



[Legal Notice No. 12]

PROTECTED AREAS REGULATIONS 2012

Arrangement of Regulations

PART 1 - PRELIMINARY

1. Short title and commencement
2. Interpretation
3. Application of Regulations

PART 2 - CLASSIFICATION OF PROTECTED AREAS

4. Prescribed categories
5. Nature reserves
6. National parks
7. National monuments
8. Resources management areas
9. Closed areas
10. Classification of world heritage sites
11. Management principles for protected areas

PART 3 - REQUIREMENTS OF PROTECTED AREAS

12. Applications for declaration
13. Protected area notices
14. Protected area maps
15. Status of boundary agreements
16. Changes to boundaries
17. Boundary disputes
18. Protection order amidst disputes
19. Ownership transfer not permissible
20. Certificate of registration of protected areas
21. Application for amendment, etc. to protected areas

PART 4 - MANAGEMENT PLANS AND STRATEGIES

22. Preparation of management plans
23. Content of management plans
24. Review of management plans
25. Failure to implement management plans
26. Zoning of protected areas

PART 5 - GOVERNMENT AND MANAGEMENT

27. Appointment of management committees and related matters
28. Recognition of existing management arrangements
29. Powers of management committees
30. Advisory Committee to appoint provincial sub-committees

PART 6 - OVERRIDING MANAGEMENT AND ADMINISTRATIVE PRINCIPLES

31. Ecologically sustainable use
32. Guiding principles in decision-making

PART 7 - BIOLOGICAL PROSPECTING AND RESEARCH

33. Application for permits
34. Exemption from fees and deposit
35. Consideration of applications
36. Validity and renewal of permits
37. Cancellation or suspension of permits
38. Posting and forfeiture of deposit, etc.
39. Partnership arrangements
40. Access to *Kastomary* land
41. Bioprospecting or bioresearch reports
42. Right to specimens
43. Agreement to provide for further matters

PART 8 - PROTECTED AREAS UNDER *KASTOMARY* TENURE

44. Group consultations prior to application for declarations
45. Option to convert
46. Shared benefits, etc
47. Interest of *Kastomary* owners to be protected

**PART 9- SPECIAL PROVISIONS RELATING TO MARINE
PROTECTED AREAS**

- 48. Identification of boundaries
- 49. Established sea routes
- 50. Areas of distinctive ecological quality
- 51. Spawning seasons and aggregations
- 52. Dredging and trawling
- 53. Dumping of wastes
- 54. Land-based pollution
- 55. No removal of live coral
- 56. Anchorage
- 57. Grounding of vessels

PART 10 - MANAGEMENT FUNDS

- 58. Establishment of funds
- 59. Source of funds
- 60. Accounts and audits

PART 11 - GENERAL PROHIBITIONS

- 61. No logging, mining etc
- 62. No taking of species, etc
- 63. Restrict activities
- 64. Use of aircraft in or over protected areas

PART 12-ENFORCEMENT

- 65. Protected area rangers
- 66. Power of rangers
- 67. Obstruction of rangers
- 68. Protection from suit
- 69. Liability of corporation or body corporate
- 70. Infringement notice and prescribed offences and penalties
- 71. Director may apply for orders

PART 13 - MISCELLANEOUS

- 72. Proposal for regulations for protected areas
- 73. Prescribed fees

Schedule 1 - Management Principles for Protected Areas

Schedule 2 - Forms

Schedule 3 - Meeting Procedures for Management Committee

Schedule 4 - Prescribed Offences and Penalties

Schedule 5 - Prescribed Fees

**PROTECTED AREAS ACT 2010
(NO.4 OF 2010)**

PROTECTED AREAS REGULATIONS 2012

IN the exercise of the powers conferred upon me by section 24 of the Act, I make these Regulations.

PART 1 - PRELIMINARY

1. Short title and commencement

These Regulations may be cited as the Protected Areas Regulations 2012, and commence on the same day of commencement of the Act.

2. Interpretation

(1) In these Regulations, unless the context otherwise requires-

"area" means a terrestrial area, including any area permanently covered by fresh water or marine area or both;

"class of protected area" means a class of protected area specified under regulation 4;

"decision-making principles" means the principles specified in regulation 32;

"fee" or "prescribed fee" means the fee set out in Schedule 5;

"*kastomary* owner" means an indigenous person or tribe recognised in *kastom* as having ownership rights or interest in a area declared as a protected area;

"local community" means any community of people that is dependent on or are living or having rights or interest in an area declared as a protected area;

"management committee" means any such committee appointed pursuant to section 12 of the Act;

"management principles" means the management principles set out in Schedule 1;

"management plan" means a management plan for implementing conservation management of the biodiversity of the protected area prepared under Part 4;

"stakeholder" means a customary owner, local community, person, organisation, non-governmental organisation or government agency affected by or having an interest in a protected area;

"vehicle" has the meaning in the Road Transport Act (Cap. 131), and includes a bicycle;

"vessel", includes ship, yacht, craft, boat, hovercraft or other conveyance on water for the purpose of transportation of persons or things.

(2) Without prejudice and in addition to the definition in the Act, a "protected area" means a geographic area or space declared under the Act that is clearly marked, recognised, dedicated and managed through legal or other effective means to achieve the long-term conservation of nature with associated ecosystem services and cultural values.

3. Application of Regulations

These Regulations, unless specified otherwise, are applicable to

- (a) terrestrial protected areas;
- (b) marine protected areas within Solomon Islands waters to the limits of the country's exclusive economic zone; and
- (c) where applicable, the subsoil and or airspace of a protected area to such reasonable depth or height.

PART 2 - CLASSIFICATION OF PROTECTED AREAS

4. Prescribed Categories

(1) For purposes of classifying declared protected areas, the following categories are the prescribed classes of protected areas-

- (a) nature reserve
- (b) national park;
- (c) natural monument;
- (d) resource management area
- (e) closed area

(2) The Minister may, upon recommendation of the Director, reduce merge or prescribe such additional categories for protected areas for Solomon Islands.

5. Nature Reserves

(1) There may be declared and registered as a nature reserve a protected area the primary objectives of which include-

- (a) scientific research, environmental monitoring and education; and
- (b) maintaining habitat conditions necessary for wildlife management, including protecting and meeting the natural requirements of significant species and biotic communities.

(2) Prior to designating a protected area as a nature reserve, the Minister shall ensure that -

- (a) no local community is continuously in occupation of the area as its usual place of habitation or residence; or
- (b) the local community has agreed to relocate to another location or place,

in order for the habitat, ecosystems and native species of the intended reserve are preserved in an undisturbed, dynamic and evolutionary state.

(3) Except with prior permission of the management committee, public access to a nature reserve shall strictly be restricted and or limited to the purposes for which such reserve is established.

6. National Parks

(1) No protected area shall be classified as a national park unless it is established for one or more of the following purposes -

- (a) protect a major natural region of national significance and its biological and environmental features;
- (b) protect the habitat and aesthetic qualities of an otherwise large area of natural and unique scenery; or
- (c) promote education, research and tourism opportunities.

(2) Every protected area declared and registered as a national park must be of such national importance and covers a large area of natural regions, either terrestrial or marine or both.

(3) For purposes of clarity, a national park established under the Act is recognised as a natural asset of national significance although its ownership may, by virtue of *kastom* or law, remain vested in a person, institution or organisation other than the Commissioner of Lands.

7. Natural Monuments

(1) There may be classified as a natural monument any protected area which is established to protect and or sustain

- (a) a specific monument of outstanding natural features and its associated biodiversity and habitat; or
- (b) an important landscape or seascape created by the interaction (through traditional practices) between humans and nature over time.

(2) For purposes of qualification under subregulation (1)(b), such resulting landscape or seascape must have

- (a) biological, cultural, ecological and or scenic value; and
- (b) its continuous protection is vital to sustaining the area and its associated nature conservation and related values

(3) In this regulation, "monument of outstanding natural features" includes a landform, waterfall, sea mount, submarine cavern, cave, ancient grove and such other natural sites of cultural, spiritual and traditional value or significance.

8. Resource Management Areas

(1) There may be classified as a resource management area any protected area the primary objectives of which include the promotion of ecologically sustainable uses of natural ecosystems and resources for the benefit of customary owners and dependent local communities.

