

**SUPPLEMENT** to the Solomon Islands Gazette

Tuesday 10th May. 2011

S.I. No.23

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{Legal Notice No. 47}

**PROVINCIAL GOVERNMENT ACT 1997**  
(No. 7 of 1997)

**WESTERN PROVINCE FISHERIES ORDINANCE 2011**

The Western Fisheries Ordinance was passed by the Western Provincial Assembly on Thursday 31st March 2011.

I have carefully read the version of the Ordinance which is being presented to the Ministry of Provincial Government and Institutional Strengthening against the document which was passed by the Western Province Provincial Assembly and am found by me to be an accurate and correct copy of the said Ordinance which was adopted by the Western Provincial Assembly.

ERIC KIKOLO  
Clerk to Western Provincial Assembly

Assented to by the Honourable Minister for Provincial Government and Institutional Strengthening this 15th day of April 2011.

HON. WALTER FOLOTALU  
Minister of Provincial Government and Institutional Strengthening

Made under the Common Seal of the Western Provincial Assembly this 12th day of April 2011

HON. GEORGE SOLINGI LILO  
Premier of Western Province

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FISHERIES ORDINANCE

WESTERN PROVINCE FISHERIES ORDINANCE 2011

AN ORDINANCE TO

Provide for the appropriate management of fishery and Marine Resources in the Western Province in a manner which:

- Is consistent with national policy and legislation;
- acknowledges the economic significance of fishing to the National and Provincial Economy,
- acknowledges the importance of managing the fisheries resource in a manner which promotes sustainability and other important environmental practices;
- acknowledges and upholds the place of customary fisheries rights and practices

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## THE ORDINANCE IN FULL

**Commencement of legislation**

1. This ordinance and any associated amendments is to come into force upon the approval signature of the Minister responsible for Provincial Government in accordance with section 32 of the Provincial Government Act and subsequent publication in the Solomon Islands *Gazette*.

**The purpose of this Ordinance is to;**

2. Upon the entry into force of this Ordinance the Provincial Secretary to be ensure that the person who is appointed as the designated officer as defined in section 5 of the Ordinance and who has responsibilities under sections 18,27 and 28 is to receive the appropriate training to enable him/her to undertake his/her tasks as set out under this Ordinance.

- a. establish a statutory framework to promote the long term conservation, management and sustainable utilization of the Marine resources of the Western Province;
- b. to establish a statutory framework to provide for the recognition and enforcement of customary fishing rights of traditional customary rights holders in the Western Province;
- c. to provide a statutory framework to allow for the establishment and management of Marine Protected Areas where this is considered to be appropriate;
- d. to provide a statutory framework to regulate commercial fishing in the Western Province;
- c. to provide a statutory framework for implementing and enforcing the Fisheries Ordinance.

3. The principles underlying this Ordinance are as follows;

1. The promotion of the sustainable use of Solomon Island fisheries resources to assist Provincial Economic Growth. in a manner which acknowledges that the Marine Resources belong to the people of the Solomon Islands and ensures that they are managed for their benefit;
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2. Employment creation and sound ecological balance;
3. the recognition of customary fishing areas, their ownership and the rights which arise out of such ownership;
4. the protection of biodiversity in the marine environment;
5. recognizing that fish and marine products provide the main means of livelihood of the majority of people living in the Western Province and therefore any regulations or restrictions contained in this Ordinance serve to promote and strengthen the ability of the people living in the Western Province to obtain a satisfactory livelihood from fish and marine products;
6. ensuring cooperation between the Ministry of Fisheries and the Western Provincial Government;

**Interpretation**

4. For the purpose of this Ordinance;

*Aquaculture* means the cultivation, propagation or farming of fish or other living aquatic resources and includes cultivation, propagation or farming from eggs, spawn, spat or speed, or rearing fish or aquatic resources lawfully taken from the wild or lawfully imported into the country, or other similar process, and the collecting or holding of live fish.

*Authorised Officer* means any Police Officer, Fisheries Officer, Village Organizer, Chiefs or any other named person appointed in writing by the Western Provincial Executive to be an Authorized Officer for the purpose of this Ordinance.

*Chief Fisheries Officer* means the Chief Fisheries Officer for the Western Province appointed by the Ministry of Fisheries.

*Commercial fishing* for the purpose of this Ordinance includes:

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- i) foreign fishing companies extracting fish and other marine resources from the waters of the Western Province and selling the extracted products to a national or international buyer;
- ii) a national fishing company or entity extracting fish and/or other marine resources from Western waters and selling the extracted product to national or international buyers;
- iii) A person or entity who purchases fish or marine products from local fishermen and then sells these products to local or international buyers;
- iv) Local people who extract fish and/or other marine resources from the waters of the Western Province and who sells fish to people who will sell the products nationally or internationally or who sell products to institutions such as hotels or restaurants;
- v) To avoid doubt, for the purposes of this Ordinance commercial fishing does not include local people who extract fish and/or marine products from Western waters and sell the products at local markets;

*Customary Fishing Rights* refers to the rights that certain indigenous groups of people from the Western Province are able to establish over certain fishing areas by virtue of historical use and association with such areas of water and through acknowledgement of such rights by traditional leaders.

