

SUPPLEMENT to the Solomon Islands Gazette

Thursday 28th April, 2011

S.I. No.21

[Legal Notice No. 41]

PROVINCIAL GOVERNMENT ACT 1997
(No. 7 of 1997)

**THE WESTERN PROVINCE 2011/2012 APPROPRIATION
ORDINANCE 2010/2011**

AN ORDINANCE

TO

Appropriate Ten Million Dollars (\$10m) for Recurrent and Eight Million Dollars (\$8m) on Capital and Development Expenditures for the Services of the Financial Year ending 31st March 2012.

Passed by the Western Provincial Assembly this 30th day of March 2011.

I have carefully compared this printed impression with the Ordinance passed by the Western Provincial Assembly and found by me to be true and correct copy of the said Ordinance.

Assented to by the Honourable Minister for Provincial Government & Institutional Strengthening this 12th day of April 2011.

Made under the Common Seal of the Western Provincial Assembly this 30th day of March 2011.

Eric Kikolo
Clerk to Western Provincial Assembly

Hon. Walter Fotalu
Minister of Provincial Government and Institutional Strengthening

Hon. Lester Huckle Saomasi
Provincial Minister of Finance and Treasury
Western Province

[Legal Notice No. 42]

PROVINCIAL GOVERNMENT ACT 1997
(No. 7 of 1997)

The Western Province 2011/2012 Appropriation Ordinance 2010/2011

Enacted by the Western Provincial Assembly with Assent of the Minister as follows:

Short Title
and
Commence-
ment

1. This Ordinance shall be entitled “**Western Province 2011/2012 Appropriation Ordinance 2010/2011**” and shall come into force by being passed by the Assembly and Assented to by the Minister in accordance with Section 30 of the Provincial Government Act 1997 and Publication in the Solomon Islands *Gazette*.

Authorisation
of Issue of
SBDS17,994,
195 from the
Provincial
Fund

2. The Appropriation from the Provincial Fund is hereby Authorised the sum of **Seventeen Million Nine Hundred and Ninety Four Thousand, One Hundred and Ninety Five Dollars** for Recurrent, Capital and Development Expenditures to be applied for the purposes specified in section 34(2) of the Provincial Government Act 1997 for the services of the Financial Year ending 31st March 2012.

Appropriation

3. The sum specified in the preceding section shall be Appropriated for the supply of the Head (Codes) and in the amount respectively specified in the Schedules to this Ordinance.

Provision of
Funds

4. In accordance with section 36(1) of the Act, payment out of the Provincial Fund in advance of the Appropriation shall not exceed in aggregate the sum authorized from the Appropriation Ordinance.

Borrowing

5. The Financial Limit on the Provincial Overdraft and Borrowing shall be in accordance with section 40 of the Act and shall not exceed such sum as may be fixed for the Executive by order of the Minister.

6. The Financial Statement 2011/2012 Appropriation is contained in Schedule 2 to this Ordinance.

WESTERN PROVINCIAL GOVERNMENT BUDGET 2011/2012

SCHEDULE TO THE ORDINANCE

CODE	DETAILS	AUTHORIZED AMOUNT OF EXPENDITURE
<u>Recurrent Expenditures</u>		
201	Office of the Premier	3,007,020
202	Assembly	526,163
203	Infrastructure Development	1,068,525
204	Agriculture and Fisheries	314,450
205	Forestry, Lands, Housing & Physical Planning	279,810
206	Investment, Business Services & Indigenous Affairs	71,175
207	Education & Human Resources Development	1,133,500
208	State & Corporate Governance	1,122,578
209	Planning, Economic Development & Reconstruction	282,908
210	Tourism Culture & Sports	436,325
211	Health & Rural Water Supply	246,950
212	Finance & Treasury	1,226,025
213	Mines, Environment & Rural Electrification	107,088
214	Women, Youth, Children & Ecclesiastical Affairs	170,050

	Total Recurrent Expenditure	9,992,567
<u>Capital Expenditure</u>		
400	PCDF Funding	2,293,655
400	Other Capital Expenditure	5,707,975

	Total Capital Expenditure	8,001,630
	Total Recurrent & Capital Expenditure	17,994,197
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[Legal Notice No. 43]

COLLEGE OF HIGHER EDUCATION ACT
(Cap. 68)

COLLEGE OF HIGHER EDUCATION (SCHOOL OF HUMANITIES,
SCIENCE AND MEDIA) ORDER 2011

IN exercise of the powers conferred upon me by section 4(1)(i) of the Act, I make this Order –

Citation and
commence
ment

1. This Order is called the College of Higher Education (School of Humanities, Science and Media) Order 2011, and commences on the date of publication in the *Gazette*.

