

[Legal Notice 58]

**ISABEL PROVINCE RESOURCE MANAGEMENT AND ENVIRONMENTAL
PROTECTION ORDINANCE 2005**

AN ORDINANCE TO

Provide for the Isabel Provincial Executive to manage the natural resources of the Province in a manner consistent with National policy and legislation, to provide for the indigenous people of Isabel Province to contribute to the conservation, management and sustainable utilization of natural resources on customary land, and to consolidate previous ordinances.

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PART I
PRELIMINARY

1. Short title and Commencement

This Ordinance is called the Isabel Province Resource Management Ordinance 2006 and shall come into force upon approval of the Minister in accordance with section 32 of the Provincial Government Act 1997 and publication in the Solomon Island Gazette.

2. Objects of the Ordinance

Under the direction of the Isabel Province Executive and with the assistance of Authorised Officers, the Isabel Province Resource Management Ordinance 2006 seeks to -

- (a) Assist in resource management planning on customary land;
- (b) Ensure the sustainable use of the renewable resources of Isabel Province for the long term well - being of its inhabitants;
- (c) Protect animal and plant species which are rare or threatened;
- (d) Prevent animal and plant species from becoming threatened, endangered extirpated or extinct within their natural range within Isabel Province;
- (e) Maintain and protect the natural biodiversity of the land and water environments of Isabel Province for the benefit of present and future generations.

3. Effect of Ordinance on other laws

(1) In the interests of clarity it is hereby declared that this Ordinance complements and does not seek to replace or conflict with other laws, including enactments of the National Parliament that are aimed at protecting species or natural resources.

(2) Should any part of this Ordinance be held invalid by virtue of its inconsistency with a superior law, the Court shall endeavour to excise only the offending sections and shall, as far as is practicable, preserve the operation of other parts of the Ordinance.

(3) Compliance with the requirements of this Ordinance shall not absolve a person from compliance with any Act of Parliament.

4. Interpretation

In this Ordinance, unless the context otherwise requires:

“**Authorised Officer**” means any police officer, any fisheries, environment, or forestry officer; and any Village Chiefs or other person appointed in writing by the Executive to be an Authorised Officer for the purpose of this Ordinance.

“**Business Licence**” means a licence issued by the Executive in accordance with the Isabel Province Business Licence Ordinance.

“**Coastal waters**” means all that area of sea which comprises part of Isabel Province by virtue of section 3 of the Provincial Government Act. 1997.

“**Council of Chiefs**” means Isabel Council of Chiefs.

“**Current Customary Usage**” means the usage of Solomon Islanders obtaining in relation to the matter in question at the time when that question arises, regardless of whether that usage has obtained from time immemorial or any lesser period.

“**Customary land**” means any land (not being registered land, other than land registered as customary land) used or occupied by a person or community in accordance with current customary usage. For the purposes of this Ordinance, “land” shall include areas of reef waters or lagoon waters where, according to current customary usage. A person’s or community’s use or occupation of land extends to and includes use and occupation of such reef or lagoon waters.

“**Customary land owning group**” means a tribe, clan, line, community or group of such persons owning or customarily recognised as entitled to own or exercise primary rights over customary land.

“**Endangered**” means in relation to any plant or animal species, imminent danger of extinction from any cause whatsoever, including the cause that population levels have been critically reduced and/or habitat has been critically reduced or damaged.

“**Executive**” means the Executive of the Provincial Government of Isabel.

“**Export**” means the selling, supplying or transportation of marine resources, forest resources or wildlife resources originating from within Isabel Province, outside of Isabel Province whether to another part of Solomon Islands or overseas.

“Extinct” means in relation to a plant or animal species, not definitely located within a period of 10 years up to the date of any enquiry.

“Extirpated” means in relation to any plant or animal species, eliminated from a part or parts of its previously known range. This may refer to loss of species from specific area within the Isabel Province.

“Fish” means any cold blooded animal living wholly in water breathing through gills with fins for swimming.

“Forest resources” means any tree, flora or fauna, alive or dead, which is of a species indigenous to Solomon Islands and is or was growing in the Isabel Province.

“House of Chiefs” means the relevant house of chiefs for the area concerned.

“Land” includes coastal marine and lagoon areas adjacent to land.

“Management Committee” means a management committee appointed by the Provincial Executive to manage a designated area.

“Marine resources” means any fish and any other animal, plant, or thing living in or found in salt water including but not limited to the following species or categories of species: beche de mer, clam, coral, crab, crayfish, crocodile, green snail, pearl oyster shell, prawn, seaweed, trochus and turtle.

“Person” includes person, bodies corporate, associations, co-operatives and any other group or body of persons.

“Qualified requesters” means all of the persons and their representatives who, according to the customary law and traditions of the area to be affected by a Resource Management Order, are the persons entitled to make rules which are binding on the people indigenous to the area and people coming to the area with respect to the natural resources of the area, which would be affected by the Resource Management Order.

“Rare” means any plant or animal species with small populations either because of local occurrence within restricted geographic areas or habitats or they are thinly scattered over a more extensive range within Isabel Province.

“Resource Management Order” means a Customary Land Resource Management Order made by the Executive pursuant to section 12 of this Ordinance.

“Sustainable use” means using, developing or protecting renewable natural and physical resources so that their ability to yield long term benefits is not endangered .

“Business Licence” means a licence issued by the Executive in accordance with the Isabel Province Business Licence Ordinance.

“Take” means in relation to forest resources to cut, kill, sell, purchase or export: and in relation to marine resources to fish, catch, kill, capture, sell, purchase or export, and in relation to wildlife resources to kill, hunt, capture, sell, purchase or export.

“Threatened” in relation to any plant or animal species means having a declining population due to over-exploitation or destruction of their habitat: such species being likely to become endangered in the near future if the factors responsible for the decline continue to operate.

“Wildlife resources” means all indigenous birds, insects including butterflies, reptiles, amphibians and mammals whether dead or alive.

“Wildlife Sanctuary” means an area declared by order of the Executive pursuant to Part IV of this Ordinance, for the primary purpose of protecting any species of wild fauna and their feeding, breeding or resting habitat.