*Destinated public officer* means an employee of the Provincial Government who is assigned by the Provincial Secretary to undertake appropriate investigations with regards to substantiating peoples' claims to customary fishing rights. The designated public officer is a person who will have received appropriate training before undertaking his/her designated duties.

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*Executive* means the Western Provincial Executive

*Fish* means any aquatic animal, whether piscine or not and includes mollusk, crustacean, Coral (living or dead) and other coelenterates, sponge, aquatic plants, holothurians, (beche-de-mer) or other echionoderm, and turtle, and their young turtle eggs.

*Fish aggregating device* means an object or group of objects, of any size, whether deployed or not, that is natural, manufactured or a combination and includes buoys, netting, webbing, plastics, bamboo, logs and whale sharks floating on or near the surface of the water with which fish may associate, and any natural floating object on which a device has been placed to facilitate its location.

*Fishing vessel* means any vessel which is used for, equipped to be used for, or of a type normally used for fishing or related activities, and includes carrier vessels.

*Low-water line* means the line of low water at mean low spring tides as depicted on the largest scale nautical chart of the area produced by any authority and for the time being held and used by the Minister responsible for Marine Affairs.

*Marine Protected Area* means an area with clear boundaries that is designated by the Western Provincial Executive as a Marine area which warrants special statutory Protection either because of;

- The unique maritime life that it contains;
  - The biodiversity that it contains;
  - The fact that the area has been identified as an endangered area in terms of the risk of the destruction of the marine life living in the particular area;
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*Marine Resources* means any fish and any other plant or thing living in or found in salt water including but not limited to the following species or categories of species: beche-de-mer; clam, crab, crayfish, crocodile, green snail, pearl oyster shell, prawn, seaweed, trochus, turtle, dolphin, dugongs;

*Permanent Secretary*; means the Permanent Secretary of the Ministry of Fisheries;

*Provincial Secretary* means the Provincial Secretary of the Western Province;

*Designated Public Officer* means the Officer who is an employee of the Provincial Government appointed by the Provincial Secretary to undertake the investigations into claims by groups made to establish customary ownership of a particular area.

*Sustainable use* means using, developing or protecting renewable natural and physical resources so that their ability to yield long term benefits is not endangered; *take* for the purposes of this Ordinance means to fish, catch, kill, capture, sell, purchase or export.

*Western Province*; for the purpose of this Ordinance the Western Province refers to the waters contained within the Provincial Boundaries as set out in Schedule 1 of the Provincial Government Act Chapter 118 and the waters extending three nautical miles seaward from the fringing reef or where the seabed is invisible.

*Western Province Business Licence Committee* means that Business Licence Committee which is established under the Western Province Business Licence Ordinance that has the responsibility of considering Business Licence applications from people wishing to undertake business activity in the Western Province.

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5. This Fisheries Ordinance is drafted in a manner to ensure full consistency with the Fisheries Act; Chapter 38.

6. Any commercial fishing entity or operator who wishes to undertake commercial fishing operations in the Western Province must have obtained both the licenses that are required from the Ministry of Fisheries under the *Fisheries Act; Chapter 38* and a Provincial Business Licence certificate issued under the Western Province Business Licence Ordinance.

7. Should the company wishing to apply for a provincial business licence to undertake commercial fishing be foreign owned as determined by the *Foreign Investment Act 2005*, such a company must pursuant to the Western Province Business Licence Ordinance, firstly obtain approval from the Western Provincial Executive to operate in the Western Province before having its application for a business licence considered by the Provincial Business Licence committee. Before considering whether to grant approval to operate in the Western Province, the Executive must satisfy itself that the foreign company has met all of the requirements set out in the *Foreign Investment Act 2005*.

8. All local people of the Western Province who undertake commercial fishing as defined in section 5 of this Ordinance must acquire the appropriate Business Licence from the Western Provincial Treasury.

**9. Procedure for considering the application for business licences to undertake commercial fishing activities in the Western Province.**

- (1) The Western Provincial Business Licence Committee is responsible for the consideration of an application for the granting of a business licence for commercial fishing. In considering such an application the Western Province Business Licence Committee shall require that the applicant submits together with its application;
- in the case of a foreign company a certificate of registration issued under section 21 of the *Foreign Investment Act 2005*.
  - where required a copy of the licence issued by the Ministry of Fisheries;
  - the completed form contained in schedule four which requires the applicant to set out:
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- i) the species of fish that the applicant will be extracting and harvesting;
  - ii) the method of extraction or harvesting;
  - iii) the place(s) where the fish or marine products will be sold.
- any other documents which the Business Licence Committee may consider to be relevant for the purposes of considering the application.

