

THE WESTERN PROVINCE INVESTMENT CORPORATION ORDINANCE 1991

[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 28/10/1991 upon Gazetted under LN 67/91.

The enactments consolidated are:

WP Investment Corporation Ordinance 1991

WP Investment Corporation (Amendment) Ordinance 1995 LN 62/95.]

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[Note: The Ordinance amended as from 16 June 1995 by Western Province Investment Corporation <Amendment> Ordinance 1995 by deleting the word 'Secretariat' whenever it occurs and substituting the word "Corporation"]

PART I PRELIMINARY

1. Title and Commencement - This Ordinance is called the Western Province Investment Corporation Ordinance 1991 and shall come into force upon approval by the Minister in accordance with Section 32 of the Provincial Government Act 1981 and publication in the Solomon Islands Gazette.

2. Repeals, savings and transitional – (1) The Western Province Investment Secretariat Ordinance 1986 is hereby repealed.

(2) The repeal of the Western Province Investment Secretariat Ordinance 1986 by this Ordinance and the provisions of this Ordinance do not affect:

- (a) the continuity of operation of the Corporation established under the Western Province Investment Secretariat Ordinance 1986;
- (b) the previous operation of the Corporation;

- (c) The validity of anything duly done or suffered under the Western Province Investment Secretariat Ordinance 1986;
 - (d) any right, privilege, obligation Or liability acquired, accrued or incurred under the Western Province Investment Secretariat Ordinance 1986;
 - (e) any investigation, legal proceeding or remedy in respect of any right, privilege, obligation or liability instituted or arising under the Western Province Investment Secretariat Ordinance 1986 and any such investigation, legal proceedings or remedy may be instituted, continued or enforce notwithstanding the repeal of the Western Province Investment Secretariat Ordinance 1986;
 - (f) the continuity of the bank accounts and investment fund which accounts and fund alt deemed to satisfy the requirement of section 21 hereof.
- (3) The persons who immediately before the coming into operation of this Ordinance were the Chairman and Members of the Corporation shall continue in their respective positions until the last day of the financial year next following the date this Ordinance comes into effect notwithstanding the change of title of the said persons from Members to Directors affected by this: Ordinance.

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

"Assembly" means the Western Provincial Assembly;

"Director" means a Director, of the Western Province Investment Corporation appointed pursuant to Section 6;

"Corporation" means the Western Province Investment Corporation first established by the Western Province Investment Secretariat Ordinance 1986 and established pursuant to Section 4 hereof;

"enterprise" means any activity, business, project or undertaking carried on by a person whether for profit or otherwise by that person for himself, herself or itself or as agent or trustee of another affecting the economic development of the Province;

"Executive" means the Western Provincial Executive;

"financial year" means the 12 months ending on the 31st day of March;

"Fund" means the Western Province Investment Fund established pursuant to Section 21(1) and, as the context requires. may include any special funds established pursuant to Section 21(2); -

"General Manager" means the General Manager of the Corporation appointed pursuant to Section 11;

"limited liability enterprise" means an enterprise that is a company registered under the Companies Act or a society with limited liability registered under the Co-operative Societies Act;

"person" means any person, persons, company, group, association, co-operative or statutory authority but does not include the Western Province Government or the Solomon Islands Government or any Ministry, Division or Department thereof;

"Premier" means the Premier of Western Province; "Province" means Western Province;

"Provincial Secretary" means the person for the time being holding that public office;

"Provincial Treasurer" means the person for the time being holding that public office;

"Secretary" means the Secretary appointed pursuant to Section 10 hereof;

"subsidiary" means any enterprise in which the Corporation is a member and controls the composition of the Board of directors or holds more than half of the equity share capital as more particularly defined in Section 148 of the Companies Act.

PART II

ESTABLISHMENT AND CONSTITUTION OF THE CORPORATION

4. Establishment - (1) Subject only to Section 2 hereof, there is hereby established a body corporate called the Western Province Investment Corporation.