School of
Humanities,
Science and
Media

2. The School of Humanities, Science and Media is declared as a constituting unit of the College under section 4.

MADE AT HONIARA this twenty-first day of April, 2011.

DICKSON HA'AMORI
Minister for Education and Human Resources Development

[Legal Notice No. 44]

FISHERIES ACT 1998
(Act No. 6 of 1998)

**FISHERIES (PNA THIRD IMPLEMENTING
ARRANGEMENT) REGULATIONS 2010**

IN exercise of the powers conferred upon me by section 59 of the Fisheries Act 1998 ("Act"), I make these Regulations –

1. These Regulations may be cited as the Fisheries (PNA Third Implementation Arrangement) Regulations 2010, and commence on 1 January 2011.

2. In these Regulations, unless the contrary intention requires –

"arrangement area" means the fisheries zones of the PNA and adjacent area of high seas bounded by the national waters of–

- (a) the Federated States of Micronesia, Indonesia, Palau and Papua New Guinea; and
- (b) the The Federated States of Micronesia, Fiji, Kiribati, Marshall Islands, Palau and Papua New Guinea, Solomon Islands and Tuvalu;

"associated electronic equipment" means any device or system that can be used by any vessel to locate, track or otherwise monitor a fish aggregating device;

"exclusive economic zone" means the zone defined in the Delimitation of Marine Waters Act (Cap.95);

"Fish Aggregating Device" or "FAD" means an object or group of objects, of any size, that has or has not been deployed, that is living or non-living, including but not limited to buoys, floats, netting, webbing, plastics, bamboo, logs and whale sharks floating on or near the surface of the water that fish may associate with or aggregate;

“fisheries zone” means the exclusive economic zone;

“high seas” area of the high seas bounded within the arrangement area, and includes any additional area of high seas located within 10 degree North and 20 degree South latitude and 170 degree East and 150 degree West longitude;

“licence” means a licence to fish issued under section 14 or 16 of the Act;

“mobile transceiver unit” has the same meaning as ‘automatic location communicator’;

“Nauru Agreement” means the Nauru Agreement Concerning Cooperation in the Management of Fisheries of Common Interest;

“operator” means the owner, master or charterer of a fishing vessel; and includes any person who is in-charge of, directs or controls a fishing vessel;

“Party” means a Party to the Nauru Agreement;

“PNA” means the Parties to the Nauru Agreement;

“prohibition period” means a period declared under regulation 6(1);

“regional authority” means the Administrator under the Treaty on Fisheries between the Governments of Certain Pacific Islands States and the Government of the United States of America and the Administrator of the Federated States of Micronesia Arrangement for Regional Fisheries Access;

“regional observer programme” means an observer programme established pursuant to a regional access agreement;

“related activity” in relation to fishing means –

- (a) refueling or supplying fishing vessels, selling or supplying fishing equipment or performing other activities in support of fishing including the deployment and servicing of FADs;
- (b) on-shore storing, buying or processing of fish or fish products from the time they are first landed;
- (c) storing, buying, transshipping, processing or transporting fish or fish products taken from the Arrangement Area up to the time such fish or fish products are first landed; or
- (d) any activities undertaken by a vessel as a result of a force majeure, or storm tempest earthquake flood or other acts of God, or other circumstances beyond the reasonable control of the operator, provided the operator notifies the Director in writing of the event within 7 days of occurrence of such event.

“retrieval”, in relation to fish aggregating devices or associated electronic equipment, means the collection or removal from the water of any fish aggregating device or associated electronic equipment by a vessel;

“servicing” means the cleaning, maintenance, repair, enhancement, movement and any other related activity, of fish aggregating devices or associated electronic equipment;

“set sharing” means the transfer of excess fish taken in the last set to and retention on another purse seine vessel of the same fishing company when there is insufficient well space to accommodate all fish caught in the final set of a trip;

“Sub-regional observer programme” means an observer programme established pursuant to the Treaty on Fisheries between the Governments of Certain Pacific Islands States and the Government of the United States of America, the Federated States of Micronesia Arrangement for Regional Fisheries Access and other observer programmes agreed to by the PNA from time to time;

“taken”, in relation to catch retention, means the capture of fish, but does not include the release or discard of fish;

“Third Implementing Arrangement” means the Third Arrangement Implementing the Nauru Agreement Setting Forth Additional Terms and Conditions of Access to the Fisheries Zones of the Parties, done at Koror, Republic of Palau on 16 May 2008;

“transshipment” means the transfer of any or all of the fish on board a vessel onto another vessel, either directly or by off-loading the fish from the vessel onto the shore and thence immediately onto another vessel, for the purposes of transporting that fish elsewhere but does not include set sharing.

(2) These Regulations shall be interpreted and applied in the context of and in a manner consistent with the Nauru Agreement.

Object of Regulations 3. The object of these Regulations is to give effect to the Third Implementing Arrangement of the Nauru Agreement.

