

SUPPLEMENT to the Solomon Islands Gazette

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

**THE MAKIRA ULAWA PROVINCE ENVIRONMENTAL
DAMAGES ORDINANCE 2014**

ENACTED BY THE MAKIRA ULAWA PROVINCIAL ASSEMBLY

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**THE MAKIRA ULAWA PROVINCE ENVIRONMENTAL
DAMAGES ORDINANCE 2014**

PASSED BY THE MAKIRA ULAWA PROVINCIAL ASSEMBLY

THIS SEVENTH DAY OF DECEMBER 2014

This printed impression has been carefully compared by me with the bill
passed by the Assembly and found by me to be true and correct copy of the bill.

.....
Stanley Waisi

Clerk to the Makira Ulawa Provincial Assembly

Hon. Duddley Kopu
Minister of Provincial Government & Institutional Strengthening
Solomon Islands

**THE MAKIRA ULAWA PROVINCE ENVIRONMENTAL DAMAGES
ORDINANCE 2014**

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

**MAKIRA ULAWA PROVINCE ENVIRONMENTAL DAMAGES
ORDINANCE 2014**

1. Title and commencement

- (1) This Ordinance may be cited as the Makira Ulawa Province Environmental Damages Ordinance 2014.
- (2) This Ordinance is enacted by the Makira Ulawa Provincial Assembly:
 - (a) under Section 31 of the Provincial Government Act 1997; and
 - (b) comes into force on the date that it is published in the Solomon Islands Government *Gazette*.

2. Interpretation

In this Ordinance, unless context otherwise requires:

Act means the Provincial Government Act 1997.

Assembly means the Makira Ulawa Provincial Assembly constituted under Section 7 of the Act.

Damages means causing physical harm so as to impair value, usefulness, or normal function

Environment has the same meaning as in the Environment Act 1998.

Executive means the Makira Ulawa Provincial Executive established under Section 19 of Act.

Fund means the Environment Protection Fund established under Section 11 of this Ordinance.

Ordinance means the Makira Ulawa Province Environmental Damages Ordinance 2014.

Person means any individual or business, whether incorporate or unincorporated.

Province means Makira Ulawa Province as defined under Section 3 of the Act.

Provincial means relating to Makira Ulawa Province.

Report means a Damage Assessment Report prepared under Section 6.

3. Purpose

The purpose of this Ordinance is to safeguard the Province's environment by:

- (a) providing for the payment of compensation for any damage caused to the Province's physical and social environment;
- (b) establishing an Environmental Protection Fund for damages to be paid into; and
- (c) prescribing the use of funds deposited into the Environmental Protection Fund.

4. Any person who causes damage to the environment must pay compensation

Any person who causes damage to the environment must pay compensation at the rate and in the manner prescribed in this Ordinance.

5. Provincial Executive to determine the compensation payable

The amount and nature of compensation payable under Section 4 of this Ordinance shall be determined by the Provincial Executive.

Part 1 – The Damage Assessment Report

6. Preparation of Damage Assessment Report

- (1) Before making any determination under Section 5, the Provincial Executive must prepare a Damage Assessment Report.
- (2) The Provincial Executive may engage or ask any person to carry out the writing and preparation of this report.

7. Content of the Damage Assessment Report

The Damage Assessment Report must contain information about:

- (a) the area(s) affected;
- (b) the type and nature of damage sustained;
- (c) the impact of this damage;
- (d) the cause of this damage;
- (e) the communities and people affected by this damage, making special reference to any disadvantage or minority groups affected;
- (f) any options for remedying, rectifying or mitigating this damage; and
- (g) a recommendation about the appropriate level of damages payable if any

In addition to the above, the report may also include any other matter or particular significance and which, in the author's opinion, impacts on the Provincial Executive's consideration of the report.

8. Damage Assessment Report to be provided to parties for comment

- (1) Upon receiving the Damage Assessment Report, the Provincial Executive shall instruct the Provincial Secretary to provide a copy of the report to the communities affected and the person(s) accused of damaging the environment.

- (2) The Provincial Secretary may take any steps he considers necessary to ensure that communities understand and are able to provide comment on the Damage Assessment Report.
- (3) The Provincial Executive may require that comments be received by a particular time and date provided that this date is not less than two weeks from the date the report is received by the parties.
- (4) The Provincial Executive may extend the period of time set under (3) if they consider it necessary to ensure parties are able to adequately and fairly participate in providing comment.