(2) A resource management area shall be managed in such a way or according to such a system that allows for controlled access to and use of natural ecosystems and resources for purposes of ensuring –

- (a) sustainable food security levels are achieved or maintained; and
- (b) optimal sustainable livelihood and development needs of customary owners and dependent local communities are met.

9. Closed Areas

(1) A protected area shall be classified as a closed area, if the primary objective is to allow and facilitate natural process of recovery, rehabilitation, regeneration, replenishment and repopulation due to factors including excessive human exploitation and environmental degradation in the past.

(2) Subject to subregulation (4) and, excepting intervening human activities that will enhance natural processes, a closed area shall be closed in perpetuity or for an indefinite period to all forms of human activity that are detrimental or disturbing to the natural processes of recovery, rehabilitation, regeneration, replenishment and repopulation.

(3) Areas within Solomon Islands which have been the subject of overexploitation or environmental degradation caused by destructive human or large-scale industrial activities shall qualify for protection as closed areas.

(4) Without compromising the objective of permanent or long term biodiversity conservation protection and management, a closed area may be altered, varied or modified upon any or all of the following –

- (a) maintaining the protected area is of severe detriment or disadvantage to the basic survival, health or sustainable livelihood of local communities; or
- (b) an application has been made by owners of the area for reclassification of the area.

(5) No closed area shall be altered, varied, modified or reclassified without a field study and assessment being carried out by the Director to determine whether the biodiversity of the area has recovered rehabilitated regenerated replenished or repopulated to an ecologically sustainable or satisfactory level except that any alteration, variation, modification or reclassification shall not be for the purpose of any activity that will cause environmental degradation to the area's natural ecosystems and resources.

10. Classification of World Heritage Sites

(1) Any area within Solomon Islands that is listed under the Convention Concerning the Protection of World Cultural and Natural Heritage as a world heritage site shall be declared as a protected area under any or more of the classes of protected areas.

(2) Upon being classified under a class of protected area, the provisions of the Act and these Regulations shall apply to such site.

11. Management Principles for Protected Areas

(1) The management principles to be adopted and applied to each class of protected areas are set out in Schedule 1.

(2) The management committee of a protected area shall develop and apply mechanisms for ensuring management principles are effectively applied to the protected area.

PART 3 – REQUIREMENTS OF PROTECTED AREAS**12. Application for Declaration**

- (1) An application for declaration under section 10(4) of the Act shall be made in Form A of Schedule 2.
- (2) The application must contain a copy of the management plan.

13. Protected Area Notices

- (1) A management committee shall erect or display at such places along the boundary or the entrance and exit of a protect area notices containing information including the legal status of the area and its registration number.
- (2) The notice shall also specify the information on the entrance and exit of the protected area to be used by all visitors to the area.

14. Protected Areas Map

- (1) A protected area shall have its boundaries delineated on a map to be filed with the Director prior to being declared and registered as a protected area.
- (2) Where a protected area is under *kastomary* ownership, the map to be filed under this regulation must, subject to regulation 44, be signed by at least one leader of *kastomary* owners of land or marine areas sharing a common boundary with that of the protected area.
- (3) If the boundary of a proposed protected area is the subject of a dispute, no declaration shall be made by the Minister unless the matter is settled to the satisfaction of the Minister.

15. Status of Boundary Agreements

- (1) Any written agreement concluded between two or more *kastomary* owners of land or marine areas that share a common boundary with that of a protected area shall, by virtue of this regulation, be legally binding.
- (2) An original copy of the agreement concluded under this regulation shall, unless earlier provided under regulation 44, be filed with the Director within 14 days of the date an area has been declared as a protected area.

16. Changes to Boundaries

- (1) The management committee of a protected area may, with prior consultation with the Director, vary or redefine the boundaries of such protected area as it considers necessary to achieve the conservation objectives and values of the area.
- (2) Written notice with a map of the new boundaries shall be filed with the Director within 30 days of the variation.

17. Boundary Disputes

- (1) Where a dispute arises between different customary owners of areas that share common boundaries with that of a protected area, such dispute shall be settled by open dialogue and negotiation according to the relevant provisions of the Customary Land Records Act (Cap.132).
- (2) The customary owner or management committee of a protected area shall as soon as practicable notify the Minister in writing of a dispute arising in relation to boundaries of a protected area.

18. Protection Order Amidst Disputes

- (1) A protected area (the ownership of which is disputed after being declared under the Act) shall be the subject of a protection order issued by the Minister to ensure –
- (a) its conservation objectives and values are not adversely affected or compromised as a result of such dispute; and
 - (b) except by order of a court, the disputing parties do not unnecessarily interfere with any scientific research, education or any other related conservation activities carried out within the protected area.
- (2) The Minister may, where necessary, impose such conditions for compliance by the disputing parties as part of the protection order.
- (3) A protection order, unless earlier revoked by the Minister, shall remain in force until the dispute is fully resolved to the satisfaction of the Minister.

19. Ownership Transfer Not Permissible

(1) Where a transfer of ownership, either in *kastom* or law, of a protected area to a third party is done without the written consent of the Minister, the Minister may, unless satisfied with the reasons for the transfer, revoke the protected area.

(2) The Minister may, upon recommendation of the Director, revoke the protected area by order in the *Gazette* if it is established that –

- (a) the purported transfer is for purposes other than biodiversity conservation; or
- (b) activities carried out by the new owner do not or will not conform to the primary objectives and purposes for which the protected area is declared.

20. Certificate of Registration of Protected Areas

(1) Further to section 11 of the Act, there shall be issued by the Minister a certificate of registration in Form B of Schedule 2, which shall be conclusive evidence that an area has been declared under the Act with particulars entered in the register of protected areas.

(2) Such certificate shall specify the official name of the protected area, classified category, actual or estimated area, size, location, and the parties (*kastomary* owners, tribes, agency or organisation) vested with management responsibility over the area.

21. Application for Amendment, etc. to Protected Areas

(1) The owner or management committee of a protected area may apply in writing to the Minister for the purpose of –

- (a) voluntary revocation of the declaration of the area as a protected area;
- (b) modifying or amending the primary objectives for which the protected area is established; or
- (c) change of class of protected area.

- (2) An application received under subregulation (1) shall be considered as soon as practicable by the Minister in consultation with the Director.
- (3) Any decision made by the Minister to an application must be communicated in writing to the applicant within 14 days of the date it is made, and, if refused, shall set out the reasons why the application is refused.
- (4) Notwithstanding any other provisions of these Regulations, no application for voluntary revocation of declaration shall be made to nor approved by the Minister within 10 years of an area being declared and registered as a protected area.
- (5) An application under this regulation shall be refused if it is established by the Minister that
- (a) the application is made by persons other than the owner or management committee of the protected area concerned;
 - (b) granting the application will be greatly detrimental to the effective and smooth implementation of the management plan currently applied for the protected area;
 - (c) the biodiversity of the protected area is of such unique quality and significance that its revocation is not in the best national interest as far as biodiversity conservation protection or management is concerned;
 - (d) any amendments or modifications will most likely allow for activities that are detrimental to the natural ecosystems and resources of the protected area; or
 - (e) any changes or alterations to the primary objectives of the protected area will result in a gradual, systematic or radical departure from such objectives to the extent of posing a threat in the long-term to the biodiversity of the area.

PART 4 – MANAGEMENT PLANS AND STRATEGIES**22. Preparation of Management Plans**

(1) A management plan shall have as its objective the conservation and management of the biodiversity of the protected area in accordance with the objects of the Act and the purposes or class for which the area is declared.

(2) In the course of preparing a management plan, the management committee shall, as much as possible, consult with –

- (a) *kastomary* owners and local communities affected by or having an interest in the protected area;
- (b) community-based and non-government organisations with experience in or engaging in similar biodiversity conservation initiatives;
- (c) chiefs and other traditional leaders living within vicinity of the protected area;
- (d) the Director and any other relevant government agencies including provincial governments; and
- (e) development organisations and donor agencies with a focus on environmental conservation and protection.

