

**SUPPLEMENT** to the Solomon Islands Gazette

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[ Legal Notice No. 2 ]

THE MAKIRA ULAWA PROVINCE INVESTMENT  
CORPORATION ORDINANCE 1998AN  
ORDINANCE  
TO

ESTABLISH A PUBLIC CORPORATION TO BE KNOWN AS  
THE MAKIRA ULAWA PROVINCE INVESTMENT CORPO-  
RATION, TO PROVIDE FOR ITS INCORPORATION FUNC-  
TIONS AND POWERS AND FOR MATTERS CONNECTED  
THEREWITH OR INCIDENTAL THERETO.

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## PART I - PRELIMINARY

1. This Ordinance shall be cited as the Makira Ulawa Province Investment Corporation Ordinance 1998 and shall come into operation on the date assented to by the Minister in accordance with Section 30 of the Provincial Government Act 1997.
2. In this Ordinance, unless the context requires otherwise:
  - “Assembly:” means Makira Ulawa Provincial Assembly;
  - “Corporation” means the Makira Ulawa Province Investment Corporation;
  - “Director” has the same meaning as in the Companies 66) and used in this Ordinance means a member of the Board of Directors of the Makira Ulawa Province Investment Corporation;
  - “Enterprise” means any commercial activity, business or undertaking carried on by a person or the Corporation, for profit or not for profit;
  - “Executive” means the Executive of the Makira Ulawa Provincial Assembly;
  - “Financial Interest” means the ownership of equity share capital or partnership interest in any enterprise;
  - “Financial Year” means the twelve (12) months ending 31 March;

“General Manager” means the General Manager of the Corporation appointed under this Ordinance;

“Majority” means one-half the members plus one;

“Person” means any public body, company or association and individuals, corporate or unincorporate;

“Premier” means the Premier of Makira Ulawa Province;

“Province” means Makira Ulawa Province; and,

“Subsidiary” means any enterprise in which the Corporation either is a member and controls the composition of its board of directors or holds more than half in nominal value of its equity share capital as more particularly defined in Section 148 of the Companies Act (Cap. 66).

#### PART II - ESTABLISHMENT, FUNCTIONS, AND POWERS OR THE CORPORATION

3. (1) This Ordinance establishes a Corporation to be known as the Makira Ulawa Province Investment Corporation which shall be a body corporate under that name with perpetual succession and a common seal; which may in such name, sue or be sued, may enter into contracts and subject to provisions of this Ordinance may acquire, purchase, take, hold any enjoy real and personal property of every description and may convey, assign surrender and yield up, charge, mortgage, transfer or otherwise dispose of, or deal with real or personal property and may do all other things necessary for or incidental to its purpose and functions under this Ordinance.

(2) The Directors of the Corporation shall be responsible for the policy and management of the Corporation in accordance with the provisions of this Ordinance.

(3) The Schedule shall govern the appointment and remuneration of Directors, General Manager and staff of the Corporation, procedure and other matters concerning the corporation and its Directors.

4. (1) For the purpose of promoting economic development within the Province, the Corporation shall be responsible for the development of business and other enterprises within the Province, and for securing their efficient and regulated operation.

(2) In particular, and without prejudice to the generality of the foregoing provision, the functions of the Corporation shall be:-

- (a) to promote, assist and develop the economy within the Province whether by way of implementing any Provincial plan prepared by it and approved by the Executive in such manner as it may think fit;
- (b) with a view to securing efficient operation of Provincial enterprises to establish, manage and operate any enterprise owned by the Province, including but not limited to the following:
  - (i) Provincial shipping;
  - (ii) Provincial fishing boat;
  - (iii) Provincial butchery shop;
  - (iv) Provincial resthouses, restaurants and snack bar;
  - (v) Provincial warehouse;
  - (vi) Provincial fish market;
  - (vii) Provincial outboard motor work shop;
  - (viii) Provincial Revolving Fund;
  - (ix) Provincial management training facilities;
  - (x) Retail and wholesale of goods, and other effects, materials or substances;
  - (xi) Ground and air transport;
  - (xii) Tourism and entertainment;

- (xiii) Mineral resources;
- (xiv) Marine resources;
- (xv) Timber resources;
- (xiv) Real property development;
- (xvii) Agriculture;
- (xviii) Recreational facilities;
- (xix) Financial institutions and investment;
- (xx) Trading, marketing and merchandising;
- (xxi) Distributorship of fishing equipment and motorized vehicles;
- (xxii) Manufacturing and processing plants;
- (xxiii) Stevedoring works;
- (xxiv) Educational assistance programs (scholarships);
- (xxv) Any other enterprises that may be approved by the Executive;
- (xxvi) Trade school.