4. (1) In addition to any other conditions that the Director may impose on any fishing licence of any fishing vessel licensed to fish in the exclusive economic zone under sections 14, 15 and 16 of the Act, any condition or prohibition prescribed in these Regulations shall form part of and is in addition to any other condition of the fishing licence of any fishing vessel licensed under sections 14, 15, and 16 of the Act.

Fishing licenses
not valid unless
specific terms
complied with

(2) The operator of a fishing vessel licensed to fish in the exclusive economic zone pursuant to sections 14, 15 and 16 of the Act shall comply with any condition or prohibition prescribed in these Regulations.

5. (1) All big eye, skipjack and yellow fin tuna taken by any purse seine vessel licensed to fish in the exclusive economic zone pursuant to the Act, shall be retained on board and then landed or transshipped at a designated transshipment port.

Conditions for
catch retention

(2) Where the operator of a purse seine vessel licensed to fish pursuant to the Act determines that fish should not be retained on board for reasons related to the size, marketability, or species composition, the said fish shall only be released before the net is fully pursed and one half of the net has been retrieved.

(3) Subject to subregulations (4), (5) and (6), the requirement specified in subregulation (1) does not apply to –

- (a) fish clearly and demonstrably unfit for human consumption; and
- (b) fish caught during the final set of a trip when there may be insufficient well space to accommodate all fish caught in that set.

(4) For the purposes of subregulation 3(a), fish clearly and demonstrably unfit for human consumption –

- (a) includes, but is not limited to fish that –
 - (i) is meshed or crushed in the purse seine net; or

- (ii) is damaged due to shark or whale depredation; or
 - (iii) has died and spoiled in the net where an equipment failure has prevented both the normal retrieval of the net and catch and efforts to release the fish alive; and
- (b) does not include fish that –
- (i) is considered undesirable in terms of size, marketability, or species composition; or
 - (ii) is spoiled or contaminated as the result of an act or omission of the crew of the fishing vessel.

(5) Where operator of a vessel licensed to fish pursuant to the Act determines that fish is clearly and demonstrably unfit for human consumption in accordance with subregulation (3), the fish shall not be discarded from the vessel until after an observer has estimated the species composition of the fish to be discarded.

(6) For the purposes of subregulation (3)(b), any excess fish that cannot be accommodated in the fishing vessel may only be discarded if –

- (a) the vessel master and crew attempt to release the fish alive as soon as possible;
 - (b) an observer has estimated the species composition of the fish to be discarded; and
 - (c) no further fishing is undertaken after the discard until the fish on board the vessel has been landed or transshipped.
-

(7) The operator of the vessel shall, within forty-eight hours after any discard, submit a report, in a form approved by the Minister, to the Director containing the following information –

- (a) name, flag and WCPI/C Identification Number of the vessel;
 - (b) name and nationality of master;
 - (c) licence number;
 - (d) date, time and location (latitude/longitude) that discarding occurred;
 - (e) date, time, location (latitude or longitude) and type, such as drifting FAD, anchored FAD, free school or similar thing;
 - (f) reason that fish were discarded (including statement of retrieval status if fish were discarded according to subregulation (2));
 - (g) estimated tonnage and species composition of discarded fish;
 - (h) estimated tonnage and species composition of retained fish from that set;
 - (i) if fish were discarded according to subregulation (2), a statement that no further fishing will be undertaken until the catch on board has been unloaded;
 - (j) name of observer on board;
 - (k) any other information deemed relevant by the vessel master.
-

6. (1) The deployment into the sea or servicing of a Fish Aggregating Device or any associated electronic equipment within Solomon Islands waters and the high seas between 20°N and 20°S latitude is prohibited on such period as the Minister may, by notice in the *Gazette*, declare.

(2) A FAD or associated electronic equipment shall not be retrieved by a vessel licensed to fish pursuant to the Act during the prohibition period specified in subregulation (1) unless –

- (a) the FAD or associated electronic equipment is retrieved and kept on board the vessel until landed or until the end of the prohibition; and
- (b) the vessel does not conduct any set either for a period of seven days after retrieval or within a fifty mile radius of the point of retrieval.

(3) The Minister may, order in the *Gazette*, exempt all or part of the exclusive economic zone or any vessel from the conditions set out in subregulations (1) and (2) if –

- (a) the Minister determines that a disproportionate burden will be suffered from application of the condition; and
- (b) a management plan prepared pursuant to section 7 of the Act provides alternative mechanisms for the reduction of fishing on FADs by domestic vessels highly dependent on fishing on FADs.

(4) Subject to subregulation (3), no purse seine fishing vessel shall conduct any set during the prohibition period within one nautical mile of a FAD or of a point where a FAD has been retrieved by another vessel in the preceding twenty four hours.

