

SUPPLEMENT to the Solomon Islands GazetteTuesday 14th October, 2008

S.I. No.41

[Legal Notice No. 72]

**PROVINCIAL GOVERNMENT ACT 1997
(NO. 7 of 1997)****TEMOTU PROVINCE APPROPRIATION (INTERIM EXPENDITURE)
ORDINANCE 2008**

AN ORDINANCE TO APPROPRIATE ONE MILLION EIGHT HUNDRED AND NINETY-FIVE THOUSAND DOLLARS ONLY, FOR THE PURPOSE OF CONTINUING EXISTING TEMOTU PROVINCIAL GOVERNMENT SERVICES DURING THE PERIOD FROM 1 APRIL 2008 TO 31 JULY 2008.

ENACTED BY THE TEMOTU PROVINCIAL ASSEMBLY

Short title
and
commencement

1. This ordinance shall be cited as the Temotu Province Appropriation (Interim Expenditure) Ordinance 2008 and shall come into force on 1 April 2008.

Authorisation of
issuance of \$1,895,000.00
from the Provincial
Fund

2. Subject to section 3, the appropriation from the Provincial Fund is hereby authorised of the sum of one million eight hundred and ninety-five thousand dollars only, to be applied for the purposes specified in section 34, subsection 2 of the Provincial Government Act 1997 (the “Act”) and during the period commencing on 1 April 2008 and ending not later than 31 July 2008.

Expenditure to be
used for maintenance
of existing services

3. (1) The appropriation provided for in section 2 may be applied only in such amounts as is necessary for the maintenance of existing Temotu Provincial Government services; and until such time as an Appropriation Ordinance for the financial year ending on 31 March 2009 and that complies with clause 8(1)(a) of Schedule 2 of the Act (the “*Appropriation Ordinance 2008/2009*”), is in force.

(2) Other than section 4, this ordinance will lapse and cease to have effect at midnight on 31 July 2008 or on the date the Appropriation Ordinance 2008/2009 comes into force, whichever event occurs first.

Passed by the Temotu Provincial Assembly this 31st day of March 2008.

This printed impression has been carefully compared by me against the ordinance passed by the Temotu Provincial Assembly and is found to be a true and correct copy of the Ordinance.

Peter Richmond McRae
Clerk to the Temotu Provincial Assembly (Acting)
Assented to by the Honourable Minister of Provincial Government,
this 15th day of April 2008.

Minister of Provincial Government

[Legal Notice No. 73]

**TEMOTU PROVINCE
FINANCIAL MANAGEMENT ORDINANCE 2008**

**AN ORDINANCE AS REQUIRED BY SECTION 34(4) OF THE
PROVINCIAL GOVERNMENT ACT 1997, TO PROVIDE FOR THE
PROPER MANAGEMENT OF PROVINCIAL FUNDS AND THE
PROPERTY OF TEMOTU PROVINCE**

Enacted by the Temotu Provincial Assembly with the assent of the Minister, as follows -

Part I - Preliminary

Section

1. Citation
2. Commencement
3. Application of this Ordinance
4. Accounting Officer - Overall Responsibility for Control of Funds on a Daily Basis
5. Dictionary

Part II - Annual Estimate/Budget

Section

6. Preparation of Draft Estimate/Budget
7. Consultation by Provincial Treasurer
8. Form of Estimate/Budget
9. Timetable for Preparation and Approval
10. Lapse of Funds

Part III - Method of Authorising and Making Issues from the Provincial Fund

Section

11. Authority for Expenditure
12. Approved Estimates
13. Delegation of Authority
14. Wise and Effective Use of Funds
15. Allocation of Expenditure
16. Necessity for Economy
17. Recording Date of Payment
18. Settlement within Financial Year

Part IV - Management and Reallocation of Funds

Section

19. Monthly Reporting of Expenditure
20. Supplementary Approvals and Estimates
21. Supplementary Approvals - Report Requirements
22. No Supplementary Expenditure Without Prior Approval
23. Amendment to Budget Allocations From Supplementary Approval
24. Estimate/Budget Transfer - between Divisions & Development Projects of Greater than 10% or to a New Service Within a Division
25. Estimate/Budget Transfer - between Divisions & Development Projects of less than 10%
26. Estimate/Budget Transfer - between Account Codes in the Same Division

Part V - Use of Funds before Appropriation Ordinance

Section

27. Continuance of Existing Services
28. Delay in Approval of Estimate
29. Supplementary Appropriation

Part VI - Use of Bank Accounts and Investment of Money

Section

30. Maintenance of Bank Accounts
31. Investment of Funds
32. Restriction on Investment in Commerce
33. Use of Bank Accounts
34. Signatures for Withdrawals from Provincial Government Bank Accounts
35. Prohibition on the Signing of Blank and Post-Dated Cheques
36. Alterations to Cheques
37. Custody of Cheque Books
38. Reconciliation with Bank Account

Part VII - Making of Advances and Imprests

Section

39. Prohibition on Advances and Imprests
40. Expenditure not to be Charged to Advances or Imprests Unless Authorised
41. Authority for Advances of Salary
42. Use of Advances of Salary
43. Amount Available to be Advanced on Salaries
44. Recording of Advances of Salary
45. Reconciling of Advances of Salary
46. Debts Due to the Provincial Government
47. Clearance of Advances of Salary
48. Authorising Provincial Employee or Member Liable - Advance of Salary
49. Refund of Overpayment
50. Imprests - General
51. Requirement to Retire Imprest Accounts
52. Standing/Petty Cash Imprests
53. Temporary Imprests
54. Imprest Holder Responsible for Retirement
55. Outstanding Imprests
56. Clearance of Outstanding Temporary Imprest Accounts - Direct Provincial Employees
57. Clearance of Temporary Imprest Accounts - Elected Members and Seconded Provincial Employees
58. Authorising Provincial Employee or Member Liable - Temporary Imprests

Part VIII - Acceptance of Deposits

Section

- 59. Cheques Which May be Accepted
- 60. Acceptance

Part IX - Creation and Control of Special and Development Funds

Section

- 61. Power to Create Special and Development Funds
- 62. Special/Development Fund Rules

Part X - Appointment, Duties and Responsibilities of Staff Charged with Accounting Tasks

Section

- 63. Appointment of Provincial Treasurer
- 64. Duties of Provincial Treasurer
- 65. Provincial Treasurer to Check Provincial Government Monthly Accounts
- 66. Surprise Survey of Cash
- 67. Provincial Treasurer to be Available to Attend Executive and Assembly
- 68. Provincial Treasurer to be Available to Attend Committee Meetings
- 69. Provincial Treasurers' Financial Reporting
- 70. Appointment of Accounting Officer/Provincial Secretary
- 71. Duties of Provincial Secretary
- 72. Financial Responsibilities of Provincial Employees
- 73. Duties of Provincial Employees
- 74. Treasury Staff
- 75. Role of the Auditor General
- 76. Continuing Responsibility
- 77. Provincial Employees Prohibited from Handling Cash

Part XI - Quotation and Tenders

Section

- 78. Authority to Procure Goods and Services
- 79. Tenders over \$500,000
- 80. Quotation and Tenders Requirements Contained in the Financial Instructions and Stores Instructions
- 81. Persons Who This Part Applies To

Part XII - Procurement Procedures and Use of Stores

Section

- 82. Requirements Contained in the Financial Instructions and Stores Instructions
- 83. Persons Who This Part Applies To

Part XIII - Sale or Disposal of Provincial Government Property, Shares and Assets

Section

- 84. Items Valued at Less Than \$1,000
- 85. Items Valued at Greater Than \$1,000
- 86. Prohibition From Selling or Disposing of Non-Provincial Government Property
- 87. Persons Who This Part Applies To

Part XIV - Borrowing of Funds

Section

- 88. Borrowing to Comply with Provincial Government Act
- 89. Authorised Lender

Part 1 - Preliminary

- Citation **1.** This Ordinance may be cited as the Temotu Province Financial Management Ordinance 2008.
- Commencement **2.** This Ordinance shall come into effect when assented to by the Minister in accordance with Section 30 of the Provincial Government Act 1997 and shall apply to all financial transactions and business of Temotu Province and administrative units and to the management of all public monies and public property of the Temotu Provincial Government.
- Application of this Ordinance **3.** (1) This Ordinance applies to all financial transactions and business of Temotu Province and administrative units and to the management of all public monies and public property of the Temotu Provincial Government.
- (2) For the purpose of ensuring compliance with the provisions of subsection (1) the Provincial Executive shall issue written instructions, to be called Financial Instructions and Stores Instructions, for the better carrying out of the provisions and purposes of this Ordinance.
- (3) If this Ordinance conflicts with any law of the Solomon Islands, then the law of the Solomon Islands must be followed and not this Ordinance. Any person becoming aware of such a conflict will immediately notify the Provincial Secretary and Minister responsible for Provincial Government in writing.
- (4) This Ordinance cannot prevent the law of the Solomon Islands from being applied.
- (5) Where there is a conflict between this Ordinance and any earlier Financial Management Ordinance, Instructions or circular, this Ordinance shall prevail.
- (1) Subject to Section 36 of the Provincial Government Act 1997, this ordinance expressly appoints the Provincial Secretary as the Provincial Accounting Officer and the Provincial Treasurer as his or her deputy in that regard.

(2) The Provincial Accounting Officer/Provincial Secretary has the overall responsibility to control and account for all funds received and paid by the Province on a daily basis and to report and account to the Provincial Executive, Provincial Assembly, the Auditor-General and the MPG as required.

Dictionary

5. In this Ordinance, unless the context otherwise requires –

“Account Code” means a code used to detail each type of revenue and expenditure within the Provincial Government. Account codes are categorised into account types, such as income and expenditure but also reflect the divisions of the Provincial Government.

“Account Code Control Card” means the record of all the money the Province has spent or plans to spend; and so will also show how much is left to spend for that Financial Year. It may be prepared on a computer, with the Accounting Officer’s approval.

“Accountable Stationery” means any official stationery of the Province which requires control over its distribution, including such items as receipt books, tickets books and so on.

“Accountant General” means the person designated as such.

“Accounting Officer” means the Provincial Secretary. The terms Accounting Officer and Provincial Secretary may be used interchangeably in this Ordinance but have the same meaning. The Accounting Officer has overall daily responsibility to control and account for all funds received and paid by the Province. The term “Accounting Officer” includes a formally appointed delegate for the Accounting Officer; except where this Ordinance does not allow the Accounting Officer to delegate a duty.

Refer to Part X for the appointment and responsibilities of the Accounting Officer.

“Act” means the Provincial Government Act 1997.

“Administration” means the entire administrative set-up of the Province.

“Adopted estimate” means the original estimate/budget for the Province for a financial year including any amendments to the estimate/budget adopted by the Province.

“Advance of Salary” means Provincial money that is given to an employee of the Province in advance of his or her usual salary payment. An advance of salary is repaid by way of a deduction from the employee’s salary.

“Advertising” means promoting to the public an idea, goods or services by using a medium commonly used for promoting ideas, goods or services and for which a fee is paid.

Examples of mediums commonly used for promoting ideas, goods or services – newspaper and radio

“Allocation” means the total dollar amount of spending allowed for each account code in the estimate/budget.

“Appropriation Ordinance” means the official document that authorises the Province to spend in that financial year. The appropriation ordinance applies until the last day of the financial year only and then needs to be replaced with a fresh annual Appropriation Ordinance.

