

BOUGAINVILLE FLAG, EMBLEM AND ANTHEM (PROTECTION) ACT 2018

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SCHEDULE 1 – BOUGAINVILLE FLAG

SCHEDULE 2 – BOUGAINVILLE EMBLEM

SCHEDULE 3 – BOUGAINVILLE ANTHEM

AUTONOMOUS REGION OF BOUGAINVILLE

(№ 3 of 2018)

BOUGAINVILLE FLAG, EMBLEM AND ANTHEM (PROTECTION) ACT 2018

Being an Act to make provision for the protection of the flag, emblem and anthem of Bougainville, and for related purposes.

MADE by the House of Representatives, to come into operation as set out in Section 2.

PART 1 — PRELIMINARY

1 Short title

This Act is the *Bougainville Flag, Emblem and Anthem (Protection) Act 2018*.

2 Commencement

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

PART 2 — BOUGAINVILLE FLAG

3 Bougainville flag

- (1) The flag described in Part 1 of Schedule 1, being the flag depicted in Part 2 of Schedule 1, is declared to be the Bougainville flag.
- (2) The Bougainville flag is the symbol of the Autonomous Region of Bougainville, the Autonomous Bougainville Government and the people of Bougainville.

4 Rules relating to flying of Bougainville flag

The regulations may prescribe rules to be observed and the etiquette to be followed in the flying or use of the Bougainville flag.

5 Offences involving Bougainville flag

- (1) A person commits an offence if, in or within view of a public place, the person uses, displays, destroys or damages the Bougainville flag in any manner with the intention of dishonouring it.

Penalty: K10,000.

- (2) A person commits an offence if, without the prior written approval of the Minister, the person uses, for any commercial or advertising purpose, or in a trademark or logo—

(a) the Bougainville flag; or

- (b) any part of the Bougainville flag; or
- (c) an image or representation of the Bougainville flag.

Penalty: (a) if the offender is a body corporate—K100,000;
(b) if the offender is an individual—K10,000.

- (3) In this section—

Bougainville flag means the flag of the design depicted in Schedule 1 or of any other design that so closely resembles it as to be likely to cause any person to believe that it is the design depicted in that schedule.

PART 3 — BOUGAINVILLE EMBLEM

6 Bougainville emblem

The emblem described in Part 1 of Schedule 2, being the emblem depicted in Part 2 of Schedule 2, is declared to be the Bougainville emblem.

7 Offence – unauthorised use of Bougainville emblem

- (1) A person commits an offence if—

- (a) the person uses the Bougainville emblem in a manner that indicates or suggests that the person does so with the authority or approval of—
 - (i) the Bougainville House of Representatives; or
 - (ii) the Autonomous Bougainville Government; or
 - (iii) a Bougainville governmental body; and
- (b) use of the Bougainville emblem in that manner by the person is not authorised.

Penalty: (a) if the offender is a body corporate—K100,000;
(b) if the offender is an individual—K10,000.

- (2) Subsection (1) does not apply to the use of the Bougainville emblem by a person who is—

- (a) a member of the Bougainville House of Representatives; or
- (b) the holder of an office under the *Bougainville Constitution*; or
- (c) an officer or member of a Bougainville governmental body, acting in the course of his or her official duties.

- (3) In any proceedings for an offence under Subsection (1), the onus of proving that the use of the Bougainville emblem was authorised is on the defendant.

(4) In this section—

Bougainville emblem means the emblem of the design depicted in Schedule 2 or of any other design that so closely resembles it as to be likely to cause any person to believe that it is the design depicted in that schedule;

use includes display, exhibit or otherwise use.

PART 4 — BOUGAINVILLE ANTHEM

8 Bougainville anthem

The words and music of the song “My Bougainville”, as set out in Schedule 3, are declared to be the Bougainville anthem.

9 Offence – dishonouring Bougainville anthem

A person commits an offence if the person who does any act with intent to dishonour or bring into contempt or ridicule the Bougainville anthem.

Penalty: K10,000.

PART 5 — MISCELLANEOUS

10 Consent to prosecutions

Proceedings for an offence under this Act may not be instituted in any court except with the consent of the Principal Legal Adviser.

11 Criminal liability of officers of corporation

- (1) If a corporation is guilty of an offence against this Act, a person who is an officer of the corporation—
- (a) commits an offence; and
 - (b) on conviction, is liable to the same penalty as may be imposed for the principal offence when committed by an individual.
- (2) It is a defence to a charge of an offence against Subsection (1) if it is proved that the offence did not result from any failure on the defendant’s part to take all reasonable and practicable measures to prevent the commission of the offence or offences of the same or a similar nature.
- (3) An officer of a corporation may be prosecuted and convicted of an offence against this section whether or not the corporation has been prosecuted or convicted of the principal offence.