(5) The operator of a vessel shall not allow the vessel licensed to fish pursuant to the Act to be used to aggregate fish.

7. (1) No purse seine fishing vessel fishing within the arrangement area shall conduct any set at any time of the year within one (1) nautical mile of a whale shark (*Rhincodon typus*), regardless of whether such whale shark is alive or dead. Sets Associated with Whale Sharks prohibited

(2) If a whale shark is inadvertently encircled in the purse seine net, the master must ensure that all reasonable steps are taken to ensure its safe release, including by stopping the net roll and not recommencing fishing operation until the shark has been released.

(3) A master, owner, operator, or charterer that contravenes subregulation (1) or (2) commits an offence and is liable to penalty set out in regulation 11(1).

8. (1) Subject to subregulation (3), no fishing vessel licensed pursuant to the Act to fish in the exclusive economic zone shall, whilst the licence is in force, undertake any fishing or related activities in the high seas areas. Fishing in certain areas of the high seas prohibited

(2) The operator of a fishing vessel licensed pursuant to the Act on high seas shall ensure at all times that all gear on board is stowed or secured in such a manner that it is not readily available for fishing.

(3) A fish aggregating device or associated electronic equipment shall not be retrieved or removed from the water by a vessel licensed to fish pursuant to the Act from the high seas areas unless –

- (a) the fish aggregating device or associated electronic equipment are deployed into the sea or serviced in accordance with these Regulations; and
 - (b) the vessel does not conduct any set either for a period of seven days after retrieval or within a fifty mile radius of the point of retrieval or removal from the water.
-

Requirement for
use of observers

9. (1) A purse seine fishing vessel licensed pursuant to the Act shall carry an observer from the Solomon Islands observer programme or a regional observer programme approved by the Minister or a regional observer programme established under a regional access agreement whilst fishing within the exclusive economic zone or the high seas in accordance with all requirements of such observer programmes.

(2) Subject to subregulation (3), a purse seine fishing vessel licensed pursuant to the Act without an observer from the Solomon Islands observer programme, a regional observer programme approved by the Minister or a regional observer programme established under a regional access agreement on board, shall cease fishing and return directly to a prescribed port in Solomon Islands.

(3) The Minister may, by order in the *Gazette*, vary or exempt any vessel from the conditions prescribed in subregulation (1).

Use of automatic
location commu-
nicators required

10. (1) The operator of a licensed fishing vessel which is installed with a vessel monitoring system under section 57 shall, when in the high seas, comply with the provisions that section 57 of the Act.

(2) If the licensed fishing vessel has not complied with section 57, it is condition of the fishing licence that the operator of a licensed fishing vessel complies with section 57 of the Act before fishing in the high seas.

Offence

11. (1) The operator of a licensed vessel that is used in contravention of a condition or a prohibition under these Regulations commits an offence and is liable a fine not exceeding 200,000 penalty units.

(2) The operator of a licensed vessel that is in breach of a condition or act prohibited under these Regulations commits an offence and is liable on conviction to a fine not exceeding 200,000 penalty units, and in addition to such fine the licence of such vessel shall be revoked pursuant to the Act.

12. The Fisheries (PNA Third Implementating Arrangement) Regulations 2010 (LN 22 of 2010) are revoked. LN 22 of 2010
revoked

MADE AT HONIARA this twenty-fifth day of April, 2011.

HON. JOHN MOFFAT FUGUI
Minister for Fisheries and Marine Resources

[Legal Notice No. 45]

**CHOISEUL PROVINCE ENTERPRISES
ORDINANCE 2011**

ENACTED BY THE CHOISEUL PROVINCIAL ASSEMBLY

**THE CHOISEUL PROVINCE PROVINCIAL
ENTERPRISES ORDINANCE 2011**

AN ORDINANCE TO PROVIDE A FRAMEWORK FOR ENTERPRISES
AND INVESTMENTS OWNED BY CHOISEUL PROVINCE

ENACTED by the Choiseul Provincial Assembly with the assent of the
Minister --

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**CHOISEUL PROVINCE PROVINCIAL ENTERPRISES
ORDINANCE 2011**

Short title **1.** This Ordinance may be cited as the Choiseul Province Provincial Enterprises Ordinance 2011 and shall come into effect on the date it is published in the *Gazette*.

Interpretation **2.** In this Ordinance, except where the context otherwise requires:

 “the Assembly” means the Choiseul Provincial Assembly;

 “the Authority” means the Choiseul Province Investment Authority established under the Choiseul Province Investment Authority Ordinance 1995;

 “Controlling Ministers” in relation to a Provincial Enterprise or Provincial Investment means the Minister of Finance and the Responsible Minister, or any person acting in their place under this Ordinance;

 “Dividend” includes a payment similar to a dividend;

 “the Executive” means the Choiseul Provincial Executive;

 “the Financial Management Ordinance” means the Choiseul Provincial Government Financial Management Ordinance 2008 or any subsequent equivalent legislation.