“Approved for Payment” means the process of approving a Payment Voucher or Local Purchase Order for payment.

“Arrears” means any transaction, revenue or expenditure, not yet completed by the Province and considered to be overdue.

“Arrears of Expenditure” means payments due to be made, but not yet paid, by the Province.

“Arrears of Revenue” means revenue owed to the Province, but not yet collected.

“Asset” means Provincial property.

“Asset Register/Asset Registers” means records of all Provincial assets.

“Auditor-General” means the person holding that office under the Constitution of Solomon Islands, and includes any person duly acting in that position.

“Bank Account” means an account with a bank or other financial institution

“Buying Goods and Services” means buying goods and services for use by the Province.

“Cash Flow Estimate” means an estimate of actual spending to be made in each month of the Financial Year.

“Cash in Transit” means cash, cheques, postal orders, money orders and other negotiable documents of value being remitted or transferred from one office or place to another.

“Commitment” means any payment that has been approved and recorded by the Province, but not yet paid.

“Conflict of Interest” means any situation where a provincial employee’s or elected official’s decision or actions are, appear to be, or in the circumstances that apply may be influenced by opportunities for personal financial gain or other personal advantage or consideration.

“Control Measure”, for managing a risk, means a measure that may be adopted for reducing the risk.

“Debtor” means the person owing money to the Provincial Government.

“Delegate” means any provincial employee formally appointed to carry out the duties of the Accounting Officer.

“Delegation” means transfer of authority to another person.

“Depreciable Amount” for an asset, means the depreciable amount for the asset.

“De-reservation” means where the Accounting Officer allows reserved funds to be spent.

“De-reservation Warrant” means the document that authorises the Province to spend that part of their Accounting Warrant that was at first withheld from spending. General warrants apply until the last day of the financial year only; and then need to be replaced with a fresh annual Warrant.

“Development Fund” means a fund created specifically for development purposes, which is held and managed separately from the Provincial Fund. It may have its own accounting procedures, but needs to be reported on along with other funds.

“Division” means a business unit of the Provincial Government. Examples may include, amongst others, “works division” and “finance division”.

“Document” means all forms of physical and electronic documents.

“Estimates/Budget” means the Estimates of Recurrent and Development Revenue and Expenditure, or budget book, prepared each year for approval by the Provincial Assembly.

“Estimate/Budget Control” means continued checking of spending against the allocation for each account code to make sure overspending does not occur.

“Estimate/Budget Transfer” means the complete or partial transfer of allocations between account codes.

“Estimate/Budget Transfer Warrant” means the official document that authorises divisions to transfer estimate/budget allocations from one account code to another. Warrants apply until the last day of the financial year only, and then need to be replaced with a fresh annual Warrant.

“Expenditure” means spending.

“Files” means storage of documents.

“Financial Year” means the 12 month period between 1st April and 31st March.

“General Ledger” means an accounting book summarising all of the province’s financial transactions. The general ledger is used to help prepare financial statements and other reports.

“Imprest” means Provincial money that is given into the personal care of a provincial employee or elected member to make Provincial payments. An imprest can only be used for the reason that it was requested. If it is not used for that reason and/or the provincial employee or elected member does not repay the money to the Province, then the amount of the Imprest may be taken out of the provincial employee’s salary or paid from the Member’s allowance.

“Imprest Fund” means the fund which is established to advance Provincial money to an authorised provincial employee or elected member. The authorised provincial employee is responsible for the security, use, accounting and reporting of these funds, as required by this Ordinance. The authorised provincial employee or elected member will be asked to repay any money that cannot be accounted for out of the advance.

“Imprest Holder” means any provincial employee or elected member receiving a Provincial advance in the form of an Imprest Fund.

“Imprest Warrant” means the official document used to give an advance of provincial money called an Imprest Fund into the personal care of a provincial employee or elected member. The provincial employee or elected member receiving the advance is called the Imprest Holder.

“Journal” means an entry in a double-entry system, listing all transactions and indicating the accounts to which they belong.

“Journal Entry” means recording of financial data pertaining to a financial transaction in a journal such that the debits equal the credits.

“Land and Building” means land, buildings and enclosures which are owned, rented or occupied by the Administration.

“Ledger” means an accounting book where transactions are listed by individual accounts.

“Loss” means any loss of Provincial monies, whether caused by accident, negligence, theft, deficiency, fraudulent payment, suppression of revenue, irrecoverable revenue, misappropriation, misuse or unauthorized damage or destruction.

“Member” means an elected official of the Province.

“Minister” means the Minister responsible for Provincial Government (MPG).

“Moneylies” includes cash, cheques, postal and money orders, stamps and other negotiable documents of monetary value.

“Official Certificate”, of the Province, means a certificate that has been signed by both of the following persons –

- (a) The Provincial Secretary of the Province;
- (b) The Premier of the Province.

“Official Receipt” means a receipt duly issued using any of the revenue earning books used by the Provincial administration. Such books include all receipts, licences, certificates, permits, tickets and any similar devices, used for the collection and recording of revenue.

“Operating Bank Account”, for the Province, means a bank account used only for amounts accredited to the Provincial Fund.

“Original Estimate/Budget”, of the Province, for a financial year, means the budget adopted by the Province for the financial year.

“Organisation” means any Partnerships and Companies, or other business association or society, whether incorporated or unincorporated.

“Payment Voucher” means a piece of substantiating evidence in an approved format which is duly completed and authorised. A payment voucher is required before the payment of any Provincial funds is made.

“Pre-numbered Forms” means receipt books, licence books, Local Purchase Orders (LPO), requests for payment, and any pre-numbered document used in the receiving or spending of public money.

“Provincial Employee” means anybody working for the Province, either as a direct employee or seconded from a Central Ministry.

“Provincial Fund” means the fund used to account for all assets and liabilities of the Province, except those particularly assigned for other purposes in another more specialised fund. It is the primary operating fund of the Province. Most of the usual activities of the Province are supported by the Provincial Fund, such as the purchase of supplies and meeting operating expenditures.

“Provincial Secretary” means the person who is ultimately responsible for all books, deeds, records and other documents of the Provincial Government, for the daily control of all funds for services provided by the Provincial Government and for the collection and disbursement of all other Provincial Government monies with which the Provincial Government is charged. The Provincial Secretary is responsible for ensuring that provincial employees have clear instructions (which must conform to this Ordinance) for carrying out all aspects of the financial side of his or her duties. The terms Provincial Secretary and Accounting Officer may be used interchangeably in this Ordinance but have the same meaning.

Refer to Part X of this Ordinance for the appointment and responsibilities of the Provincial Secretary.

“Provincial Treasurer” means the provincial employee of the Provincial Government who is in charge of finance.

Refer to Part X of this Ordinance for the appointment and responsibilities of the Provincial Treasurer.

“Provincial Money” means all revenue or money raised for providing Provincial functions and services and any other money held by any person for or on behalf of the Administration. This includes any borrowing, loans, donor funds, grants or gifts placed into Provincial control.

“Registers” means any set of Provincial records maintained to hold and organise core or significant provincial information.

“Replenish or Replenishment” means a payment that brings the amount of an Imprest Fund up to the original amount of the advance. The Imprest Holder needs to give a replenishment report with all supporting documentation. Documents need to show how the original Imprest Fund was spent before replenishment will be paid out to the Imprest Holder.

“Reserved Funds” means funds allocated under a Warrant that have been withheld and cannot be spent until the Premier or member of the Provincial Executive responsible for finance gives the approval to do so in the form of a De-reservation Warrant.

“Responsible Provincial Employee” means the provincial employee of the Province responsible for a task.

“Revenue Account Code” means the accounting code used in the Estimate or Budget book to describe the types of revenue that are to be collected by the Province during the year.

“Revenue Collector” means any provincial employee who officially receives any revenue or other public money and who must give a receipt, keep an official cash book and account for all money received.

“Risk Management” means the establishment of policies, procedures and practices to identify, analyse, quantify, monitor, and control financial and other exposures of the Province so as to minimize potential losses.

“Special Fund” means a fund created by the Assembly, which is held and managed separately from the Provincial Fund. It may have its own accounting procedures, but needs to be reported on along with other funds.

“Sub-Accountant” means a provincial employee posted to a sub-station authorised to receive, hold and make payments of public money; keep a cash book and account for transactions.

“Subsidiary Ledger” means details of an account that support the amount in the general ledger.

“Treasury information” means accounting records held in the treasury/finance unit, which are the official Province records.

“Unacceptable Charge” means any payment that in the opinion of the administration is for obviously excessive price(s) or corrupt or fraudulent activity. The reasons for a refusal to pay an unacceptable charge must be documented and signed by the Provincial Secretary. Any decision to overrule the administration’s refusal to pay must also be documented and signed by the authority making the decision to overrule.

“Unallocated Stores” are stores the cost of which is charged to a Stores Control Account pending later charge to the relevant Division and Item of expenditure.

“Warrant” means a document that gives the holder the right to act in the way described in the Warrant. Warrants for expenditure apply until the last day of the financial year only; and then need to be replaced with a fresh annual Warrant.

“Year” means Financial Year.

Part II - Annual Estimate/Budget

6. The draft estimate/budget will be prepared by the Accounting Officer and Provincial Treasurer, before being submitted to the Provincial Executive for endorsement. The draft submitted shall take into account all of the Provincial Executive and relevant Committee decisions regarding the proposed Provincial Government activities and income and expenditure levels for the year of estimate/budget.

Preparation of Draft Estimate/Budget

7. The Accounting Officer and Provincial Treasurer will consult as necessary with other provincial employees to obtain the required information for inclusion in the estimate/budget.

Consultation by Provincial Treasurer

8. The annual estimate/budget of revenue and expenditure shall be in such form as the Accounting Officer or Executive may from time to time direct; provided that the following is included:

Form of Estimate/Budget

- (a) A staff budget showing all employees of the Provincial Government by name and post designation, current grade and salary and any provisions for increases or adjustments;
- (b) The sources and the amount to be collected from each source of revenue;
- (c) The scope of each division showing a summary of the revenue and expenditure account codes, together with monetary values, used within the division. This statement will include sufficient detail of the services to be provided in order to properly inform members of the divisions' nature and scope;
- (d) A Capital Expenditure Budget showing:
 - (a) Account code that expenditure will be charged to;
 - (b) Name of the capital project;
 - (c) Amount spent to end of previous estimate/budget year;
 - (d) Amount budgeted for the project in the previous estimate/budget year;
 - (e) Approved budget for the current estimate/budget year;

- (g) Current year revised estimate/budget (if adopted);
 - (h) Amount of current year's estimate/budget spent to date (if revised estimate/budget requested);
 - (i) Method of financing; and
 - (j) Additional annual recurrent costs (both running and financial costs) of the project;
- (e) A Detailed estimate/budget (in account code order) for each recurrent income and expenditure item showing:
- (a) Income/expenditure account code;
 - (b) Description;
 - (c) Amount spent to end of previous estimate/budget year;
 - (d) Amount budgeted for the account code in the previous estimate/budget year;
 - (e) Approved budget for the account code in the current estimate/budget year;
 - (f) Expected budget for each account code for the next two years (following the current estimate year);
 - (g) Current year revised estimate/budget (if adopted); and
 - (h) Amount of current year's estimate/budget spent to date (if revised estimate/budget requested);
- (f) A statement of proposed rate levy and anticipated income from each classification of levy;
- (g) Estimate cashflow statement for the estimate/budget year;
- (h) Explanatory notes as required to substantiate all items included in the estimate/budget.