(2) Where a business licence is granted, the Treasury Division of the Western Provincial Government will be responsible for holding on file copies of both the national fishing licence and the business licence certificate which has been obtained by the commercial fishing companies.

(3) In issuing a business licence for commercial fishing, it is the responsibility of the Business Licence committee to inform the licencees of their legal obligations as set out in this ordinance. The Business licence committee is to take particular care in explaining the data collection requirements contained in section 12 of the Ordinance. The committee is to ensure that the holders of licences allowing the undertaking of commercial fishing understand their obligations in this regard.

**10. Requirement of holders of Provincial Business Licences to provide data on the amount of Fish and marine resources extracted.**

(1) All holders of a Provincial Business Licence allowing such holders to undertake commercial fishing in the Western Province are required on a quarterly basis to provide the Fisheries Division of the Western Province accurate data of the quantity of specific species of fish and other marine resources that they have extracted or harvested from Provincial waters through their commercial operations.

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(2) It shall be the responsibility of the Fisheries Division of the Western Province to ensure that the data which is provided is accurate.

(3) The granting of a business licence for a following financial year will be conditional upon the holder of a business licence for commercial fishing supplying the Fisheries Division with the required information.

**11. Dissemination of data provided by the holders of commercial fishing licences.**

(1) In April of each year the Fisheries Division of the Western Province is to provide a report of the fish and marine products extracted from the Western waters by the different commercial operators. The information contained in the report is to be based upon the information provided by the holders of business licences for commercial fishing. The report is to be submitted to the Western Provincial Executive, the Ministry of Fisheries and all Non Governmental Organisations involved in fisheries activities operating in the Western Province.

(2) The purpose of the provision of such data is to provide the Western Provincial Government and Ministry of Fisheries with accurate information about the quantity of specific fish species and marine resources which are harvested or extracted from the waters of the Western Province.

(3) Each year after the data has been provided to the appropriate authorities the Chief Fisheries Officer and Chief Planning Officer are to undertake an evaluation of the effectiveness of data collection and how this can be improved. A report containing appropriate recommendations is to be tabled before the Western Provincial Executive and Ministry of Fisheries for consideration.

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**12. Register of commercial fishing operations.**

The Western Province Treasury will supply to the Fisheries Division a list of all the People, entities and companies who have obtained a business licence to undertake commercial fishing in the Western Province. Such a list will provide the basis of a Provincial Register of commercial fishing operations in the Western Province.

**13. Responsibility for disseminating information between Ministry of Fisheries and Western Provincial Government .**

It shall be the responsibility of the Chief Fisheries Officer and the Chief Planning Officer to ensure that there is an appropriate exchange of information on matters concerning fishing, customary rights, protection of species and the establishment of Marine Protected Areas between the Ministry of Fisheries and the Western Provincial

**14. Prohibited Fishing/Harvesting Methods**

(1) It is prohibited to permit to be used, use or attempts to use any explosive, or any poison or other noxious substance, for the purpose of killing, stunning, disabling or catching fish or in any way rendering fish more easily caught commits an offence.

(2) Any person who commits an offence under subsection (1) shall be reported to the police for breaching provisions of the National fisheries legislation and the police in consultation with local fisheries officers shall determine the appropriate charges to be laid.

**15. Requirement of commercial fishing entities to familiarize themselves with the Provincial legislation and regulations.**

All commercial entities which obtain a Provincial Fishing Licence are required upon the granting of such a licence to through the Fisheries Division of the Western Provincial Government familiarize themselves with all recognized Marine Protected Areas, recognized Customary Fishing Areas, Protected Areas, and all current restrictions that are placed upon fishing activities in the Province.

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**16. Harvesting methods for marine resources.**

(1) No person may use scuba gear or other underwater breathing apparatus when harvesting or extracting any marine resource unless such harvesting or extracting is for recognized research purposes.

(2) To avoid doubt the provisions of subsection (1) do not prohibit the traditional use of harvesting and gathering marine resources. Where traditional methods involve the use of poisonous plants such plants may only be used for harvesting marine resources for special occasions such as customary feasts or other recognized traditional occasions. Poisonous plants may not be used as a harvesting technique for regular local consumption or harvesting for monetary reward.

(3) Any person wishing to harvest or extract marine resources for research purposes must obtain written approval from the Western Provincial Executive. Such an application should be made through the Chief Fisheries Officer.