(2) The Corporation is a body corporate having perpetual succession and a common seal and is capable in law of suing and being sued and of acquiring, holding and disposing of moveable or immoveable property.

(3) The address of the Corporation shall be Provincial Government Buildings Gizo, Western Province.

[Note: 8.4(3) inserted as from 16 June **1995** by 5.3 Western Province Investment Corporation (Amendment) Ordinance 1995.]

5. Constitution - (I) The Corporation is represented, managed and administered by a Board of Directors.

(2) The Board of Directors consists of:

(a) The Premier and

(b) No less than 5 and no more than 10 other Directors excluding ex officio Directors

(c) Ex officio Directors (if any) appointed pursuant to Section 9 hereof.

6. Appointment of Directors - (1) The Premier is the Chairman of the Board of Directors.

(2) The Premier in an Executive meeting prior to the end of the financial year of the Corporation must nominate in writing no less than 10 persons to be considered by the Executive for appointment as Directors of the Board.

(3) The Executive must appoint the Directors from amongst those nominees Provided However that should the Executive fail to appoint the minimum number of S Directors from among the nominees then any member of the Executive may make a nomination and the Executive must appoint such further Directors as air required to meet the minimum requirement from among those further nominations.

(4) The Premier and the Executive must satisfy themselves by due enquiry before nominating and/or appointing a person to be a Director that such person is not disqualified from being a Director pursuant to Section 27 hereof.

(5) The Chairman must appoint one of the Directors as Deputy Chairman.

(6) The names of the Chairman and Directors must be published in the Solomon Islands Gazette each year.

7. Terms and conditions of appointment - (I) The term of office of the Directors, other than the Chairman, is one financial year provided however that a Director may be reappointed at the end of a term up to a maximum term of office of 4 years.

(2) The Executive must determine the other terms and conditions of the Directors including but not limited to remuneration provided however that in fixing the remuneration of the Directors the Executive must first consult with the General Manager and must take into account the financial position of the Corporation and the need for the Corporation to have the financial ability to carry out its functions.

(3) The Directors are entitled to reimbursement for all reasonable travel and accommodation expenses properly incurred by them in attending meetings of the Corporation or attending to the business of the Corporation Provided However that the Directors must use their best endeavours to obtain the prior approval of the General Manager or Secretary to any expenses to be incurred and in any case where that prior

approval has not been given or a disagreement arises concerning a claim for reimbursement the disagreement must be referred to the Treasurer whose decision is final.

(4) The Secretary must forward a letter of appointment to each of the Directors setting out the terms and conditions of appointment *as* determined by the Executive.

(5) The remuneration and expenses of the Directors must be paid out of the Fund.

8. Termination of Office - (I) A Director may at any time by notice in writing to the Chairman and the Secretary resign his office.

(2) A Director automatically ceases to be a Director if the Director

(a) is adjudicated bankrupt by a court of competent jurisdiction;

(b) is certified to be insane or otherwise adjudged to be of unsound mind under Solomon Islands law;

(c) is under sentence of death imposed by a court in any part of the world or is under a sentence of imprisonment by whatever name called including a suspended sentence for a term of or exceeding 3 months;

(d) is a member of the National Parliament;

(e) is absent from 2 consecutive meetings of the Corporation without the prior permission of the Chairman or Deputy Chairman;

(U) is absent from Western Province for more than 2 months without the prior written permission of the Chairman, or in his absence the Deputy Chairman.

9. Invited Advisers and ex officio Directors - (I) The Corporation may invite any person to attend a meeting for the purpose of giving advice to the meeting and such invited adviser is entitled to be paid all his or her expenses incurred in attending the meeting together with such remuneration (if any) as the Corporation may determine.

(2) The Corporation may appoint no more than 2 persons to be ex officio Directors of the Corporation to act as advisers to the Corporation on such terms and conditions as the Corporation may determine.

10. Secretary - (I) The General Manager or in his absence any Financial Controller appointed to the Corporation or in his absence the Provincial Secretary is Secretary to the Corporation.

