

WESTERN PROVINCE COASTAL AND LAGOON SHIPPING 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 June 1991 upon Gazettal under LN 77/91.

The enactments consolidated are:

WP Coastal and Lagoon Shipping Ordinance 1986
WP Coastal and Lagoon Shipping (Amendment)
Ordinance 1995 LN 57/95]

AN ORDINANCE to provide for the control of coastal and lagoon shipping to better protect the safety of the people of the Western Province and to protect the coastal and marine environment of Western Province.

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1. Title and Commencement - This Ordinance is called the Western Province Coastal and Lagoon Shipping 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. Interpretation - In this Ordinance, except where the context requires otherwise:

"Authorised Officer" means any Police officer, any Officer as defined in the Customs and Excise Act, any Fisheries Officer, any Administrative Officer and any other person appointed by the Western Provincial Executive to be an authorised officer for the purposes of this Ordinance;

"coastal waters" means the area seaward over which Western Province has jurisdiction as described in Section 3 of the Provincial Government Act 1981;

"lagoon" includes but is not limited to the Marovo Lagoon, the Roviana Lagoon, the Vona Vona Lagoon, the navigable channels and approaches to the ports of Gizo and Noro and the ports of Gizo and Noro;

"marine pollution" means the introduction by persons directly or indirectly of substances or energy into, the marine environment which includes estuaries which results or is likely to result in such deleterious effects as harm to living resources and marine life, hazards to human health, hindrance to marine activities including fishing and other legitimate uses of the sea, impairment of quality for use of sea water and reduction of amenities;

"Master of a ship" means the person having the command or charge of a ship for the time being but does not include a pilot;

"Owner of a ship" includes a charterer, a salvor and any agent of the owner, charterer or salvor;

"person" - means any person; persons, company, public body as herein defined, association, co-operative community and any other body of persons;

"public body" includes the Provincial Government, an Area Council, a Town Council, division or department of the Solomon Islands Government and any statutory body;

"ship" and "shipping" means any ship, tug, lighter, barge or vessel of any kind whatsoever-whether propelled by engine or not but does not include a canoe.

3. Speed limits In lagoons - (1) The maximum speed permitted for all shipping

proceeding in a lagoon is six (6) knots PROVIDED HOWEVER that this speed may be exceeded:

- (a) in the case of an emergency;
 - (b) if the owner of a ship obtains the prior written approval from the Western Provincial Secretary. The Western Provincial Secretary may refer the request for approval to the Western Provincial Executive for directions.
- (2) Subject always to the provisions of subsection 3(I), shipping in a lagoon must-at all times:
- (a) proceed at a safe speed taking all the conditions and circumstances into account;
 - (b) proceed at a speed which will not cause undue or unnecessary damage to the coastal environment and coastal property;
 - (c) proceed at a speed which will not endanger another ship or a canoe or any person on board that ship or canoe.
- (3) The Master of any ship which contravenes the provisions of subsection 3(1) or 3(2) is guilty of an offence and is liable to a fine not exceeding five hundred dollars (\$500.00) or in default of payment to imprisonment not exceeding three (3) months.

3A. Restriction on size or ships in lagoons- (1) Subject to subsection 3A(5) no ship having a registered tonnage greater than 750 tons shall enter a lagoon, excluding the navigable channels and approaches to the ports of Gizo and Noro and the ports of Gizo and Noro, without a current lagoon entry permit issued pursuant to section 3C of this Ordinance.

(2) No ship having a registered tonnage greater than 750 tons shall remain in a lagoon after delivery of written notice to the Master of that ship by any Authorised Officer requiring the ship to be removed from the lagoon within the time specified in the notice.

(3) The Master of any ship which breaches the provisions of subsection 3A(1) commits an offence and is liable on conviction to a fine not exceeding \$5000.00 or to imprisonment for 3 months or to both such fine and imprisonment.

(4) The Master of any ship which breaches the provisions of subsection 3A(2) commits an offence and in addition to any other penalty which may be imposed shall be liable on conviction to a fine not exceeding \$5000.00 for each complete day that the breach continues.

(5) It shall be a defence to a charge brought under subsection 3M1) that the ship entered the lagoon under emergency conditions of weather or hazard to the life or health

of a crew member.

3B. Compliance - No person shall be granted a lagoon entry permit unless the purpose for which the permit and entry is sought complies with all laws and policies of Western Province.

3C. Entry Permits - (1) An application for a lagoon entry permit in the name of a specified ship shall be made to the Provincial Treasurer on the form prescribed in the First Schedule of this Ordinance.

(2) Forthwith upon receipt of an application for entry the Provincial Secretary shall consult with the President of the Area Council of the area within which the lagoon is located and shall (following payment by the applicant) remit one fifth of the application fee to that Area Council.

(3) Following consultation with the President of the Area Council the Provincial Secretary may:

(a) refuse the application; or

(b) grant the entry permit subject to such conditions as he deems necessary to protect the environment and ecology of the lagoon.

(4) The applicant shall be notified in writing of the decision of the Provincial Secretary and upon approval of an application the applicant shall be requested to pay the prescribed fee and following payment the Provincial Secretary or other authorised officer shall issue a lagoon entry permit in the form prescribed in the Second Schedule.

(5) Every lagoon entry permit shall be valid for twelve months from the date of issue.

(6) No lagoon entry permit shall convey or be construed to convey any right, power or authority to enter any private land or reef or take any action with respect of anything without the authority and permission of the owner or owners of that land or reef or thing.

(7) The holder of a lagoon entry permit shall ensure that every entry of the specified ship into a lagoon is advised to the Provincial Secretary as soon as practicable and shall ensure that every entry is conducted in compliance with all relevant enactments of the Solomon Islands and the Western Province.