“Village Chief” means the person who according to custom is regarded as the head of the village or other local community and where there is no such customary head, means the person regarded by the people within such village or local community as their leader in relation to the matter concerned.

“Vulnerable” means threatened or otherwise at risk in the absence of proper management or conservation.

PART II
PROTECTION OF RESOURCES

5. Prohibited species or categories of resources

- (1) No person may take any of the prohibited species or categories of marine resources listed in Schedule I Part A.
- (2) No person may take any of the prohibited species or categories of wildlife resources listed in Schedule I Part B.
- (3) No person may take any of the prohibited species or categories of forest resources listed in Schedule I Part C.
- (4) Any person who takes a species of marine, wildlife or forest resource whose taking is prohibited under a national law is deemed to have taken a prohibited species under this section.
- (5) In this section, "take" includes killing, injuring or otherwise interfering with the specimen, and disturbing the nest, feeding grounds, breeding area or other habitat of the protected species.

6. Limitation on taking species

- (1) No person may take any of the species or categories of resources listed in Schedule 2 Part A of a size other than that prescribed in Schedule 2 Part A for such species or category.
- (2) No person may take any of the species or categories of resources listed in Schedule 2 Part B in quantities in excess of the quantity prescribed in Schedule 2 Part B for such species or category during any period of time prescribed in Schedule 2 Part B as a prohibited month(s) for such species or category.
- (3) No person may take any of the species or categories of resource listed in Schedule 2 Part C during any month in any year which is specified in Schedule 2 Part C in relation to such species or category as a prohibited month or year.

7. Offences

- (1) Any person who breaches any of the provisions of this Part of this Ordinance commits an offence and is liable upon conviction to a fine not exceeding \$5,000 or to imprisonment for 3 months, or to both such fine and imprisonment.
- (2) Any body corporate, association or cooperative who breaches any of the provisions of this part of the Ordinance is liable on conviction to:
 - (i) a fine not exceeding \$100,000; and
 - (ii) a penalty not exceeding \$50,000 to be paid to the Provincial Resource Management Fund in accordance with section 43 of this Ordinance.

8. Amendment to Schedules

The Executive may by order published in the Solomon Islands Gazette add to delete from or amend the contents of Schedules 1 and 2 of this Ordinance.

9. Exemptions

The following persons are exempt from compliance with the provisions of this Part:

- (a) Any person who has first obtained a valid research permit under the Research Act, or any Act or Ordinance passed in amendment or substitution therefore, or who has otherwise obtained the written consent of the Executive and the Solomon Islands Government to carry out scientific survey or other scientific works and, if appropriate, has obtained an export permit, and/or an Isabel Province Business Licence
- (b) Any person carrying on the business of farming or breeding any prohibited or protected marine, forest or wildlife resources with the prior written consent and approval of the Executive and the Ministry of Natural Resources, where the resource is being used in accordance with that consent or approval, and such person has an Isabel Province Business Licence and, if appropriate, a permit for wildlife export;
- (c) An Authorised Officer of the Ministry of Agriculture and Fisheries, Ministry of Forestry, Environment and Conservation or of the Isabel Provincial Government, where such officer is using the prohibited or protected species for research monitoring or survey studies and where

the use will have no deleterious impact on the species as a whole, or on the health or welfare of the specimen.

10. Defence for Solomon Islands citizens

- (1) It shall be a defence to a person charged with an offence under this Part of this Ordinance if, on a balance of probabilities the person is a Solomon Islands citizen indigenous to, or permanently residing in, Isabel Province; and
- (a) the person took the prohibited or protected resource (being an edible resource) for the sole purpose of consumption by himself, his family or other persons, where no monetary reward was received or intended to be received in return for providing the resource or for the effort expended or cost incurred in taking it; or
- (b) the person took the prohibited or protected resource for use by himself or another or other Solomon Islands citizens indigenous to, or residing permanently in, Isabel Province to use in, or to process for use in building, personal adornment, or for a customary use or purpose.
- (2) This Section shall not provide a defence to any person who purchases or exports a resource which is prohibited or protected by this Part of this Ordinance, or who sells a prohibited or protected resource to a person who is not a Solomon Islands citizen, or who exports a prohibited or protected resource which has not been processed into a souvenir.

**PART III
ENVIRONMENTALLY HARMFUL ACTIVITIES**

11. Prohibition on taking or damaging coral

- (1) Subject to subsection (2) of this section, no person shall take, cut, collect, blast using any explosives, harvest or remove any live coral from or in coastal waters.
- (2) Subsection (1) of this section shall not apply to:
- (a) A person indigenous to the Solomon Islands who takes, cut, collects, harvests or removes live coral for the sole purpose of producing by traditional means lime for consumption with betel nuts;
- (b) A person indigenous to the Solomon Islands who takes, cuts, collects, harvests or removes live coral to use for traditional purposes;
- (c) Any person who has first obtained a valid research permit under the Research Act or any Act or Ordinance passed in amendment or substitution therefore or who has otherwise obtained the written consent of the Executive and the Solomon Islands Government to carry out scientific survey or other scientific work related to corals; or

- (d) Any person who holds written authority from the Executive and Solomon Islands Government to clear a passage way or blast a channel through coral reef or otherwise remove coral for the purpose of a development or access way approved by the Executive.
- (3) It is an offence for any ship, boat, barge or other vessel to damage any coral or reef by grounding or striking the vessel on the coral or reef.

12. Offence to use anchor

It shall be an offence for the Captain of any ship to cause or allow his ship to be anchored within or near any coral reef where there is a mooring, buoy, wharf or other method of securing the ship within a radius of 500 yards from the place where the ship is anchored.

13. Logging

- (1) Subject to any right, privilege or licence granted pursuant to National laws, all logging and sawmilling activities within the Isabel Province must adhere to the Isabel Province Forest Management Policy.
- (2) The Isabel Province Forest Management Policy shall be that Policy notified and published by the Isabel Province from time to time.

14. Harvesting methods for marine resources

- (1) No person may use scuba gear or any other underwater breathing apparatus when harvesting any marine resource.
- (2) Any person may make use of traditional methods of harvesting or gathering marine resources, but poisonous plants may not be used as a harvesting technique for regular local consumption or harvesting for monetary reward. Poisonous plants may only be used for harvesting marine resources for special occasions such as feasts.
- (3) No person may use dynamite or other explosives when harvesting fish or other marine resources.