5. (1) Subject to any contrary provision contained in this Ordinance but not otherwise, the Corporation may accomplish its purposes and perform its functions, through the following powers:

- (a) appoint such employees and agents as it reasonably requires, upon such terms and conditions and on such remuneration as it thinks fit, subject to approval by the Executive;
- (b) acquisition, ownership and disposition of securities, equity and otherwise;
- (c) formation of subsidiaries and other bodies corporate;
- (d) formation of and/or acquisition of ownership interests in partnership and joint ventures;
- (e) lending to enterprises and borrowing for itself, its subsidiaries or for any enterprises in which it has a financial interest;

- (f) acting as agent or trustee for other persons;
- (g) provision of or assisting in the provision of advisory or other services or facilities for any person, enterprise or undertaking including the acceptance of appointment of Directors of Boards of Directors of said companies;
- (h) the establishment of charitable trusts for the benefit of the people of the Province;
- (i) guaranteeing the repayment of the principal, interest and other charges on any loan raised or made in accordance with the provisions of this Act, for the purpose of carrying on any enterprise in which the Corporation has a financial interest;
- (j) charging of fees for service performed by the Corporation;
- (k) investing of money on call or for fixed or limited periods;
- (l) fundraising by any legally authorised activity;
- (m) appointing such employees and agents as it reasonably requires, upon such terms, conditions and remuneration as it thinks fit; and
- (n) taking of any acting which calculated to accomplish the purposes of the Corporation.

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

(3) The Assembly may, after consultation with the Corporation, by order published in the gazette, require the Corporation to exercise such functions and powers not listed in section 4 or this section, as may be specified in the Order and the Corporation shall comply with the order.

6. (1) All actions proposed to be taken by the Corporation shall comply with the policies of the Corporation and this Ordinance and all National and Provincial Laws.

(2) Minutes of all meetings of the Corporation shall be given to the Premier.

(3) A summary of all proposals which have been approved by the Directors involving loans, investments, guarantees or credit extension to or by the Corporation, its subsidiaries, corporate bodies formed by it for any enterprise in which the Corporation has a financial interest, shall accompany the minutes and be in a form acceptable to the Executive. The proposal shall include information specified by the Executive.

(4) If the Premier determines that a proposal does not comply with section 6(1) of this Ordinance, and if after consultation with the Directors, the Premier and the Corporation are unable to reach an agreement as to whether a proposal complies with Section 6(1), the Premier shall present the proposal to the Executive for its approval or disapproval. The decision of the Executive shall be final.

(5) From time to time, the Assembly may make regulations regarding the maximum dollar limits of any one loan, grant guarantee or extension of credit; terms and conditions acceptable for lending, borrowing and extensions of credit, property acceptable as collateral; credit worthiness of borrowers guarantee debtors; maximum limits on the percentage of equity ownership acceptable and/or necessary for Corporation investment in enterprises; types of investments acceptable the maximum aggregate amount of all sums borrowed, lent and/or guaranteed by the Corporation; beneficiaries and activities of Charitable Trusts and other such financial and underwriting criteria.

(6) The Corporation shall provide the Executive with such Executive information relating to its activities or proposed activities as the Executive may from time to time require.

(7) Directors, staff and officers of the Corporation, including the General Manager, shall comply with all provisions of the Leadership code.

**PART III - FINANCE**

8. (1) The Corporation -
- (a) shall establish a general fund; and
  - (b) may establish special funds for function, investment or enterprise authorised by this Ordinance.
- (2) Each fund established under section 8(1) (b) shall be kept in a separate account.
- (3) Monies from a fund established under sub-section 8 (1) (b) shall not be used for any purpose except that for which the fund was established.
9. The funds of the Corporation shall consist of -
- (a) income earned from any investment or enterprise;
  - (b) monies received by or falling due to the Corporation in respect of any loan or guarantee made by it or the interest payable in respect of such loans or guarantee; and
  - (c) any other monies from any source invested in or granted donated or loaned to or otherwise earned by the Corporation.
10. (1) Subject to any regulation made pursuant to Section 6(c), the Corporation and any subsidiary of the Corporation may borrow for itself or for any enterprise in which it has a financial interest by way of temporary loan or overdraft such sums as are required to:
- (a) meet recurrent expenditures;
  - (b) perform its functions under this Ordinance; and
  - (c) provide for capital expenditures.
- (2) The total of sums borrowed under sub-section (1) shall not exceed such sums as may be fixed by order of the Assembly.
11. (1) The Corporation may, subject to the provisions of this Ordinance, guarantee as it sees fit the repayment of the principal interest and other charges on any loan made by any person



other than a Director, officer or employee of the Corporation, Assembly member or officer of the Government or Province, their spouses or children, for the purpose of carrying on any enterprise in which the Corporation has a financial interest.