9. (1) Committees must complete their proposals for items to be included in the estimate/budget before the 15 December each year.

(2) The Provincial Treasurer will complete the draft estimate/budget by the end of January and submit, through the Provincial Secretary, the complete document to the Provincial Executive in February.

(3) The estimate/budget will be approved by the full Provincial Assembly at the annual budget meeting by the end of the first week in March, in the form of an Appropriation Ordinance, and submitted to the Minister responsible for Provincial Governments (MPG) for assent.

(4) The approved estimate/budget will be open to public inspection and the Province will ensure that the public are advised that they can view the estimate/budget as soon as possible after approval has been received.

10. The Appropriation Ordinance in respect to each year shall lapse and cease to have effect at the close of that financial year. Lapse of Funds

Part III - Method of Authorising and Making Issues from the Provincial Fund

11. (1) No Appropriation Ordinance has effect until it is passed by the Provincial Assembly and assented to by the Minister responsible for Provincial Governments (MPG). Authority for Expenditure

(2) Subject to Part IV, no payment from Provincial funds will be made unless authority has been given by either approval of the Annual or Supplementary estimates.

(3) The authority to incur expenditure is vested in the Provincial Executive and the Accounting Officer shall not make any payment nor accept any charge in his or her accounts, whether provided for in the estimates or unless authorised to do so by a General or other Warrant issued to Section 36 of the Provincial Government Act.

(4) All disbursements of Provincial money shall be made under authority of the Provincial Executive by the Accounting Officer either personally or by a provincial employee acting on his or her instructions or written delegation.

(5) Expenditure from the Provincial Fund shall not be issued or committed except under the authority of a duly completed and authorised warrant.

(6) Where provision has been made in the estimates but authority to incur expenditure has been excluded from the Warrant specific authority must be obtained before expenditure may be incurred.

12. The estimates contained in the Appropriation Ordinance shall be known as the approved estimates of revenue and expenditure for the financial year. Approved Estimates

13. (1) The Provincial Executive may delegate to a committee power to authorise expenditure in accordance with approved estimates to such limits and on such services as may be specified.

(2) No delegation of responsibility may exceed 50% of the total amount for that activity as specified in the approved estimate.

14. Even though an amount appears in the estimates and has been approved by the General Warrant the Accounting Officer must use Provincial monies prudently and effectively and should not fully spend an appropriation if this is not necessary. The Accounting Officer may not in any case incur budgeted expenditure unless the finance approved for the purpose is available.

15. All expenditure will be allocated strictly in accordance with the account codes shown in the approved estimates.

16. Money should not be spent unless the approving provincial employee is satisfied that the expenditure is necessary and the subject or purpose of the expenditure can not be achieved by some other more economical or efficient means.

17. The actual date of payment must be the one recorded in the accounts. Expenditure properly chargeable in any financial year must be accounted for within that financial year.

18. All provincial employees are required to ensure that all expenditure incurred and chargeable against account codes of the year are as far as possible paid within the financial year to which it is properly chargeable.

Part IV - Management and Reallocation of Funds

19. The Provincial Treasurer will undertake a monthly review of expenditure and provide the review to the Provincial Secretary. The Provincial Secretary will submit each review to be presented to the Provincial Executive for its consideration, together with his or her own comments on the month under review.

20. Subject to this part, supplementary approval is required from the Provincial Assembly for: Supplementary Approvals and Estimates

- (a) All payments on account of functions or services for which provision is not made in the estimates; and
- (b) All payments in excess of the amounts provided for in the estimates.

21. All requests for supplementary approval must be submitted to Provincial Assembly via the Provincial Executive and be supported by a Supplementary Estimate showing for each expenditure account code involved: Supplementary Approvals - Report Requirements

- (a) Original estimate;
- (b) Amount spent to date;
- (c) Amount of the recommended payment giving rise to the supplementary approval request;
- (d) Total supplementary estimate required for the financial year; and
- (e) Method of financing the supplementary estimate (e.g. budget transfer between account codes, increased charges and so on). Where a budget transfer is proposed details of the estimate and anticipated underspend on the account code from which the transfer is to be made must be given.

22. Subject to this Part, no supplementary expenditure may be committed until approval is obtained from the Provincial Assembly. No Supplementary Expenditure Without Prior Approval

23. If a supplementary estimate is financed by a budget transfer from another account code, the reduction of such account code must be reflected in the estimates and expenditure controlled to the reduced figure. Amendment to Budget Allocations From Supplementary Approval

24. Where it appears to the Provincial Executive to be in the public interest to increase:

- (a) By greater than 10% the amount allocated to a particular Division of the Province; or
 - (b) By greater than 10% the amount allocated to a development project; or to
 - (c) Allot funds for the provision of new services within a division.
- Estimate/Budget Transfer - Between Divisions and Development Projects of Greater than 10% or to a New Service Within a Division

the Executive may, by an order in writing, reallocate funds by a corresponding reduction of the funds allocated to another division or development project; provide that –

- (a) The total funds appropriated to the affected divisions are not exceeded; and
- (b) The total funds appropriated to all development projects are not exceeded; and
- (c) The scope of any new service provided falls within the scope of the division concerned; and
- (d) The relevant order is laid before the Assembly at its next meeting and may be subject to a negative resolution.

25. Where it appears to the Provincial Executive to be in the public interest to increase:

- (a) By less than 10% the amount allocated to a particular Division of the Province; or
- (b) By less than 10% the amount allocated to a development project.

the Executive may, by written resolution, reallocate funds by a corresponding reduction of the funds allocated to another division or development project; provided that –

- (a) The total funds appropriate to the affected divisions are not exceeded; and
- (b) The total funds appropriated to all development projects are not exceeded.

26. Where it appears to the Accounting Officer to be in the public interest to increase the amount allocated to individual account codes within a Division.

Estimate/Budget
Transfer -
Between
Divisions and
Development
Projects of Less
than 10%

Estimate/Budget
Transfer -
Between
Account Codes
in the Same
Division

The Accounting Officer may, by warrant under the Premier's and Accounting Officer's own hands, reallocate funds by a corresponding reduction of the funds allocated to another code, within the same Division, provided that –

- (a) The total funds appropriated to applicable account codes are not exceeded; and
- (b) The total funds reallocated do not exceed 10% of the affected account codes approved estimate amounts.

Part V - Use of Funds before Appropriation Ordinance

27. The monies of the Provincial Fund shall not be issued or committed except under the authority of a warrant given in accordance with Section 36 of the Provincial Government Act, after the enacting of an Appropriation Ordinance. Provided that the Premier may authorise the ordering of stores in advance of appropriation to ensure the continuance of existing services.

Continuance
of Existing
Services

28. (1) If, at the commencement of any financial year, the Appropriation Ordinance for that year shall not have come into operation, the Provincial Assembly may, by an Appropriation Ordinance that complies with Schedule 2, clause 8(1)(b) of the Act, empower the member of the Provincial Executive responsible for Finance to authorise the issue of moneys from the Provincial Fund for the purpose of meeting expenditure on existing services at a level not exceeding the level of expenditure in the previous financial year, until the expiration of four months from the beginning of the financial year or until the coming into operation of the Appropriation Ordinance which ever is the sooner.

Delay in
Approval of
Estimate

(2) Where the Assembly passes such an Ordinance as per subsection (1), the member of the Provincial Executive responsible for Finance shall issue a General Warrant to the Provincial Secretary, authorising the latter to issue and pay from the Provincial Fund such sums of money set out within the estimates, but within the limits stipulated by the resolution. Thus the maximum that can be warrant is one third of the previous year's estimate for each division.

(3) Copies of all General Warrants shall be forwarded to the Auditor General and Accountant General.

Supplementary
Appropriation

29. Any issues from the Provincial Fund authorised by a warrant made under Section 28 shall be included in the Appropriation Ordinance for the year or in a Supplementary Appropriation Ordinance submitted to the Assembly at its meeting next following the date of the issue of the warrant. Upon appropriation of the monies concerned the warrant shall cease to have effect.

Part VI - Use of Bank Accounts and Investment of Money

Maintenance of
Bank Accounts

30. The Provincial Treasurer shall be authorised by the Provincial Secretary and Executive to maintain bank accounts on behalf of the Province at a designated bank or banks.

All monies of the Provincial Fund and of Provincial special or development funds and monies held in accordance with Section 60 shall be deposited promptly in the Provincial Government bank accounts, provided that money surplus to current requirements may be invested in accordance with Section 31.

Investment of
Funds

31. The Provincial Secretary may authorise the investment of monies which are not required to finance current expenditure, provided that such investment is made in accordance with the prior written Provincial Executive policy regarding such investments.

Restriction on
Investment in
Commerce

32. Monies of the Provincial Fund and monies held under Section 60 shall only be invested with banks or in Solomon Island Government securities.

Use of Bank
Accounts

33. The use of a Provincial Government bank account for other than official transactions is prohibited. In no circumstances may Provincial Government money be lodged in a private bank account or any private money lodged in a Provincial Government bank account.

Signatures for
Withdrawals
from Provincial
Government
Bank Accounts

34. (1) The Provincial Executive will decide on cheque signatories but, in all cases, cheques must include the signatures of both the Provincial Secretary and the Provincial Treasurer or their authorised deputies.

(2) The Provincial Executive may resolve that in addition to the above two signatories - withdrawals over a specified sum must be signed by a third signatory (such as Chairman of the Accounts Committee).

(3) Immediately upon a signatory to a provincial bank account ceasing to be a provincial employee the Provincial Executive will contact the relevant financial institutions/ to instruct them to remove that person from the authorised signature list and replace them with an alternative signatory.

35. (1) Under no circumstances are blank cheques to be signed by any signatory to the Provincial bank accounts until such time as a completed payment voucher is presented to support the drawing of the cheque. Prohibition on the Signing of Blank and Post-Dated Cheques

(2) Under no circumstances are post-dated cheques to be signed by any signatory to the Provincial bank accounts.

36. Alterations to cheques drawn on Provincial Government bank accounts must be signed in full, not just initialled, by all signatories. Alterations to Cheques

37. Cheque books, when not in use, must be kept under lock and key in a strongroom, safe or steel cabinet under the sole custody of the Provincial Treasurer or his or her delegated representative. Care must be taken at all times to ensure that cheques cannot be extracted for fraudulent purposes. Custody of Cheque Books

38. (1) All bank accounts must be reconciled with the balance in the cashbooks within 1 week of the receipt of the bank statement. The reconciliation statements must detail all outstanding cheques, outstanding debits and credits and fully explain any differences between the balances. A copy of the reconciliation statement must accompany the monthly trial balance. Reconciliation with Bank Account

(2) Bank statements must be obtained as frequently as possible, and at least monthly. It is essential that statements must be reconciled with the cashbooks within 1 week of the receipt of the bank statement.

(3) Action must be taken to make the necessary entries in the accounts to rectify differences between the bank statements and cashbooks, as soon as the differences have been identified.