 “Financial Year” means the period from 1 April to 31 March in any given year;

 “Management” means the persons in day to day control of a Provincial Enterprise, or other venture in which the Province has invested, and includes the Board of Directors, and General Manager, and anyone in equivalent positions;

 “the Province” means Choiseul Province;

“Provincial Enterprise” means any business venture, whether a company or not which is:

- (a) owned either completely or in part by the Province;
or
- (b) held for the Province in whole or in part by Controlling Ministers or any other persons; and in which the Province has a controlling interest;

“Provincial Investment” means an investment in the equity of a business venture whether a company or not which is:

- (a) owned either completely or in part by the Province; or
- (b) held for the Province in whole or in part by Controlling Ministers or any other persons; and in which the Province does not have a controlling interest;

“Responsible Minister” means the Minister appointed for a Provincial Enterprise under section 6 of this Ordinance;

“Statement of Provincial Objectives” means a statement under section 8 of this Ordinance;

- 3.** (1) The objectives of all Provincial Enterprises and Provincial Investment shall include:
- (a) To make a profit;
 - (b) To assist in the economic growth of the Province;
 - (c) To provide services to the people of the Province;
 - (d) To assist the social development of the Province;
 - (e) To provide employment and training in the Province, and act as a good employer
 - (f) To carry out its business in an environmentally friendly manner.

Objectives of
Provincial
Enterprises
and Provincial
Investments

(2) The failure of a Provincial Enterprise or Provincial Investment to comply with subsection (1) does not invalidate any transaction of that Provincial Enterprise or Provincial Investment.

Investigation
prior to
purchasing
enterprise or
investment

4. (1) Before acquiring a Provincial Enterprise or Provincial Investment the Province shall conduct a thorough investigation, the scale of which shall be proportionate to the value of the Province's investment.

(2) Such investigation shall:

- (a) Focus on the matters listed in section 3 of this Ordinance;
- (b) Consider the ability of private businesses to meet the same needs; and
- (c) If the value of the investment exceeds \$500,000, involve extensive public consultation.

Advisory
committees

5. (1) The Executive may from time to time establish committees of persons with knowledge in business or other relevant matters to advise it on any decisions relating to Provincial Enterprises, Provincial Investments, or other matters under this Ordinance.

(2) Committee under subsection (1) may be established permanently, or for a limited time.

(3) The Executive may establish rules for committees established under subsection (1).

Responsible
Ministers

6. (1) The Premier shall appoint a Responsible Minister for each Provincial Enterprise and each Provincial Investment.

(2) In selecting the responsible Minister the Premier shall consider which portfolio is most closely related to the Provincial Enterprise or Provincial Investment, provided that the Minister of Finance shall not be a Responsible Minister if he is already a Controlling Minister.

(3) If at any time the Finance Minister and the Responsible Minister are the same person that person shall cease to be the Responsible Minister, and the Premier shall appoint a new Responsible Minister.

(4) The Premier may at any time change the Responsible Minister of a Provincial Enterprise or Provincial Investment.

PART II PROVINCIAL ENTERPRISES

7. (1) The Executive may establish or purchase a Provincial Enterprise where it is assessed to be of benefit to the Province or the people of the Province. Establishment
of Provincial
Enterprises

(2) The Executive may sell or otherwise dispose of a Provincial Enterprise or part of a Provincial Enterprise where such sale or disposition is assessed to be of benefit to the Province.

(3) Where the net value of assets purchased, sold or disposed of under subsection (1) or (2) exceeds \$1,000,000, the Executive shall require the consent of the Assembly.

8. (1) Where the Executive considers that a Provincial Enterprise should pursue a specific objective or objectives other than those listed in section 3 they may set out a Statement of Provincial Objectives for that Provincial Enterprise, and such Statement of Provincial Objectives shall be binding on the Provincial Enterprise and the management of the Provincial Enterprise shall take such steps as are required to achieve those objectives. Statements of
Provincial
Objectives

(2) Before issuing a Statement of Provincial Objectives the Executive shall consider all likely impacts of the Statement of Provincial Objectives including both social and economic impact.

(3) The failure to comply with a Statement of Provincial Objectives does not invalidate any transactions of the Provincial Enterprise.

(4) Where any person has an equity interest in a Provincial Enterprise and believes that they have been prejudiced by a Statement of Provincial Objectives they may seek compensation from the Province, and if the Executive considers that they have suffered prejudice, the Province may compensate that person accordingly.