(2) Any agreement of guarantee made in favour of a creditor must expressly stipulate that the Corporation is executing the Agreement of Guarantee as a guarantor of the loan.

(3) Where, in discharge of its obligation as a guarantor of the loan under an agreement executed in accordance with the foregoing subsection 2, the Corporation makes any payment to the creditor of the amount guaranteed, the Corporation shall be entitled to recover from the person for whom the Agreement of Guarantee is executed the amount so paid by it.

12. The Corporation may in no circumstances or on any terms lend money to Assembly members, Directors, officers and staff of the Corporation, officers of the Government or Province, or their spouse or children.

13. Subject to the provisions of this Ordinance, the Corporation may invest the funds at its disposal in such manner and under such terms and conditions as it thinks fit but only inside the Solomon Islands.

14. (1) The Corporation shall apply the funds at its disposal or such part of its fund as it thinks fit -

- (a) in the exercise of its functions; and
- (b) to the payment of the remuneration, allowance and salaries of its members, officers, employees and agents and other recurrent and capital expenditures.

(2) No later than (3) three months after the date of the audit prescribed in section 15 of this Ordinance -

- (a) at least 25 percent of the annual net profits of the Corporation as determined by the said audit, shall be put in a reserve fund to be used for the functions of the Corporation.
- (b) any remaining annual net profit shall be paid into the Provincial fund or put in the reserve fund as may be determined by the Executive after consultation with the Corporation.

15. (1) The Corporation shall keep proper books of accounts in which shall be true and full accounts of all its affairs and transactions.

(2) The books of account shall be kept at the office of the Corporation or at such other place as the Directors may think fit and shall at all times be open to inspection by the Assembly and any other interested person.

- (3) (a) The Corporation shall prepare and submit to the Executive within three months after the end of each financial year a report on the Corporation together with detailed profit and loss account showing classifications of revenue and expenditure, a balance sheet and such other statements of account as the Executive may require.
- (b) The annual report and all statements of account shall be signed by the Chairman and countersigned by the General Manager.

(4) The Premier shall sign the annual report and statements of account on behalf of the Executive and transmit them to the Auditor General within nine months after the end of the financial year.

- (5) (a) The Auditor General shall audit; certify and report on the annual report and statements of account and shall lay copies of them before the Executive together with his own report.
- (b) The auditor General and any other persons appointed by him to audit the accounts of the Corporation may during the time of the Audit -
  - (i) summon any director, officer, employee or agent of the Corporation to give such information as is necessary for the performance of the audit.
  - (ii) require production of any records, books, accounts, vouchers and other documents of the Corporation as is necessary for the performance of the audit.
- (6) (a) The Executive shall refer the annual report statement of accounts and Auditor General's report to the Provincial Accounts Committee, if any, which shall review them in accordance with the Makira Ulawa Financial Management Ordinance.
- (b) In reviewing such accounts and reports the Provincial Accounts Committee shall have the same powers as the Auditor General as stated in paragraph (b) of subsection (5) of Section 15 of this Ordinance

(7) If any member of the Corporation wilfully fails to take all reasonable steps to secure compliance with this section, he shall be guilty of an offence and liable on conviction to a fine of \$100 or imprisonment of six (6) months or both.

#### **PART IV - MISCELLANEOUS**

16. The Makira Economic Development Authority Ordinance 1984 is hereby repealed and the said Makira Economic Development Authority is hereby abolished.

17. Every Director, officer, employee or agent of the Corporation shall be indemnified out of the assets of the Corporation against any expenses incurred by him -

- (a) in defending any proceedings civil or criminal arising out of his duties to and/or employment by the Corporation in which judgement is given in his favour or he is acquitted or he is granted relief by the court from liability because he has acted honestly, reasonably and within the scope of his authority; or
- (b) in applying to a court for relief when he believes a claim will be brought against him and he is granted relief as under paragraph (a).

18. The Assembly shall have the authority to make orders or regulations that may be necessary to effectively carry out this Ordinance.

#### **THE SCHEDULE**

The Directors of the Board of the Corporation

1. The Corporation shall consist of the following:
  - (a) a Chairman who shall be the Province's Minister for Trade and Commerce and shall be a voting Director four (4) voting Directors, all of whom have experience in commerce, industry, agriculture, finance or administration provided that no

voting Director other than the said Minister shall hold elected office in an Area Council, the Provincial Assembly or Parliament, nor shall he be a public officer, Provincial Assembly or Provincial Government officer as defined in the Constitution;

- (b) one (1) ex-officio non-voting Director, who shall be the General Manager appointed pursuant to paragraph 5 of this Schedule;
  - (c) for the purpose of obtaining advice on any particular matter, any person may be co-opted by the Corporation 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 Corporation.
2. (1) The voting Directors shall be appointed by the Assembly 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) A voting Director may at any time by written notice to the Executive resign his office.
3. (1) (a) The Directors shall be entitled to remuneration in respect of their service to the Corporation. The remuneration of the first Directors shall be as set by the Executive and may not be altered during the term of those first Directors. All subsequent remuneration shall be as set by the Corporation with the approval of the Executive and no subsequent remuneration shall be effective until the term of the Directors setting the remuneration has expired.