Part VII - Making of Advances and Imprests

Prohibition on
Advances and
Imprests

39. Except as expressly provided in this part, no Provincial Government money shall be made use of for any private purpose whatsoever. Provincial employees are strictly prohibited from advancing or lending any Provincial money for which they are responsible, except as provided in this part.

Expenditure not
to be Charged to
Advances or
Imprests Unless
Authorised

40. The Accounting Officer is prohibited from charging payments to an advance or imprest account unless authorised so to do in accordance with this Ordinance.

Authority for
Advances of
Salary

41. (1) Advances of salary to individual direct provincial employees are to be made within any policies or limits approved by the Executive and subject to this Ordinance. All advances of salary must be approved in advance by the Provincial Secretary and the Provincial Treasurer or his or her duly authorised representatives, who has been given previous authority in writing.

(2) All advances of salary must be made on official approved forms in triplicate, one copy of which will be placed on the individual's personnel file and one copy retained in the Provincial Treasurer's office. The third copy shall support the payment voucher.

(3) The application form shall include space for the signatures of the recipient, the cashier and the authorising provincial employee referred to in subsection (1).

Use of Advances
of Salary

42. Advances of salary are only available to direct provincial employees for his or her personal use.

Amount
Available to be
Advanced on
Salaries

43. Advances of salary are only available to direct provincial employees for his or her personal use.

Recording of
Advances of
Salary

44. All advances of salary will be collectively recorded against a staff advance account code in the general ledger. An individual advance account, in a subsidiary ledger, will be opened by the Provincial Treasurer for each direct provincial employee who is indebted to the Provincial Government. Payments and receipts will be entered as part of the normal ledger posting procedures.

45. The balance of the staff advance of salary account code will be reconciled to all staff's individual advance accounts in the subsidiary ledger at least monthly.

Reconciling of
Advances of
Salary

46. (1) Whenever an overpayment (e.g. of salary) to a provincial employee is discovered, the Accounting Officer will:

Debts Due to the
Provincial
Government

- (a) Immediately notify the provincial employee concerned;
- (b) Propose a method and schedule to recover the overpayment; and
- (c) Give the employee an opportunity to make representations about whether the proposed recovery is appropriate and/or the rate at which the recovery is proposed to be made.

(2) Where a mutually agreed proposed can not be reached, the matter will be immediately referred to the Commissioner of Labour or to the courts for consideration.

(3) Immediately upon mutual agreement being reached, as per subsection (1), or upon receiving a directive from the Commissioner of Labour or the courts, as per subsection (2) the full amount of the overpayment will be debited to the staff advance of salary account code and a record made in the individual advance account in the subsidiary ledger. The credit entry of this transaction will be to the account code in which the overpayment occurred.

47. (1) Where a mutually pre-agreed advance of salary has been made repayments shall commence in the pay period immediately following the pay period in which the advance of salary was made. The repayments shall be in equal instalments over a number of pay periods, until such time as the advance of salary is paid in full.

(2) Where an overpayment of salary to a provincial employee is discovered, repayments shall commence in the pay period immediately following the pay period in which the amount of the advance as per Section 46(3). The repayments shall be in equal instalments over a number of pay periods, until such time as the advance of salary is paid in full.

(3) The regular repayment amount will not exceed one third, 1/3, of the gross salary payable to the direct provincial employee within a period.

(4) When a direct provincial employee's service with the Provincial Government finishes, for whatever reason, it is the duty of the Provincial Treasurer to ensure that all monies due to the Provincial Government are deducted from the provincial employee's final pay. The Provincial Secretary is responsible for informing the Provincial Treasurer of the impending departure of a provincial employee. The Provincial Treasurer must be given ample notification of an impending departure of a Provincial Government employee to enable them to obtain and prepare a liabilities schedule so as to calculate the amount due, if any, from the provincial employee.

(5) The completion of repayment shall result in the copies of the advance of salary form, held by the Provincial Treasurer and within the individual's personnel file, being endorsed to that effect.

Authorising
Provincial
Employees and
Members Liable -
Advance of
Salary

48. The provincial employees authorising advances of salary (Provincial Secretary and Provincial Treasurer) will be personally liable for the recovery of any advances of salary not made according to this Ordinance or any policy or limit set by the Provincial Executive.

Refund of
Overpayment

49. When the amount recovered from a provincial employee's advance account is in excess of the amount of the advance, a refund on an ordinary payment voucher will be prepared and the amount refunded.

Imprests -
General

50. Imprests are sums advanced to Provincial Government employees and members to enable them to meet anticipated official expenditure on Provincial Government business.

Requirement to
Retire Imprest
Accounts

51. Imprests must be paid back to the Provincial Government immediately that the necessity for it ceases. All disbursements out of imprests must be accurately recorded and at any time the total disbursements, as supported by vouchers receipts or other acceptable evidence of expenditure, plus the cash remaining must agree with the imprest amount.

52. (1) A standing imprest is one issued to a provincial employee on a semi-permanent basis to enable them to make cash payments for duly certified cash payment vouchers presented to them. Standing/Petty
Cash Imprests

(2) Only a provincial employee designated as the payment cashier will maintain a standing imprest which will be designated as a petty cash imprest account.

(3) The petty cash imprest will be limited to an amount not exceeding \$1,000.

(4) The petty cash imprest holder will limit the amount payable from this source to \$100. Claims for reimbursement of expenses greater than \$100 are to be made through the cheque payment process as specified in Provincial Financial Instructions and Stores Instructions.

53. (1) Temporary imprests are issued for specific purposes and must be retired immediately that their necessity for such purposes ceases. They must not be used for any other purpose other than for which they were issued, even if the other purpose is also official Provincial Government business. Temporary
Imprests

(2) An imprest advance will be made on written authority of the Provincial Secretary on receipt of an application from the provincial employee concerned through their head of division, or on receipt of an application from the member concerned duly endorsed by the Premier or member of the Provincial Executive responsible for Finance.

(3) The amount of the imprest will be limited to a reasonable estimate of the costs to be incurred.

(4) The Provincial Treasurer is responsible for ensuring that an imprest is accounted for within one week of its necessity ceasing.

54. (1) The imprest holder is responsible for accounting for the imprest issued to him or her, including the submission of all necessary claim forms, receipted invoices and/or other acceptable evidence of expenditure. Imprest Holder
Responsible for
Retirement

(2) Any claims which cannot be substantiated will not be allowed as a charge in the accounts and any such sums will be recovered from the provincial employee or member concerned.

(3) Imprests for the Provincial Secretary will be authorised by the Provincial Treasurer.

55. No imprest may be advanced to a provincial employee or member where a previous imprest, other than a standing imprest, is still outstanding.

Outstanding
Imprests

56. (1) Where a temporary imprest account provided to a direct provincial employee is not cleared within the specified time, being 1 week after the need for the imprest ceases repayment of the outstanding imprest will become payable from the salary of the applicable direct provincial employee.

Clearance of
Outstanding
Temporary
Imprest
Accounts -
Direct
Provincial
Employees

(2) When a temporary imprest amount becomes payable from the salary of a direct employee, as specified in subsection (1), the Accounting Officer will:

- (a) Immediately notify the provincial employee concerned;
- (b) Propose a method and schedule to recover the outstanding temporary imprest amount; and
- (c) Give the employee an opportunity to make representations about whether the proposed recovery is appropriate and/or the rate at which the recovery is proposed to be made.

(3) Where a mutually agreed proposal can not be reached, the matter will be immediately referred to the Commissioner of Labour or to the courts for consideration.

(4) Subject to subsection (2) and (3) repayments shall commence in the pay period immediately following the pay period in which the advance of salary was made. The repayments shall be in equal instalments over a number of pay periods, until such time as the advance of salary is paid in full.

(5) Subject to subsection (2) and (3) the regular repayment amount will not exceed one third, 1/3, of the gross salary payable to the direct provincial employee within a period.

(6) When a direct provincial employee's service with the Provincial Government finishes, for whatever reason, it is the duty of the Provincial Treasurer to ensure that all monies due to the Provincial Government are deducted from the direct provincial employee's final pay. The Provincial Secretary is responsible for informing the Provincial Treasurer of the impending departure of a direct provincial employee. The Provincial Treasurer must be given ample notification of an impending departure of a direct provisional employee to enable them to obtain and prepare a liabilities schedule so as to calculate the amount due, if any, from the direct provincial employee.

57. (1) Where a temporary imprest account provided to an elected member or seconded employee is not cleared within the specified time, being 1 week after the need for the imprest ceases repayment of the outstanding imprest will become payable from the salary and/or allowances of the applicable elected member or seconded provincial employee.

Clearance of
Temporary
Imprest
Accounts-
Elected
members and
Seconded
Provincial
Employees

(2) When a temporary imprest amount becomes payable from the salary and or allowance of an elected member or seconded employee, as specified in subsection (1), the Accounting Officer will:

- (a) Immediately notify the elected member or provincial employee concerned;
- (b) Give the elected member or employee an opportunity to make representations about whether the proposed recovery is appropriate and/or the rate at which the recovery is proposed to be made.
- (c) Give the elected member or employee an opportunity to make representations about whether the proposed recovery is appropriate and/or the rate at which the recovery is proposed to be made.

(3) Where a mutually agreed proposal can not be reached, the matter will be immediately referred to the Commissioner of Labour or to the courts for consideration.

(4) Immediately upon mutual agreement being reached, as per subsection (2), or upon receiving a directive from the Commissioner of Labour or the courts, as per subsection (3). The Provincial Secretary will apply to the Permanent Secretary of the Ministry to withhold from the salary and/or allowances of the applicable elected member or seconded employee the approved amount each pay period until such time as the entire imprest amount is repaid to the Provincial Government.

(5) Subject to subsection (2) and (3) the regular repayment amount will not exceed one third, 1/3, of the gross salary and/or allowances payable to the applicable elected member or applicable seconded provincial employee within a period.

(6) When an elected member or a seconded provincial employee's term or service with the Provincial Government finishes, for whatever reason, it is the duty of the Provincial Treasurer to ensure that all monies due to the Provincial Government are notified to the Permanent Secretary of the Central Ministry. The Provincial Secretary is responsible for informing the Provincial Treasurer of the impending departure of the elected member or seconded employee. The Provincial Treasurer must be given ample notification of an impending departure of the elected member or seconded employee to enable them to prepare and submit a liabilities schedule to the Permanent Secretary of the Central Ministry.

58. The Provincial employee or member authorising a temporary imprests will be held personally liable for the recovery of any temporary imprests not made according to this Ordinance or any policy or limit set by the Provincial Executive.

Part VIII - Acceptance of Deposits

59. (1) All cheques received by provincial employees on behalf of the Provincial Government, whether in payment of revenue due or otherwise, shall be handled strictly in accordance with the Provincial Financial Instructions and Stores Instructions.

(2) Where any provincial employee receives a cheque that appears on its face to be irregular or not to comply with the Financial Instructions and Stores Instructions requirements, he or she should refer to the Provincial Treasurer or his or her delegate for a decision on whether to accept the cheque, and if so, for any conditions to be notified to the presenter regarding receipt or acceptance.

Authorising
Provincial
Employees and
Members Liable -
Temporary
Imprests

Cheques which
may be accepted

60. (1) The Provincial Treasurer shall maintain separate records ^{Acceptance} of monies received or held which do not form part of the Provincial Fund or a provincial special or development fund.