Annual
reporting

9. (1) Within 3 months of the end of each financial year, each Provincial Enterprise shall provide the Province with:

- (a) Full sets of financial accounts for the year complying with generally accepted accounting practice.
- (b) Any audit reports on the financial accounts of the Provincial Enterprise which have not already been laid before the Assembly.
- (c) A statement setting out how the Provincial Enterprise has complied with section 3 of this Ordinance.
- (d) A statement setting out any assistance provided to the Provincial Enterprise by the Province during the year, whether financial or otherwise.
- (e) If the Provincial Enterprise is subject to a Statement of Provincial Objectives, a statement on how they have complied with that Statement of Provincial Objectives.

(2) All reports under this section shall be laid before the Assembly at its next sitting following the receipt of the report, and shall be made available to the public at large.

Provincial
Annual
General
Meetings

10. (1) Each Provincial Enterprise shall be required to hold a meeting within Choiseul Province on at least one occasion in each financial year.

- (2) The managing director, the general manager or any person who holds an equivalent position in each Provincial Enterprise shall be required to attend all such meetings.
 - (3) All residents of the Province shall be entitled to attend all such meetings and shall be entitled to ask questions.
 - (4) The Premier may exclude any persons from such meetings on the grounds of unacceptable behaviour.
-

11. If at any time the Controlling Ministers or the Executive request information about a Provincial Enterprise, the Management of the Provincial Enterprise shall Provide such information as soon as reasonably possible. Requests for information

12. (1) Any confidential business information, or any personal information about any individual that would otherwise be included in a report or response under sections 9 and 11 may be declared restricted information by the Controlling Ministers. Exclusions from reports

(2) Before declaring information restricted information the Controlling Ministers shall weigh the public interest in receiving the information against the need to keep the information confidential.

(3) Any restricted information may be excluded from any information made available to the public.

13. Any person who provides false information for the purposes of reporting under sections 9 or 11, knowing such information to be false, commits an offence, and shall be liable on conviction to a fine not exceeding \$100,000, half of such fine to be payable to the Province. Providing false information

14. (1) Where a Provincial Enterprise is a company, one half of the shares controlled by the Province shall be held in the name of the Minister of Finance, and one half shall be held by the Responsible Minister. Where the Province controls an uneven number of shares, one share shall be held jointly by the Controlling Ministers. Ownership of Provincial Enterprises

(2) Controlling Ministers may not transfer shares held by them under this Ordinance to any other person, nor may they issue any new shares in a Provincial Enterprise without the authority of the Executive, and any such purported transfer or issue without the authority of the Executive shall be void and of not effect.

(3) Where a Provincial Enterprise is not a company, its assets, liabilities, rights and obligations shall where possible be held in the name of the Province. Where this is not possible they shall be held by the Minister of Finance and a Responsible Minister in equal shares.

Controlling
Ministers'
responsibilities

15. (1) The Controlling Ministers shall have authority over the Management of Provincial Enterprises on behalf of the Province, subject to any directions from the Executive or Assembly.

(2) The Controlling Ministers shall be responsible to the Assembly for ensuring that Provincial Enterprises comply with this Ordinance.

(3) Where possible Controlling Ministers shall arrange for the provisions of this Ordinance to be incorporated in the governing rules of the Provincial Enterprise.

Management
of Provincial
Enterprises

16. (1) The Controlling Ministers shall appoint appropriate persons, with appropriate technical and financial skills, to manage each Provincial Enterprise.

(2) Where a Provincial Enterprise is a company subsection (1) may be satisfied by appointing an appropriate board of directors.

(3) The Controlling Ministers will follow a fair and public process in the appointments under subsection (1).

(4) The Controlling Ministers shall only be involved in the day to day management of a Provincial Enterprise where there are special circumstances.

(5) The Province shall be represented on any Board of Directors of any Provincial Enterprise.

Transfer of
rights to
Provincial
Enterprises

17. (1) The Executive may:

(a) Transfer to a Provincial Enterprise any assets of the Province (being assets relating to the activities to be carried on by the Provincial Enterprise), and any liabilities associated with those assets;

(b) Authorise a Provincial Enterprise to act on behalf of the Province in providing goods or services, or in managing assets or liabilities of the Province;

- (c) Vest in a Provincial Enterprise any rights conferred on the Province and any liabilities associated with those rights;
- (d) Grant to a Provincial Enterprise leases, licences, easements, permits, or rights of any kind in respect of any assets of the Province;
- (e) Guarantee any obligation of a Provincial Enterprise on behalf of the Province;

for such consideration, and on such terms and conditions, as may be agreed with the Provincial Enterprise, provided that where the Provincial Enterprise is not wholly owned by or on behalf of the Province, the Province shall ensure that fair value is obtained for any benefit granted.

- (2) Where the net value of any assets provided or obligation incurred into by the Province under subsection (1) exceeds \$1,000,000, the Executive shall require the consent of the Assembly.