15. Coastal and marine pollution

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

- (2) Subsection (1) does not apply to the dumping or discharge of biodegradable food or other substances or human waste including sewage.
- (3) Subsection (1) includes the release of fuel, oil, bilge water, or other substances that are potentially hazardous to the marine environment as a result of the vessel running aground or otherwise striking rocks or reef, or as a result of defects in the vessel structure that could have been prevented through reasonable maintenance of the vessel.

16. Freshwater pollution

- (1) No person is permitted to drop, throw, dispose of, any liquid or solid waste or any other polluting material of any kind into any river, stream or other freshwater source.
- (2) The prohibition in subsection (1) includes placing waste or other polluting material, or allowing it to be placed on land, in a position where it is reasonably likely to enter any river, stream or other freshwater source.

17. Offences

- (1) Any person who breaches any of the provisions contained in this Part of the Ordinance commits an offence and shall be liable upon conviction to a fine not exceeding \$5,000 or imprisonment for a term of up to 3 months or to both such fine and imprisonment.
- (2) Any body corporate, association or co-operative who breaches any of the provisions of this Part of the Ordinance commits an offence and is liable upon conviction to
 - (i) a fine not exceeding \$50,000; and
 - (ii) a penalty not exceeding \$20,000 to be paid to the Provincial Resource Management Fund established in accordance with **section 43** of this Ordinance.
- (3) The master or owner of any ship which commits an offence, or from which an offence is committed, is guilty of an offence and liable to the same penalty as if he was a corporate officer.

PART V

RESOURCE MANAGEMENT ON CUSTOMARY LAND

18. plans and policies for resources on customary land

- (1) Every customary land owning group may make its own policies and plans regarding the use of resources within its land or area.

- (2) Policy statements and plans prepared by customary land owning groups shall be referred to the appropriate House of Chiefs for endorsement.
- (3) The Executive or any public officer or provincial employee designated by the Executive shall, as soon as practicable, establish and maintain at the Assembly offices a Register of Policy Statements and Plans on Customary land. The register shall define as accurately as possible the boundaries of each area covered by a Plan or Policy Statement and shall include maps of the area. The said Register shall be available for inspection between the hours of 9am and 12 noon and 1pm and 4pm Monday to Friday.

19. Resource Management Order

- (1) The Executive may make Resource Management Orders by Order published in the Solomon Island Gazette.
- (2) A Resource Management Order is an Order applying to a particular area of customary land and providing for one or several of the following objectives:
 - (a) management, conservation and/or protection of marine resources, forest resources and/or wildlife resources existing on that land;
 - (b) reservation of an area for conservation of wildlife habitat or to protect representative ecosystems.
 - (c) protection of the area for spiritual or custom purposes.
- (3) A Resource Management Order may only be made if all of the procedural requirements of this Ordinance have been satisfied, and
 - (a) The proposed Resource Management Order relates to customary land;
 - (b) The boundaries of the customary land are clearly defined on a plan attached to the request for the Order;
 - (c) The Resource Management Order has been requested or consented to by all qualified requesters, and the Executive is satisfied that the request has been made after agreement between all such requesters and following consultation with holders of secondary rights who currently use the area and whose use rights would be affected by the resource management order;
 - (d) The contents of the proposed Resource Management Order would advance the objects of this Ordinance and are not contrary to the Provincial or National interest; and
 - (e) The rules of the proposed Resource Management Order are clear and unambiguous.
 - (f) The term of the proposed Resource Management Order is clearly specified.

20. Request for Resource Management Orders

- (1) A request for a Resource Management Order may be made at any time in relation to any defined area of customary land by qualified requesters; such persons hereinafter called 'the Applicants'.
- (2) A request for a Resource Management Order shall be made in the form set out in Schedule 3 of this Ordinance.
- (3) Where the Executive determine that an area requires appropriate management for the protection, maintenance, or sustainable utilization of any marine, forest or wildlife resource, it may consult with the owners of the area and request that they initiate the formulation of an application in the terms outlined in this section.
- (4) Upon receiving a request for a Resource Management Order, the Executive shall consider the request and, if satisfied that it complies in all respects with the requirements of this Ordinance shall, within one month of receipt of the request, endorse its approval on the request and deliver the request to the appropriate House or Houses of Chiefs to whose area the request relates and to an Authorized Officer designated by the Executive to administer the provisions of this Part.
- (5) Upon receipt of the request endorsed with the approval of the Executive, the Authorized Officer shall forthwith cause a copy of the request to be displayed in a conspicuous place in each village within and adjacent to the area affected by the request. The Authorized Officer shall at the time of displaying the request sign it and affix to it the date of the first complete day that it will be displayed.
- (6) Within one calendar month of the first complete day that the request is displayed, any person may give written notice of objection to the Houses of Chiefs for the area that the Applicants are not all the qualified requesters.
- (7) A copy of the notice of objection under subsection 20(6) shall be delivered by the objectors to the Provincial Secretary on behalf of the Executive, no later than one day after the day that the notice of objection is filed with the House of Chiefs.
- (8) A copy of the notice of objection shall be served on the Applicants, and such persons shall be respondents for the purpose of the objection and entitled to appear and be heard in the hearing of the House of Chiefs.

- (9) Upon hearing an objection brought to it pursuant to subsection 20(7), the House of Chiefs shall make and record determinations as to whether or not the Applicants are all the qualified requesters.
- (10) Following the hearing of the objection, the Secretary of the House of Chiefs shall deliver a copy of the determination to the Provincial Secretary on behalf of the Executive.
- (11) If the objector or the respondents are not satisfied that the determination of the House of Chiefs is correct, they may, within 21 days after the date of the determination, apply to the Isabel Council of Chiefs for a ruling on who is a qualified requester.
- (12) The Executive may by resolution make and cause to be gazetted a Resource Management Order in terms of the request, provided that:
 - (a) the time for lodging an objection to the House of Chiefs has expired and no objection has been lodged; or
 - (b) if an objection has been lodged, the determination of the House of Chiefs was to the effect that the Applicants are all of the qualified requesters and this determination has been made and delivered and no application to the Council of Chiefs under subsection 20(11) of this Ordinance has been made.
- (13) A Resource Management Order shall be in the form set out in the Form contained in Schedule 4 of this Ordinance and shall not differ substantially from the request endorsed by the Executive.
- (14) Unless otherwise provided for in the Order itself, a Resource Management Order shall come into effect one month after the resolution of the Executive.
- (15) Following the making of a declaration of a Resource Management Order, the Executive shall serve copies of the Order on the House of Chiefs and the Village Chiefs of areas affected by the Order, provincial fisheries, forestry, environment and natural resources officers, and the public officer in charge of policing within the province.
- (16) On receipt of the notice under subsection (15), the village chief must, as soon as practicable, display a copy of the Order at the boundary or boundaries of the area where it can readily be seen by members of the public.