[Note: S.10(1) amended as from 16 June 1995 by S.4 of the Western Province Investment Corporation (Amendment) Ordinance 1995. 5.10(1) formerly read: The

Provincial Secretary or in his absence the Deputy Provincial Secretary is Secretary to the Corporation.]

- (2) The Executive must fix the remuneration (if. any) of the Corporation.
- (3) The Secretary must carry out the following duties:
 - (a) Convene all meetings of the Corporation and prepare and serve all notices pursuant to Section 12 in accordance with the directions of the Chairman;
 - (b) Attend all meetings of the Corporation;
 - (c) Prepare and circulate the Agenda for the meeting;
 - (d) Take the Minutes of each meeting; circulate and file them in accordance with Section 15;
 - (e) Advise the Corporation on any Provincial or procedural matters;
 - (f) Carry out such other duties as the Corporation may determine

11. General Manager - (1) The Corporation must, after full consultation with the Executive and with the prior approval of the Executive appoint an individual to be General Manager.

- (2) The term of the office of General Manager is 2 years with a right of reappointment Provided However that the first 6 months of the initial term is a probationary period during which or at the end of which time either party may determine the contract.
- (3) The Corporation must, after full consultation with the Executive and with the prior approval of the Executive determine the other terms and conditions of employment of the General Manager.
- (4) The terms and conditions of employment of the General Manager must be incorporated into a contract executed by the Corporation and the General Manager.
- (5) The General Manager must be a person suitably qualified in and having experience in financial and business disciplines and work.
- (6) The General Manager must not without the prior written approval of the Corporation hold any other employment or position
- (7) When by death, termination resignation or otherwise the office of General Manager is vacant any Financial Controller appointed to the Corporation or in his absence such other person appointed for that purpose by the board of directors must act

as General Manager until such vacancy is filled.

[Note: 5.11(7) amended as from 16 June 1995 by 5.5 of the Western Province Investment Corporation (Amendment) Ordinance 1995. 5.11(7) formerly read: When by death, termination, resignation or otherwise the office of General Manager s vacant the Provincial Treasurer must act as General Manager until such vacancy is filled."]

(8) The General Manager must, subject to the general or specific directions of the Corporation carry out the following duties:

- (a) The day to day management and administration of the Corporation
- (b) The day to day administration of the Fund
- (c) The day to day keeping of financial records and accounts
- (d) Keep in safe custody at] financial records, all documents of title, contracts, agreements and all important documents.
- (e) Keep in safe custody the common seal of the Corporation.
- (f) Attend all meetings of the Corporation.
- (g) Advise the Corporation on financial and investment matters.
- (I,) On instruction from the Corporation act on behalf of the Corporation in respect of the management and control and operation of any enterprise in which the Corporation has a financial interest
- (i) Prepare the accounts and reports required by section 24 hereof.
- (j) Carry out such other duties as the Corporation may determine.

PART II

ADMINISTRATIVE MATTERS

12. Meetings and notices (1) The Corporation must meet at least 4 times in each financial year.

(2) The Chairman after consultation with the Corporation must determine the date, time and place of meetings.

(3) The Secretary must send or deliver to the Directors and to the General Manager and any ex officio Directors 14 days prior to the date of a meeting a notice setting out the date time and place of the meeting. The Secretary may, it, addition to the written notice inform the Directors and the General Manager and any ex officio Directors of the date,

time and place of a meeting by service message or the radio or by such other method of communications the Secretary considers appropriate.

(4) Should a matter arise of a serious and urgent nature requiring immediate consideration the Chairman may call an Extraordinary meeting of the Corporation and the notice provision of Section 12(3) does not apply to such meeting Provided Always that the Secretary must use his or her best endeavours to notify every Director, the General Manager and any ex officio Director by whatever means the Secretary considers appropriate of the date, time and place of the Extraordinary meeting.

