the powers contained in this Ordinance for the Executive to levy passenger service fees liability for payment of the passenger service fees prescribed in the Second Schedule shall commence upon the coming into effect of this Ordinance.

PART VII SUBSIDIARY LEGISLATION AND EXEMPTIONS

17. Subsidiary Legislation - (1) The Executive may make orders, rules and regulations with respect to any or all of the following matters:

- (a) prescribing fees payable and methods of calculating fees payable under section 5;

- (b) prescribing the conditions upon which any work or services for which a fee is levied will be performed by the Executive;
 - (c) prescribing the names and functions of authorised officers; providing forms and procedures for the use of harbours calculation of fees and payment of fees under this Ordinance;
 - (e) providing for the exemption from harbour fees of any ship or class of ships;
 - (d) prescribing any other thing within the power of the Executive according to this Ordinance and necessary for or incidental to the implementation or enforcement of this Ordinance.
- (2) For the avoidance of doubt, orders, rules and regulations made under this section may —
- (a) prescribe different fees for different harbours;
 - (b) prescribe different fees for different classes of ships or goods;
 - (c) provide that the Executive may enter into special agreements in respect of any fee authorised under section 6 and prescribed by order.

18. Exemption - This Ordinance shall not apply to any ship or goods that are Provincial property.

SCHEDULE 1

APPOINTMENT OF HARBOURS

(Section 4)

The following places shall be harbours for the purpose of this Ordinance and the limits and boundaries of each such harbour shall be those specified in relation thereto.

Gizo - radius of 1 nautical mile from the Government wharf.
Lambete - radius of 1 nautical mile from the Lambete wharf
Ringi Cove - radius of 1 nautical mile from the South East point of Nusatupe Island.
Vim - radius of 1 1/2 nautical miles from the Lands and Survey control beacon NGY 25.
Chea - radius of 1 nautical mile from Chea wharf.
Gasini - radius of 1 nautical mile from Gasini wharf.
Seghe - radius of 1 nautical mile from Seghe wharf.
Patutiva - radius of 1 nautical mile from Patutiva wharf.
Bunikalo - radius of 1 nautical mile from Bunikalo wharf.
Mono - radius of 1 nautical mile from Mono wharf.
Maleai - radius- of 1 nautical mile from Maleai wharf.

Kotovou - radius of 1 nautical mile from Kotovou wharf,
Longana - radius of 1 nautical mile front Longana wharf.
Koriovuku - radius of 1 nautical mile from Koriovuku wharf.
Biula - radius of 1 nautical mile from Biula wharf.
Cheke - radius of 1 nautical mile from Cheke wharf.
Bili Passage - radius of 1 nautical mile from Bili Passage wharf.

SCHEDULE 2
PASSENGER SERVICE FEES
(Section 16)

1. The master or owner of a passenger ship is liable to pay to the Executive a passenger service fee of \$1.00 for each passenger embarking or disembarking from a passenger ship at any of the harbours specified at Schedule 1. provided that in respect of each passenger who in the same one way passage embarks on and disembarks from a passenger ship at a harbour listed at Schedule I the master or owner is liable to pay only one passenger service fee.

2. The master or owner of a passenger ship which has carried passengers to or within Western Province shall within each calendar month from the date this Ordinance comes into effect account to the Western Province by a certified list with the names of passengers who have embarked or disembarked within Western Province during that month together with the name of the harbour listed at Schedule 1 at which each passenger embarked or disembarked and shall remit with such certified list the total amount of passenger service fees payable pursuant to this Ordinance.