- (17) As soon as practicable after the making of the Order, the applicants shall mark the boundary of the area with appropriate signage or other markers.
- (18) In addition to any rules governing the resource management area that are specified in the application, the following activities are prohibited unless they are expressly made permissible in the resource management order:
 - (i) cutting trees for any purpose other than the construction or maintenance of a dwelling house using traditional materials and techniques;
 - (ii) clearing or cultivation of land for any purpose;
 - (iii) access for mineral reconnaissance, prospecting or mining; and
 - (iv) earthworks of any kind.

21. Effect of Resource Management Orders

- (1) Once a Resource Management Order is declared and gazetted, the rules governing that area and set out in the order become part of the laws of the Isabel Province and shall be enforceable as part of this Ordinance.
- (2) The declaration of a Resource Management Order has no bearing whatsoever on the ownership of any land.

22. Register of Resource Management Orders

- (1) The Executive or any public officer designated by the Provincial Secretary shall, as soon as practicable, establish and maintain at the Provincial Offices a Register of Resource Management Orders.
- (2) The Register shall contain:
 - (i) a copy of each Resource Management Order, including the rules relating to the area;
 - (ii) a map of the area covered by the Resource Management Order.
- (3) The said Register shall be available for inspection between the hours of 9am and 12 noon and 1pm and 4pm Monday to Friday.
- (4) The Executive or its authorized officer must furnish to the Registrar of Title a copy of every Resource Management Order and any other information required to enter the declaration on the Land Register.

23. Variation or Revocation of Resource Management Orders

- (1) Any Resource Management Order may be varied by subsequent Order of the Executive, published in the Solomon Islands Gazette, provided:
- (a) A request for the variation or revocation was made by the same persons or substantial the same persons as were the qualified requesters in the request for the Resource Management Order. The Executive may reject any request where it is satisfied that there is not reasonable identity between the qualified requesters and the applicants for variation or revocation; and
 - (b) The request for variation or revocation is made in writing and specifies a date on which the variation or revocation is to take place, being a date not less than 6 months from the date of the request.
- (2) Should the Executive resolve to vary or revoke a Resource Management Order, it may impose such reasonable terms and conditions upon the future use, occupation or management of the land or its resources as may be requested by the applicants..

24. Offences

- (1) It shall be an offence under this section to breach any of the provisions of a Resource Management Order.
- (2)
- (a) Any person who breaches any of the provisions of a Resource Management Order is liable upon conviction to a fine of up to \$50000 or to imprisonment for a term of 3 months or to both such fine and imprisonment.
 - (b) Any person convicted of an offence under this section shall also be liable to pay to the Executive such sum reflecting the value of the resources taken or damage caused as the Court deems just for payment to the customary landowners by way of restitution.
 - (c) Any body corporate, association or co-operative who breaches any of the provisions of a Resource Management Order is liable on conviction to a fine not exceeding \$50000.
 - (d) Any body corporate, association or co-operate who is convicted of an offence under this section shall be liable to pay to the Executive such sum, reflecting the value of the resources taken or damage caused as the Court deems just for payment to the customary landowners by way of restitution.

- (e) On receipt of payment under paragraph (b) or (d) of this subsection, the Executive shall forthwith pay the restitution to the signatories to the Resource Management Order request, or their administrators or assigns.
- (3) The penalties and offences set in this section shall not deprive any person of civil rights and remedies otherwise available in relation to wrongful interference with resources on customary land.

PART V
ESTABLISHMENT AND MANAGEMENT OF WILDLIFE SANCTUARIES

25. Establishment of wildlife sanctuary

- (1) The Executive may by resolution declare an area to be a wildlife sanctuary.
- (2) Any resolution declaring a wildlife sanctuary must be published in the Solomon Islands Gazette and exhibited at the office of the Provincial Government.
- (3) The procedures and requirements for establishing a wildlife sanctuary on customary land shall be the same as those set out in Part III of this Ordinance for establishing a resource management area.
- (4) The procedure for declaring a wildlife sanctuary on any land other than customary land shall be determined by the Executive, based on the location of the land, the proposed scope of the sanctuary and all other relevant circumstances.

26. Restricted activities

In addition to any rules applicable to a particular wildlife sanctuary, prescribed in orders or regulations in accordance with section 30 of this Ordinance, the following general rules shall apply to all areas declared as wildlife sanctuaries:

- (1) It is unlawful for any person to be in possession of any arms in a wildlife sanctuary;
- (2) It is unlawful for any person to be in possession of any arms in a wildlife sanctuary, unless the person holds a permit to carry arms that issued by the Executive, or the person is a Member of the Government Armed Forces or Police and carries arms upon a duty which involves the carrying of arms.

27. Duty to comply with rules governing sanctuary

- (1) It shall be the duty of all persons visiting any wildlife sanctuary, regardless of whether they are members of the management committee, residents of the area, customary landowners or any other person, to familiarize themselves with the

requirements of this Ordinance and any regulations made hereunder.

- (2) The resident warden of any wildlife sanctuary declared under this Ordinance shall display the regulations in a prominent place where they may be conveniently read by any visitor to the wildlife sanctuary and shall use his best endeavours to bring the regulations to the notice of all visitors.