(2) The authority of the Provincial Treasurer to receive and hold monies which do not form part of the Provincial Fund or a provincial special or development fund shall be restricted to –

- (a) Monies legally due and payable to Provincial members, provincial employees and agents, where payment cannot be immediately effected;
- (b) Monies due to but withheld from contractors under the terms of a contract;
- (c) Monies held in trust where the Assembly, the Executive, or a member of the Assembly or Executive in his or her official capacity is a trustee; and
- (d) Monies received in advance for the provision of works or services by the Executive under an agency or contractual agreement.

(3) Monies held by the Provincial Treasurer which do not form part of the Provincial Fund or a provincial special or development fund shall not be applied to the purposes of the Provincial Fund or of any provincial special or development fund.

(4) Monies held by the Provincial Treasurer which do not form part of the Provincial Fund or a provincial special or development fund shall, if they remain unclaimed after five years, be paid into the Provincial Fund.

(5) Provided that if any person entitled thereto shall subsequently prove to the satisfaction of the administration their claim to such monies, the Provincial Treasurer shall thereupon authorise the release of the monies from the Provincial Fund.

Part IX - Creation and Control of Special and Development Funds

Power to Create
Special and
Development
Funds

61. (1) The Provincial Executive may establish special or development funds for the furtherance of any of the functions, services or projects of the Province.

(2) Provided that no monies due to or forming part of the Provincial Fund may be paid to a special or development fund without prior appropriation by the Assembly in an Appropriation Ordinance.

Special/Develop-
ment Fund
Rules

62. The Provincial Executive shall make rules for the proper management and control of each special or development fund established and the rules shall include –

- (a) A clear statement of the aims and purposes of the fund;
- (b) An exclusive list of expenditures to be financed from the fund; and
- (c) The appointment of the Provincial Secretary as Accounting Officer for the fund.

Part X - Appointment, Duties and Responsibilities of Staff Charged with Accounting Tasks

Appointment
of Provincial
Treasurer

63. The Provincial Executive shall appoint a Provincial Treasurer, provided that the Executive may agree to accept a seconded public officer who will be appointed after consultation between the Ministry, the Public Service Commission and the Provincial Executive.

Duties of
Provincial
Treasurer

64. (1) The Treasurer shall be responsible for the day-to-day financial transactions of the Provincial Government and for the receipt and payment of all monies. This responsibility is exercised notwithstanding that the Provincial Secretary is the Provincial Accounting Officer.

- (2) It shall be the duty of the Provincial Treasurer, as head of the Treasury division of the Provincial Government:
- (a) To see that a proper system of accounts is established and see that proper records of the Province's financial statements are kept in books approved by the Province for such purpose;
 - (b) To exercise supervision and full control over receipt of the Province's revenue and, as far as possible, to secure its punctual collection;
 - (c) To bring promptly to account, under proper account codes, all monies whether revenue or other receipts, paid into the Treasury or to the Cashiers;
 - (d) To see that proper provision is made and to take all possible precautions for the safe-keeping of all Provincial monies;
 - (e) To exercise supervision over all the provincial employees entrusted with the receipt or expenditure of the Province's money and to take precautions, by maintenance of efficient checks, including surprise inspections, against the occurrence of misappropriation or negligence;
 - (f) To supervise the expenditure and other disbursements of the Province; to take care that no payment is made which is not covered by proper authority, expressed or referred to on the voucher relating to it. In case of any apparent defect in the payment of expenditure or disbursement resulting from the full utilisation or absence of a budget allocation to call attention, in writing, to the matter;
 - (g) To promptly record in the accounts, under the proper account code, all disbursements of Province;
 - (h) To prepare bank reconciliations for each bank account held by the Province at regular intervals, not exceeding 1 calendar month;

- (i) To prepare a monthly report for the Provincial Executive showing
 - The revenue and expenditure for the month;
 - The yearly cumulative totals for each account code against the budgeted amount; and
 - The bank reconciliation report for the month;
- (j) To promptly submit the Financial Statements, and any other necessary returns, for audit or inspection;
- (k) To bring to the notice of the Provincial Executive repeated carelessness on the part of a subordinate. No provincial employee shall be relieved of his or her financial responsibilities should they delegate unduly to his or her subordinate financial work which should have been performed or scrutinised themselves;
- (l) To report, in writing, any material irregularity connected with the Province's accounts or monies that may have been brought to his or her notice; and
- (m) To supervise the work of all provincial employees under his or her control and ensure that all sections of this Ordinance and Financial Instructions and Stores Instructions are strictly and properly observed.

65. The Provincial Treasurer shall be responsible for ensuring that the following checks are carried out at least once a month:

- (a) Verification of all entries in the cash books and subsidiary cash books since the last examination with the revenue earning receipt books and payment vouchers;
- (b) Reconciliation of all bank balances with the bank statements;
- (c) Examination of the payment vouchers for correctness of authorities, allocations, rates, calculations, postings and receipt signatures and ensure that vouchers are properly filed;

- (d) Checking any contra entries, also bank credits or debits appearing in the cash book, with the bank statements;
- (e) Checking revenue received to the ledger;
- (f) Checking payment vouchers to the ledger;
- (g) Examination of journal entries and check to the ledgers;
- (h) Posting of ledgers and checking totals to date;
- (i) Checking the monthly comparative statement of revenue and expenditure and the Trial Balance; and
- (j) Reconciliation of control accounts to subsidiary records.

66. The Provincial Treasurer should ensure that a surprise survey of cash is frequently carried out as follows: Surprise Survey of Cash

- (a) Take over the key of the safe or cash box from any collector, cashier or other person in charge of cash and count the cash in the presence of the responsible provincial employee who must remain in the room until the key is returned to them. Enter the total of cash counted on a pre-pared cash inspection form;
- (b) Ascertain from the Accountable Stationery Register whether any receipt or licence books or other documents exchangeable for cash have been issued since the last check and see that they are produced;
- (c) Enter all receipts issued since the last pay-in on the pre-prepared cash inspection form and total them; and
- (d) Compare all totals of cash counted and receipts issued.

67. The Provincial Treasurer shall be available for all meetings of the Assembly and the Executive and no action of financial consequence may be taken until the Provincial Treasurer or Provincial Secretary has advised the Assembly or Executive on the financial consequences of that matter. Provincial Treasurer to be Available to Attend Executive and Assembly

Provincial
Treasurer to be
available to
attend Committee
Meetings

68. The Provincial Treasurer shall be available for all meetings of committees of the Assembly and the Executive and no action of financial consequence may be taken until the Provincial Treasurer or Provincial Secretary has advised the committee on the financial consequences of any matter under consideration.

Provincial
Treasurers'
Financial
Reporting

69. (1) For each meeting of the Executive the Provincial Treasurer shall prepare a financial report for submission to the Executive showing the following:

- (a) The reconciled bank balance of all Provincial Government Accounts;
- (b) The revenue and expenditure since the previous Executive meeting; and
- (c) The yearly cumulative totals for each account code against the budgeted amount.

(2) The financial report submitted by the Provincial Treasurer shall also include an explanation of the current state of the Provincial finances, containing a reference to any current or future commitments of financial consequence to the Executive.

Appointment of
Accounting
Officer/Provincial
Secretary

70. The Provincial Executive shall appoint the Provincial Secretary, provided that the Executive may agree to accept a seconded public officer who will be appointed after consultation between the Ministry, the Public Service Commission and the Provincial Executive.

Duties of
Provincial
Secretary

71. It is the duty of the Provincial Secretary:

- (a) To be satisfied that a proper system of accounts exists in the Provincial Government;
- (b) To satisfy themselves that adequate arrangements exist for the safe-keeping of cash, and stocks of revenue earning books and all other accountable stationery;

- (c) To be satisfied that proper supervision is exercised over the receipt and disbursement of Provincial Government Funds and to take all possible precautions against the occurrence of fraud or negligence by ensuring the prescribed checks as laid down in this Ordinance are carried out;
- (d) To see that estimates of expenditure and supplementary estimates of additional expenditure are approved by the Provincial Executive, passed by the Assembly and are consented to by the Minister responsible for Provincial Governments (MPG) before any expenditure is incurred;
- (e) To supervise the preparation of the annual estimates (revenue and expenditure) and the annual financial statements;
- (f) To be satisfied that books of account and registers are maintained in accordance with Accounting Regulations and approved systems;
- (g) To be satisfied that the control over revenue earning books as required by sections of this Ordinance and Financial Instructions and Stores Instructions are maintained; and
- (h) To ensure that inventories of all permanent assets are accurately maintained.

72. (1) Provincial employees must not in any circumstance mix Provincial Government and private money. They must not apply Provincial Government's money to any purpose not duly authorised, nor must they lend, advance or exchange any sum for which they are accountable. They must see that all Provincial Government monies or other assets entrusted to them are kept in a safe place.

(2) All provincial employees are responsible for the due performance of his or her financial duties, for the proper collection and custody of all Provincial Government money received by them or under his or her authority, and for any inaccuracies in accounts rendered by them. No provincial employee will be relieved from any portion of his or her responsibilities if they delegate to his or her sub-ordinate the performance of duties which they should have performed themselves.

(3) All decisions of the Provincial Executive, Provincial Secretary and/or Provincial Treasurer relating to finance must be circulated to all provincial employees especially those whose duties are affected by the decisions.

73. It is the duty of any provincial employee having financial responsibilities in connection with his or her official duties to observe the following requirements in so far as they may be applicable to his or her particular duties:

- (a) To fully acquaint themselves with this Financial Management Ordinance, and Provincial Financial Instructions and Stores Instructions and to take care that all are fully observed;
- (b) Correctly to assess revenue in accordance with the relevant law or bylaw and to secure its punctual collection;
- (c) Promptly to bring to account, under proper account code headings all monies collected;
- (d) To ensure that proper provision is made for the safe-keeping of Provincial Government money, official receipts, requisitions, cheque books, Local Purchase Order books and all other accountable documents and assets under his or her charge;
- (e) To exercise supervision over all provincial employees under his or her authority entrusted with the receipt and expenditure of Provincial Government money and to take precautions, by the maintenance of efficient and regular checks, against the occurrence of misappropriation or negligence;
- (f) To ensure that no payment is made without proper authority being obtained and, where appropriate quoted on the voucher;
- (g) To check daily all cash in his or her charge and to verify the amounts with the balances shown in his or her records;

- (h) Promptly to bring to account as revenue any cash found in his or her charge in excess of the balance shown in his or her records and to report this to the Provincial Treasurer;
- (i) Promptly to make good any deficiency not caused by misappropriation in cash or other Provincial Government assets for which they are responsible and to report all other losses and deficiencies in writing to the Provincial Treasurer with a copy to the Provincial Secretary;
- (j) To charge promptly in his or her accounts under the proper account code headings and sub-headings all disbursements of Provincial Government money in accordance with the current estimates;
- (k) To submit any financial statements required by Law or the Minister responsible for Provincial Government (MPG);
- (l) To see that all books of account, registers, records and so on are maintained in accordance with Financial Instructions and Stores Instructions, and posted and kept up-to-date, when not in use, are kept in safe custody;
- (m) To report to the Provincial Treasurer and Provincial Secretary of the Provincial Government any apparent defect in the system of revenue collection or any apparent waste or extravagance in expenditure which come to his or her notice;
- (n) To produce, when required, all assets, securities, books of account, vouchers or other documents in his or her charge for inspection by the Provincial Treasurer, their authorised assistant, the Auditor General or their officers, or any other duly authorised personnel;

- (o) To reply promptly and fully to all financial and other queries raised by the Provincial Treasurer, Provincial Secretary, Premier, Minister responsible for Provincial Governments (MPG), or by the Auditor General giving the particulars or information required; and
- (p) To acquaint themselves with such laws, Ordinances, Financial Instructions and Stores Instructions, Provincial Executive and Assembly decisions and circulars as relate to his or her financial duties.