(4) Any person wishing to harvest or extract marine resources for research purposes must obtain written approval from the Western Provincial Executive. Such an application should be made through the Chief Fisheries Officer.

**17. Restriction on the size of nets used for fishing.**

(1) Any person undertaking fishing for commercial or non commercial purposes shall not use a fishing net with stretched mesh size smaller than 7.5 centimetres.

(2) All retailers and wholesalers who sell fishing nets are required to comply with the size limitation with the nets that they are selling.

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(3) These restrictions apply to all nets used for commercial and non commercial fishing in the Western Province.

(4) Any person not complying with the provisions of subsection (1) is guilty of an offence under this Ordinance and shall be liable to a fine of up to S1,000.00.

(5) Any retailer or wholesaler not complying with subsection (2) is guilty of an offence under this Ordinance and shall be liable for a fine of up to S1,000.00.

**18. Recognition of Customary Fishing Rights**

(1) In acknowledging the responsibility of the Provincial Government for the conservation, management, development and sustainable use of reef, inshore and fresh water fisheries, this Ordinance fully respects and upholds the customary fishing interests and rights of the indigenous people of the Western Province.

(2) In upholding the customary fishing interests and rights of indigenous people of the Western Province, this Ordinance fully encourages people claiming such rights to have these rights statutorily recognized in accordance with the provisions of this Ordinance.

(3) Any indigenous group wishing to have customary fishing and marine interests and rights statutorily recognized is to have those interests and rights deliberated upon and determined by the appropriate local Council of Chiefs at an official hearing by the Chiefs.

(4) Any customary group seeking must determination is to notify the Provincial Secretary of such determination.

(5) The purpose of notifying the Provincial Secretary is to:

- (a) ensure that there is sufficient publication of the hearing so that all interested groups have the opportunity to place submissions and/or objections with regards to an application:
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- (b) Ensure that a designated public officer of the Province is present at the hearing of the Council of Chiefs. The purpose of the presence of the Designated Officer at the hearing is to ensure that:
    - an accurate record of the hearing is recorded;
    - a clear description and record of the nature and of the rights and interests covered by the customary fishing rights is recorded together with the boundaries that they cover;
    - any objections raised about the recognition of customary fishing rights is accurately recorded.
  - (6) (a) The notification to the Provincial Secretary must contain;
    - a description of the location and boundaries of the area which is claimed to be subject to customary fishing rights;
    - a description of the tribe or group claiming customary fishing rights over a particular specified area;
    - an explanation of the historical connection of the group or tribe to the area and the justification for the claim of customary fishing rights.
  - (b) The reason for the requirement of such a detailed notification is to;
    - (i) Provide the Provincial Government with sufficient detail about the notification of the claim;
    - (ii) assist the customary group claiming such rights to set out such a claim with sufficient precision and detail.
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(7) It is the responsibility of the Provincial Secretary through the Designated Officer to ensure that there is adequate publication of and notification about the hearing of the Council of Chiefs to consider and determine the application.

(8) The hearing of the local Council of Chiefs is to be conducted in accordance with the customs of a particular area.

(9) The designated officer is required to ensure that;

- An accurate record of the hearing is recorded in writing;
- The determination with regards to the nature and extent of the rights and interests and the boundaries that they cover are clearly recorded;
- The reasons for the Chiefs coming to the decision which they did are clearly recorded.
- Any objections raised by interested parties are carefully and accurately recorded.

(10) The Designated Officer is responsible for preparing and giving to the Provincial Secretary the decision of the Council of Chiefs together with an accurate written record of the meeting. The document containing the decision must;

- set out the geographical area as determined by the boundaries that the customary rights and interests apply to;
  - the reasons of the Council of Chiefs justifying such a determination.
  - set out any objections raised.
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- (11) (i) upon receipt of the document the Provincial Secretary is to place the decision before the Provincial Executive for endorsement.
- (ii) In considering the endorsement of the Council of Chiefs, the Provincial Executive is to take note of any objections made by interested parties to the Council of Chiefs. If the Executive considers that there is any substance in these objections and these have not been adequately addressed by the Council of Chiefs, the Executive may refer the matter back to the Council of Chiefs for reconsideration. Once reconsidered the matter is to be placed before the Provincial Executive for endorsement.
- (12) A copy of the decision and its accompanying reasons and the associated endorsement is to be;
- Sent to the Permanent Secretary for Fisheries;
  - Kept at the Provincial Fisheries Office;
  - Displayed in appropriate public areas
- (13) While the decision of the Council of Chiefs and endorsed by the Provincial Executive is binding it is subject to the standard judicial review provisions.
- (14) Once the customary area and its associated rights have been recognized then the group or tribe with such rights has the jurisdiction to supervise and manage the area and stop any unauthorized fishing activity by any group/entity or person.
- (15) In terms of boundaries, demarcating the customary fishing area, the customary land boundary starts at the mean (average) low water mark and extends into the sea until the bottom of the sea bed is invisible.
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(16) The supervision and management of the customary area is to take place in accordance with a Management Plan which is developed and written up by the group. Such a Management Plan is to be placed before and approved by the Western Provincial Executive. Before approving the Management Plan the Western Provincial Executive is to consult with both the Ministry of Fisheries and the Attorney General's Chambers to ensure that the Management Plan is consistent with National legislation and policies.