23. Content of Management Plans

(1) Unless irrelevant or inapplicable to a particular protected area, the contents of a management plan are to cover the following –

- (a) the zoning of a protected area with description of activities that may be carried out in different parts or sections of the area, including fishery activities for marine protected areas;
- (b) activities that are prohibited within a protected area or specific zones of the area, including the identification of any development (industrial, commercial or otherwise) that might directly or indirectly affect the protected area;

- (c) identification of species or habitat that needs special attention measures and controls;
 - (d) specifying management objectives and anticipated outputs for particular conservation or other activities;
 - (e) application of relevant traditional management practices;
 - (f) programme of implementation and enforcement and cost, if any, including administrative steps in dealing with an offender with the view to explain the intention of the provision breached and the consequences of the act committed;
 - (g) public awareness programmes, including translation of and production of booklets and other materials on the Act and Regulations into local languages;
 - (h) research and monitoring;
 - (i) staff and staff training and development;
 - (j) any proposed penalties to proposed rules.
- (2) A management plan may also specify –
- (a) community economic development activities, such as eco-tourism, that may be carried out within or next to a protected area;
 - (b) terms and conditions for issuing of permits, if applicable;
 - (c) activities for building the management capacity of customary owners and local communities to effectively manage a protected area; and
 - (d) mechanisms for mitigating or cushioning the effects of natural disasters.
- (3) The Director may, where necessary, issue a standard format to be followed in the preparation and presentation of a management plan or require additional information in relation to the management plan.

24. Review of Management Plans

(1) A management committee shall, in accordance with regulation 22(2) and as the case may require, review the management plan giving particular attention to the constraints or difficulties encountered in meeting the conservation objectives of a protected area.

(2) A report of any such review shall be disseminated to all relevant stakeholders with a certified copy filed with the Director within 30 days of the date of such report.

25. Failure to Implement Management Plans

(1) If it is established that the management plan devised for a protected area has not been implemented within 24 months of the date of declaration under the Act, the Minister may be notice issued under subregulation (2) –

- (a) inform the owner or management committee of a protected area of the Minister's intention –
 - (i) to revoke protected area declaration pursuant to section 10(8) of the Act; or,
 - (ii) to reclassify the area; or
- (b) instruct the Advisory Committee to appoint a new management committee comprising local community representatives and officers of the relevant ministries or provincial government to manage the area for such period of no less than 6 months, as set out in the letter of appointment.

(2) Prior to exercising the power under subregulation (1), the Minister shall serve a notice on the owners or management committee of a protected area requesting the same to show cause or reason within 30 days of such notice why the action intended should not be taken.

(3) The Minister shall consult the Director before making any final determination required under this regulation.

26. Zoning of Protected Areas

(1) A protected area may be subdivided into such zones as the management committee considers necessary to achieve such objectives including –

- (a) specific flora and or fauna within the area of high conservation value are given special protection;
- (b) competing use by dependent local communities or customary owners over natural resources of the area is coordinated and managed;
- (c) allocation of zones within which traditional and non-traditional management practices apply simultaneously;
- (d) providing the means for restocking or regeneration of depleted or threatened species or biodiversity; or
- (e) eco-tourism, scientific, recreation, education, research and cultural activities are better coordinated and regulated.

(2) Where the geographical size of a protected area is extensively large and includes several zones, the management committee may appoint such subcommittees as it may consider necessary to oversee the implementation of the activities within established zones of such area.

PART 5 – GOVERNANCE AND MANAGEMENT

27. Appointment of Management Committees and Related Matters

(1) Subject to regulation 28, a management committee appointed under section 12(1) of the Act has the powers and jurisdiction to manage and govern the protected area.

(2) Unless specified otherwise in these Regulations, the powers and jurisdiction of a management committee shall only apply within the boundaries or limits of the protected area for which it has responsibility.

(3) The Advisory Committee shall, when appointing a management committee, act on the recommendation of the Director and after the Director seeks written nomination from the stakeholders, local communities and *kastomary* owners of protected areas.

(4) A management committee comprises a chairperson, deputy chairperson, secretary, and other number of members, determined by the Advisory Committee.

(5) A member of a management committee (other than a member who is a public officer) is entitled \$60, as allowances for and travelling and subsistence allowance for a meeting, subject primarily to the availability of sufficient funds and not otherwise.

(6) The meeting procedures of a management committee are set out in Schedule 3.

(7) The Advisory Committee or a management committee shall, as soon as practicable after the end of each year, prepare and submit its annual report on its operations for the previous year to –

(a) the Minister, in the case of the Advisory Committee; and

(b) The Director, in the case of a management committee.

28. Recognition of Existing Management Arrangements

(1) Where it is established that –

(a) a protected area has been the subject of an ongoing community conservation programme;

(b) the programme has been in place prior to the area being declared under the Act; and

(c) the programme is managed by a community or organisation,

the community or organisation or management arrangement overseeing that program may be adopted and continue to function as the management committee for purposes of the Act and these Regulations.

(2) Where a non-governmental organisation is directly involved in the management of a protected area, the non-governmental organisation must provide to the Director –

- (a) a copy of its annual report for the preceding year; or
- (b) if it does not normally produce any annual report, a report on its preceding year's involvement in the protected area.

29. Powers of Management Committees

(1) A management committee may –

- (a) enter into contract agreements and arrangements;
- (b) hold acquire and dispose of movable or immovable property;
- (c) raise funds or invest the same in or on any security or other viable investments following a proper risk assessment;
- (d) expend monies for matters directly related or incidental to the performance of its management functions;
- (e) open and operate accounts with such reputable banks or financial institutions in the country;
- (f) undertake such onshore or offshore investments for purposes of financing the performance of its functions;
- (g) borrow money from any local financial institution or lend money to any local community on such terms as it thinks fit;
- (h) make such donations out of its assets or funds to any local community;
- (i) appoint such sub-committees as it may consider necessary; or
- (j) raise money from the public through lawful means as it sees appropriate.

(2) The Government shall not be liable for any act, omission or decision made by a management committee pursuant to its powers under this regulations.

(3) Any decision of a management committee relating to financial matters under this regulation shall be supported by at least three quarters of the members.

30. Advisory Committee to Appoint Provincial Sub-committees

The Advisory Committee may, for purposes, including expediting processes required under the Act and these Regulations, by notice in the *Gazette* -

- (a) appoint provincial sub-committees, as it considers necessary to carry out functions and powers of the Advisory Committee;
- (b) delegate its powers and duties to the sub-committees.

PART 6 - OVERRIDING MANAGEMENT AND ADMINISTRATIVE PRINCIPLES

31. Ecologically Sustainable Use

(1) A decision, activity, plan, policies and strategies to be made formulated, implemented or undertaken to give effect to the provisions of the Act and these Regulations shall take into account the overriding need for ecologically sustainable use of the natural ecosystems and resources of a protected area.

(2) Ecologically sustainable use means such use of the natural ecosystems and resources of a protected area by depended local communities that -

- (a) does not compromise nor undermine the principal object of protecting and conserving the biodiversity, ecosystems, environment and cultural values of the area; and
- (b) ensure use and interaction by present generations of dependent local communities with natural ecosystems and resources of a protected area do not compromise, diminish or reduce the capacity or ability of future generations of such communities to meet their own needs and aspirations.

32.

Guiding Principles in Decision-Making

(1) In giving effect to the objects of the Act and these Regulations, the following decision-making principles shall be adopted in all decision-making processes relating to a protected area-

- (a) the precautionary approach should be applied where there is threat of serious or irreversible environmental harm even in the absence of full scientific certainty or evidence;
- (b) best alternatives and incentive mechanisms are in place to maintain motivation and support of local communities;
- (c) decision-making processes and outcomes should be based on a combination or integration of both short-term and long-term economic, social, equitable and environmental considerations;
- (d) the biodiversity and ecosystems of a protected area should be conserved, managed and protected as an integrated ecological unit;
- (e) decision-making processes should be transparent and accessible to members of dependent local communities' and customary owners; and,
- (f) the principle of inter-generational equity should be applied to ensure the diversity health and productivity of natural ecosystems and resources is, to the best possible extent, maintained or enhanced for the benefit of future generations.

(2) To the best, possible extent, all management decisions must be made in conformity with the decision-making principles.

(3) Any stakeholder to a protected area who believes a decision has been made by the management committee in violation of a decision making principle may file a written complaint with the Director who shall within reasonable time determined whether or not the decision-making principle has been violated.