- (b) It is a condition of entitlement to such remuneration that a Director attend Corporation meetings. If he fails to attend a meeting his remuneration will be reduced accordingly.
- (2) The Directors shall be entitled to reimbursement for all reasonable travelling, accommodation and other expenses properly incurred by them in attending Corporation meetings or in connection with the business of the Corporation. In the event of a disagreement the Provincial Treasurer shall have the final decision on what is reasonable.
  - (3) Remuneration and expenses payable under this Section shall be paid out of the funds of the Corporation.
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 his creditors;
  - (b) is absent from two consecutive Corporation meetings without the written permission of the person presiding;
  - (c) becomes of unsound mind; or
  - (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/or policies of the Corporation, any other actions adversely affecting the Authority; or interfering with his ability to effectively perform as a Director.

- (2) No voting Director shall be removed from office unless -
- (a) a Magistrate, or in his or her absence, the Bishop of Haunato'o enquires into allegation of bankruptcy, absence, unsound mind, misconduct or abuse of authority; and
  - (b) the Director concerned has an opportunity to defend himself at such enquiry; and
  - (c) the person holding the enquiry recommends removal of the Director; or
  - (d) he is subject to automatic removal under subsection 12(2) of this Schedule.
5. (1) The Directors shall appoint a General Manager for such term as they may think fit who have responsibility for the day to day management of the Corporation, 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 and may not be altered during the term of the General Manager's appointment.
- (3) When by death, removal, resignation or otherwise the office of General Manager is vacant, the Directors may appoint an acting General Manager until such vacancy is filled.
6. (1) The Executive may appoint a person to act as an alternate Director during times the presence of Director is excused due to illness or is otherwise unable to perform the duties of this office.

- (2) During such periods of incapacity the alternate Director shall have all the rights, remuneration and powers of the Director he is replacing to the exclusion of the absent Director.
  - (3) When the Director is again able to perform the duties of office, then the alternate member appointed shall cease to be an alternate.
7.
  - (1) The Directors shall elect from amongst their members a Deputy Chairman of the Corporation.
  - (2) The Chairman shall preside at meetings of the Corporation and in his absence the Deputy Chairman shall preside.
  - (3) If neither the Chairman nor Deputy Chairman are present, the members shall appoint one of their number to preside at that meeting who shall, for that meeting, have all the powers of the Chairman.
  - (4) The General Manager shall be the Secretary of the Board of Directors.
8.
  - (1) A majority of the voting Directors, including among that number the Chairman and Deputy Chairman, shall constitute a quorum.
  - (2) All acts or decisions of the Corporation shall be determined by a majority of votes of the Directors present at any meeting and in the event of an equality of votes the item being voted upon shall be defeated.
  - (3) The Directors shall meet at such times and places as shall be determined by the Chairman but not less than once every three months.
  - (4) The Corporation may make Standing Orders for the conduct of its business.



9. In connection with the exercise of the functions of the Corporation, the Directors may establish such committees as appear to be appropriate. Any such committee shall be composed of Directors, voting and no-voting. The members of the a committee shall be entitled to no additional remuneration.
10. The validity of any proceedings of the Corporation shall not be affected by any vacancy among the Directors defects or irregularity in the appointment of any Director.
11. The common seal of the Corporation shall be kept in the custody of a person authorised by the Corporation and shall be affixed to a document only in the presence and with the authenticating -
  - (a) signature of the Chairman; and
  - (b) countersignature of the General Manager.
12. (1) The Executive shall satisfy itself by due enquiry before appointing a person to be Director or approving a person to be General Manager that such persons, their spouses and children have no financial or other interest, direct or indirect in any investments loans, projects, business pursuits, enterprises or transactions in which the Corporation is involved or have an interest other than their duties and functions as Directors or General Manager.
  - (2) Should it be discovered at any time that a Director or the General manager or thier spouses or children have direct or indirect interest in any investments, loans, projects, business pursuits, enterprises or transactions in which the Corporation is involved or has an interest other than his duties and functions as a Director or General Manager shall be immediately relieved of his position at the Corporation and that interest shall be subject to the conditions of Section 7 of this Ordinance.

Passed by the Makira Ulawa Provincial Assembly this twenty-ninth day of June 1998.

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

.....  
Clerk to the Makira Ulawa  
Provincial Assembly

Assented to by the Honourable Minister of Provincial Government, this sixth day of January 1999.

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Minister of Provincial Government