

[Legal Notice No. 27]

THE WESTERN PROVINCE HARBOUR ORDINANCE 1993

[**Consolidation** - This is a consolidation of the principal Ordinance and amendments or intended amendments as at 1st April 2010. Errors in spelling or grammar or omissions of words in the Gazetted Ordinance have been corrected in this Consolidation.

The principal Ordinance came into effect on 20/8/93 Upon Gazettal under Ln 176/93.

The enactments consolidated are:

Western Province Harbour Ordinance 1993

Western Province Harbour (Amendment) Ordinance 2010.

The Amendments are produced in Italics

AN ORDINANCE to provide for the provision and Maintenance of provincial harbours within Western Province and for the levying of fees on ships, goods and persons using provincial harbours and harbour services provided by the Western Provincial Executive.

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PART 1
SHORT TITLE AND INTERPRETATION

1. **Short and Commencement** - This Ordinance may be cited as the Western Province Harbours Ordinance 1993 and shall come into effect on the date assented to by the Minister in accordance with section 32 of the Provincial Government Act 1981.

2. **Interpretation** - In this Ordinance and in any orders rules or regulations made pursuant to it, unless the context otherwise requires:
 - “Authorised Officer” means any person authorised to carry out delegated functions of the Western Provincial Harbour Master.
 - “disembark” means exiting or leaving a ship at any place within Western Province, having been transported to such place by such ship.
 - “embark means entering a ship berthed within Western Province for the purpose of being transported by that ship to another place within or outside Western Province.
 - “Executive” means the Western Provincial Executive fees means fees levied pursuant to this Ordinance “Gazetted” means the Solomon Islands Gazette.
 - “harbour” means a harbour appointed under section 4 of this Ordinance.
 - “Provincial harbour master” means the person whose position is established under Part III of this Ordinance.
 - “Master or owner” means the lawful owner of a ship or the person having command or charge of the ship for the time being, but does not include a pilot.
 - “Passenger ship” means a ship engaged in transporting paying passengers whether or not the ship is also carrying cargo or carrying out any other function.

“passenger” means a person paying to be transported by ship

“Premier” means the person for the time being holding the office of Premier of Western Province

“Provincial Business Licence Committee” means the Committee established under the Western Provincial Business Licence Ordinance which is empowered to administer The Business Licence Ordinances in the Western Province.

“Provincial harbour property” means any property, real or personal held by or on behalf of the Premier for use in connection with the provision or maintenance of harbours and harbour facilities by the Western Provincial Assembly or Executive.

“Ship” includes any ship, vessel or boat of any kind propelled by engine, steam or wind but does not include canoes with or without motors or boats propelled solely by manpower.

3. **Power to amend First Schedule** - The Executive may by order published in the Gazette add to or delete from or amend the First Schedule.

PART II APPOINTMENT OF HARBOURS

4. **Power to appoint Ports, their limits and approaches** -
- (1) The Executive may by order published in the Gazette -
 - (a) appoint any place in the Western Province of Solomon Islands and any navigable channel leading into such place to be a harbour within the meaning of this Ordinance;
 - (b) declare the limits of any harbour appointed in accordance with paragraph (a) of this subsection.
 - (2) The places specified in the First Schedule shall be deemed to be harbours.

PART III
ESTABLISHMENT OF POSITION OF HARBOUR MASTER

5. The position of the Western Provincial Harbour Master is hereby established.
6. The Harbour Master will be stationed in Gizo and is to be an employee of the Western Provincial Government.
7. The Western Provincial Harbour Master will have the following powers and Responsibilities;
 - i) To manage and monitor the shipping and barge activities of all ships and barges using the ports of Gizo, Lambete, Ringi, Seghe and Bili;
 - ii) To manage and monitor the anchorage activities of all vessels anchoring within the harbour boundaries of Bili, Seghe, Lambete, Ringi and Gizo as set out in the First Schedule of this Ordinance.
 - iii) To establish and administer a shipping timetable which all shipping services must comply with when using the wharfs of the Western Province.
 - iv) To impose and enforce docking and anchorage fees for ships using the named wharves or anchoring with the named harbour areas as are set out in the Western Provincial Business Licence Ordinance;
 - v) To keep an accurate register of all ships and barges docking at all of the named wharves;
 - vi) To refuse dockage rights to any ship whose business entity which the ship or barge operates under is in arrears of its fees due to the Western Provincial Government of three months or more;
 - vii) To refuse dockage rights to any barge, ship or vessel which fails to provide the Harbour with the required notice of the intention to use dockage facilities at any port;

- viii) To delegate his/her powers and responsibilities to another authorised person to carry out the duties of harbour master at a particular wharf;
- ix) To ensure that the required maintenance work on all wharves is carried out on a regular basis.