(8) The Master of a ship having a permit to enter a lagoon shall have the permit or a copy of it available for inspection at any time on board the ship by any Authorised Officer.

3D. Offence - The Master of a ship which breaches the terms of a permit to enter a lagoon, or having received a permit fails to produce it or a copy for inspection by an Authorised Officer, commits an offence and, in addition to any other penalties to which

he may be liable under this Ordinance, is liable on conviction to a fine not exceeding \$1000.00.

3E. Suspension of Permit - Where the Provincial Secretary is satisfied that the permit holder is in breach of any of the terms, conditions or limitations of the permit or of any enactment then the Provincial Secretary may by notice in writing cancel or suspend the permit from a date specified in the notice.

(2) Where a permit is suspended or cancelled under this section the holder

(a) shall not permit the specified ship to enter any lagoon in the Western Province

(b) shall not receive any refund of the permit fee for the balance of the term of the permit;

(c) shall not have the permit reinstated or be granted a new permit until the Executive is satisfied that the grounds on which the permit was suspended or cancelled have been remedied and that all lawful penalties imposed by proper authorities have been satisfied.

3F. Register – The Executive shall keep a register of all lagoon entry permits granted.

3G. Fees - (1) The fees for a lagoon entry permit are as set in the Third Schedule of this Ordinance. The Schedule may be amended from time to time by Order of the Executive published in the Solomon Islands Gazette.

[Note: Sections 3A to 3G (inclusive) inserted as from 16 June 1995 by the Western Province Coastal and Lagoon Shipping (Amendment) Ordinance ¶1995]

4. Marine Pollution - (1) No ship and no person on board a ship or canoe is permitted to drop, throw overboard or discharge in coastal waters any litter, rubbish, refuse, garbage or any useless or unwanted materials or equipment or oil or any other hazardous products or chemicals including but not limited to petrol and bilge water or any other matter or thing causing or likely to cause marine pollution.

(2) Subsection 4(1) does not apply to the dumping or discharge of biodegradable food or substances of human waste (sewage).

(3) The Master or owner of any ship which contravenes the provision of subsection 4(1) and/or any person on board a ship or canoe who contravenes the provision of subsection 4(1) is guilty of an offence and is liable to a fine not exceeding one thousand dollars (\$1000.00) and in default of payment to imprisonment not exceeding six (6) months.

(4) The court may order that any person found guilty of an offence under subsection

4(1) must:

- (a) take such action as the Ministry of Natural Resources deems necessary and practicable to remedy or abate the marine pollution and/or:
- (b) meet the costs incurred by the Provincial or Solomon Islands Government or the costs of an independent contractor employed by the Provincial or Solomon Islands Government in the remedying or abatement of the marine pollution.

5. Notice - (1) Notwithstanding that the holder of a Western Province Business Licence has not been charged or found guilty of an offence under this Ordinance, should the Western Provincial Secretary have reasonable grounds to suspect that a business licence holder is causing marine pollution, he or she may serve a notice of, the business licence holder requiring the business licence holder to answer or explain the circumstances giving rise to the suspicion and should the Western Provincial Secretary not be satisfied with the answer or explanation given and be satisfied that the business licence holder is taking appropriate action to ensure that no marine pollution occurs in the future he or she may refer the matter to the Western Provincial Executive who may:

- (a) impose new terms and conditions to that person's Western Province Business Licence; or
- (b) suspend the business licence; or
- (c) cancel the business licence.

6. Authorised Officers - (I) It is lawful for any Authorised Officer to:

- (a) stop and board any ship which the Authorised Officer reasonably suspects of contravening the provisions of this ordinance and to direct the Master of the ship to proceed direct to a stated wharf, anchorage or port;
- (b) make such enquiries and take such action as appears to the Authorised Officer to be necessary to ascertain whether any offence under this Ordinance is being or has been committed or may have been committed;
- (c) do all such other lawful acts to enforce the provisions of this Ordinance.

(2) Any person who obstructs or impedes an Authorised Officer in the exercise of any of that Authorised Officer's powers under this Ordinance is guilty of an offence and is liable to a fine not exceeding two hundred dollars (\$200.00) or in default of payment to imprisonment not exceeding one (I) month.

7. Delegation of powers - The Western Provincial Secretary may delegate his or her powers and duties under this Ordinance to any Provincial Government or public officer.

FIRST SCHEDULE

Section 3C(1)

Application for a Lagoon Entry Permit

Name of Applicant:

Address

(must be an address in the Solomon Islands)

Status of Applicant:

Ship Owner/Master/Shipping Agent/Other(Specify) Name of Ship;

Registered tonnage:

Principal cargo carded:

Port of Registry:

Registered Owner/s:

Master's name and address:

(must be an address in Solomon Islands)

Ports proposed to be used:

Lagoons proposed to be visited:

Purpose of entry:

Signed:

(Applicant)

SECOND SCHEDULE

Section 3C(4)

Lagoon Entry Permit

Number: 199

The ship MV is permitted for a period of

12 months from the day of 199 to

enter and re-enter the lagoons of the Western Province, subject to any conditions that may be endorsed hereon.

Special Conditions

Note: This permit or a legible copy of it must be carried on the ship named and available for inspection at all times.

Dated at Gizo the day of 199

Signed:

for Provincial Secretary.

THIRD SCHEDULE

Section 3G

Fee on Lagoon Entry Permit

Per Ship: \$5,000.00 annual fee.

[Note: First Second and Third Schedules inserted as from 16 June 1995 by the Western Province Coastal & Lagoon Shipping (Amendment) Ordinance 1995.]