(4) Upon establishing that a decision-making principle is or has been violated, the Director shall issue a directive to the management committee requiring the same to revoke forthwith such management decision.

(5) If the management committee fails to comply with the Director's directive under subregulation (4), the members of the committee commit an offence and are jointly and severally liable on conviction to a fine not exceeding 1,000 penalty units to be paid jointly or severally by the members of the management committee.

PART 7 - BIOLOGICAL PROSPECTING AND RESEARCH

33. Application for Permits

(1) An application for a bioprospecting or bioresearch permit or both activities must be made in Form D of Schedule 2, and be accompanied by the application fee.

(2) No application shall be processed or considered unless it contains all required information, including specification of the location or area within which bioprospecting or bioresearch is to be carried out.

(3) Upon receiving an application, the Director shall, prior to forwarding it to the Advisory Committee-

- (a) consult the owners of the area or areas specified in the application.
- (b) notify in writing the relevant provincial government;
- (c) determine the interests and rights in the area, if necessary; and
- (d) verify the standing and financial capability of the applicant to carry out bioprospecting or bioresearch.

(4) An application made to the Director shall be forwarded with any recommendation by the Director to the Advisory Committee within reasonable time from completing the processes under subregulation (3).

(5) A permit shall be issued in Form E or F of Schedule 2 and, subject to regulation 34, upon payment of the relevant permit fee.

34. Exemption from Fees and Deposit

The Minister may, upon recommendation of the Director, exempt a person from the required deposit or prescribed permit fee.

35. Consideration of Application

(1) Unless circumstances render otherwise, an application under this Part shall be considered by the Advisory Committee within 30 days of the date an application is received by the Committee unless further information is still required to be submitted to the Advisory Committee.

(2) The Advisory Committee may invite a representative of the owners of an area the subject of an application to make a representation to it on the interest of such owners in relation to the application.

(3) In determining an application, the Advisory Committee shall be impartial and shall not be influenced by any person who may have a direct or indirect interest in the application.

36. Validity and Renewal of Permits

(1) A permit shall be valid for a period not exceeding 24 months from the date it is issued.

(2) The holder of a permit may, in the Form G of Schedule 2 and accompanied by the application fee, apply to the Director at least 30 days before the expiry of such permit for a renewal of the permit for a further period not exceeding 24 months, subject to payment of renewal permit fee.

(3) An application for renewal shall be considered by the Advisory Committee upon recommendation of the Director.

37. Cancellation or Suspension of Permits

(1) The Director may make recommendation to the Advisory Committee for the cancellation or suspension of a permit on any of the following grounds

- (a) the permit has been used in contravention of the Act or these Regulations;
- (b) failure to comply with a principal condition of the permit; or

- (c) the agreement with owners of the area being subject of the permit has been terminated.

(2) Where a permit has been cancelled or suspended under this regulation, written notification shall be sent by the Director to the permit holder within 14 days of the date of such cancellation or suspension.

38. Posting and Forfeiture of Deposit, etc.

(1) Subject to regulation 34, the Director shall determine the deposit of a specified sum to be paid by or enter into a bond with the permit holder, as security for any harm or damage to the natural environment or resources caused in the course of undertaking bioprospecting or bioresearch activity, or for due compliance with the conditions of the permit.

(2) The deposit or bond shall, subject to thorough assessment by the Director of due performance and compliance with the conditions of a permit, be refunded or cancelled within 60 days of the date bioprospecting or bioresearch activities are completed.

(3) If the deposit or a portion of it is forfeited or the bond becomes payable under this Regulation, 50% of such forfeiture or bond payable shall be transferred or paid to the management committee or owners of the area (including the Government) within which bioprospecting or bioresearch was carried out.

(4) The deposit or bond shall be deposited as a trust money pursuant to the Financial Instructions made under the Public Finance and Audit Act (Cap.120).

39. Partnership Arrangements

(1) An arrangement intended between a community-based organisation, local community, tribe or *kastomary* owner and an international organisation, international institution or similar international entity for purposes of bioprospecting or bioresearch in Solomon Islands shall require prior written consent of the Director.

(2) The Director's consent shall not be unreasonably withheld unless it is established by the Director that the arrangement -

- (a) is not favourable to the interest of the local partner;
- (b) involves an international partner the practices of which were the subject of criticism condemnation or censure in its home country or internationally;
- (c) is detrimental or a threat to national interest;
- (d) poses a threat, real or potential, to biodiversity conservation in Solomon Islands; or
- (e) will introduce adverse social impacts on or threats to the local community.

(3) Any arrangement concluded or undertaken contrary to this regulation shall be void, and a person who concludes or undertakes the arrangement in contravention of this regulation commits an offence and is liable on conviction to a fine not exceeding 20,000 penalty units.

40. Access to *Kastomary* Land

(1) The issuance of a permit does not absolve or release the holder of the permit from meeting any additional fee or charge imposed by *kastomary* owners of the area being the subject of the bioprospecting or bioresearch permit.

(2) The *kastomary* owner or management committee of an area (including a protected area) may impose such reasonable fee or charge for entry to or upon the area for purposes of bioprospecting or bioresearch.

41. Bioprospecting or Bioresearch Reports

(1) The holder of a bioprospecting or bioresearch permit shall, at such intervals, produce reports setting out the details of the activities undertaken and any findings made within specified periods, including identifying any part of the reports that is to be treated as confidential.

(2) The report shall, within 14 days of the date it is produced, be sent to the Director who may, with the consent of the permit holder, to the owner of the area being subject of the report, other stakeholders or any relevant authorities, including provincial governments.

(3) Any confidential material or content in any such report shall not be disclosed or divulged without the prior permission of the permit holder or except by order of a court or as authorised under any other written law.

(4) Any breach of subregulation (3) constitutes an offence punishable with a fine not exceeding 2,000 penalty units.

42. Right to Specimens

(1) All rights to specimen removed or extracted in the course of bioprospecting or bioresearch shall remain vested in the owner of the area from which the specimen is removed or extracted.

(2) Nothing in subregulation (1) shall preclude the owner of such rights from entering into an agreement with the permit holder for purposes including transfer of such right on such negotiated terms and conditions including reasonable compensation.

(3) No specimen shall be removed from an area without prior written consent of the owner or management committee of the area being the subject of bioprospecting or bioresearch activity.

43. Agreement to Provide for Further Matters

(1) An agreement concluded pursuant to section 18(5)(b) of the Act shall, in addition to the matters prescribed, provide for the appropriate fees, concessions or royalties that may be charged for any research, or the acquisition of traditional knowledge or any commercial benefit that may be obtained as result of the permit.

(2) Any such agreement shall further provide for the interest and rights of owners of land or area being the subject of bioprospecting and bioresearch, namely, those relating to-

- (a) published book, report or similar material;
- (b) cinematographic film or audiovisual documentary;

- (c) photographic material;
- (d) sound recording; or
- (e) such other publication capable of being produced reproduced or sold for commercial benefit.

(3) For purposes of subregulation (2), "cinematograph film", "photograph", "sound recording" and "publication" have their respective meanings given in the Copyright Act (Cap.138).

(4) Any agreement prepared under section 18(5)(b) of the Act may, as the case may require, take into account any guideline issued by the Secretariat of the Convention on Biological Diversity.

PART 8 - PROTECTED AREAS UNDER *KASTOMARY* TENURE

44. Group Consultations Prior to Application for Declarations

(1) Notwithstanding any other provisions of these Regulations, no application for declaration shall be made to the Director under section 10 of the Act by or on behalf of the kastomary owners of land or area unless the following procedures are complied with in the following order of priority -

- (a) first, an internal consultation is held within the landowning tribe to reach a consensus or resolution on the subject of protected area declaration under the Act;
- (b) if the landowning tribe agrees to have their land or area declared, their tribal leader shall notify the leaders of all neighbouring tribes and local communities of the landowning tribe intention to apply to the Director.
- (c) leaders of neighbouring tribes and local communities (where applicable) are consulted through village meetings to get wider endorsement of the landowning tribe's intention;

- (d) if and when the intention is endorsed (at least in principle), an agreement on recognition of the intended boundaries of the proposed protected area is developed, finalised and made in writing with boundaries of the proposed protected area delineated on a map;
- (e) the written agreement together with attached map of the proposed area is signed between leaders of all neighbouring tribes (where applicable) or the landowning tribe purporting to have its area declared;
- (f) the application declaration is sent to the Director, including the proposed management plan, the agreement and a copy of the map of the area.