(17) The copy of the approved Management Plan is to be issued to and kept by the Chief Fisheries Officer.

(18) When undertaking the supervision in accordance with the Management Plan, the group is to appoint an Authorized Officer to undertake the work/activity, the authorized officer may if he/she considers it to be appropriate take measures him/herself to stop the unauthorized activity or alternatively report the matter to the police to undertake the required enforcement.

(19) All products from the recognized area which have been taken without any authorization may be confiscated by the authorized officer or the police. Where possible products are to be returned to the customary area.

(20) Persons'/entities/companies undertaking such unauthorized activity within the recognized area are also liable to a fine of S1000.00. Such fines are payable into the Provincial Treasury.

**19. Fish Aggregating Devices**

(1) No person shall set out a fish aggregating device in any area of waters subject to customary fishing rights without the consent of the customary fishing right owner.

(2) No person shall set out a fish aggregating device in any area which has been accorded protection in accordance with section 24 and Schedule 3 of this Ordinance during specified reproductive times.

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(3) No person shall damage, destroy or set adrift any fish aggregating device without the permission of the owner of the fish aggregating device, whether or not such a person claims to be the owner of customary fishing rights in the area in which the fish aggregating device is located, and whether or not any consent has been given by such a person in accordance with subsection (1).

(4) Any person who contravenes the provisions of subsections (1) (2) or (3) is guilty of breaching this Ordinance and shall be liable of a fine of up to but not exceeding \$1000.00.

**20. Prohibition of taking live coral**

(1) Subject to subsection (2) of this no person shall take, cut, collect, blast using any explosives, harvest or remove any coral from or in coastal waters.

(2) Subsection (1) shall not apply to an indigenous person of the Solomon Islands who takes, cuts, collects harvests or removes live coral to use for traditional purposes. To avoid doubt, traditional purposes include producing lime for consumption with betel nuts.

(3) Subsection (1) will no apply to local people who extract coral for the purpose of processing and selling coral for ornamental purposes.  
Any such person must have the required Business Licence Ordinance issued by the Western Provincial Treasury;

(4) Subsection (1) will not apply to any person who has obtained by an appropriate authority authorized in writing by the Solomon Islands Government with the appropriate endorsement by the Western Provincial Government to carry out scientific surveys or other scientific work related to corals.

**21. Damage caused to Coral Reef**

(1) Any ship or vessel which grounds itself upon a coral reef in the Western Province thereby causing damage to the reef is to report such damage immediately to the Chief Fisheries Officer and the local police.

(2) The owner of the ship or vessel is responsible for the costs of any assessment of the damage caused to the reef:

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(3) The owner of the ship or vessel responsible for the damage is responsible for the costs of undertaking any work to rectify the damage caused as it determined by the assessment;

(4) The rectification work undertaken is to be inspected by designated authorized officers of the Province who are to ensure the rectification work required by the assessment is fully undertaken;

(5) The Provincial Authorities are to report any damage and rectification requirements to the appropriate national authorities in order to gain assist with the enforcement of the rectification.

## **22. Protection of Species during reproductive periods**

(1) This Ordinance empowers Provincial Fisheries Officers to;

- Declare that certain species of fish and sea creatures reproducing at certain designated times during the year are to be accorded protection;
- Declare that certain areas at particular times are to be designated as protected areas for species while undertaking their reproductive activities;
- Declare that such a protection means that there is a complete ban on any form of fishing of that species in designated areas for specified periods of time;
- Ensure that the information about the designated areas and species is publically displayed.

(2) All persons are required to comply with the declaration set out in section 17(1). Failure to comply will result in the forfeiture of any fish caught and the imposition of a fine of up to but not exceeding S1000.00.

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(3) The Chief Provincial Fisheries Officer in consultation with other stakeholders is responsible for placing;

- the names of species which need to be protected during the reproductive period;
- the time period that they need to be protected (this includes both the starting date and ending date);
- The specific areas over which the protection is to occur; on the list which is contained in schedule 3 of the Ordinance.

(4) The declaration is to be placed on all public notice boards in the urban areas of the Western Province as well as all Government stations. All Government officials working outside of Gizo are to be provided with an up to date declaration whenever changes or amendments are made.