(5) Subject to compliance with Section 12(1) or in the case of an extraordinary meeting subject to compliance with the Proviso to Section 12(4) a meeting is duly convened and the proceedings of a meeting are valid notwithstanding that a Director or the General Manager or an ex officio Director has failed to receive notice of the meeting.

(6) Subject only to Sections 13, 14 and 15, the Corporation may regulate its own procedures.

13. Quorum - (1) The quorum of the Corporation is:

- (a) The Chairman or in his absence the Deputy Chairman
- (b) Four other Directors (excluding ex officio Directors)
- (c) The General Manager or in his absence the Provincial Treasurer

(2) No business can be conducted or considered if a quorum is not present

(3) If a quorum is present no proceedings and no action taken in pursuance of those proceedings are invalid by reason of any vacancy or the absence of any Director from the meeting.

14. Voting - (1) Every Director including the Chairman is entitled to vote.

(2) The General Manager, any ex officio Director and the Secretary are not entitled or permitted to vote.

(3) Invited Advisers are not entitled or permitted to vote.

(4) All acts or decisions of the Corporation must be determined by a majority of the votes of the Directors present in the meeting and in the event of an equality of votes the Chairman has a casting vote in addition to his deliberative vote.

15. Minutes - (1) Proper and full minutes of the proceedings of every meeting of the Corporation must be written.

- (2) After every meeting of the Corporation a copy of the Minutes must be circulated:
- (a) To every Director
 - (b) To the General Manager
 - (c) To every invited adviser who attended the meeting to every ex officio Director.
- (3) A copy of the Minutes of every meeting of the Corporation must be filed in a Minute Book or file or register kept solely for the purpose.

16. Common Seal - (1) The Corporation must execute documents by affixing the common seal.

(2) The common seal is only to be affixed after a resolution has been passed by the Corporation authorising execution of the document.

(3) Every document to which the seal is affixed must be signed by the Chairman or in his absence the Deputy Chairman and by the General Manager or by some other person authorised in writing by resolution of the Corporation.

PART IV

AIMS, FUNCTIONS AND POWERS OF THE CORPORATION

17. Aims and objectives - (1) The Corporation has the following aims and objectives:

- (a) To improve the quality of life of the people of the Province
- (b) To further economic development in the Province
- (c) To promote, expand and improve agricultural, commercial and industrial enterprises in the Province
- (c) To provide, maintain and/or safeguard employment for the people of the Province
- (e) To promote investment in the Province.

18. Functions - (1) The Corporation must carry out the following functions:

- (a) To invest and use wisely the Fund to increase the value of the Fund and its investments and to meet the aims and objectives set out in Section 17.
- (b) To monitor and keep under review investments made by the Corporation

and enterprises carried out in which the Corporation has a financial interest.

(2) Subject to the powers of the Corporation set out in section 19 hereof the Corporation may carry out all or any of the following functions:

- (a) To provide financing to persons of Solomon Islands carrying on or proposing to any on in the Province any limited liability enterprise by investing in the share capital of such enterprise subject always to the prior consent in writing of the Executive.
- (b) To establish and/or carry on in the Province jointly with any other person any limited liability enterprises by investing in the share capital of such enterprises subject always to the prior consent in writing of the Executive.
- (c) To participate in the management, control or operation of any enterprise in which the Corporation has a financial interest.
- (d) To provide goods and services to the people in the Province by establishing and carrying on any limited liability enterprise subject always to the prior consent in writing of the Executive.
- (e) To initiate, invite and encourage investment and investors in and to the Province.
- (f) To seek and if appropriate to accept grants, donations, appropriations and any other beneficial form of assistance, financial or otherwise from any source in Solomon Islands or overseas.
- (g) To make such grants and loans or provide or secure other credit facilities on such conditions as may be approved by the Executive by persons carrying on any enterprise in which the Corporation has a financial interest.
- (h) To undertake studies, surveys, investigations and research into any matter affecting any existing or proposed enterprise in the Province.
- (i) To acquire any real or personal property for the purpose of an enterprise.
- (j) To ensure that no wholly owned subsidiary of the Corporation borrows money otherwise than from the Corporation except with the prior consent in writing of the Executive.