28. Offences

- (1) Any person who contravenes the provisions of this part or any regulations made hereunder shall be guilty of an offence and liable upon conviction to penalties as follows:

- (a) where the offence was not committed for commercial gain, a fine of up to \$50000 or to imprisonment for a term of 3 months or to both such fine and imprisonment;
- (b) where the offence was committed for commercial gain, a fine of up to \$100000 or to imprisonment for a term of 2 years or to both such fine and imprisonment;
- (c) where the offence was committed by a body corporate, association or co-operative, a fine not exceeding \$500,000;

- (2) Any person or body corporate convicted of an offence under this section shall also be liable to pay to the Executive such sum reflecting the value of the resources taken or damage caused as the Court deems just for payment to the landowners by way of restitution.

- (3) On receipt of payment under subsection (2), the Executive shall forthwith pay the restitution to the signatories to the Wildlife Sanctuary request, or their administrators or assigns.

- (4) The penalties and offences set in this section shall not deprive any person of civil rights and remedies otherwise available in relation to wrongful interference with resources in wildlife sanctuaries.

29. Enforcement in relation to wildlife sanctuaries

- (1) Wardens bear the primary responsibility for protecting and managing wildlife sanctuaries.
- (2) All fisheries officers, whether members of the Public Service seconded to Isabel Province or direct Provincial Employees shall be wardens of wildlife

sanctuaries in Isabel Province.

- (3) The Management Committee of a wildlife sanctuary and the Provincial Executive may appoint any other person as a warden of the sanctuary for which the Management Committee is established.
- (4) Any warden or authorized officer, including any police officer, may enforce the provisions of this Part, and shall have all the powers of investigation and enforcement set out in Part 6 of this Ordinance.

30. Power to make orders and regulations

The Executive may make orders or regulations in respect of any of the following:

- (1) The mechanisms for managing a wildlife sanctuary
- (2) The composition of any committee established to oversee the management of a wildlife sanctuary
- (3) The process by which management committee members may be selected
- (4) The rules governing the funding, operation, decision-making procedures and all other aspects of the operation of the management committee
- (5) The persons who may be admitted to a wildlife sanctuary and the process by which permission may be granted
- (6) The rules governing conduct within a wildlife sanctuary
- (7) The management of natural resources within any wildlife sanctuary and any other matter which may be necessary to effectively carry out the objects of the sanctuary.

31. Recognition and saving of existing sanctuaries

Any wildlife sanctuary established or declared under any earlier or repealed Provincial Ordinance, including the Arnavon Conservation Area, shall be deemed to be a wildlife sanctuary declared under this Ordinance, and the rules and management arrangements applicable thereto shall continue as if they were made under this Ordinance.

**PART VI
ENFORCEMENT**

32. Local enforcement

- (1) The primary responsibility for enforcing the provisions of this Ordinance or the rules of any resource management area or wildlife sanctuary rest with the local community in whose area the breach is said to have occurred.

- (2) To clarify subsection (1), this means that wherever possible, breaches of resource management orders should be remedied using traditional enforcement and dispute settlement processes and penalties, in accordance with the procedures set down in the rules governing the resource management area.
- (3) If no procedures are specified in the rules governing a resource management area the process for local enforcement set out in subsections (4) to (13) (inclusive) of this section, shall apply in default.
- (4) The village committee in each village shall nominate one chief to act as the person responsible for enforcing the provisions of this ordinance.
- (5) The nominee of the village committee shall be approved by the House of Chiefs for the area.
- (6) Where a village has no village committee, the House of Chiefs for the area shall appoint a chief from that village to enforce the provisions of the Ordinance.
- (7) In addition to any penalties ordinarily imposed in accordance with the custom of the area, if the village chief or leader determines that a breach has been committed, she or he may make any or all of the following orders:
 - (i) payment of a penalty payable to the village committee or, where there is no village committee, the House of Chiefs;
 - (ii) payment of a penalty to the owners of the resources removed, damaged or destroyed;
 - (iii) that the person who committed the breach work for a specified period of community service;
 - (iv) that the person who committed the breach restore or rehabilitate the damaged area;
 - (v) that the person surrender the vessel, gear or other equipment used to commit the breach either permanently or until such time as other orders have been complied with.
- (8) It is the duty of chiefs appointed to enforce the provisions of this Ordinance to do so in good faith, using their best efforts.
- (9) Any person who is dissatisfied with the decision of the chief may appeal to the village committee, or if there is no village committee, the House of Chiefs, for its determination.
- (10) The intention to appeal under subsection (9) shall be made by notifying the village committee or house of chiefs in writing, within 30 days of the chief's decision.
- (11) Any person who is dissatisfied with the decision of the village committee or House of Chiefs in hearing an appeal under subsection (9) may apply to the High Court of Solomon Islands for judicial review of that decision on one or more of the following grounds:

- (i) that the process by which the decision was made involved a denial of natural justice;
 - (ii) that the decision was such that no reasonable decision-maker in the same position could have made that decision;
 - (iii) that the decision involved an error of law
- (12) In addition to traditional investigation and enforcement powers ordinarily held and exercised by local leaders and chiefs, the Executive may confer the powers of an Authorised Officer on the village chief or another body established to manage an area created by a Resource Management Order or Wildlife Sanctuary Declaration.
- (13) Failure to comply with decision of a village chief, village committee or, where applicable, House of Chiefs, is an offence punishable by a fine not exceeding \$5000 or imprisonment or a term of up to 3 months or to both such fine and imprisonment.

33. Powers of Authorised Officers

For the purposes of ascertaining whether there is or has been any contravention of the provisions of this Ordinance, any authorised officer may:

- (1) at all reasonable hours enter any establishment and premises, other than a premises used exclusively as a dwelling house;
- (2) stop, board and search any vessel or canoe, whether foreign or local, within the waters of the Isabel Province;
- (3) stop and search any vehicle transporting or reasonably suspected of transporting any prohibited or protected species or products thereof.
- (4) make such examination and inquiry as may appear necessary to him concerning any premises, establishment, vessel or vehicle in relation to which any of the powers conferred by this section have been or may be exercised and take samples of any prohibited or protected species found therein;
- (5) if it appears to the authorised officer that a person is doing an act for which a licence or other authority is required under this Ordinance, require that person to produce his licence or his authority and take a copy of such licence or other authority.