(2) True records of any resolution made under subregulation (1)(a) to (d) must be-

- (a) kept by the person chairing or presiding over the internal or inter-tribal consultations and meetings;
- (b) certified by at least 2 other persons as true records of the resolutions being made; and
- (c) provided to the Director together with the application for declaration.

45. Option to Convert

(1) The *kastomary* owner of a protected area may convert such area into a registered title or estate under relevant provisions of the Land and Titles Act (Cap.133) or such other applicable written laws except that perpetual estate in the area and the rights and interests in the perpetual estate shall remain vested in the original owner applying for conversion or an incorporated body of the *kastomary* owner or, if a legal entity, in the management committee of the protected area, and the cost of such conversion shall be borne by the owner.

(2) Where funds are set aside by the Government to assist *kastomary* owners with the conversion and subsequent registration of their protected areas and the rights to the area, the question of eligibility for funding shall be decided by the Advisory Committee on basis of such factors as it may consider necessary, including biodiversity conservation objectives.

46. Shared Benefits, etc

(1) Any benefit, right or obligation arising out of or in connection with a protected area shall be a common benefit, right or obligation of the landowning tribe and all its members.

(2) Any decision unilaterally made by a single member of the tribe in relation to a protected area without the general consensus or endorsement of all, or at least a majority of tribal members, shall be invalid.

47. Interest of *Kastomary* Owners to be Protected

(1) A management committee having governance and management roles over a protected area under *kastomary* ownership shall, without compromising the biodiversity conservation objects of the Act and these Regulations, to the extent possible, protect the collective interest of *kastomary* owners of the area.

- (2) Nothing in subregulation (1) applies or operates to the effect of-
- (a) subjecting every decision-making processes of the management committee to the final or collective endorsement of the *kastomary* owners;
 - (b) allowing *kastomary* owners of the area to interfere unnecessarily or unreasonably with normal governance or management functions and roles of the management committee; and
 - (c) compromising or jeopardising the primary objectives of the protected area.

**PART 9 - SPECIAL PROVISIONS RELATING TO
MARINE PROTECTED AREAS****48. Identification of Boundaries**

(1) A marine protected area shall have its sea boundaries clearly marked with permanent or semi-permanent buoys or such other markers of such size that will make them visible from a distance of not less than 50 metres.

(2) Only non-toxic material or biodegradable material that will not release any toxic substance or waste into waters of the area shall be used as boundary markers.

(3) A boundary marker of a marine protected area shall be painted with white colour and, where practicable, identified with white flags bearing the letters 'MPA' and registration number.

(4) Any person found to be intentionally or negligently tampering with or removing a boundary marker commits an offence and is liable on conviction to a fine not exceeding 5,000 penalty units.

(5) This Part may apply to a fresh water lake if part of the lake is declared a protected area, and the provisions to this Part apply with necessary modifications to the fresh water lake.

49. Established Sea Routes

(1) Where the area of a marine protected area includes an established sea route, passageway, channel or waterway, the management committee may, with the approval of the Director of Environment, issue guidelines and restrictions for the continuous use by vessels of such route, passageway, channel or waterway.

(2) Except in situations of emergency, disaster or distress, any vessel entering or transiting through a marine protected area shall reduce its cruising speed to not more than 5 knots.

(3) Subregulation (2) does not apply to those waters of a marine protected area that is at least 15 metres in depth and of a distance of not less than 20 metres from the edge of a reef or reef flat.

(4) For purposes of this regulation, "established sea route, passageway, channel or waterway" means a route that is traditionally or regularly used for sea travel.

50. Areas of Distinctive Ecological Quality

(1) There may be established within a marine protected area such areas of distinctive ecological quality which shall be strictly closed to all forms of harvesting or unwanted access.

(2) The management committee of the marine protected area shall, unless impracticable, clearly identify such area with bright orange coloured markers.

50. Spawning Seasons and Aggregations

(1) No harvesting of fish or other aquatic resources for commercial or subsistence purposes shall be undertaken in a marine protected area within clearly identified spawning aggregations or during spawning seasons.

(2) A management committee shall ensure that its management plan shall not contain provisions the effect of which will result in a contravention of subregulation (1).

(3) Any person harvesting fish or other aquatic resources in contravention of subregulation (1) commits an offence and is liable on conviction to a fine not exceeding 5,000 penalty units.

52. Dredging and Trawling

(1) No dredging, trawling or dragging of nets or wire mesh on the sea floor shall be carried out within a marine protected area.

(2) An offence under section 30 of the Fisheries Act 1998 committed within a marine protected area shall be subject to infringement notice issued under these Regulations.

(3) Any person who contravenes subregulation (1) commits an offence and is liable on conviction to a fine not exceeding 5,000 penalty units.

53. Dumping of Wastes

(1) No person shall, from-vessel, dump or discharge any waste garbage or other polluting or harmful substance within a marine protected area.

(2) The master or crew of a vessel anchoring or transiting through a marine protected area shall ensure no waste, garbage, oil or other polluting substance is dumped or discharged by or from that vessel within the area.

(3) Any person, master or crew of a vessel who contravenes this regulation commits an offence and is liable on conviction to a fine not exceeding 10,000 penalty units.

54. Land-Based Pollution

(1) No person shall, whether intentionally or negligently, carry out any terrestrial activity or development that will or will most likely release into a marine protected area effluent or polluting material that is harmful or destructive to the biodiversity, aquatic life or ecosystems of the area except with the approval of the Minister but only in the public interest or in the interest of national economy, subject to strict conditions.

(2) If, an area that is subject to regular or occasional pollution of such harmful nature from land-based human activities is declared a protected area, the following procedure shall apply -

- (a) a notice shall be served by the Director on the person responsible for or having control over the activity being source of the pollution; and
- (b) the person shall be ordered to cease or stop all such activities within a specified period of not more than 6 months.

(3) A person who fails to comply with the notice issued under subregulation (2) commits an offence and is liable on conviction to a fine not exceeding 100,000 penalty units.

(4) This regulation does not prevent the Director from applying to a court for an order to stop or cease the activity being source of the pollution.

55. No Removal of Live Coral

(1) No person shall, by whatever means, remove, take, harvest or extract live coral from a marine protected area without the authority of the management committee of such area.

(2) However, a person may remove, take, harvest or extract live coral or a specimen from a marine protected area strictly for purposes of scientific or similar research.

(3) Any person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding 5,000 penalty units.

56. Anchorage

(1) No vessel shall be anchored in any place within a marine protected area other than a place designated for that purpose by the management committee.

(2) A management committee may charge such reasonable anchorage fees for any or all vessels seeking anchorage within the protected area under its management responsibility.

(3) Any person anchoring a vessel within a protected area without authority of the management committee or in contravention of subregulation (1) commits an offence and is liable on conviction to a fine not exceeding 5,000 penalty units.

(4) In this section and section 57, "vessel" includes a helicopter or amphibian aircraft.

57. Grounding of Vessel

(1) No person shall, either intentionally or negligently, ground a vessel on a reef within a protected area.

(2) Any person who contravenes subregulation (1) commits an offence and is liable on conviction to a fine not exceeding 10,000 penalty units.

(3) Where grounding of a vessel resulted-

(a) in oil spillage or release of other harmful substance that destroys or threatens the ecosystems and marine life of the area; or

(b) in damages to the ecosystems and marine life of the area,

the owner of the vessel is liable to the full cost of cleaning up the spillage or released substance and cost of rehabilitation of the affected or damaged ecosystems and marine life of the area, in addition the owner commits an offence of spilling oil or releasing harmful substance or causing damage within the area and is liable on conviction to a fine not exceeding 100,000 penalty units.