19. Powers - (1) For the purpose of achieving its aims and objectives and carrying out its functions under this Ordinance the Corporation has the following powers:

- (a) To acquire purchase, take, hold and enjoy real and personal property of any description.

- (b) To charge, mortgage, convey, assign, transfer, surrender, dispose of or otherwise deal with real and personal property of any description.
 - (c) To appoint such employees and agents as it reasonably requires upon such terms and conditions as the Corporation thinks fit.
- To charge fees for goods and/or services performed or provided by the Corporation.
- (e) To appoint a Director(s) and/or the General Manager to the Boards of companies, societies or other undertakings in which the Corporation has a financial interest.
 - (f) To invest money on call for limited periods.
 - (g) To invest money in debentures, or stock or unit trusts in Solomon Islands.
 - (h) To borrow money from a subsidiary.
 - (i) To request the Executive to issue a Provincial guarantee on any sum which pursuant to Section 19(2) the Corporation borrows from a lender other than the Government.
 - (j) To request the Solomon Islands Government to issue a Government guarantee on any sum which pursuant to Section 19(2) the Corporation borrows from a lender other than the Government.
 - (k) To request the Executive to:
 - (i) make a grant of funds for investment
 - (ii) make a grant of funds to defray administrative expenses of the Corporation.
 - (l) To raise funds by any legally authorised activity.
 - (m) To establish charitable trusts for the benefit of the people of the Province or a section of them.
 - (n) To insure any real or personal property of the Corporation or any Director or employee of the Corporation
- (2) For the purpose of achieving its aims and objectives and carrying out its functions under this Ordinance the Corporation with the prior consent in writing of the Executive has the following additional powers~

- (a) To form bodies corporate.
- (b) To enter into partnerships.
- (c) To contribute to any scheme of pensions, gratuities and/or retiring allowances for its employees.
- (d) To borrow on such terms and conditions as the Executive may in writing approve for itself or for any enterprise in which it has a financial interest such sums as are required for, the purpose of exercising and performing its conditions under this Ordinance and/or to provide for capital expenditure.
- (e) To lend money on strict terms and conditions as the Corporation thinks fit to any person other than a Director, a Provincial Assembly member, an officer or employee of the Government or Province, the General Manager or employee of the Corporation or any spouse or children of the such persons for the purpose of carrying on any enterprise in which the Corporation has a financial interest.

20. Compliance with policies - (1) In carrying out its functions and exercising its powers the Corporation must comply with all policies of the Province and comply with any objectives set out in any Provincial Development Plan.

(2) Subject to section 20(1), the Directors of the Corporation are responsible for the policy and management of the Corporation in accordance with the provisions of this Ordinance.

(3) The Corporation and all acts of the Corporation must comply with the policies of the Corporation, this Ordinance and all National and Provincial laws.

PART V FINANCE

21. Fund - (1) The Corporation must establish a Western Province Investment Fund.

(2) The Corporation may establish Special Funds for any particular function, investment or enterprise authorised by the Ordinance.

(3) Each Fund established under Section 21(2) must be kept in a separate account and monies may not be transferred between Funds or accounts.

(4) Monies in Funds established under Section 21(2) must not be used for any purpose except that for which the Fund was established.

22. Sources of monies - (1) The Fund consists of:

- (a) Monies granted or transferred to the Corporation by the Province of [sic] Solomon Islands Government
- (b) Income earned from any investment or enterprise
- (c) Capital received from the sale, disposal or realisation of any investment or enterprise
- (d) Monies received by or falling due to the Corporation in respect of any loan made by it or the interest payable in respect of such loan
- (e) Any other monies from any source invested in or granted, donated, raised or loaned to or otherwise earned by the Corporation.