(5) Whenever a name is added the Provincial Executive at its meetings through the Provincial Secretary is to be notified as is the Permanent Secretary of Fisheries.

(6) An updated list of Schedule 3 is to be held by the Chief Fisheries Officer at all times.

### **23. General Protection of certain species**

(1) No person may take or be in possession of any prohibited species or categories of marine resources listed in Schedule 1 of the Ordinance. A species may be added to Schedule 1 at the recommendation of the Chief Fisheries Officer subsequently endorsed by the Provincial Executive.

(2) The Chief Fisheries Officer is to ensure that the names of the species which are to be accorded full protection under this Ordinance and which are included in Schedule 1 are appropriately published in public areas around the Western Province.

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24. (1) No person may take or be in possession of any of the species listed in Schedule 2 of the Ordinance of a size other than that prescribed in the schedule. An entry may be added to Schedule 2 at the recommendation of the Chief Fisheries Officer subsequently endorsed by the Provincial Executive.

(2) The Chief Fisheries Officer is to ensure that the species listed in Schedule 2 and the size restrictions in terms of harvesting such species are appropriately published in public places around the Western Province.

25. The practice of solely extracting the fins of sharks for commercial purposes is prohibited.

26. At all times the Chief Fisheries Officer must ensure that the restrictions that are included in the Schedules are consistent with National legislation. While all of the schedules may be included in the National legislation, the schedules must not omit any species that are included in the National legislation.

**27. Marine Protected Areas**

(1) This Ordinance provides for the establishment and management of Marine Protected Areas. A Marine Protected Area is defined in section 4 of the Ordinance.

(2) A Marine Protected Area may be established for the following reasons;

- (i) It is considered that the bio diversity of a particular area is such that it needs to be monitored and protected;
  - (ii) An area which is of significant bio diversity is considered to be at risk through exploitation or environmental pollution;
  - (iii) Certain species within a particular area are considered to be of risk of depletion or extinction.
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28. (1) A Marine Protected Area in the jurisdiction of the Western Province may be established by the Western Provincial Executive upon a submission from the Provincial Minister of Fisheries.

(2) Any statutory body or Non Government Organization involved in marine or Environmental protection or any customary group may make a submission to the Provincial Minister of Fisheries requesting that a particular area be declared a Marine Conservation area.

(3) A body which is making a submission for an area to be declared as a Marine Protected Area must set out the reasons for such a submission, such reasons being linked to one of the grounds set out in section 26 (2) of this Ordinance. Such a submission must be supported by relevant facts and evidence.

(4) Any customary group requiring support with the preparation of such a submission is to approach the Provincial Secretary who in consultation with the Chief Fisheries Officer will link the group with an appropriate Non Government Body for assistance in preparing the submission. Should the Non Government Organisation be willing to give assistance it must before commencing any such assistance make clear to both the customary group and the Provincial Government any conditions attached to this assistance.

(5) (1) Where the application for a Marine Protected Area has come from a body other than a customary group and the area included in the Marine Protected Area includes; land subject to customary ownership or waters subject to customary fishing rights the Provincial Executive is to enter into discussions and negotiations with the customary group concerned and a Declaration of a Marine Protected Area is only to be granted with the consent of the customary group concerned. Such consent may include conditions which are considered to be appropriate by the Provincial Executive.

(2) The conditions which are referred to in subsection (1) may include allowing traditional fishing practices to continue on agreed terms taking account of the purpose for establishing the Marine Protected Area.

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29. (1) The Western Provincial Executive may declare any area of Provincial waters and adjoining land to be marine protected areas for the purposes of this Ordinance.

(2) Any declaration that is made under section 28 (1) is to be displayed publically and is to be lodged with the Permanent Secretary of the Ministry of Fisheries.

(3) The designated public officer appointed under section 1 of this Ordinance to investigate claims for customary rights is also to be responsible for advising the Western Provincial Executive on Marine Protected Areas and the issues related to and arising out of these. Such a person will have received appropriate training to enable him/her to provide such advice.

30. (1) No person shall within a Marine Protected Area;

- (i) Fish or hunt any specimen or fish;
- (ii) Collect coral or shells;
- (iii) Disturb any wreck;
- (iv) dredge or quarry and sand, mud or rocks, discharge any polluting substance
- (v) or otherwise disturb the ecology of the area; construct any building, jetty or other premises.

(2) Any conditions which have been granted to customary groups under section 27(7) are to be fully respected and adhered to.