07

PART 10 - MANAGEMENT FUNDS

58. Establishment of Funds

- (1) There may be established for each or every protected area a management fund to be managed and administered by the management committee of a protected area.
- (2) The fund shall be used primarily for -
 - (a) biodiversity conservation management and protection of a protected area, including implementation of management plans;
 - (b) purposes incidental or connected to paragraph (a); and
 - (c) defraying of administrative or operational costs and expenses of a management committee in carrying out its functions.
- (3) No monies shall be expended out of a management fund except by approval of at least three quarters of all the members of the management committee.
- (4) A management fund established under this Part is deemed not to be a special fund pursuant to section 100 of the Constitution.
- (5) The Permanent Secretary shall have oversight of the all management funds.

59. Source of Fund

- (1) There shall be paid into a management fund monies received from any or all of the following sources-
 - (a) levies or fees specified in regulation 72(2)
 - (b) monies paid to it from the Protected Areas Trust Fund established under the Act;
 - (c) grants received either from the Government or any provincial government for biodiversity conservation and management;

- (d) proceeds of any investments undertaken by the management committee of a protected area; and
- (e) such moneys donated for the management of a protected area by any person, business, local authority, international organisation, or similar entity.

(2) Moneys borrowed by a management committee by way of a loan or overdraft strictly for the management of a protected area shall form part of the management funds for such area.

60. Accounts And Audits

(1) A management committee shall-

- (a) keep proper accounts and records of its transactions and financial affairs;
- (b) ensure all payments out of its funds are correctly made and properly authorised; and
- (c) prepare or cause to be prepared an annual statement of accounts in respect of each year of management.

(2) The management fund of protected areas shall be audited annually by a auditor appointed by the management committee.

(3) A management committee shall ensure that the annual statement of accounts together with the auditor's report-

- (a) is made available for viewing or inspection by stakeholders of the protected area under its management responsibility; and
- (b) a copy is sent to the Permanent Secretary and the Minister.

(4) The financial year for all management committee shall be from 1 January to 31 December each year.

PART 11 - GENERAL PROHIBITIONS

61. No Logging, Mining, etc

(1) Subject to subregulation (2), no industrial or commercial extraction of timber, round logs, non-timber forest products or minerals (including quarry or gravels) by whatever means or method shall be carried out in a protected area or within a distance of not more than 1 kilometre of the defined boundaries of such area, as determined by the Director taking into account the nature of the protected area.

(2) The management committee may, subject to the management plan of the area, authorise limited non-commercial extraction of timber for construction of office buildings of the committee or meeting the minimal housing needs of owners of the area.

(3) A person who contravenes subregulation (1) commits an offence and is liable on conviction to a fine not exceeding 100,000 penalty units.

62. No Taking of Species, etc

(1) No person shall take any organism, species or other form of flora and fauna from a protected area except-

- (a) with authorisation of the management committee of the area;
- (b) in accordance with a bioprospecting or bio-research permit issued under the Act and these Regulations; or
- (c) pursuant to an agreement concluded with the management committee.

(2) The management committee may regulate or control the taking of any organism species or other flora and fauna by members of the local community strictly for traditional purposes.

(3) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding 10,000 penalty units.

63. Restricted Activities

(1) Except to the extent as authorised by the management committee or in the management plan of a protected area, no person shall, within the protected area, either intentionally or negligently do one or more of the following -

- (a) carry on any agricultural or gardening activities;
- (b) build any dwelling house or unlawfully occupy the area;
- (c) light or cause any open fire to be started;
- (d) throw, litter, dump or release any effluent, sewage, refuse, rubbish or toilet waste;
- (e) allow or introduce any grazing stock, animal or species;
- (f) erect, install or display any billboard, advertisement or promotional material;
- (g) cut, destroy or remove any plant or tree including firewood;
- (h) remove, extract, or excavate any soil, sand, gravel or other material;
- (i) hunt, kill, or slaughter any animal or other living creature;
- (j) destroy or deface any cultural object or monument of biodiversity and cultural significance;
- (k) remove or be in possession of any cultural artefact or sacred object;
- (l) ,remove or be in possession of any fossil, archaeological remain or paleontological specimen;
- (m) sow, propagate or introduce any exotic or invasive species;
- (n) significantly alter or change the natural flow of a river or stream, or close the opening of a tidal lagoon, river or other waterway;

- (o) use a vehicle, bull-dozer or other heavy machinery other than that complying with the dimensions specified by the management committee;
- (p) park a vehicle in any place other than a place designated for that purpose;
- (q) organise or participate in any public meeting, demonstration or gathering.

(2) Any person who contravenes or fails to comply with the restrictions in subregulation (1) commits an offence punishable with a fine not exceeding 10,000 penalty units.

64. Use of Aircraft in or Over Protected Areas

(1) Unless specifically excluded, a protected area includes the airspace above it to a height or level of 500 metres above the highest point of such area.

(2) No person shall fly an aircraft in or over a protected area at an altitude of less than 500 metres except upon any of the following

- (a) situation of emergency or distress;
- (b) an airfield or airstrip is located next to or within the protected area; or
- (c) express instruction of the management committee of the area has been given to such person.

(3) Where necessary, there may be placed and flown above the boundaries of a protected area and at a height of at least 10 metres such number of white-coloured flags of at least one metre by one metre dimension to be visible to low-flying aircraft.

(4) A person who flies or causes an aircraft to be flown in contravention of this regulation commits an offence and is liable on conviction to a fine not exceeding 10,000 penalty units.

(5) For purposes of this regulation, "aircraft" means an airborne craft of whatsoever type, whether or not self-propelled.

PART 12 - ENFORCEMENT**65 Protected Area Rangers**

(1) The management committee of a protected area may appoint suitably qualified or trained persons as rangers within the protected areas for the purposes of enforcing the provisions of the Act and these Regulations within the protected area.

- (2) No person shall be appointed as a ranger unless the person-
- (a) is a member of the local community, group or tribe owning or having an interest in the area and at least 18 years of age; or
 - (b) is a current employee of or engaged by the organisation or similar entity managing the area.

66. Powers of Rangers

(1) A ranger may, for purposes of ascertaining whether provisions of the Act or these Regulations have been contravened or breached within the protected area of the ranger's jurisdiction, do any of the following -

- (a) stop, board, enter or search (as the case may be) any person, vehicle or vessel which the ranger suspects of transporting, removing or in possession of, whether within or outside a protected area, any specimen, species, plant, artefact, object or similar material;
- (b) seize any specimen, species, plant, artefact, object or similar material which the ranger has reasonable ground to believe has been removed from a protected area in contravention of the Act and these Regulations;
- (c) require any person committing a minor breach, whether of the Act, regulations or condition of a permit, to rectify or remedy such breach within a reasonable time;
- (d) order a person to stop or cease a specific activity if such activity is carried out in contravention of the Act and these Regulations;

- (e) seize, detain or confiscate any equipment or gear used in the commission of an offence and issue a receipt for such seizure, detention or confiscation.

(2) A ranger upon being appointed as an inspector shall, unless specified otherwise by the Minister in the letter of appointment, exercise the powers and functions of an inspector only within the protected area in which he works as a ranger.

67. Obstruction of Rangers

(1) Any person who wilfully obstructs a ranger when lawfully performing the functions and powers of the ranger under the Act and these Regulations commits an offence and is liable on conviction to a fine not exceeding 10,000 penalty units.

68. Protection From Suit

(1) Subject to any other written laws, a ranger or an inspector shall not be liable for any action or omission done in good faith in the performance or exercise of functions and powers in these Regulations.

(2) Nothing in subregulation (1) shall apply to the effect of protecting any person

- (a) whose service with a management committee as ranger has ceased prior to the commission of the act or omission giving rise to the civil action, suit or prosecution; or
- (b) the performance or exercise of functions and powers in good faith is, subject to these Regulations, done at such place other than the protected area in respect of which the person is appointed as a ranger.

69. Liability of Corporation or Body Corporate

- (1) An offence is deemed to be committed by a body corporate if-
- (a) the act constituting the offence is committed by any person (whether employee or not); and
 - (b) that person is acting with or upon the direction, authorisation, assent, acquiescence, agreement or participation of a director, officer, agent or other employee of the body corporate.

(2) Where a body corporate commits an offence under the Act and these Regulations, the director, officer, agent or employee who directed, authorised, assented to, acquiesced in, agreed to or participated in commission of the offence also commits the offence, and is liable on conviction to the penalty for that offence.