(4) In this section—

director of a corporation includes—

- (a) a person occupying or acting in the position of a director or member of the governing body of the corporation, by whatever name called and whether or not validly appointed to occupy, or duly authorised to act in, the position; and
- (b) a person in accordance with whose directions or instructions the directors or members of the governing body are accustomed to act;

officer of a corporation means—

- (a) a director of the corporation; or
- (b) the chief executive officer of the corporation, by whatever name called; or
- (c) a receiver or manager of any property of the corporation or a liquidator of the corporation; or
- (d) in relation to an offence committed by the corporation—an employee of the corporation with senior management responsibilities for matters to which the offence relates.

12 Human rights

For Section 180(3) of the *Bougainville Constitution*, in the opinion of the House of Representatives—

- (a) this is a law restricting human rights in a manner that is reasonably justifiable for the purpose in a democratic society that has a proper regard for the rights and dignity of mankind; and
- (b) the human right that is restricted is the right to freedom of expression; and
- (c) the restriction is necessary for the purpose of giving effect to the public interest in public safety and public order, as referred to in Section 180(2)(a) of the *Bougainville Constitution*.

13 Act binds Autonomous Bougainville Government

This Act binds the Autonomous Bougainville Government.

14 Regulations

The Bougainville Executive Council may make such regulations as are contemplated by, or as are necessary or expedient for, this Act.

15 Repeal of Provincial Symbols Act

The *Provincial Symbols Act 1978* is repealed.

Schedule 1

Bougainville flag

Section 3

Part 1 — Description

The Bougainville flag is a rectangular flag, proportions 3 to 2, at the centre of which is a depiction of an *upe* superimposed over concentric discs of black and white on a cobalt blue field (representing the ocean that surrounds the islands of Bougainville).

The *upe* (a ceremonial headdress symbolic of coming-of-age) is depicted with alternating red and white stripes and is positioned vertically at the centre of the black disc (which represents the distinctive skin colour of the Bougainvillean people). The white disc is a depiction of the *kapkap* (a traditional symbol of authority crafted from mother-of-pearl). Within the *kapkap*, 24 green equilateral triangles (symbolising the importance of land to the Bougainvillean people) encircle the black disc, with the bases facing outwards.

Part 2 — Depiction



Schedule 2

Bougainville emblem

Section 6

Part 1 — Description

The Bougainville emblem comprises a depiction of a *garamut* (a large wooden slit-drum used to send messages) positioned beneath 2 crossed spears, the heads of which are below the point at which the spears cross. Superimposed above the centre-point of the *garamut* is a depiction of an *upe* (a ceremonial headdress symbolic of coming-of-age) with alternating red and white stripes (as on the Bougainville flag). A bound bundle of sticks (used to beat the *garamut*) is positioned horizontally behind the *upe* at the point at which the spears cross.

The words “Autonomous Region of Bougainville” are superimposed on the *garamut*.

Part 2 — Depiction



Schedule 3

Bougainville anthem

Section 8

“My Bougainville”

Music by Carl Linger



1. God bless our love - ly ho - me - land, from
2. The smile of God u - pon her face, the



moun - tain peaks to gol - den sands. Land of the brave and
pride and joy of all our race. She wears be - neath her



land of the free, the brave and the free. En -
pur - ple sheen her man - tle of green. To -



fold her chil - dren in your hands, be - neath the South - ern
day we pledge our love and life, we'll stand by you in



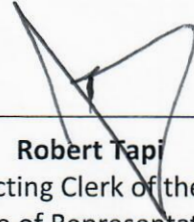
Cross we stand, one migh - ty Chris - tian fam - i - ly. Oh
e - very strife. Our own dear home, our mo - ther - land. Oh



Bou - gain - ville, my Bou - gain - ville, bless Bou - gain - ville.
Bou - gain - ville, my Bou - gain - ville, bless Bou - gain - ville.

I certify that the above is a fair copy of the Bill for an Act entitled *Bougainville Flag, Emblem and Anthem (Protection) 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 *Bougainville Flag, Emblem and Anthem (Protection) Act 2018* was made by the House of Representatives on 13 June 2018 by an absolute majority vote in accordance with the *Bougainville Constitution*.

Dated 14 June 2018



Honourable Simon Pentanu
Speaker of the House of Representatives