23. Application of the Fund - (1) Subject to the provisions of this Ordinance the Corporation may apply the Fund or sit part of the Fund as it thinks fit:

- (a) in the carrying out of its functions
- (b) in the payment of remuneration and reimbursement of expenses of its Directors, General Manager, Secretary, employees, agents and advisers
- (c) in the payment of other recurrent expenditure
- (d) in the payment of capital expenditure of an administrative nature.

(2) Subject to section 18(2)(a), (b), (d) and (g) and section 19(2) the Corporation may invest the funds in such manner and under the terms and conditions as it thinks fit but only within Solomon Islands.

(3) The Corporation must within 30 days of the Auditor General certifying the Annual Report and Accounts of the Corporation pay to the Executive no less than 25% and no more than 75% of the net profit of the Corporation as shall be agreed between the Corporation and the Executive and in the absence of agreement 25% only shall be paid. The payment so received must be paid by the Executive into the Provincial Fund.

24. Accounts - (1) The Corporation must keep proper books of accounts in which there must be free and full accounts of all its affairs and transactions.

(2) The books of accounts must at all times be open to inspection by the Directors and the Secretary.

(3) The Corporation must prepare and submit to the Executive within 3 months after the end of each financial year a report on the Corporation together with detailed profit and loss accounts showing classifications of revenue and expenditure, a balance sheet and such other statements of account as the Executive or the Auditor General may require.

(4) The Annual Report and all statements of account must be signed by the Chairman and countersigned by the General Manager and submitted to the Executive for approval.

23. Audit - (1) The Executive after approving the Annual Report and all statements of account must submit them to the Auditor General within 6 months after the end of the financial year.

(2) The Auditor General must audit, certify and report on the annual Report and statements of account and arrange for copies to be laid before the Assembly together with his other own report

(3) The Auditor General and any other person appointed by him to audit the accounts of the Corporation may during the time of the audit summon any Director, officer, employee or agent of the Corporation to give such information as is necessary for the performance of the audit and/or require production of any records, books, accounts, vouchers and other documents of the Corporation as is necessary for the performance of the audit.

(4) Any Director or the General Manager of [sic] any officer or employee of the Corporation who wilfully obstructs or hinders the Auditor General or his appointee or fails to fully co-operate with the Auditor General or his or her appointee or withholds any relevant information is guilty of an offence and is liable to a fine not exceeding \$1,000.00 or Imprisonment not exceeding 6 months.

PART VI MISCELLANEOUS

26. Indemnity - (1) Every Director, officer, employee or agent of the Corporation must be identified out of the Fund for any expenses incurred by him or her in:

(a) defending any proceedings, civil or criminal, in which judgment is given in his other favour or he or she is acquitted or granted relief by the court from liability because he or she acted reasonably, honestly and within the scope of his or her authority;

(b) applying to a court for relief when he or she believes a claim will be brought against him or her and he or she is granted relief under paragraph (a) hereof.

27. Prohibition on Personal Interest- (1) Members of the Provincial Assembly, public officers; Provincial employees, the Directors, General Manager, officers and employees of the Corporation and any spouses or children of such persons are prohibited from holding any financial or other interest direct or indirect in any enterprise, investment, loan or transaction in which the Corporation is involved or has an interest.

(2) In addition to the provisions of section 8(3), the ownership of an interest or investment in contravention of section 27(1) is automatically transferred by forfeiture to and vests in the Corporation and the person owning that interest or investment in contravention of section 27(I) must hand over documents of title and sign such papers as are necessary and do all other things as are necessary to complete the transfer to and vesting in the Corporation.

(3) Should any enterprise, loan, investment or transaction come before the Corporation for its consideration as a possible future enterprise, loan investment or transaction for the Corporation then any director or the General Manager or Secretary who has or whose spouse or children have a financial or other interest in the proposed enterprise, loan investment or transaction must immediately declare the nature at, extent of that interest to the meeting in which the matter is considered.

(4) A declaration so made must be recorded in the Minutes of the meeting and be Director making such declaration must withdraw from the meeting while the matter is being considered and voted upon.

(5) The Directors, General Manager and Secretary of the Corporation must comply with the provisions of the Leadership Code.