(3) A body corporate that is convicted of an offence under these Regulations is liable to a maximum penalty not exceeding 5 times the fine for that offence.

70. Infringement Notice And Prescribed Offences And Penalties

(1) The offences and penalties prescribed in these Regulations for which infringement notices may be issued are set out in Schedule 4.

(2) An infringement notice shall be issued in Form H of Schedule 2.

71. Director May Apply for Orders

(1) The Director may, for purposes of these Regulations, apply on behalf of a management committee to the High Court for an order, whether injunctive or otherwise, to permanently cease or stop any activity carried out by any person that harms, threatens or will likely to harm or threaten the biodiversity of a protected area.

(2) Where such application is granted, the Court may issue an order -

- (a) prohibiting the person from engaging in any activity that may result in a repetition of the offence or prohibited activities;
- (b) requiring the person to rehabilitate, rectify, remedy or restore, without cost to the Director, the area to as much as possible its original state;
- (c) directing the person to pay to the Court a refundable deposit or security for costs to ensure compliance with the order;
- (d) directing the seizure and forfeiture of any vehicle, vessel or equipment used in carrying out the restricted activity or commission of the offence;

- (e) directing the person to meet the Director's full costs in the proceedings;
- (f) imposing such other conditions for compliance as the circumstances render necessary;
- (g) any other order at it thinks fit to make for the purpose of protecting any harm, threat or to the biodiversity of a protected area.

(3) Any vehicle, vessel or equipment forfeited under subregulation (2)(d) shall be disposed of in such manner as directed by the Court.

(4) Where a forfeited vehicle, vessel or equipment is by order of the Court vested in the Director, it shall be disposed of in such manner as he sees fit (including vesting the ownership of the forfeited vehicle, vessel or equipment in the management committee) unless the Court has so ordered that the vehicle, vessel or equipment or the proceeds of the sale thereof to be forfeited to the management committee of the area within which the offence is committed or prohibited activity occurs.

PART 13 - MISCELLANEOUS

72. Proposal for Regulations for Protected Areas

(1) The management committee of a protected area may make proposals to the Minister for regulations for the protected area for the purposes of ensuring the proper or effective management of the protected area.

(2) The proposed regulations shall not apply beyond the defined boundaries of the protected area, and may provide for matters including-

- (a) levies or fees;
- (b) functions and powers of rangers;
- (c) administrative or organisational structure and matters of a management committee;
- (d) financial affairs; and
- (e) such other matters as may be required or permitted to be prescribed under regulations.

73. Prescribed Fees

Schedule 5 sets out the fees required for the purpose of the Act, including any regulation made under the Act.

SCHEDULE 1*(reg.11)***MANAGEMENT PRINCIPLES****1. Nature Reserves**

(1) A nature reserve should be managed strictly and primarily for scientific research, environmental monitoring and climate change adaptation studies.

(2) For the purposes of clause (1), the following principles should be applied-

- (a) ecosystems, established ecological processes, genetic resources, habitats and native species should be maintained or preserved to the best possible extent in a natural and undisturbed state;
- (b) disturbance within and on the margins or periphery of a reserve should be minimised or strictly prohibited;
- (c) any unique landscape features or rock exposures should, as much as possible, be protected and safeguarded;
- (d) future generations should be presented the opportunity to see, experience and enjoy the benefits of a reserve that is undisturbed by unnecessary human activity over a long period of time; and
- (e) public access should be denied or limited to the extent compatible with these principles and primary objectives of a nature reserve.

(3) No camping, recreational, or other similar activity of a disruptive or disturbing nature shall be carried out or allowed in a nature reserve.

2. National Parks

(1) A national park should be managed to protect and conserve its biodiversity while similarly conforming to the following principles

- (a) visitor access and use should be promoted and controlled for cultural, educational, inspirational and recreational purposes;
- (b) the aspirations and needs of local communities and *kastomary* owners of the area should be taken into account;
- (c) natural and scenic areas of national and international significance should be protected for educational, recreational, scientific, spiritual and tourism purposes; and
- (d) native or endemic species in the park should be protected maintained and enhanced in as natural a state as possible.

(2) In a national park, the following may be allowed, done or apply, subject to such written directives issued by the management committee-

- (a) recreation areas, picnic spots, and camping sites are to be clearly identified;
- (b) fire places and toilets for use by visitors should be provided and clearly identified;
- (c) footpaths should be established, marked and maintained;
- (d) bins or places for disposal of rubbish by visitors should be provided or clearly identified;
- (e) eco-tourism or holiday resorts may be established and operated;
- (f) proper drainage or sewage disposal systems may be established and maintained; and
- (g) small-scale business activities or shops may be carried out.

3. Natural Monuments

- (1) The unique landscapes, natural and cultural features of monumental value in the protected areas should be preserved through protection and management.
- (2) Specific natural features of outstanding unique or representational quality should be preserved permanently or in perpetuity.
- (3) Natural features or monuments associated with traditional belief systems of local communities and *kastomary* owners should be respected.
- (4) Controlled access and guided tours should be allowed for purposes of research, education and public appreciation.
- (5) Rights of *kastomary* owners to continuous association with monuments of spiritual or traditional attachment should not be restricted or impeded.

4. Resources Management Areas

- (1) Ecologically sustainable use of natural resources to meet the basic livelihood needs of dependent local communities should be permitted under a strong management regime.
- (2) The basic livelihood needs of future generations dependent on resources of the area should not be undermined or compromised by present generations.
- (3) Harvesting or extraction of natural resources is subject to continuous assessment of the health and state of stocks or harvestable natural resources.

5. Closed Areas

- (1) The need for long-term regeneration and rehabilitation of lost or devastated biodiversity should be paramount to all other considerations.
- (2) All forms of human exploitation and access to natural resources should not be permitted while the area is undergoing or subject to natural processes of regeneration and rehabilitation.
- (3) The progress of regeneration and rehabilitation should be monitored and evaluated on a regular basis.

Form B - CERTIFICATE OF REGISTRATION

I hereby certify that-

PA NO. (serial and year)

..... *(Official Name of Protected Area)*

Located at *(specify location, eg district, island and province)*

With an estimated area of *(size in ha, etc)*

Under the management authority of *(name of organisation, tribe, etc)*

has on the day of 20..... been duly declared under the Protected Areas Act as a designated Protected Area, and is henceforth classified as a *(state category)* ... for purposes of the Act and Regulations.

DATED at Honiara this day of 20.....

Minister

Form C - APPLICATION FOR PERMIT

1. Name of applicant:

2. Contact Address:

3. Type of research applied for: Bioprospecting Bioresearch Both

4. Specify the names, qualifications, experience and nationality of persons to be directly involved in the research or attach *curriculum vitae* (including previous research undertaken) *(use additional paper or sheet if necessary)*:

.....
.....
.....
.....

5. Details of proposed area(s) to which the permit will apply (please attach map):
.....
.....

6. Describe the nature, extent, type and method of research, (and specify technology, if any, to be used):
.....
.....
.....

7. Specify the proposed beneficiaries (including local communities, if applicable) to the research, and in what forms and or to what extent?
.....
.....
.....

8. Has written consent of the *kastomary* owners of the area(s) for which application is made secured? (If "yes" attach written consent)

YES NO

9. Is the written agreement containing the consent of *kastomary* owners attached to this application?

YES NO

10. Please provide information as to your financial standing and capacity to meet security for compliance (bond, deposit, etc.) requirements:

.....
.....
.....

11. If an international applicant, have you ever carried out any research activity of a similar nature in a country other than Solomon Islands?

YES NO If yes, specify country:.....

12. If 'yes' to 11 above, describe the type nature extent and method of research undertaken in that country.

.....
.....
.....

- 13. Specify period for which permit is required:.....
- 14. State detail proposed research plan and proposal and minimum estimated direct costs in carrying out the research or otherwise attach the detail research proposals in a separate attachment (*use additional sheet if necessary*).

I declare that the information provided is, to the best of my knowledge, true and accurate

Signature:

Name and position:

For & on behalf of the Applicant (*if applying on behalf of third party specified as applicant*)

Date:.....

Form D - BIOPROSPECTING PERMIT

Permit No. BP....