9. Provincial Executive to consider report

- (1) After comment has been received from parties, or in the event no comment is received by a date set under either Section 8(3) or (4), the Provincial Executive must meet to consider the Report.
- (2) The Provincial Executive must determine, on the basis of the Report any submissions or comment:
 - (a) if it will require compensation; and, if so
 - (b) who is required to pay the damages;
 - (c) the amount and nature of those damages; and
 - (d) the date that those damages must be paid by.
- (3) If the Provincial Executive finds that damages are payable, they must provide the person alleged to have caused the damage with notice of the above particulars before finalising their decision.

10. Consideration by Executive of damages

If the Executive determines that damages are payable, the Executive may require damages to:

- (a) be paid as a monetary settlement to the Provincial Government;
- (b) be paid as restitution to the communities affected;
- (c) be paid in the form of an action or service designed to rectify, rehabilitate, or remedy either in part or whole the damage caused; or
- (d) any combination of the above.

Part 2 – The Environment Protection Fund

- 11. Establishment of the Environmental Protection Fund**
This section establish an Environment Protection Fund.
- 12. Fund a special fund under the Financial Management Ordinance**
The Environment Protection Fund is a special fund for the purposes of Section 61 of the Province’s Financial Management Ordinance.
- 13. Provincial Secretary to be Accounting Officer of the Fund**
The Provincial Secretary is the Accounting Officer of the Fund.
- 14. Damages must be paid into the Environment Protection Fund**
All monetary damages imposed under Section 9 of this Ordinance must be paid into the Fund unless the Provincial Executive orders that any part or whole be paid directly to the communities affected.
- 15. Fund for communities must be paid to Ward Development Authorities**
Any funds paid directly to communities shall be paid to the Ward Development Committee(s) for the area(s).
- 16. Fund to be used for prescribed purposes**

 - (1) The Fund may be used to pay for any environmental activities and project in the Province, including, for example:

 - (a) the rehabilitation of communities;
 - (b) the protection of ecosystems, whether marine, terrestrial or other;
 - (c) educational and awareness activities;
 - (d) pay for environment officers or rangers or other persons carrying ut similar activities; and
 - (e) any other activities that promote and safeguard the environment and encourage communities to use their resources in a sustainable, fair, and equitable manner.
 - (2) Up to forty percent (40% of the fund may be used by the Provincial Government to pay for capital expenditure activities not directly related to the environment.

Applications for use of the Fund

- 17. Applications for access to funds**
- (1) Any person or community may apply to the Provincial Executive for money to carry out activities described in Section 16.
 - (2) Any application must be:
 - (a) on the form to be prescribed by the Executive from time to time.
 - (b) sent to the Provincial Secretary
- 18. Provincial Executive to meet quarterly to consider applications**
- (1) The Provincial Executive shall meet quarterly or as and when required to consider applications made under Section 17.
 - (2) The Provincial Executive shall give notice of their intention to meet to consider applications and may invite applicants to address the Executive to provide additional information or clarification regarding any matter concerning the application.

Financial management of Fund

- 19. Paying money out of the fund**
- (1) Money shall be paid out of the fund in the form of an imprest.
 - (2) Any imprest issued under subsection (1) must be retired in full within 14 days of its being issued in the normal manner as prescribed in Part VII of the Province's Financial Management Ordinance.
- 20. Statement of account to be kept and tabled in the Assembly**
- (1) A full statement of accounts must be kept for the Fund and tabled annually in the Assembly.
 - (2) Prior to being tabled in the Assembly, the accounts shall be provided to the Provincial Public Accounts Committee to be scrutinized.

Part 3 – Offences and penalties

- 21. Offences**
- (1) Any person who does one of the following is liable for a fine not exceeding \$500.00:
 - (a) providing a misleading or false application form under Section 7; or is
 - (b) late in acquitting for any imprest issued out of the fund;

- (2) Any person who does one of the following is liable for a fine not exceeding \$10,000.00:
 - (a) provides false or misleading information for the purpose of financial gain to the person appointed by the Provincial Executive to prepare the Damges Assessment Report;
 - (b) does not do what is required of them under Section 9 of this Ordinance within a reasonable timeframe, or within the timeframe set by the Provincial Executive; or
 - (c) misappropriates money from the Fund.

22. Fines and penalties a debt owed to the Province

- (1) Any fine or penalty imposed under this Ordinance is a debt owed to the Province and is enforceable as such in any Court of competent jurisdiction.
- (2) Compensation imposed under this Ordinance are a penalty for the purpose of this section.

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