Treasury Staff

74. The Provincial Treasurer shall be provided with sufficient staff to enable him or her to perform his or her duties under this Ordinance.

Rile of the
Auyditor
General

75. (1) The Auditor General is responsible for regular inspections of the accounts of the Provincial Government. Provincial Secretaries will likewise cause surprise checks to be conducted on the accounts of the Provincial Government.

(2) The Auditor General has the right to report any breaches of the Financial Management Ordinance to relevant authorities.

Continuing
Responsibility

76. The responsibility of the Auditor General does not absolve any provincial employee from his or her responsibility.

Provincial
Employees
Prohibited from
Handling Cash

77. Except for duly appointed and authorised provincial revenue collectors, temporary and non-established provincial employees are prohibited from handling cash.

Part XI - Quotation and Tenders

Authority to
Procure Goods
and Services

78. Pursuant to the Act and subject to a suitable appropriation having been made, the Province has authority to procure all required works, supplies and services.

Tenders over
\$500,000

79. For procurements greater than \$500,000 the Provincial Secretary may recommend to the Executive that a Ministry or other outside representative be added to the normal Provincial Tender Board that will consider tenders.

80. Requirements in relation to the quotation and tender process, as well as other procurement issues, must be included in the Financial Instructions and Stores Instructions.

Quotation and Tender Requirements Contained in the Financial Instructions and Stores Instructions

81. This part of the Ordinance expressly applies to both provincial employees and elected members.

Persons Who This Part Applies To

Part XII - Procurement Procedures of Goods and Services and the Use of Stores

82. Requirements in relation to the procurements procedures and use of stores, as well as other procurement issues, are included in the Financial Instructions and Stores Instructions.

Requirements Contained in the Financial Instructions and Stores Instructions

83. This part of the Ordinance expressly applies to both provincial employees and elected members.

Persons Who This Part Applies To

Part XIII - Sale or Disposal of Provincial Government Property, Shares and Assets

84. Where an asset is not used or is no longer needed, and where the value does not exceed \$1,000, it may be sold or destroyed on the authority of the Accounting Officer.

Items Valued at Less Than \$1,000

85. Where the value of Provincial Government property, shares or assets is greater than \$1,000 the Provincial Government property, shares may be sold or destroyed only after Provincial Tender Board approval.

Items Valued at Greater Than \$1,000

86. No person within the Provincial Government has the authority to sell or otherwise dispose of any property, shares or assets which are not owned by the Provincial Government.

Prohibition From Selling or Disposing of Non-Provincial Government Property

87. This part of the Ordinance expressly applies to both provincial employees and elected members.

Persons Who This Part Applies To

Part XIV - Borrowing of Funds

Borrowing to
comply with
Provincial
Government Act

88. No funds are to be borrowed for any reason or from any source unless they comply with Section 40 of the Provincial Government Act 1997.

Reserved

89. Reserved.

Part XI - Accounts Committee

Meaning and
duties of
accounts
committee

90. (1) An Accounts Committee will be a standing committee set up under Schedule 2, Section 9 of the Provincial Government Act 1997, to examine and report to the Assembly on the accounts and reports laid before the Assembly by the Auditor-General.

(2) The Accounts Committee will consist of not less than three members appointed by the Provincial Assembly, the majority of which will not be members of the Provincial Executive.

Part XVI - Offences and Penalties

Offences

91. An offence is committed under this Ordinance amongst others if:

(1) The Accounting Officer intentionally or recklessly without reasonable excuse:

- (a) Fails to comply with any sections of this Ordinance;
- (b) Incurs expenditure for which there is either insufficient or no provision in the approved estimates;
- (c) Makes commitments without available cash for payment;
- (d) Fails to ensure that a budget is prepared within the prescribed time and manner;
- (e) Fails to be up-to-date with salary payments;

(2) An elected member or provincial employee, intentionally or recklessly fails to comply with any section of this Ordinance;

(3) An elected member or provincial employee intentionally or recklessly sells or otherwise disposes of Provincial property, shares and assets in contravention of Part XIII of this Ordinance;

(4) The Provincial Treasurer intentionally or recklessly and without reasonable excuse;

- (a) Fails to produce monthly financial reports for submission to the Executive in the specified time;
- (b) Fails to ensure that revenue collectors carryout his or her duties properly to ensure that all revenue due to the administration is promptly collected in the approved manner and banked intact;
- (c) Fails to keep proper books of account and to balance the accounts for the year and produce statements of final accounts within six months from the end of the year;

(5) A senior provincial employee intentionally or recklessly gives wrong instructions to a junior provincial employee leading to financial loss to the Provincial Government;

(6) A provincial employee intentionally or recklessly and without reasonable excuse:

- (a) Fails to ensure safe custody of public money, documents and books of account;
- (b) Fails to account for Government funds;
- (c) Fails to be responsible for the due performance of financial duties, for the proper revenue collection and custody of all administration money, stores, and assets receivable;

(7) A revenue collector intentionally or recklessly and without reasonable excuse fails to account for revenue collected; and

(8) A Cashier intentionally or reckless and without reasonable excuse fails to account for Provincial Government funds.

92. (1) Any person who commits an offence under Section 91 shall be liable to a penalty not exceeding a fine of \$10,000 or a term of imprisonment not exceeding three years or both.

(2) Where a loss or deficiency of Provincial Government funds or assets occurs and the Provincial Executive is satisfied after due enquiry, that the negligence or misconduct of a provincial employee or elected member caused or contributed to the loss or deficiency:

- (i) The amount of the loss or deficiency;
- (ii) The value of the property destroyed; or
- (iii) The cost of replacing or repairing the damage to that property,

as the case may be,

shall be a debt due to the Provincial Government and should be recovered from the provincial employee or elected member through an action in a court of competent jurisdiction.

(3) In this section, reference to a provincial employee includes a person who has been but is no longer a provincial employee.

(4) In this section, reference to an elected member includes a person who was, but is no longer, elected.

(5) Where the negligence or misconduct of the provincial employee or elected member is not the sole cause of any loss, deficiency or destruction resulting in an action, the amount recoverable from the provincial employee or elected member may be restricted to only the cost of replacing or repairing the loss, deficiency, damage or destruction that the Court considers, after due enquiry, to be just and equitable, having regard to the contribution made by the provincial employee or elected member to that loss, deficiency, damage or destruction.

(6) In addition to the above penalties, the Provincial Executive (or, for provincial employees who are public officers, the Minister) may, after due enquiry, take disciplinary action ranging from dismissal, suspension or a warning letter in accordance with the provincial or public service procedures, as the case may be.

Part XVII - Miscellaneous

93. The Financial Instructions and Stores Instructions published by order of Section 3 (2) of this Ordinance shall be legally binding on all elected members and provincial employees. Financial Instructions and stores instructions

94. The format of the Annual Financial Statements to be submitted to the Auditor General each year shall be in a format that complies with generally accepted standards for proper financial reporting for government bodies and, subject to the preceding requirement, may be in a format recommended by or agreed with the MPG. Format of financial statements

95. Pursuant to section 43 of the Act, the Provincial Government will supply any other information reasonably required and requested by the MPG. Where a request for information seeks information in a particular format, the Provincial Government shall make reasonable, good faith efforts to supply the information in the requested format. Format of other reports

96. Pursuant to section 39(2) of the Act, the Provincial Government's annual financial statements will be prepared and lodged with the Auditor General as soon as practicable after the end of the financial year to which they relate, but in any event within 9 months of the end of the Financial Year. Timing of financial statements and Audit

97. Once the audit of the annual financial statements is completed such documents will be open to public inspection. The Provincial Government will ensure that the public are advised that they can view the audited financial statements as soon as possible after the documents are returned from the Auditor General.

Part XVIII - Repeal

Repeal **98.** The previous Financial Management Ordinance of Temotu Province is hereby repealed.

Passed by the Temotu Provincial Assembly this thirtieth-first day of March, 2008.

This printed impression has been carefully compared by me against the Ordinance passed by the Temotu Provincial Assembly and is found by me to be a true and correct copy of the said Ordinance.

(Peter Richmond McRae)
Clerk to the Temotu Provincial Assembly

Assented to by the Honourable Minister for Provincial Government and Institutional Strengthening this 15th day of April, 2008.

Honourable David Day Pacha
Minister for Provincial Government and Institutional Strengthening

[Legal Notice. 74]

**PROVINCIAL GOVERNMENT ACT 1997
(NO. 7 OF 1997)**

**THE TEMOTU DEVELOPMENT AUTHORITY (AMENDMENT)
ORDINANCE 2008**

**AN
ORDINANCE
TO**

**REFORM THE ADMINISTRATION OF THE TEMOTU
DEVELOPMENT AUTHORITY, TO BETTER PROVIDE FOR ITS
FUNCTIONS AND POWERS AND FOR MATTERS CONNECTED
THEREWITH OR INCIDENTAL THERETO.**

ARRANGEMENT OF SECTIONS

SECTION

1. Short Title and commencement
2. Interpretation
3. Repeal and replacement of section 4 of Principal Ordinance
4. Repeal and replacement of section 5 of Principal Ordinance
5. Amendments to section 6 of Principal Ordinance
6. Repeal and replacement of section 7 of Principal Ordinance
7. Amendments to section 11 of Principal Ordinance
8. Amendments to section 14 of Principal Ordinance
9. Amendment to section 16 of Principal Ordinance
10. Repeal and replacement of Schedule 1 of Principal Ordinance

Short title and
commencement

1. This Ordinance shall be cited as the Temotu Development Authority (Amendment) Ordinance 2008 and shall come into effect on the date on which it is assented to by the Minister of Provincial Government in accordance with Section 30(2) of the Provincial Government Act 1997.

Interpretation

2. (1) Except as expressly provided in this Ordinance and unless the context requires otherwise, words used in this Ordinance shall have the same meaning as defined or imported in the Temotu Development Authority Ordinance 1993 (LN 156/93) (the “Principal Ordinance”).

