

**AUTONOMOUS BOUGAINVILLE GOVERNMENT
CONTRACTS AND TENDERS (AMENDMENT) ACT 2018**

Arrangement of Sections

1	Short title	1
2	Commencement.....	1
3	Acts amended	1
	SCHEDULE 1	

AUTONOMOUS REGION OF BOUGAINVILLE

(No 2 of 2018)

***AUTONOMOUS BOUGAINVILLE GOVERNMENT
CONTRACTS AND TENDERS (AMENDMENT) ACT 2018***

Being an Act to amend the *Autonomous Bougainville Government Contracts and Tenders Act 2014*, and to make a consequential amendment to the *Claims By and Against the Autonomous Bougainville Government Act 2006*

MADE by the House of Representatives, to commence in accordance with Section 2

1 Short title

This Act is the *Autonomous Bougainville Government Contracts and Tenders (Amendment) Act 2018*.

2 Commencement

This Act comes into operation on its certification under Section 66 of the Bougainville Constitution.

3 Acts amended

Schedule 1 amends the Acts mentioned in it.

Schedule 1

Amendment of Acts

Section 3

Part 1—Autonomous Bougainville Government Contracts and Tenders Act 2014

[1] Amendment of Section 2

1.1 Section 2, after definition of **Chief Secretary**

insert

contract for the supply of goods or services includes—

- (a) a contract for the lease or hire of goods or real property; and
- (b) a contract for construction, excavation or other works; and
- (c) a contract for services involving the sale of goods or real property on behalf of the Autonomous Bougainville Government or a statutory body; and
- (d) a contract for professional services; and
- (e) a contract for the supply of both goods and services;

[2] Substitution of Section 5

2.1 Section 5

delete, substitute

5 Authority to pre-commit to payment in future fiscal year

- (1) This section applies to a contract for the supply of goods or services to a public body or statutory body, or the purchase of real property by the Autonomous Bougainville Government or a statutory body, if it is reasonable to expect that a payment will be required to be made under the contract in a fiscal year other than the fiscal year in which the contract is entered into.
- (2) This section applies to such a contract even if the contract provides that the commitment to make the payment is conditional on obtaining a future funding approval or some other factor.
- (3) A contract to which this section applies must not be entered into with a supplier or vendor unless the Finance Departmental Head has issued to the public body or statutory body an authority (an **authority to pre-commit**) authorising the contract to be entered into.
- (4) The Financial Instructions may contain provisions about—
 - (a) an application for an authority to pre-commit; and
 - (b) the circumstances in which an authority to pre-commit may be issued; and
 - (c) any other matter relating to an authority to pre-commit.

- (5) An authority to pre-commit must not be withdrawn if—
 - (a) a contract has been entered into in reliance on it; and
 - (b) the commitment to make the payment under the contract is not conditional on obtaining a future funding approval or on the authority to pre-commit remaining in force.

[3] Amendment of Section 6

3.1 Section 6, heading

delete, substitute

Certain contracts liable to be avoided

3.2 Section 6(1)

delete, substitute

- (1) A contract for the supply of goods or services to a public body or statutory body is liable to be avoided by the principal legal adviser by written notice to the supplier if—
 - (a) the supplier of the goods or services colluded with any person to circumvent any law in the awarding of the contract; or
 - (b) the supplier of the goods or services, or any person associated with the supplier, participated in a corrupt or fraudulent practice that resulted in failure to deliver the goods or services; or
 - (c) the supplier of the goods or services received a payment under the contract but failed to commence to supply the goods or services and the public body or statutory body or the Autonomous Bougainville Government was not in any way responsible for the failure.

(1A) Subsection (1) does not derogate from any other right that the Autonomous Bougainville Government or statutory body may have to avoid the contract or to seek damages or take other proceedings against the supplier.