PART III
HARBOUR AND WHARF RULES AND FEES

8. All ships and barges using the Gizo, Lambete, Ringi, Seghe, Ringi or Bili wharves must notify the Harbour Master of their intention to use the docking facilities of any of the named wharves and the time that they intend to dock at the wharves.
9. Such notification will be through a mode of communication as determined and established by the Western Provincial Government;
10. The Harbour master shall provide notification within reasonable time of docking availability and rights to a ship or barge at a particular time through the stated mode of communication;
11. The Harbour master or his/her delegated officer will have the right to refuse dockage to any ship or barge which has not given the required notification.
12. All ship and barges using the wharf facilities must pay the required business Licence fees in a manner stipulated by the Western Provincial Government;
13. All goods that are off loaded by ships or barges are to be collected immediately from the wharf. Cargo is not to be left unattended on the wharf. Should cargo be left on the wharf a storage fee will be charged of \$50.00 per day for every day that the cargo remains uncollected on the wharf. Cargo not collected after one (1) month will be dealt with in accordance with the provisions set out in section 17 of this Ordinance.

14. **Levy of Fees –**
- (i) The required fees for the use of docking or Anchorage facilities are set out in the Western Provincial Business Licence Ordinance and must be complied with;
 - (ii) Any ship or barge not complying with the prescribed business licence fees shall be liable to any penalties set out in section 14 of the Western Provincial Business Licence Ordinance and the penalties set out in section 7 (vi) of this Ordinance.
15. **Liability to pay harbour fees levied -** (1) The following persons shall be liable to pay harbour fees, levied on a ship pursuant to paragraphs (a) to (e) of section 5 subsection (1).
- (a) the master or owner; or
 - (b) as to harbour fees payable in respect of cargo inwards the consignor or owner of the cargo.
 - (c) as to harbour fees payable in respect of cargo outwards the consignor or owner of the cargo as to harbour fees payable in respect of passengers the master or owner.

**PART IV
ENFORCEMENT AND PENALTIES**

16. **Recovery of harbour fees –**
If the person liable according to section 16 of this Ordinance to pay harbour fees levied pursuant to the Western Provincial Business Licence Ordinance refuses or neglects to pay such fees upon demand and the Provincial Business Licence Committee may recover such outstanding fees as a civil debt, and in cases where more than one person is liable to pay such fees, those persons are liable jointly and severally to pay such fees.
17. **Power to seize detain and sell –**
(1) In respect of harbour fees incurred with respect to the consignment of goods if the person or persons liable according to section 15 of this Ordinance to pay such fees refuses or neglects to pay such fees on demand the Executives may seize the goods and detain them until the amount so due is paid.

- (2) If the fees payable to the Executive together with any costs of seizure and detention of such goods are not paid to the Executive within sixty days of such seizure the Executive may cause the goods seized, or so much of them, as is necessary to meet the fees together with any costs of seizure and detention and costs of sale, to be sold.
 - (3) Twenty days before sale in accordance with this section the Executive shall post at Provincial Headquarters and such other places as it deems fit, notices of such sale, and if the name and address of the owner are known, shall send notice of such sale to the owner of the goods, but failure to send such notice shall not invalidate the title of on a fide purchasers of the goods, nor shall any purchaser be bound to enquire whether such notice was sent.
 - (4) The proceeds of any sale of goods made in accordance with this section shall be applied –
 - (a) first in payment of the expenses of the seizure detention and sale, then –
 - (b) in payment of the fees due to the Executive; and the surplus if any shall be paid to the owner of the goods.
18. **Unclaimed goods** - If any goods remain unclaimed for one month after they are found on any wharf shed or other Provincial harbour property, the Executive shall turn such goods over to the Police to be disposed of in accordance with the Police Act..
19. **Power to recover expenses due to damage to harbours** – If any expenses have been incurred in repairing any wharf or other structure within a harbour maintained by the Executive due to or caused by contact with any ship or excessive weigh of any goods the Executive may recover by civil suit from the owner of the ship or goods causing such damage the amount of any expenses incurred in repairing the damage.

20. **Offence to evade fees** - Any master or owner of any ship or other person liable pursuant to this Ordinance or orders, rules or regulations made pursuant to this Ordinance to pay fees who by any means whatsoever evades, or attempts to evade any of the fees leviable under this Ordinance.
21. **Offence to fail to supply Information** - Any person who is required by this Ordinance to provide information whether by supplying lists, documents receipts or of any kind whatsoever to the Executive, who having been requested in writing by the Executive to supply such information neglects or refuses to do so within a reasonable time shall be guilty of an offence and shall be liable on conviction to imprisonment for two months or to a fine not exceeding five hundred dollars or to both, such fine and imprisonment.

