

[Legal Notice No. 6]

PROVINCIAL GOVERNMENT ACT 1981

THE TEMOTU PROVINCE HARBOURS
ORDINANCE 1994

AN ORDINANCE TO PROVIDE FOR THE REGULATION OF
HARBOURS IN TEMOTU PROVINCE.

1. This Ordinance may be cited as the Temotu Province Harbours Ordinance 1994 and shall come into effect on the date assented to by the Minister in accordance with Section 32 of the Provincial Government Act 1981.

2. In this Ordinance, unless the context requires otherwise -
“Assembly” means the Temotu Provincial Assembly;
“authorised officer” means any person authorised by the Executive under section 9 of this Ordinance;
“Executive” means the Temotu Provincial Executive;
“fees” means fees levied by the Executive under section four;
“harbour” means a harbour declared under section three;
“master” means the person for the time being holding the office of Premier of Temotu Province;
“Provincial Property” means any ship, goods, wharf, shed or other property held by or on behalf of the Premier or Assembly for use in connection with a devolved function; and
“ship” includes any ship, vessel, lighter or boat of any kind propelled by engine, steam, or wind but does not include canoes, with or without outboard engines or boat propelled solely by manpower.

3. (1) The Executive may by order published in the Gazette -
(a) declare any place in Temotu Province and any navigable channel leading into such place to be a harbour within the meaning of this Ordinance; and
(b) define the limits of any harbour declared under paragraph (1).
(2) The places specified in the Schedule shall be deemed to be harbours.
(3) The Executive may by order published in the Gazette amend the Schedule.

4. (1) The Executive may levy ship's fees by way of light, buoyage, anchorage, mooring, buoy or berthing fees on any ship in relation to its use by any harbour.

(2) The Executive may levy service fees for the use of any works or equipment provided or any services performed by the Executive in respect of any ship or goods including -

(a) the landing, shipping, wharfage, storage, handling, removal carriage or demurrage of goods, the prime responsibility for paying any such levy shall be on the consignor of any goods;

(b) the use of any works, equipment or labour provided by the Executive; and

(c) water supplied by the Executive.

(3) The Executive may levy service fees for all passengers travelling on a ship to or from Temotu, or travelling on a ship within Temotu.

(4) Any master or owner of any ship, who, by any means evades or attempts to evade any fees shall be guilty of an offence and liable to a fine not exceeding \$100.00 (one hundred dollars) and in default of payment to imprisonment for a period not exceeding two months and shall in addition be liable to pay to the Executive as a penalty double the amount of fee he evaded or attempted to evade.

5. This Ordinance shall not apply to any ship or goods that are Provincial property.

6. (1) If the owner, consignor or consignee of any goods in respect of which fees are payable refuses or neglects to pay such fees on demand the Executive may seize the goods and detain them until the amount so due is paid.

(2) If the fee payable to the Executive and any cost of seizure and detention are not paid within sixty days of such seizure, the Executive may cause the goods seized, or so much as is necessary to meet the fees and costs, to be sold.

(3) Twenty days before the sale the authorised officer shall post at provincial Headquarters notice advising of such sale and, if the name address of the owner are known, send notice by post to the owner; but failure to send notice by post shall not invalidate the title of a bona fide purchaser nor shall any purchaser be bound to enquire whether such notice was sent.

(4) The proceeds of any sale in accordance with the section shall be applied -

- (a) first in payment of the expense of the seizure detention and sale; then
- (b) in payment of the fees due to the Executive;
and the surplus if any, shall be paid to the owner of the goods.

7. (1) If any goods remain unclaimed for one month after they are found on any wharf, shed or other Provincial property, the authorised officer shall turn such goods over to the Police to be disposed of in accordance with the Police Act.

8. If extraordinary expenses have been incurred in repairing any wharf maintained by the Executive due to or caused by contact with any ship or excessive weight of any goods, the Executive may recover by civil suit from the owner of the ship or goods causing such damage the amount of any expenses incurred in repairing the damage.

9. (1) The Executive may, by an instrument in writing authorize any provincial government or public officer to exercise any powers or perform any duties of the Executive under this Ordinance, subject to the general directions of the Executive and any conditions prescribed in the instrument.

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

10. (1) An authorized officer may, on production his authority, make enquiries to determine any fees payable under this Ordinance and whether a breach of this Ordinance has been committed.

(2) Any person who obstructs an authorised officer acting in the due exercise of this powers under this Ordinance or who refuses or fails to answer any reasonable question put to him or who makes a false statement shall be guilty of an offence and liable to a fine not exceeding \$200.00 (two hundred dollars) and in default of payment to imprisonment for a period not exceeding two months.,

11. (1) The Executive may make rules for the better carrying out of this Ordinance including -

- (a) prescribing the fees payable under section 4;
- (b) prescribing the conditions upon which any work or services for which a fee is levied will be performed by the Executive;
- (c) prescribing the authorized officer to whom any return of information or payment required under this Ordinance

shall be made, and the place and item for making such return or payment;

- (d) providing for the exemption of any ship;
 - (e) prescribing all other things necessary for or incidental to the carrying out of this Ordinance.
- (2) For the avoidance of doubt, rules under this section may -
- (a) prescribe different fees for different harbours;
 - (b) prescribe different fees for different classes of ships or goods;
 - (c) provide that the Executive may enter into special agreement in respect of any fee referred to in section 4 instead of charging the fee prescribed by rule.

TEMOTU PROVINCE HARBOURS ORDINANCE 1994

THE LEVY OF FEES (TEMOTU HARBOURS) RULES 1994

IN exercise of the powers conferred by Section 11 of the Temotu Province Harbours Ordinance 1994, the Temotu Provincial Executive, with the approval of the Assembly, makes the following Rules.

1. These Rules may be cited as the Levy of Fees (Temotu Harbours) Rules 1994 and shall come into effect when approved by the Temotu Provincial Assembly.
2. These fees set out in the Schedule shall be levied by and paid to the Executive in respect of the various matters specified in the Schedule, when the works and appliances so specified are provided or the services so specified are performed at the following harbours in Temotu Province:

Lata
Mohawk Bay

3. Notwithstanding anything in these Rules, the Executive may enter into special agreement in respect of any matter referred to in section 4 of the Ordinance instead of Charges specified in the Schedule.
4. The Executive may by an instrument in writing authorize any provincial government or public officer to accept returns of information required under the Ordinance, collect the ship's and