18. (1) No Provincial Enterprise may sell any of its main undertakings without the consent of the Executive by resolution.

Restriction
on sale of
main under-
taking

- (2) Where the net value of the main undertaking exceeds \$1,000,000, the Provincial Enterprise shall require the consent of the Assembly.

19. (1) Where a Provincial Enterprise makes a net profit in any financial year a minimum 10% of the net profit after tax shall be paid as a Dividend to the Province.

Dividends

- (2) The Executive may by resolution permit a Provincial Enterprise to pay a lesser Dividend, or not Dividend.

- (3) Where payment of a Dividend would endanger the ability of a Provincial Enterprise to continue to provide its current level of service no dividend shall be payable.

Province
acquiring
goods and
services from
Provincial
Enterprises

20. Where the Province wishes to acquire goods or services from a Provincial Enterprise it shall acquire those goods or services on similar terms to those under which an unrelated third party could acquire those goods or services.

Audit of
Provincial
Enterprises

21. (1) The Auditor General shall be appointed auditor for all Provincial Enterprises.

(2) All Provincial Enterprises shall be audited at least once in each Financial Year.

(3) The Executive may appoint an additional auditor for a Provincial Enterprise if it considers this beneficial.

PART III PROVINCIAL INVESTMENTS

Making
Provincial
Investment

22. (1) The Executive may make any Provincial Investment where it is assessed to be of benefit to the Province or the people of the Province.

(2) The Executive may sell or otherwise dispose of a Provincial Investment or part of a Provincial Investment where such sale or disposition is assessed to be of benefit to the Province.

(3) Where the net value of assets purchased, sold or disposed of under subsection (1) or (2) exceeds \$1,000,000, the Executive shall require the consent of the Assembly.

Executive to
investigate
Management
of possible
Provincial
Investments

23. Before making any Provincial Investment:

(a) The Executive must satisfy itself that the management of the enterprise invested in is competent; and

(b) The Executive must take steps to ensure that the enterprise will provide sufficient regular reports to the Province.

24. (1) The Minister of Finance shall at or before the first sitting of the Provincial Assembly held more than six months after the end of a financial year lay before the Provincial Assembly a report setting out for each Provincial Investment:

Report to be laid before the Assembly

- (a) The Province's initial investment in that venture;
 - (b) Any further funds invested by the Province in the venture and the date of that investment;
 - (c) The present value of the Province's investment in that venture;
 - (d) Any revenue received by the Province from that investment in that financial year;
 - (e) A statement of any benefits provided to that venture by the Province during that financial year; and
 - (f) A statement of any other benefits to the Province from that investment.
- (2) The report shall attach copies of any accounts available for that investment.
- (3) Reports under this section shall be made available to the public at large.

25. Any person who provides false information for use in a report under section 24, knowing such information to be false, commits an offence and is liable on conviction to a fine not exceeding \$100,000, half of such fine to be payable to the Province.

Providing false information

26. All Provincial Investments shall where possible be held in the name of the Province. Where it is not possible for the Provincial Investment to be held in the name of the Province they shall be held by the Minister of Finance and the Responsible Minister in equal shares.

Provincial Investments held in the name of the Province

Responsibilities of Controlling Ministers

27. Where the Province has the ability to be involved in the Management of a Provincial Investment the Controlling Ministers shall be responsible to exercise that ability in the best interests of the Province and subject to any directions from the Executive or the Assembly.

Province providing benefits to Provincial Investments

28. (1) Where the Province provides any benefit to a Provincial Investment the Executive shall take steps to ensure that the Province receives fair value for that benefit.

(2) Where the net value of any benefit provided under subsection (1) exceeds \$1,000,000, the Executive shall require the consent of the Assembly.

PART IV MISCELLANEOUS PROVISIONS

Conflict of Interest

29. (1) Where any person is making any decision under this ordinance, and that person has a conflict of interest, a potential conflict of interest, or when a reasonable person would consider that the person making the decision would have a conflict of interest, that person shall exclude themselves from the decision making process.

(2) Where the person making excluding themselves under subsection (1) is a Controlling Minister, or in any other situation where someone needs to make that decision, the Premier shall appoint another person to replace the person excluding themselves for the purposes of that decision.

Shares held by Minister of Finance and Responsible Minister

30. (1) Shares in a Provincial Enterprise or Provincial Investment held in the name of a person described as the Minister of Finance, or a Responsible Minister shall be held by the person for the time being holding the office of Minister of Finance or the office of that Responsible Minister, as the case may be.

(2) Notwithstanding any other enactment or rule of law, it shall not be necessary to complete or register a transfer of shares of the kind referred to in subsection (1) of this section consequent upon a change in the person holding the office of Minister of Finance or the office of that Responsible Minister, as the case may be.