(2) Section 2 of the Principal Ordinance is amended as follows:

(a) the definition of “Director” is repealed and replaced by a new definition:

“Director” has a similar meaning as in the Companies Act (Cap.66), amended as required, and as used in this Ordinance means a member of the Board of Directors of the Temotu Development Authority”;

- (b) a new definition for “interests register” is inserted after the existing definition of “General Manager”;

“interests register” means the register maintained by the Authority to record any financial interest, direct or indirect, of a Director, General Manager, other staff member or their spouse or children, in any investments, loans, projects, business pursuits, enterprises or transactions in which the Authority is involved or has an interest or which may otherwise conflict or appear to conflict with the business of the Authority”;

- (c) the existing definition of “majority” is repealed and replaced by:

“majority” means the greater number of persons entitled to vote and voting”;

- (d) the existing definition of “persons” is repealed and replaced by:

“persons” includes natural persons and any public body, company or association, whether corporate or unincorporate;

Repeal and
replacement of
section 4 of
Principal
Ordinance

3. Section 4 of the Principal Ordinance is repealed and replaced by a new section 4:

- “4. (1) The principal purpose of the Authority shall be to operate as a successful business.
- (2) The Authority, while at all times continuing to pursue its principal purpose, shall seek to further the economic development of the province through:
- (a) identification, development, promotion and assistance to, and/or management of sound and profitable agricultural, commercial and industrial enterprises, whether through enterprises owned or run by the Authority or its subsidiaries, joint venture or other business partners, or through enterprises owned or operated by other persons in Temotu; and

- (b) provision, maintenance or safe-guarding of sustainable employment.
- (3) The enterprises operated or participated in by the Authority from time to time may include but are not limited to:
 - (a) accommodation and tourist services, including the provincial rest house;
 - (b) fish and marine product buying and/or processing;
 - (c) timber milling and timber products;
 - (d) commodities buying and/or processing;
 - (e) production of coconut oil and other downstream products;
 - (f) wholesale and/or retail trading; and
 - (g) ancillary or support services reasonably connected with any of the Authority's other enterprises.

Provided that, if the Authority wishes to engage in an enterprise outside those described in this section, it must first advise the Executive and obtain the Executive's consent to the intended venture."

4. Section 5 of the Principal Ordinance is repealed and replaced with a new section 5. Repeal and replacement

"5. (1) Subject to any contrary provision contained in this Ordinance but not otherwise, the Authority has all the powers of a natural person to accomplish its purposes and perform its functions and business.

(2) In exercising its functions and powers the Authority shall have regard to the objectives and policies set forth in any Provincial Development Plan.

(3) The Executive may, after consultation with the Authority and by order published in the Gazette, require the Authority to exercise any function or enterprises as may be specified in the Order and the Authority shall comply with the Order;

provided that where the Authority is of the opinion that carrying out the order is likely to adversely affect the Authority's profitability or otherwise detract materially from the Authority's ability to achieve its principal purpose, the Authority shall not be required to comply with the Order unless the Order makes provision for reasonable compensation to the Authority from the Province, for carrying out the function or enterprise."

Amendments to
section 6 of
Principal
Ordinance

5. (1) Section 6(2) of the Principal Ordinance is repealed and replaced with a new subsection.

“(2) The General Manager, or in his absence, the Chairman of Directors shall, within 15 days of any Board meeting, provide copies of Minutes of the meeting to the Premier or the Provincial Minister allocated responsibility for Commerce or Industry, together with all monthly financial and operational reports provided to the Board since the previous Board meeting.”

(2) Section 6(6) in the Principal Ordinance is amended by inserting the word “other” after “such” and before “information”.

Repeal and
replacement of
section 7 of
Principal
Ordinance

6. Section 7 of the Principal Ordinance is repealed and replaced by a new section:

“7. (1) No Member of the Executive, Public Officer, Provincial Employee, Provincial Assembly member or Director, staff member or officer of the Authority or their spouses and children, may holding any financial interest, direct or indirect, in any investments, loans projects, business pursuits, enterprises or transactions in which the Authority is involved or has an interest, unless:

- (a) the person concerned declares the proposed interest to the General Manager or Chairman;
- (b) the proposed interest is entered in the interests register;
- (c) the Board, at a meeting held prior to the investment, loan, project, pursuit, enterprise or transaction proceeding, determines that the proposed transaction etc represents fair value and is in the best interests of the Authority; and
- (d) the approved interest is recorded in the Minutes and reported to the Executive, which may endorse the approval, seek further information from the Board and/or require that the relevant transaction be rescinded.

(2) Any interest obtained by a person listed in this Section 7 other than in accordance with section 7(1) (other than a transaction rescinded pursuant to section 7(1)(d) and any contract or severable part of a contract containing such an interest is void and of no effect; except that, at the sole discretion of the Authority, beneficial ownership of the prohibited interest may be transferred, by forfeiture without compensation, to the Authority.

(3) Directors, staff and officers of the Authority, including the General Manager, shall comply with all provisions of the Leadership Code and the Leadership Code (Further Provisions) Act 1999”.

7. (1) Section 11(1) of the Principal Ordinance is amended by inserting the words: “*the obtaining of the written consent of the Provincial Executive and compliance with any conditions or limits on individual or aggregate sums guaranteed or lent, as determined by the Provincial Executive*”. , after the words “...provisions of this Ordinance,” and before “guarantee as it sees fit...”. Amendments to section 11 of the Principal Ordinance

(2) Section 11 is further amended by inserting, after sub-section 11(3), the following new subsections:

“(4) Any purported guarantee entered into other than in compliance with this section shall be unenforceable in law or equity.

(5) The fact that TDA has entered into a contract of guarantee as guarantor shall not be taken to mean that the Provincial Executive or any other organ of the Temotu Provincial Government, other than TDA, may be liable to honour any guarantee”.

8. (1) Section 14(2) of the Principal Ordinance is amended by inserting the words: “or such higher proportion as may be agreed between the Executive and the Board”. Amendments to section 14 of Principal Ordinance

after “*prescribed in section 15 of the Ordinance,*” and before “*shall be put in a reserve fund*”

(2) Section 14(3) of the Principal Ordinance is repealed and replaced by a new subsection:

“(3) The remaining annual net profit shall be paid by way of divided into the Provincial Fund or into the reserve fund as may be determined by the Executive after consultation with the Authority.”

Amendments to
section 16 of
Principal
Ordinance

9. Section 16 of the Principal Ordinance is amended by repealing the words “shall be”, and replacing them with “is”, after the words: “16. *Every Director, officer, employee or agent of the Authority:*

Repeal and
replacement of
Schedule 1 of
Principal
Ordinance

10. Schedule 1 of the Principal Act is repealed and replaced by a new Schedule:

“SCHEDULE 1

The Directors of the Board of the Authority

1. The Authority shall consist of the following:
 - (a) five (5) voting Directors all of whom have experience in commerce, industry, agriculture, finance or administration provided that no voting Director shall hold elected office in the Provincial Assembly or Parliament, nor shall he or she be a public officer, Provincial Assembly or provincial government officer as defined in the Constitution;
 - (b) One of the voting directors shall be appointed by the Executive as Chairman of the Board. (Where the Chairman is unable to attend a Board meeting then the directors attending may nominate one of their number to chair the meeting);
 - (c) one (1) ex-officio non-voting Director, who shall be the General Manager appointed pursuant to paragraph 5 of this Schedule;
 - (d) for the purpose of obtaining advice on any particular matter, any person co-opted by the Authority as a non-voting Director for such meetings as are required and while so co-opted the persons shall be entitled to an appropriate allowance as determined by the Authority;
 - (e) The Provincial Minister responsible for Commerce or such other Provincial Minister nominated by the Premier shall be invited and may attend and speak at meetings of the Board, but may not vote.

2. (1) The voting Directors shall be appointed by the Executive by notice published in the Gazette on such terms and conditions as may be specified in their respective letters of appointment for terms of not more than three (3) years and may be re-appointed at the end of each term. No voting Director may be removed except pursuant to paragraph 4 of this Schedule.
 - (2) For the purpose of continuity of representation and regular succession, so far as is possible appointments shall be arranged so that at least one, but not more than two, directors' terms of appointment expire in each calendar year. Directors may be appointed or re-appointed for terms of less than three years to facilitate this result.
 - (3) A voting Director may at any time by written notice to the Executive resign his office.
3. (1) The Directors shall be entitled to remuneration in respect of their service to the Authority. The remuneration of the Directors shall be as set by the Executive, after receiving a recommendation from the Chairman of the Board. The remuneration may not be reviewed or increased until at least 12 months after the previous review, except in exceptional circumstances (which exceptional circumstances and any increase in remuneration resulting from them must be reported to the Assembly at its next meeting, and may be the subject of a negative resolution disapproving the exceptional review of remuneration).
 - (2) The Directors shall be entitled to reimbursement for all reasonable traveling, accommodation and other expenses properly incurred by them in attending authority meetings or in connection with the business of the Authority. Reimbursement should be at Public Service rates, as published from time to time, except where the relevant rate is manifestly inadequate, in which case the Chairman may approve reimbursement of proven actual and reasonable expenses.

- (3) Remuneration and expenses payable under this Section 3 shall be paid out of the funds of the Authority.
- 4.
- (1) Subject to sub-paragraph (2) a voting Director, may be removed from office by the Executive only if he or she
 - (a) becomes bankrupt, or suspends payment to or enters into an arrangement with his or her creditors.
 - (b) is absent from two consecutive Authority meetings without the written permission of the Chairman;
 - (c) is certified by a medical practitioner to be of unsound mind;
 - (d) has committed any other misconduct or abuse of authority, including but not limited to persistent disregard of any regulation promulgated under Section 6 (5) of this Ordinance and/or the policies or decisions of the Authority, or any other actions adversely affecting the Authority or interfering with his or her ability to effectively perform as a Director; or
 - (e) is removed by operation of sub-section 12(3) of this Schedule 1.
 - (2) No voting Director shall be removed from office pursuant to section 4(1) (d) unless –
 - (a) a committee of three current members of the Executive has investigated the alleged basis for removal; and
 - (b) the Director concerned has been given a reasonable opportunity to explain and/or defend his or her actions before the committee; and
 - (c) the committee determines that removal of the Director is justified.

5.
 - (1) The Directors shall appoint a General Manager for such term as they may think fit who shall have responsibility for the day to day management of the Authority, subject to the general or specific directions of the Directors.
 - (2) The terms, conditions and remuneration of the General Manager shall be set by the Directors with the approval of the Executive.
 - (3) When the office of General Manager is vacant or the General Manager is not able to carry out his or her duties for any reason, the Directors may appoint an acting General Manager until the vacancy or unavailability is resolved.
6.
 - (1) The Executive may, for a specific occasion or generally, appoint a person to act as an alternate Director during such times when the presence of a Director is excused due to illness or the Director is otherwise unable to perform the duties of his or her office.
 - (2) During such periods of incapacity the alternate Director shall have all the rights, remuneration and powers of the Director he or she is replacing, to the exclusion of the absent Director.
 - (3) When the Director is again able to perform the duties of office, the alternate director shall cease to act as a director (but may act again during any later period of incapacity etc of the same or any other Director, unless his or her alternate appointment has been rescinded by the Executive or has ended or expired).
7.
 - (1) The General Manager shall be the Secretary of the Board of Directors.
 - (2) The General Manager, as Secretary, shall be responsible for ensuring that an accurate record is kept of all meetings of the Board, and of any committee or similar meeting; and that all resolutions of the Board are duly recorded and given effect to, according to their tenor.

8.
 - (1) Three of the voting Directors shall constitute a quorum; provided that no Board meeting may be called without the approval of the Chairman, or if the Chairman is incapacitated or is otherwise unable to act, the Premier.
 - (2) All acts or decision of the Authority shall be determined by a majority of the votes of the voting Directors present at any meeting and in the event of an equality of votes the Chairman shall have a casting vote in addition to his or her deliberative vote.
 - (3) The Directors shall meet at such times and places as shall be determined by the Chairman but in any case not less often than once every three months.
 - (4) The Authority may make Standing Orders for the conduct of its business.
9.
 - (1) In connection with the exercise of the functions of the Authority, the Directors may establish such committees as appear to them to be appropriate and necessary.
 - (2) Any committee shall be composed of Directors, voting and non-voting, and may include any alternate director.
 - (3) The members of a committee attending any committee meeting may be paid a meeting fee which is not more than the fee they would have received, had the meeting been a Board meeting, but shall not otherwise be entitled to any additional remuneration.
10. The validity of any proceedings of the Authority shall not be affected by any vacancy among the Directors or by any defect or irregularity in the appointment of any Director.
11.
 - (1) The common seal of the Authority shall be kept in the custody of a person authorized by the Authority and shall be affixed to a document only in the presence of and with the authenticating.