(3) The Western Provincial Executive may, if it considers this to be appropriate approve the construction of any building, jetty or other premises on the Marine Protected Area

31. If the Western Provincial Executive considers that it is appropriate for the Marine Protected Area to be also be registered as a Protected Area under the *Protected Area Act* 2010 then an application should be made to the National Minister of Environment for the area to be declared a Protected Area under Part 3 of the *Protected Areas Act* 2010. Where this is the case the provisions of the Protected Areas Act is to apply to the Marine Protected Area.

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**32. Mangroves**

- (1) The Provincial Executive may after consultation and approval of the relevant customary landowners by order published in the *Gazette*, declare any area of the Province to be designated area for the purposes of this section.
- (2) No person shall within any designated area burn mangrove wood for different purposes. This includes processing of copra, cooking of breadfruit, the smoking of fish and sea cucumber and the making of charcoal.
- (3) No person shall clear any land of mangroves and adjoining sea grass beds within any designated area, without the permission in writing of the Provincial Secretary or other such Government Official he may delegate and in accordance with such conditions as he may specify.
- (4) Any person who contravenes the provisions of sub-sections (2) and (3) is guilty of being in breach of this Ordinance and shall be liable to a fine of up to but not exceeding S1000.00.

**33. Aquaculture**

- (1) Any person who undertakes steps to establish an aquaculture project for commercial purposes must report this s to the Chief Fisheries Officer of the Province who shall establish a register of aquaculture enterprises.

**34. Pollution of Provincial Waters**

- (1) No person shall;
- (a) dump or discharge any wastes or other polluting matter into any river, lake, lagoon or other body of water in the Province in such a way as to harm fish or other living resources or to destroy, endanger or alter the ecology of the river, lake, lagoon or other body of water;  
or
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- (b) carry out activities on the bank or shore adjoining any river, lake, lagoon or other body of water in the Province that is likely to cause harm or the effects of the ecology of the river, lake, or other body of water; without the permission in writing of the Provincial Secretary or such other Government officer as he may delegate.

(2) Any person or organisation who contravenes the provisions of subsections

- is guilty of breaching this Ordinance and shall;
- be liable for a fine of up to S1,000.00; and
- is responsible for rectifying any of the damage caused by the pollution

(3) To promote respect for the waters of the Western Province, the Western Provincial Executive and other groups responsible for implementing and enforcing this Ordinance acknowledge and recognise the need for educational and awareness programmes that discourage pollution and promote environmental protection. The undertaking of awareness and educational programmes on such matters are therefore to receive full encouragement.

### **35. Enforcement**

(1) The principle officer responsible for the enforcement and implementation of this Ordinance is the Chief Fisheries Officer.

(2) To support the Chief Fisheries Officer in his task of implementation and enforcement the Provincial Executive may appoint designated authorized Officers.

(3) Such an authorized officer must be competent in reading and writing and be able to write a report for the Chief Fisheries Officer which will be of a standard sufficient to provide an adequate basis for the laying of a prosecution under the Ordinance.

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(4) Where a person is appointed as an authorized officer he/she shall be issued with an official document from the Provincial Executive stating that the named person has been appointed as an authorized officer. Such a document is to serve as sufficient proof that the person is an appointed authorized officer. The authorized officer is required to produce such a document on demand when undertaking his/her duties as an Authorised Officer.

(5) Any person who willfully obstructs assaults or threatens with violence and an authorized officer in the exercise of his powers shall be guilty of an offence under this Ordinance and liable upon conviction to a fine of up to S2,000.00.

(6) Where an authorized officer has reasonable grounds for believing that an offence has been committed against the provisions of this Ordinance, he/she may without warrant;

- (i) stop, board, search any local or foreign vessel, canoe, or vehicle which he believes has been used in the commission of that offence or in relation to which he believes has been committed;
  - (ii) search the packages belonging to any person, whether in their personal possession or found within any premises, vehicles, vessel or canoe; seize any equipment, gear, explosive, poison or other noxious substance which he believes has been used, carried, possessed or controlled in the commission of such an offence;
  - (iii) seize any species of marine product which he believes has been taken in contravention of this Ordinance.
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- (iv) required any person to produce his licence or his authority if it appears to the authorized officer that such a person is doing any act for which a license is required under this Ordinance or piece of national fisheries legislation and take copies of such license or other authority.

(7) Any item which is seized must if non perishable be delivered to the nearest Provincial Fisheries Office within seven days of the seizure.

(8) Any perishable item that is seized must if still alive be replaced into the Ocean and if not salvageable be appropriately disposed of by the Fisheries Officer.

36. (1) It is the responsibility of an Authorized Officer to report immediately to the Provincial Fisheries Division and/or the police any illegal activities which are undertaken by foreign fishing vessels. Such activities together with the name and description of the vessel are to be carefully noted and reported.

(2) Upon receipt of such reports the Chief Fisheries Officers and/or the Police are responsible to ensure that the illegal activities are reported immediately to all appropriate authorities in Honiara.