34. Powers of authorised officers without a warrant

- (1) Where an authorised officer has reasonable grounds for believing that an offence against the provisions of this Ordinance has been committed, he may without a warrant:

- (a) stop, board search any vessel, canoe or vehicle, whether local or foreign, which he believes has been used in the commission of that offence or in relation to which he believes such offence has been committed;
 - (b) search the packages belonging to any person, whether in their personal possession or found within any premises, vehicle, vessel or canoe;
 - (c) arrest any person whom he believes has committed such an offence, and if the authorised officer making such arrest is not a police officer, or in the absence of a police officer, shall take such person to the nearest police station;
 - (d) seize any equipment, gear, explosive, poison or other noxious substance which he believes has been used, carried, possessed or controlled in the commission of such offence;
 - (e) seize any species of forest, wildlife or marine resource, or product thereof, which he believes to have been taken in contravention of this Ordinance.
- (2) The authorised officer concerned shall give a written receipt for anything seized under subsection (1) to the person from whom the seizure is made.
 - (3) Anything seized under subsection (1) (d) may be detained pending the outcome of any legal proceedings under this Ordinance.
 - (4) Any species of forest, wildlife or marine resource, or product thereof, seized under subsection (1) (e) may be returned to its natural habitat forthwith where the authorised officer considers it necessary to do so for the survival of the resource, or may otherwise be detained pending the outcome of any legal proceedings under this Ordinance.

35. Wilful obstruction

Any person who wilfully obstructs, assaults or threatens an authorised officer in the exercise of his powers shall be guilty of an offence and liable upon conviction to a fine not exceeding \$1000 or imprisonment for up to 3 months or both fine and imprisonment.

36. Failure to comply with enquiry

Any person who fails to comply with any lawful enquiry made by any authorised officer under this Ordinance, shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding \$500.

37. Identification of authorised officers

Any authorised officer acting in the exercise of his powers under this Ordinance shall, on demand produce such document of identification or other evidence as may be reasonably sufficient to show that he is an authorised officer for the purposes of this Ordinance.

38. No liability of authorised officers

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

39. Destroying of evidence

Any person who destroys any species or product thereof, or any equipment, gear, explosive, poison, noxious substance or any other thing whatsoever with the intent to avoid the seizure of the said substance or thing, or the detection of any offence, is guilty of an offence and liable to a fine not exceeding \$1,000.

40. Power of forfeiture

(1) In addition to any other penalty it may impose, where any person is convicted of an offence under this Ordinance, the court may order the sale, forfeiture or disposal of any of the following, as it sees fit:

- (i) any species or product thereof taken, disturbed or otherwise interfered with as part of the offence;
- (ii) any equipment, gear or other substance used in the commission of such offence or in respect of which such offence has been committed;
- (iii) the proceeds of sale of such species or product thereof or equipment, gear or other substance used in the commission of such offence.

(2) Where the court orders the sale, forfeiture or disposal of any items or money listed in subsection (1), it shall transfer such assets or money to the Executive with an order that: (1), it shall transfer such assets or money to the Executive with an order that:

- (i) the Executive dispose of assets and pay the proceeds as restitution to landowners who have been adversely affected by the breach; or,
- (ii) where no landowners have been adversely affected, that the Executive deposit the sums in the Provincial Resource Management Fund established under section 43; or
- (iii) where the consider considers it appropriate, some combination of (i) and (ii) above.

41. Power to order repair or remediation

In addition to any other penalty it may impose, where any person is convicted of an offence under this Ordinance, the court may order that the person repair, rehabilitate or otherwise restore the environment or natural resources of the area in which the breach occurred, or reimburse the Executive for such restoration or rehabilitation work undertaken by the Province.

42. Revocation or suspension of Provincial Business Licence

- (1) Where the Provincial Secretary has reason to suspect that the holder of an Isabel Province Business Licence may have committed an offence under this Ordinance, the Provincial Secretary may serve a notice on the holder of the licence requiring him to explain the circumstances giving rise to the suspicion.
- (2) The licence holder must respond to the notice.
- (3) If the Provincial Secretary is not satisfied that the business licence holder is taking appropriate action to ensure compliance with this Ordinance, he may refer the matter to the Executive.
- (4) When the Executive receives a referral from the Provincial Secretary as set out in subsection (3), the Executive may:
 - (i) impose new terms and conditions on the person's Isabel Province Business Licence;
 - (ii) suspend the person's Isabel Province Business Licence; or
 - (iii) revoke the person's Isabel Province Business Licence.
- (5) This section applies notwithstanding that a holder of an Isabel Province Business Licence has not been charged or found guilty of any offence under this Ordinance.

43. Resource Management Fund

- (1) In accordance with Part VI 'Special Funds' of the Isabel Province Management Ordinance 1984, the Executive shall set up a Special Fund to be called the Resource Management Fund ('the Fund').
- (2) Rules made in respect of the Fund in accordance with **section 37** of the Isabel Province Financial Management Ordinance shall include provisions that the Fund must be applied:
 - (i) for the administration and enforcement of this Ordinance;
 - (ii) for any survey or other work undertaken for the purposes of managing marine, wildlife and forest resources of the Province;

- (iii) for the establishment and maintenance of Public Registers of both Plans and Policy Statements, and of Resource and Management Orders;
- (iv) for public awareness programmes and publications relating to the management of marine, wildlife and forest of the Province.

44. **Liability of company officers**

- (1) Where a body corporate, association or cooperative commits an offence under this Ordinance with the consent, participation or connivance of or because of neglect or omission by an individual, the individual is guilty of the same offence as the body corporate, association or cooperative if at the time of the offence
 - (a) the individual was a director, manager, secretary or other senior officer of the body corporate, association or co-operative; or
 - (b) the individual was holding out that he was such an executive officer of the kind listed in paragraph (a); or
 - (c) the individual was a member of a body corporate, association or co-operative which is managed by its members.
- (2) Where a company officer is convicted of an offence by virtue of this section, he or she is subject to the same penalties as apply to the company itself, but may also be sentenced to a term of imprisonment of up to two years, either instead of or in addition to any fine.
- (3) A company officer may be convicted under this section regardless of whether the company of which the person is an officer has been prosecuted.