3.3 Section 6(2), after “Autonomous Bougainville Government”

insert

or a statutory body

3.4 Section 6(2)

delete

any contract rendered null and void

substitute

a contract avoided

3.5 Section 6(3), definition of **Authority to Pre-commit Expenditure**

delete

[4] Substitution of Section 7

4.1 Section 7

delete, substitute

7 Publication of information about certain contracts

- (1) The Finance Departmental Head must, as soon as practicable after the end of each prescribed period, publish a notice in the Bougainville Gazette setting out the details of each contract entered into during that period for the supply of goods or services to a public body or statutory body, or the purchase of real property by the Autonomous Bougainville Government or a statutory body, for which the consideration exceeds K500,000.
- (2) The notice must include, for each contract—
 - (a) the names of the contracting parties; and
 - (b) details of the goods or services to be supplied or the real estate to be purchased under the contract; and
 - (c) the consideration; and
 - (d) any other information required by the regulations.
- (3) In this section—

prescribed period means—

 - (a) each quarter of a calendar year (that is, 1 January to 31 March, 1 April to 30 June, 1 July to 30 September and 1 October to 31 December); or
 - (b) if some other period is specified in the regulations—that period.

[5] Amendment of Section 8

5.1 Section 8(2), (3) and (4)

delete, substitute

- (2) The Bougainville Tenders Board comprises—
 - (a) the Chief Secretary, *ex officio* (as Chairperson); and
 - (b) the Head of the Department responsible for finance, *ex officio*; and
 - (c) the Head of the Department responsible for technical services, *ex officio*; and
 - (d) the Principal Legal Adviser, *ex officio*; and
 - (e) 1 person appointed by the Bougainville Executive Council by notice in the Bougainville Gazette, made on the recommendation of the Minister.

- (3) The member of the Bougainville Tenders Board appointed under Subsection (2)(e) holds office for 3 years from the date of appointment, or until the member—
- (a) dies; or
 - (b) resigns by written notice to the Minister; or
 - (c) is removed from office by the Bougainville Executive Council for misconduct, neglect of duty, or physical or mental incapacity, after having been given a reasonable opportunity to show cause as to why the member should not be so removed from office.
- (4) If a member of the Bougainville Tenders Board (other than the member appointed under Subsection (2)(e)) is unable to attend a meeting of the Board, the member may, after consultation with the Chief Secretary, appoint an officer of the Bougainville Public Service to act as the member's alternate.

5.2 Section 8(7)

delete

[6] New Section 15A

6.1 After Section 15

insert

15A Delegation

- (1) The Minister may delegate to the Chief Secretary or an officer or employee of the Public Service functions or powers under this Act (except a function or power excluded from delegation by the regulations).
- (2) The Chief Secretary may delegate to the Finance Departmental Head or any other officer or employee of the Public Service functions or powers under this Act (except a function or power excluded from delegation by the regulations).
- (3) The Finance Departmental Head may delegate to an officer or employee of the Public Service functions or powers under this Act (except a function or power excluded from delegation by the regulations).
- (4) A function or power that is delegated under this section may not be further delegated unless that is expressly allowed by the instrument of delegation.

Note—Part II Division 10 of the Interpretation Act 2005 contains provisions relevant to delegations under Bougainville law.

[7] Amendment of Section 18

7.1 Section 18(1)

delete

purchase of property or stores, or for the supply of goods or services

substitute

supply of goods or services to a public body or statutory body or the purchase of real property by the Autonomous Bougainville Government or a statutory body

7.2 Section 18(1)(c)

delete

agreed property or stores, or the goods or services

substitute

goods or services or to transfer the real property

**Part 2—Claims by and Against the
Autonomous Bougainville Government Act 2006**

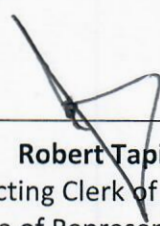
[8] Deletion of Section 3

8.1 Section 3

delete

I certify that the above is a fair copy of the Bill for an Act entitled *Autonomous Bougainville Government Contracts and Tenders (Amendment) Act 2018*, passed by the House of Representatives on 13 June 2018 and now presented to the Speaker for his certificate under Section 66(1) of the *Bougainville Constitution*.


Dated 14 June 2018



Robert Tapi
Acting Clerk of the
House of Representatives

I, Simon Pentanu, Speaker of the House of Representatives, hereby certify that the *Autonomous Bougainville Government Contracts and Tenders (Amendment) Act 2018* was made by the House of Representatives on 13 June 2018.

Dated 14 June 2018



Honourable Simon Pentanu
Speaker of the House of
Representatives