**37. No liability of authorized Officers.**

No authorized officer shall be personally liable in respect of any act done or omitted by him/her in good faith in the execution or purported execution of his powers and duties under this Ordinance.

**38. Willful Obstruction**

Any person who willfully obstructs, assaults or threatens with violence an Authorized Officer in the exercise of his/her powers shall be guilty of an offence and liable upon conviction to a fine of up to but not exceeding \$1,500.00.

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**39. Destroying of Evidence**

Any person who destroys any species or product thereof, or any equipment, gear, explosive, poison, noxious substance or any other thing whatsoever with the intent to avoid the seizure of the said substance or thing, or the detection of any offence is liable for a breach of the ordinance and liable upon conviction to a fine of up to but not exceeding \$1,500.00.

40. An authorized Officer must make an official report of any conduct which is in breach of this Ordinance or any national fisheries legislation and ensure that this report is delivered to the Chief Fisheries Officer.

41. The Chief Fisheries Officer shall determine whether or not to proceed with a prosecution over a particular matter. In making such a determination the Chief Fisheries Officer shall take into account the history of the person responsible for the breach and the number of occasions that the person has been responsible for breaches of fisheries legislation.

42. Where there has been a breach of the Ordinance and the Chief Fisheries Officer decides not to proceed with a prosecution he/she needs to record clearly in writing his/her reasons for deciding not to proceed with a prosecution.

43. Any person who is prosecuted by the Chief Fisheries Officer shall have the right to defend the charge in the District Court. In any defence the onus will rest upon the accused person to disprove the charge.

**44. Research in Western Provincial Waters**

(1) Any person wishing to undertake research in Western Provincial Waters must apply in writing to the Provincial Executive for approval.

(2) The written application must;

- set out the nature of the research which is to be undertaken;
  - set out the organization which the research is being undertaken under;
  - set out the purpose of the research and how any findings will be used and disseminated;
  - set out the area in which the research is to take place;
  - set out the duration for the research period
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(3) In considering whether to give approval for the undertaking of such research the Western Provincial Executive is to consult with the Chief Fisheries Officer and other relevant bodies who are to supply appropriate advice and information.

(4) Should the Western Provincial Executive decide to grant written approval the letter of approval must set out the exact nature of the research which is being approved. Copies of the letter of approval are to go to the applicant and the Chief Fisheries Officer. A copy is also to be kept in the Provincial records.

**45. Miscellaneous**

This Ordinance may be amended at any time provided that such Amendments are approved by the Provincial Assembly and *gazette* by the National Government.

46. It is the responsibility of the Chief Fisheries Officer to update the species which are to be included in Schedules (1) (2) and (3) of this Ordinance and through the Provincial Secretary ensure that these updates are approved and endorsed by the Provincial Executive.

**47. Remuneration of Authorised Officers**

The Provincial Executive is to on a yearly basis set the remuneration rates for authorized officers. If the Authorised Officer is also a Village Organiser, the pay that he/she receives as an Authorised Officer will be considered as a separate payment.

48. The Western Provincial Executive is to note carefully submissions from the Chief Fisheries Officer in terms of the resources required to implement the provisions of this Ordinance.

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**Schedule One**

The harvesting or collection of any of the species named below for commercial purposes is prohibited:

- *Tidacna gigas*-giant clam;
  - *Tridacna mderasa*-smooth giant clam
  - *Tidacna souamosa*-fluted giant clam
  - *Tidacna maxima*-rugose giant clam
  - *Tidacna acnidea*-boring clam
  - *Hippopus hippopus*-horses hoof clam
  - *Charonia triponis*-pacific trident;
  - *Holothuria scabra*-sandfish
  - Oyster shell of the genus *Pinctada*
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**Schedule Two**

Size limitation with regards to harvesting of certain species.





**Schedule Three**

Protection of certain species in certain areas during their reproductive period. The following species are to be accorded protection during designated periods in areas where are to be determined by the Chief Fisheries Officer in consultation with relevant Non Government Organisations;

- i) Squartail coral grouper *Plectropomus areolatus* between February and May.
- ii) Flowery grouper (*Epinephelus fuscoguttatus*) between February and May.
- iii) Camouflage grouper (*E. polyphekadion*)
- iv) Maori Wrasse between February and May

The protection period is to be a week before the full moon which is closest to the beginning of February.

Sailfia Snapper between October - December. The protection period is to commence a week before the full moon which is closest to the beginning of February.

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**Schedule Four**

This form must be filled in by all people applying for a commercial fishing licence.

1. Name of applicant for fishing licence.  
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  2. Species of fish or Marine Product to be harvested.  
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  3. Method of harvesting.  
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  4. Place where harvested fish or Marine species is to be sold.  
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