PART V
AUTHORISED OFFICERS

22. **Authorised Officers** -
- (1) The Western Provincial Harbour Master may through the Executive by instrument in writing delegates any of the powers and responsibilities of the Western Provincial Harbour master to a person identified by the Executive as appropriate to undertake such responsibilities.
- (2) No authorised officer shall be personally liable in respect of any act done or omitted to be done by him in good faith in the execution of his powers and duties under this Ordinance.
23. **Powers of Authorised Officers** -
- (1) Without limiting the powers which the Executive may delegate to authorised officers, an authorised officer may have such powers as are necessary to undertake the responsibilities of the Western Provincial Harbour master.

- (2) Any person who obstructs an authorised officer acting in the due exercise of his powers under this Ordinance or who refuses or fails to answer any reasonable questions put to him by such authorised officer or who make a false statement to such authorised officer shall be guilty of an offence and liable upon conviction to a fine not exceeding five hundred dollars or imprisonment for a period not exceeding two months or both such imprisonment and fine.

PART VI
SUBSIDIARY LEGISLATION AND EXEMPTIONS

24. **Subsidiary Legislation** - (1) The Executive may make orders rules and regulations with respect to any or all of the following matters:
- (a) prescribing the names and functions of authorised officers; providing forms and procedures for the use of harbours calculation of fees and payment of fees under this Ordinance;
 - (b) providing from the exemption from harbour fees of any ship or class of ships;
 - (c) prescribing any other thing within the power of the Executive according to this Ordinance and necessary for or incidental to the implementation or enforcement of this Ordinance.
- (2) For the avoidance of doubt, orders, rules and regulations under this Ordinance or the Western Province Business Licence Ordinance may –
- (a) prescribe different fees for different harbours;
 - (b) prescribe different fees for different classes of ships or goods;
 - (c) provide that the Executive may enter into special agreements in respect of any fee authorised under the Western Province Business Licence Ordinance.

25. **Exemption** - This Ordinance shall not apply to any ship or goods that are Provincial property.

SCHEDULE 1
APPOINTMENT OF HARBOURS
(Section 4)

The following places shall be harbours for the purpose of this Ordinance and the limits and boundaries of each such harbour shall be those specified in relation thereto.

- Gizo - radius of 1 nautical mile from the Government wharf
 Lambete - radius of 1 nautical mile from the Lambete wharf
 Ringi Cove - radius of 1 nautical mile from the South East point of Nusatupe island
 Vim - radius of 1 1/2 nautical miles from the Lands and Survey control beacon NGY 25
 Chea - radius of 1 nautical mile from Chea wharf
 Gasini - radius of 1 nautical mile from Gasini wharf
 Seghe - radius of 1 nautical mile from Seghe wharf
 Patutiva - radius of 1 nautical mile from Patutiva wharf
 Bunikalo - radius of 1 nautical mile from Bunikalo wharf
 Mono - radius of 1 nautical mile from Mon wharf
- Maleasi - radius of 1 nautical mile from Maleai wharf
 Kotovou - radius of 1 nautical mile from Kotovou wharf
 Longana - radius of 1 nautical mile front Longana wharf
 Koriovuku - radius of 1 nautical mile from Koriovuku wharf
 Biula - radius of 1 nautical mile from Biula wharf
 Cheke - radius of 1 nautical mile from Cheke wharf
 Bili Passage - radius of 1 nautical mile from Bili Passage wharf

SCHEDULE 2
PASSENGER SERVICE FEES
(Section 16)

1. The master or owner of a passenger ship is liable to pay to the Executive a passenger service fee for each passenger embarking or disembarking from a passenger ship at any of the harbours specified at Schedule 1 at an amount set out in the Western Business Licence Ordinance, provided that in respect of each passenger who in the same one way passage embarks on and disembarks from a passenger ship at a harbour listed at Schedule 1 the master or owner is liable to pay only one passenger service fee.

2. The master or owner of a passenger ship which has carried passengers to or within Western Province shall each calendar month from the date this Ordinance comes into effect account to the Western Province by a certified list with the names of passengers who have embarked within Western Province during that month together with the name of the harbour listed at Schedule 1 at which each passenger embarked or disembarked and shall remit with such

certified list the total amount of passenger service fees payable pursuant to this Ordinance.

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