(3) A Controlling Minister may at any time or times by written notice to the secretary of a Provincial Enterprise or Investment, authorise (on such terms and conditions as are specified in the notice) such person as the Minister thinks fit to act as the Minister's representative at any or all of the meetings of shareholders of the Provincial Enterprise or Provincial Investment or of any class of such shareholders, and any person so authorised shall be entitled to exercise the same powers on behalf of the Minister as the Minister could exercise if present in person at the meeting or meetings. Where practicable a member of the Executive shall be appointed as representative under this sub-section, provided that the representative shall not be the other Controlling Minister or a person acting as their representative.

31. Any action to be done by the Controlling Ministers under this Ordinance is required to be done by the Controlling Ministers jointly unless the context requires otherwise.

Action by Controlling Ministers to be joint

32. (1) Shares or other assets or rights held by a Controlling Minister shall be held for the benefit of the Province, and any benefits from the shareholding or other assets or rights, including dividends, shall be paid to the Province.

Shares and assets to be held for the benefit of the Province

(2) No Controlling Minister may receive any personal benefit from any Provincial Enterprise or Provincial Investment unless the benefit is obtained through a transaction on terms similar to those on which an unrelated third party could acquire the benefit, and the Controlling Minister is not involved in the decision making of the Provincial Enterprise or Provincial Investment in relation to the transaction.

33. (1) 50% of all Dividends paid to the Province by Provincial Enterprises and Provincial Investments shall be set aside in a special fund, such fund to be used exclusively for investment purposes.

Retention of dividends for reinvestment

(2) The Assembly may permit a lesser amount to be set aside by resolution.

Sale of
Provincial
Enterprises
and
Investments

34. Where any Provincial Enterprise or Provincial Investment is to be sold or disposed of, the Executive shall take all reasonable steps to ensure that the Province receives the maximum benefit from that sale or disposition.

Steps to
ensure
compliance
with legisla-
tion and
regulations

35. The Executive and the Controlling Ministers shall take all practicable steps to ensure that all Provincial Enterprises and Provincial Investments comply with all relevant legislation and regulations.

Application
of Financial
Management
Ordinance

36. (1) The Financial Management Ordinance shall not apply to Provincial Enterprises which are companies, however those companies shall follow sound financial management practices at all times.

(2) Where a Provincial Enterprise is not a company, but forms a distinct and separate business, the Executive may permit the business to manage its funds independently of the rules in the Financial Management Ordinance, provided that it follows sound financial management practices.

(3) Section 32 of the Financial Management Ordinance (Restriction on Investment in Commerce) shall not apply to funds received by the Province under section 32 of this Ordinance, or any funds allocated by the Provincial Assembly for investment purposes.

Provincial
Enterprises
and
Provincial
Investment
do not
represent
the Province

37. A Provincial Enterprise or a Provincial Investment is not, and does not represent the Province. They may not render the Province liable for any debts, liabilities or obligations, except in accordance with this Ordinance or any other law.

Regulations

38. The Executive may make Regulations with respect to forms for documents under this Ordinance and for the conduct and content of meetings under this Ordinance, or other matters related to this Ordinance.

PART V TRANSITIONAL PROVISIONS

Disestab-
lish-
ment of
Chesul
Province
Investment
Authority

- 39.** (1) The Authority is hereby dissolved.
- (2) All assets owned by the Authority at the date this Ordinance comes into force are hereby vested in the Province.
- (3) All liabilities of the Authority at the date this Ordinance comes into force are hereby vested in the Province.

(4) All claims by or against the Authority at the date this Ordinance comes into force are hereby vested in the Province.

(5) All other rights of the Authority at the date this Ordinance comes into force are hereby vested in the Province.

(6) All persons holding any records belonging to the Authority shall deliver them to the Province as soon as practicable after the date that this Ordinance comes into force.

40. The shares in Lauru Shipping Limited are hereby transferred as follows: Shares in
Lauru
Shipping

(a) The 1,499,999 shares held by Choiseul Investment Authority are divided and 750,000 transferred to the Minister of Finance, and 749,999 are transferred to the Minister of Transport Works and Infrastructure Development as Responsible Minister.

(b) The 1 share held by the Chairman of the Authority is hereby transferred to the Minister of Transport Works and Infrastructure Development as Responsible Minister.

41. The Choiseul Province Investment Authority Ordinance 1995 is hereby repealed. Repeal

Passed by the Choiseul Provincial Assembly this 24th day of March 2011.

The printed impression has been carefully compared by me with the Ordinance passed by Choiseul Provincial Assembly and found by me to be a true and correct copy of the said Ordinance.

With the Assent of the Minister this 30th day of March 2011.

Christopher Makoni
Clerk to the Choiseul Provincial Assembly

Walter Folotalu
Minister for Provincial Government and Institutional Strengthening

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