- (a) signature of the Chairman; and
 - (b) countersignature of the General Manager
- (2) The Authority may enter into legally binding agreements, including agreements which are required to be or which are in the form of a deed by:
- (a) affixing the common seal in accordance with the method set out in subsection (1); or
 - (b) having the Chairman, or in his absence another director appointed by the Board for that purpose, and another director sign the agreement or deed, and having their signatures witnessed by the General Manager or a third director.
- (3) Nothing in this section shall prevent the Board from delegating to the General Manager power to enter into any particular agreement or class of agreement on the Board's behalf, so long as:
- (a) the delegation is the subject of a suitable Board resolution; and
 - (b) the General Manager receives a written instrument of delegation that clearly details the extent of his or her authority to contract on the Board's behalf and any conditions that must be met.
12. (1) The Executive, or in the case of the General Manager, the Chairman, shall make enquiries before appointing a person to be Director or approving a person to be General Manager to establish whether the person, their spouse or children has any financial or other interest, direct or indirect, in any investments loans, projects, business pursuits, enterprises or transactions in which the Authority is involved, other than their duties and functions as Director or General Manager.
- (2) Where a proposed Director or General Manager notifies a relevant interest, or the Executive or Chairman is otherwise satisfied that such an interest exists,

- (a) the Executive or Board as the case may be shall meet and determine whether or not the interest is of such a nature as is likely to lead to material conflicts of interest that cannot be managed to avoid any risk of damage to the interests of the Authority, or its reputation;
 - (b) the person may only be appointed if the Executive or Board is satisfied that a potentially conflicting interest is of such a nature as can be managed to avoid any such damage;
 - (c) for any person appointed who has a relevant interest, the interest must be recorded in the interests register, and in the case of a General Manager, be reported to the Executive.
- (2) Should it be discovered at any later time that a Director or the General Manager or their spouse or children have a direct or indirect but undeclared interest in any investments, loans, projects, business pursuits, enterprises or transactions in which the Authority is involved that Director or General Manager shall be deemed to be relieved of his or her position with the Authority unless the Board and Executive are each satisfied after enquiry, and so certify, that the conflict of interest is minor in nature and unlikely to lead to any damaged to the Authority or its reputation (in which case the interest must nevertheless be recorded in the interests register).”

Passed by the Temotu Provincial Assembly this second day of April, 2008.

This printed impression has been carefully compared by me against the Ordinance passed by the Temotu Provincial Assembly and is found by me to be a true and correct copy the said Ordinance.

(Peter Richmond McRae)
Clerk to the Temotu Provincial Assembly (Ag)

Assented to by the Honourable Minister of Provincial Government this fifteenth day of April 2008

Minister of Provincial Government

[Legal Notice No. 75]

**PROVINCIAL GOVERNMENT ACT 1997
(NO. 7 OF 1997)**

**THE TEMOTU (LATA TOWNSHIP) WATER SUPPLY (AMENDMENT)
ORDINANCE 2008**

**AN ORDINANCE TO AMEND THE TEMOTU (LATA TOWNSHIP)
WATER SUPPLY ORDINANCE 2006**

Arrangement of Sections

1. Short title and commencement
2. Interpretation
3. Amendments to principal Ordinance
4. Notice of Offence procedure
5. Power to make Regulations inserted
6. Limitation of liability

1. This Ordinance shall be cited as the Temotu (Lata Township) Water Supply (Amendment) Ordinance 2008 and shall come into force when the Minister of Provincial Government assents to it in accordance with section 32 of the Act. Short title and commencement

2. In this Ordinance unless a different intention appears or the context otherwise requires: Interpretation

“Act” means the Provincial Government Act 1997 (No 7 of 1997);

“principal Ordinance” means Temotu (Lata Township) Water Supply Ordinance 2006;

words have the same meaning as used or defined in the principal Ordinance.

3. (1) The main entitulumt of the principal Ordinance is hereby amended by inserting the words: “and Environs” after the words “Lata Township”,. Amendments to principal Ordinance

4. Section 3 of the principal Ordinance is repealed and is replaced by the following new section 3:

“Area of application

3. This Ordinance applies only to:
 - (1) the area known as Lata Town that encompasses the areas described as LR 751, 668, 896, 791, 589 lots 1 and 2, 700, 925, 926 lots 1, 2 and 3, 797, 750, and 813;
 - (2) any other area or place that is declared by an Act of Parliament or a Provincial Ordinance, or by a Regulation made under an Act or Ordinance, to be within the official boundaries of Lata Town;
 - (3) any area, place or person who takes, uses, is supplied or consumes water from or by means of the water system; or
 - (4) any other area or place in Temotu Province where the Provincial Government assists with water supply and that the Executive defines by Regulation.”
 - (5) Section 4 of the principal Ordinance is repealed and is replaced by the following new section 4:

“Responsibilities to provide water supply

4. (1) Subject to the provisions of this Ordinance, the Provincial Government is responsible for the supply of wholesome water to Lata Township and the installation and maintenance of the water system.
 - (2) As part of or incidental to the supply of water to Lata Township by means of the water system the Provincial Government may supply water or allow water to be supplied to areas or consumers outside Lata Township that or who can conveniently be served by means of the water system.
 - (3) Any fixtures and fittings used to supply water by the water system to consumers outside Lata Town shall form part of the water system unless the Provincial Government and the consumers’ representative agree in writing that the fixtures do not form part of the water system.

(4) The Provincial Government may make reasonable charges to consumers (the nature of which charges may differ between consumers depending on the type and level of service provided) for:

- (a) the supply of water to any consumer, group of consumers, place or area;
- (b) the installation of any fittings needed for or related to such supply; and
- (c) the maintenance and repair of the water system.”

(6) Section 10 of the principal Ordinance is amended by inserting the words “consumers or groups of consumers” after “Provincial Government may charge”.

(7) Section 11 of the principal Ordinance is amended by inserting the words “to consumers or groups of consumers” after “may charge water rates”.

(8) Section 11.1 is amended by deleting the reference to section 9.1 and replacing with a reference to section 15.1.

(9) Section 13.1 is amended by adding the words “Except where an Authorised Officer reasonably considers an emergency to exist” at the beginning of the existing section.

(10) Section 16 is amended by adding a new paragraph 16.1.2:

“16.1.2 any person who makes or attempts to make an unauthorised connection to the water system by tapping or connecting into the water system main polyethylene pipeline or attempting to do so, or to any subsidiary pipeline, connected to the main pipeline and constructed of polyethylene, at any point from the water source to the Lata Town boundary, is guilty of an offence and is liable on summary conviction to a fine of not more than \$3,000, or a term of imprisonment of not more than twelve months, or both a fine and imprisonment, together with such reasonable costs as the Court may order to be paid to the Provincial Government as reparations, for the removal of any unauthorised connection and consequential repair of the water system;

Provided that, for the purposes of this paragraph, “unauthorised connection” means any connection to the water system that has not been approved in writing by an Authorised Officer, and includes any partially completed but unauthorised connection.”

Notice of Offence procedure

4 A new section 17 is hereby inserted in the principal Ordinance as follows:

“Notice of Offence as an alternative to prosecution and conviction 17

(1) Where a police officer or Authorised Officer is satisfied that an offence against section 16 of the Ordinance has been or is being committed he or she may issue the offender with a Notice of Offence in any manner provided by section 14 and in the prescribed form, giving details of the alleged offence and a penalty of not more than \$400 (or, in respect of paragraph 16.1.2, not more than \$2,000), or such lesser amount as may be prescribed in Regulations for a particular offence or category of offence).

(2) Where the alleged offender:

- (a) pays the penalty stated in the Notice at the Provincial Treasury within 21 days of the date of the notice; and
- (b) where the alleged offence is continuing or has caused damaged to the water system, offers satisfactory proof to an Authorised Officer that the circumstances giving rise to the offence have been rectified and that any damage has been satisfactorily and permanently repaired;

no prosecution under this Ordinance may be proceeded with or any conviction entered in respect of the illegal offence.

(3) For the purposes of sub-section (2), production to an Authorised Officer or a Court Clerk of the relevant Treasury receipt, together with any written confirmation from an Authorised Officer that a continuing offence has been rectified and any damaged repaired, shall be sufficient proof that the alleged offender is entitled to avoid prosecution or conviction of the offence alleged in any Notice of Offence.

- (4) Any fine or penalty collected under this Ordinance, regardless of whether it is collected under this section or as a result of a summary prosecution and conviction, shall be paid into the Temotu Province Provincial Fund.”

Power to make Regulations inserted

5 A new section 18 is hereby inserted in the principal Ordinance as follows:

“Regulations

18 The Executive may by Order make Regulations for the better implementation of this Ordinance, including but not limited to:

- (a) prescribing or amending any water rate or categories of water rate payable under the Ordinance by consumers or groups of consumers;
- (b) prescribing any fees or charges (other than penalties), or any method for calculating fees or charges, relating to any service or act done under or according to the Ordinance;
- (c) prescribing any standard or other conditions which may be required by the Provincial Government in connection with any supply of water to any consumer or group of consumers;
- (d) pursuant to section 3, extending the application of the Ordinance to any new area where the Provincial Government elects to supply water, whether by the same or another water system;
- (e) the form of any notice, Notice of Offence, warrant of authority or other document or thing issued in connection with the operation of the Ordinance.

Limitation of liability

6 A new section 19 is hereby inserted in the principal Ordinance as follows:

- 19 **“Liability of Provincial Government limited**
- (1) Subject to sub-sections (2) and (3), the Provincial Government, its servants or agents, shall not be liable, whether in contract, tort or otherwise, for any damage to persons or property caused by the water system, or for any disruption or cessation of the supply of water, or for any failure or inability to supply water or water of a given quality, or for any defects in any installation, fixture or fitting not supplied and installed by the Provincial Government, its servants or agents, as the case may be.
- (2) The Provincial Government, its servants and agents may be liable only when any relevant damage, disruption or cessation of supply or inability or failure to supply or any defect in an installation, fixture or fitting is shown to have resulted from negligence on the part of the Provincial Government or its servants or agents as the case may be.
- (3) Where water supplied to any consumer is used or intended to be used for any business or commercial purpose, the Provincial Government and the consumer may agree to further restrict the Provincial Government’s liability to the consumer by contract, or to amend or replace the provisions of this section with a different contractual provision.”

Passed by the Provincial Assembly this first day of April, 2008.

This printed impression has been carefully compared by me against the Ordinance passed by the Temotu Provincial Assembly and is found by me to be a true and correct copy of the said Ordinance.

(Peter Richmond McRae)
Clerk of the Provincial Assembly (Ag)

Assented to by the Honourable Minister of Provincial Government this fifteenth day of April, 2008.

Minister of Provincial Government

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