45. **Repeal & transitional arrangements**

- (1) The following Ordinance are hereby repealed:
 - (i) The Isabel Province Marine and Freshwater Areas Ordinance 1993
 - (ii) The Isabel Province Conservation Areas Ordinance 1993
 - (iii) The Isabel Province Wildlife Sanctuary Ordinance 1995
- (2) Any marine or freshwater area, conservation area or wildlife sanctuary declared under any repealed ordinance shall be deemed to be an area declared under Part III or IV of this Ordinance and its management rules shall be recognized as a management plan under this Ordinance.

SCHEDULE 1
PROHIBITED SPECIES OR CATEGORY OF RESOURCE
Section 6

PART A (Subsection 6(1))

Prohibited Marine Resource

Any of the following live marine resource not farmed or propagated subject to permit for commercial purposes.

Thidacna gigas - giant clam

Tridacna maderasana - smooth giant clam

Tidacna souarnosa - fluted giant clam

Tidacna maxima - rugose giant clam

Tidacna - boring clam

Hippopus hippopus - horses hoof clam

Charonia tritonis - pacific trident

Holothuria scabra - sandfish

Oyster shell of the genus *Pinctada*

All turtles of whatever species

Any female crayfish of whatever species which is carrying eggs externally or from which the eggs have been removed. Any coconut crab of whatever species which is carrying eggs or from which eggs have been removed.

PART B (Subsection 6(2))

Prohibited Wildlife Resource

Sitomys noncheleti - giant rat

Sitomys sanieus - giant rat

Homomys rex - giant rat

Pteralopex atrata - monkey-faced flying fox

Pteralopex ancens - monkey-faced flying fox

Dobsonia - all species, naked-hack bats

Macrodossus minimus - dagger-toothed flower bat

Melonycteris - all species, tube-nosed bat

Pteralopex - all species, fruit bat

Pteropus - all species fruit bat

PART C (Subsection 6 (3))

Prohibited Forest Resource

Any of the following live forest resource

Saline swamp forest (Mangroves)

Freshwater swamp forest (Terminalia spp and Metroxilon spp.)

SCHEDULE 2
PROTECTED SPECIES
Section 7

PART A (Subsection 7(1))

**Protected species or category of
Marine / Wildlife / Forest Resource**

Prescribed Min/max size

Holothuria nobilis, black teatfish

11 cm dry (min)

Holothuria fuscata, elephant trunk fish

12 cm dry (min)

Thelenota ananas, prickly redfish

11 cm dry (min)

Actinopterygion qaniliatis, black fish

11 cm dry (min)

Actinopterygion ecbimatis, deep water redfish

5 cm dry (min)

Panulirus, crayfish

8 cm (min) carapace length when measured along the midline from immediately behind the rostral horn to the rear edge of the carapace in the midline.

Birgus latro - coconut crab

9 cm (min) when measured along the carapace from immediately behind the rostral horn to the rear edge of the carapace in the midline.

Any trochus shell

8 cm (min) 12 cm (max) measured across the base.

Part B (Subsection 7(2))
Prescribed species or category of Quantity Prescribed Time
Marine Wildlife/Forest Resource

NIL

Part C (Subsection 7 (3))

Protected species or category of Marine / Wildlife / Forest Resource	Prescribed Periods Prohibited
Turbo marmoratus green snail.	10 years, 1994 - 2003 (inclusive)
Turtle nests or eggs of whatever species	June, July, August and November, December, January

SCHEDULE 3
REQUEST FOR
**RESOURCE MANAGEMENT ORDER/
WILDLIFE SANCTUARY DECLARATION***

To the Provincial Executive

We request that the Provincial Executive make a Resource Management Order/Wildlife Sanctuary Declaration* in the following terms:

1. The boundaries of the land are described as follows and as marked and outlined in on the plan attached.
2. The rules and enforcement mechanisms governing the Resource Management Order or Wildlife Sanctuary Declaration which we request the Executive to make part of the laws of the Isabel Province are as follows/set out in the attached annex*:

[**Note:** The following are examples only. You should clearly state here what marine resource, forest resource or wildlife resource prohibitions, management regimes and protections you require. You may need to use a different form of wording from what is used here as an example. You may prepare these rules as a separate document and include as an annex to this request.]

1. No person is permitted within the area affected by this Order to take any of the species or categories of *marine resource / *forest resource / * wildlife resource listed here: (list species or categories)
 2. Harvesting of listed species is limited to specified periods, specified quantities, and specified sizes (list as relevant)
 3. Within the area affected by the order no person is permitted to take any indigenous forest resource for the purpose of commercial logging of any sort.
 4. Within the area affected by the Order no person is permitted to take any of the following species or category of resource. (list the prohibited species of forest/marine/wildlife resource).
 5. Within the area affected by the Order no person is permitted to take for the purpose of exporting any of the following species of wildlife. (Name the prohibited species of wildlife).
3. Term of Resource Management Order/Wildlife Sanctuary Declaration*
4. We the undersigned acknowledge that we are aware that if this request is approved by the Executive, and is not appealed against successfully, it will be gazetted in the Solomon Islands Gazette. It will then become part of the laws of the Isabel Province. There will be penalties for not obeying it. Once an Order is made, it can be changed unless the Executive agrees to vary or revoke it.
5. Names and signatures of all the qualified requesters.

We certify that we have discussed this Resource Management Order Request/Wildlife Sanctuary Request with the communities which will be affected by it, and that we substantially have their agreement to it.

SIGNED by and on behalf of the land owning group/tribe.

Names	Signatures	Title (if any)
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SCHEDULE 4
FORM OF RESOURCE MANAGEMENT ORDER OR
WILDLIFE SANCTUARY DECLARATION

I, _____ do this day of 20 , declare the area boundaries of the land and/or coastal waters described as follows and as marked and outlined on the plan attached to be a Resource Management Area/Wildlife Sanctuary and subject to the rules and procedures governing that area by virtue of the Isabel Province Resource Management and Environmental Protection Ordinance 2006.