Subject to the provisions of the Act, these Regulations and the conditions specified below, permit is hereby granted by authority of the Advisory Committee to

(Name of applicant organisation or person)

Of (address)

To undertake bioprospecting research in relation to [*.....state title or topic of the research...*] within (*place or area of the..... [name of the province]*) for a period of (*specify duration*) expiring on (*specify expiry date of permit*).

CONDITIONS

(To be inserted)

1

2

Etc

Dated this..... day of

Advisory Committee

Form E - BIORESEARCH PERMIT

Permit No. BR....

Subject to the provisions of the Act, these Regulations and the conditions specified below, permit is hereby granted by authority of the Advisory Committee to-

(Name of applicant organisation or person)

Of (address)

To undertake biodiversity research 9..... *state title or topic of the research...*
within (place or area of the ...[name of the province) for a period of (specify duration) expiring on (expiry date of permit).

CONDITIONS

(To be inserted)

1

2

Etc.....

Dated this.....day of

Advisory Committee

Form F - BIOPROSPECTING AND BIORESEARCH PERMIT

Permit No. BPR...

Subject to the provisions of the Act, these Regulations and the conditions specified below, permit is hereby granted by authority of the Advisory Committee to-

(Name of applicant organisation or person)

Of (address)

To undertake bioprospecting and biodiversity research [...state title or topic of the research...] within (place or area of the... [name of the province] for a period of (specify duration) expiring on (specify expiry date of permit).

CONDITIONS

(To be inserted)

1

2

Etc.....

Dated this day of

Advisory Committee

Form G - APPLICATION TO RENEW PERMIT

Application is hereby made for the renewal of Permit No. *(specify)* which expires on *(date of expiry)* and earlier issued to-

(Name of applicant organisation or person)

Of (address)

For a further period not exceeding *(specify period)* to undertake or continue to undertake bioprospecting and or biodiversity research within *(place or area)*. The reasons or grounds for this application are as follows:

1

2

Etc

(Signature)

(Name and Position)

Date:.....

Form H - INFRINGEMENT NOTICE*(Issued under the authority of section 22 of the Protected Areas Act 2010)***1. Name and contact of offender**

Notice Number:

Infringement notice issued this day of 20....., to

Surname Name: Forename:

Address (residential or business):

Telephone Contact:

Occupation: Date of Birth:

2. Offence and Particulars of the offence

Date: Time: Day of week:

Fine (Fixed Penalty):

Statement of Offence:

Particulars of offence:

3. Procedures for payment of fine

You may sign declaration below and take this Notice together with the sum of \$to pay the fine within 21 days from the date of this Notice to-

You may sign the declaration below and take this Notice together with the sum of \$ to pay the fine within 21 days from the date of this Notice to -

- (a) the Clerk of the Magistrates' Court at; or
 (b) [the Clerk of the Local Court at]

OR

If you wish to contest this Infringement Notice, this notice will serve as a summons requiring you to attend a court and appear before a Magistrate. For such purpose this Notice is deemed to be a summons issued pursuant to section 79 of the Criminal Procedure Code.

The Summons is set out at the end of this Notice.

4. SUMMARY OF RIGHTS

1. Payment of fine

If you pay the infringement penalty within 21 days after the issue of this notice, no further action in respect of the offence will be taken except for any civil claim for property damages or injury to persons.

2. Elect to go to Court

If you elect to go to court, the court may impose the maximum penalty prescribed for that offence.

5. DECLARATION

I understand that under clause 10 of the Constitution of the Solomon Islands I have a right to have this matter dealt with by a court. However instead of appearing in court I wish to pay the fine as set out in this notice. I tender this Declaration and the fine of \$ set by this Notice of Infringement.

Signed:

Dated:

6. SUMMONS TO DEFENDANT

To: _____

of: _____

THIS IS TO COMMAND YOU TO APPEAR AT THE MAGISTRATE'S COURT AT

_____ ON THE _____ DAY OF _____

20 _____ AT _____ O'CLOCK IN THE _____ NOON, TO ANSWER THE

Dated this _____ day of _____ 20 _____

CHARGE(S) SET OUT IN ITEM 2 IN THIS NOTICE AND BE DEALT WITH ACCORDING TO LAW.

Dated this _____ day of _____ 20 _____

Magistrate/Clerk of the Court

7. DETAILS OF ISSUING OFFICER

Infringement notice issued by:

Name of the officer:

Designation and official address:

Signature:

Date:

8. ACCEPTANCE OF NOTICE

Name:

Signature:

Date:

Note that this acceptance notice may be treated as a service of the Summons on you if the Issuing Officer has inserted a date in item 6, in which case (if you are disputing the offence) you shall check with the court within 3 days from that date whether the Summons has been filed in the court. If no date is inserted, then this Notice will be then re-served upon you to appear in court.

SCHEDULE 3*(reg.27(6))***MEETING PROCEDURES OF MANAGEMENT COMMITTEES**

1. A management committee shall meet at least once every 3 months at such place and time as appointed by the Chairperson.
2. Notice of any or every such meeting shall be served on members by the Chairperson at least 7 days prior to the appointed date of the meeting.
3. The quorum for each meeting shall be one-half (1/2) of all members.
4. The Chairperson or Deputy-Chairperson shall preside at all meetings, but in the absence of both, members present may choose one of their own numbers to preside.
5. All committee decisions or resolutions should be made by consensus, but in the event a vote is required, any such decision shall be made by a simple majority vote.
6. The member president at a meeting shall have an ordinary vote and, in the event of equality of votes, a casting vote.
7. The Secretary shall keep full and accurate minutes of the proceedings of each committee meeting.
8. Any member who has a direct or indirect interest in a matter before the committee shall disclose such interest and withdraw from deliberating and voting on that matter.
9. A management committee may in its absolute discretion invite such person or representative of another organisation with relevant qualifications or expertise to be present at any of its meetings to provide advice opinion or information on a matter before it.
10. A management committee may regulate its own procedures, subject to the Act and this Schedule.

SCHEDULE 4 - (regulation 70)

PRESCRIBED OFFENCES AND PENALTIES - INFRINGEMENT NOTICES

Reg No.	Description of offence	Fixed Penalty (penalty units)	
		Indiv. Person	Body Corporate
41	Disclosing confidential information or content of bioprospecting or bioresearch report without authority of permit holder		
48	Intentionally or negligently removing or tampering with boundary markers of protected area		
51	Fishing or harvesting within spawning aggregation or during spawning season.		
52	Dredging, trawling or dragging of net on sea floor or protected area, including an offence under section 30 of the Fisheries Act		
53	Dumping of waste, polluting material or other harmful substance in waters of protected area		
54	Release of polluting material from land-based activity into waters of protected area		
55	Removal or extraction of live coral without authority		
56	Anchorage within protected area without permission of management committee		
61	Carrying out logging or mining activity within protected area		
62	Taking or removing of plants, species or other organism from protected area without authority		
63	Intentionally or negligently committing an act in breach of the prescribed restrictions		
64	Flying aircraft in or over protected area without authority		
67	Willful obstruction of Ranger		

SCHEDULE 5
(regulation 73)

PRESCRIBED FEES

No.	Subject-matter	Fees(\$)
1	Application for declaration of protected area	100.00
2	Certificate of Registration	300.00
3	Application for Bioprospecting Permit	200.00
4	Application for Bioresearch	200.00
5	Application for Bioprospecting and Bioresearch	400.00
6	Bioprospecting permit fee	2,500.00
7	Bioresearch permit fee	1,000.00
8	Bioprospecting and Bioresearch permit fee	3,500.00
9	Application for renewal of Bioprospecting permit	200.00
10	Application for renewal Bioresearch permit	200.00
11	Application for renewal of Bioprospecting and Bioresearch permit	400.00
12	Renewal Fee for Bioprospecting permit	2,500.00
13	Renewal Fee for Bioresearch permit	1,000.00
14	Renewal Fee for Bioprospecting and Bioresearch Permit	3,500.00

93

MADE AT HONIARA this tenth day of February, 2012.

HON. JOHN MOFFAT FUGUI

Minister for Environment, Climate Change, Disaster Management & Meteorology

Honiara, Solomon Islands
Printed under the authority of the
Solomon Islands Government
Printed by Public Service Commission.