PROVINCIAL GOVERNMENT ACT 1997

**ISABEL PROVINCE RESOURCE MANAGEMENT AND ENVIRONMENTAL
PROTECTION ORDINANCE 2005**

ARNAVON CONSERVATION AREA EXECUTIVE REGULATIONS

1. These regulations are made under Section 23 of the Isabel Province Resource Management and Environmental Protection Ordinance 2006.
2. In these regulations:
 - “**Executive**” means the Isabel Provincial Executive.
 - “**Management Committee**” means the committee appointed for the management and administration of the land to which the Principal Ordinance relates which shall include:
 - i) The Director of the Division of Environment and Conservation of the Ministry of Natural Resources, *ex officio*;
 - ii) Two members from each of the communities of Posarae, Waghena and Kia, to be elected by those communities and approved by the executive. The election and/or appointment of such members shall be by any manner acceptable to the community that they are to represent;
 - iii) A Solomon Islands field representative of The Nature Conservancy, or a representative of such other non-government organization that is prepared to assume financial responsibility for the administration of the area.

- iv) The Senior Fisheries Officers representing the Provinces of Isabel and Choiseul.
4. The term of office for the elected members of the Committee shall be three years, but members may be re-elected.
 5.
 - (i) The Management Committee shall be responsible for preparing a management plan for the Area.
 - (ii) The Management plan shall be approved by the local communities and the Provincial executive before it is adopted.
 6.
 - (i) Decision-making within the Management Committee shall be by consensus
 - (ii) Decisions of the Management committee must be approved by the Executive.
 7. The Management Committee shall attempt to resolve disputes, conflicts or disagreements arising between participating communities, but nothing in this provision shall prevent any person from referring any matter to a court of competent jurisdiction.
 8. In addition to the preparation of the management plan, the duties of the Management committee are to:
 - a) protect the nesting ground and rookery of the hawksbill and other turtles in the area;
 - b) provide for the management and sustainable use of other marine and terrestrial resources for subsistence small scale commercial uses;
 - c) monitor and evaluate the status of resources and the effects of the management programme on those resources;
 - d) consult with local communities and relevant Provincial Officers in the planning, establishment, management and monitoring process for the area;
 - e) present a detailed progress report to the Provincial Executive at least once per year.
 9.
 - a) No person may enter, visit or reside in the area except in accordance with a permit issued in accordance with these regulations.
 - b) Persons wishing to visit the area must submit an application to the Management committee outlining the purpose and anticipated length of their proposed visit.
 - c) The Management Committee shall be responsible for issuing permits to applicants wishing to visit the area and advising applicants of their obligation to comply with the laws and regulations governing their conduct in the area.

- d) Before the management committee grants a permit to a person wishing to conduct research or commercial photography, it must first be satisfied that the applicant holds a Provincial business licence issued by the Executive.
 - e) Restrictions and conditions may be included on the permit to visit the area.
 - f) If any applicant is aggrieved by a refusal to grant such a permit, then may appeal to the Provincial Executive, whose decision on the matter shall be final.
 - g) The requirement to obtain a permit does not apply to:
 - i. The warden
 - ii. Any person whose ordinary place of residence is within the area.
 - iii. Any person who is seeking shelter or a safe harbour in the area due and during a bona fide emergency.
10. In addition to the requirement that visitors to the area obtain a permit, the following restrictions and prohibitions apply to any and all persons visiting or residing in the area:
- a) Harvesting, capture, killing or disturbance of any of the following species, including interference with their nesting, breeding or feeding habitat is prohibited:
 - v. turtles of all species and their eggs
 - vi. blacklip and goldlip pearl shell
 - vii. trochus and beche-de-mer
 - viii. giant clams
 - ix. green snail
 - x. milk fish (vulu or baneva)
 - xi. pigeons (kurukuru or bakuba)
 - xii. megapodes
 - b) Commercial fishing of reef fish, using any method whatsoever, is prohibited. Harvesting of reef fish for subsistence purposes is permitted.
 - c) The use of scuba and hookah gear for harvesting any marine resource is prohibited.
 - d) The cutting of any live vegetation from any part of the area is prohibited.
 - e) Other resources not listed in any of the foregoing subsections may be removed from the area.
 - f) Collection of dead timber for firewood is only permitted for subsistence purposes while in the area

- g) Collection of firewood for drying bech-de-mer or copra is prohibited.
 - h) Bringing of plants into or dispersal of seeds, plants or animals in the Area is prohibited.
 - i) All solid waste, including tin cans, plastics, glass and styrofoam must be removed from the island and disposed of in an environmentally appropriate way.
11. Camping is not permitted except at the designated camp site on Kerehikepa Island.
 12. All visitors to the area shall notify the warden as soon as possible after their arrival in the area.
 13. (1) It shall be the duty of all persons visiting the area, regardless of whether they are members of the management committee, residents of the area, customary landowners or any other person, to familiarize themselves with the requirements of this Ordinance and any regulations made thereunder.
(2) The resident warden of the area shall display the regulations in a prominent place where they may be conveniently read by any visitor to the wildlife sanctuary and shall use his best endeavours to bring the regulations to the notice of all visitors.
 14. All visitors shall complete and entry in a visitors register, including name, address, place of origin, purpose of visit, next destination, means of travel, and length of intended stay in the area.
 15. The Management Committee shall distribute copies of these Regulations to any Government department whose officer may visit the area, including the Departments of Forests Environment & Conservation; Fisheries; Customs and Excise; Immigration; Culture & Tourism, and Communication Aviation and Meteorology; Education and the Royal Solomon Islands Police. The copy of the Regulations shall include a request that the Department bring them to the notice of any officer intending to visit the area.
 16. Any visitor intending to carry out research activities or photography for commercial or monetary gain or reward.
 17. The Isabel Province Wildlife Sanctuary Ordinance Executive Regulations 1995 are repealed upon entry into force of these regulations.

These Regulations passed by the **Isabel Provincial Assembly on the**

(STANDARD SIGNATURE PAGE FOR ALL ORDINANCES)

Approved by the Isabel Provincial Assembly this twenty third day of February 2006

Seal of the Province

.....
Clerk to the Assembly

.....
Date

.....
Speaker to Assembly

.....
Date

.....
Premier of Isabel Province

.....
Date

Assented to by the Minister pursuant to Section 32 and 34 of the Act, after a finding that this Ordinance relate to matters within the legislative competence of the Assembly and that it does not conflict with the policy of the Solomon Islands Government.

Minister of Provincial Government
& Constituency Development

.....
Date