

No. 5 of 2005.

Public Accounts Committee Act 2005.

Certified on: 4 August 2005.

AUTONOMOUS REGION OF BOUGAINVILLE.

No. 5 of 2005.

Public Accounts Committee Act 2005.

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AUTONOMOUS REGION OF BOUGAINVILLE

No. 5 of 2005.

AN ACT

entitled

Public Accounts Committee Act 2005,

Being an Act as required and authorized by Section 161 of the *Bougainville Constitution* to make provision for the functions, duties and powers of the Public Accounts Committee, and for related purposes,

MADE by the House of Representatives.

PART I. - PRELIMINARY.

1. COMPLIANCE WITH CONSTITUTIONAL REQUIREMENTS.

This Act, to the extent that it regulates or restricts a right or freedom referred to in Subdivision III.3.C (*qualified rights*) of the *National Constitution*, namely -

- (a) the right to privacy conferred by Section 49 of the *National Constitution*;
- and
- (b) the right to freedom of information conferred by Section 5 1 of the *National Constitution*,

is a law that is made for the purpose of giving effect to the public interest in public order.

2. INTERPRETATION.

In this Act, unless the contrary intention appears -

"accounts" includes any accounts, whether compiled, recorded or stored by microfilm or electronic process or otherwise;

"Chairman" means the Chairman of the Committee appointed under Section 3;

"Committee" means the Public Accounts Committee established by Section 160 (*establishment of the Public Accounts Committee*) of the *Bougainville Constitution*;

"Deputy Chairman" means the Deputy Chairman of the Committee appointed under Section 3;

"member" means a member of the Committee appointed under Section 3, and includes the Chairman;

"property" means real or personal property;

"public accounts of Bougainville" means all accounts, books and records of. or in the custody, possession or control of the Bougainville Executive or of a public officer, relating to public property or public moneys of Bougainville;

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- "public moneys of Bougainville" includes moneys held in trust by the Bougainville Executive or a public officer in his capacity as such, whether or not they are so held for particular persons;
- "public property" means real and personal property;
- "records" includes deeds, writings and documents and other records of information, whether compiled, recorded or stored by microfilm or electronic process or otherwise.

PART II. - CONSTITUTION, ETC., OF PUBLIC ACCOUNTS COMMITTEE.

3. CONSTITUTION OF COMMITTEE.

(1) Subject to this section and to Section 71 (*Committees*) of the *Bougainville Constitution*, the Committee shall consist of five members, one of whom shall be (he Chairman of the Committee.

(2) Members shall be appointed -

- (a) in the case of the first Committee to be appointed - as soon as is practicable after the coming into operation of this Act; and
- (b) otherwise, at the commencement of the first sitting of the House of Representatives following a Bougainville general election,

by the House of Representatives, according to its practice.

(3) The House of Representatives shall appoint one of the members to be the Chairman of the Committee and another of the members to be the Deputy Chairman.

(4) Subject to Sections 4, 5 and 6, each member of the Committee holds office during the pleasure of the House of Representatives.

(5) The names of the members of the Committee and of the Chairman shall be published in the Bougainville Gazette.

4. NORMAL TERM OF OFFICE.

Unless he earlier -

- (a) dies; or
- (b) resigns; or
- (c) ceases to be a member of the House of Representatives; or
- (d) is removed from the Committee by the House of Representatives; or
- (e) ceases to be a member of the Committee under Section 5 or 6,

a member holds office until his term of office expires when the House of Representatives is prorogued.

5. VACATION OF OFFICE.

(1) If a member of the Committee -

- (a) dies; or
- (b) ceases to be a member of the House of Representatives; or

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- (c) is removed from the Committee by the House of Representatives;
or
 - (d) resigns by written notice to the Speaker; or
 - (e) fails to comply with Section 6(2),
- his seat as a member of the Committee becomes vacant.

(2) Where a vacancy occurs under Subsection (1), it shall be filled as soon as possible.

6. FAILURE TO ATTEND MEETINGS, ETC.,

(1) For the purposes of this section, "a meeting" means a meeting of the Committee for which at least seven days' notice to members has been given, and which –

- (a) commences when the Committee first sits following a Bougainville general election, the prorogation of the House of Representatives, or an adjournment of the Committee otherwise than for a period of less than 14 days; and
- (b) ends when the House of Representatives is prorogued or when the Committee adjourns otherwise than for a period of less than 14 days.

(2) Subject to Subsection (3), where a member fails to attend a meeting –

- (a) without the prior leave of the Committee; or
- (b) without informing the Chairman or, if it is not practicable to communicate with the Chairman, the Clerk to the Committee, of his inability to attend,

during the whole of three consecutive meetings of the Committee, his office of member of the Committee is thereby vacated.

(3) The Committee may, in its discretion, permit a member to continue in office where he has failed to comply with Subsection (2).

7. PROCEDURE AT MEETINGS OF THE COMMITTEE.

At a meeting of the Committee –

- (a) the Chairman shall preside and in the absence or inability of the Chairman, the Deputy Chairman or a member appointed by the members present shall be the Acting Chairman and shall preside and shall have all powers of the Chairman; and
- (b) three members, including the Chairman or the Deputy Chairman, shall constitute a quorum; and
- (c) questions shall be decided by a majority of votes of the members present and voting, and when there is an equality of votes on any question, the member presiding has a deliberative vote and a second or casting vote.

8. POWER TO SIT DURING RECESS, ETC.,

The Committee may –

- (a) sit and transact business during any adjournment or recess, as well as during a sitting of, the House of Representatives: and
- (b) sit at such times and in such places, and subject to this Act, conduct its proceedings in such manner, as it thinks proper.

9. REPORTS.

(1) The Committee shall, during each meeting of the House of Representatives, make a report to the Speaker of its proceedings under this Act.

(2) The report referred to in Subsection (1) shall be laid before the House of Representatives during the meeting.

10. CONTINUANCE OF EVIDENCE.

Where the Committee as constituted from time to time has taken evidence in relation to a matter, but the Committee so constituted has ceased to exist before reporting on the matter, the Committee as next constituted may consider that evidence as if it had been given before it.

PART III. - FUNCTIONS AND POWERS OF THE COMMITTEE.

11. FUNCTIONS OF THE COMMITTEE.

(1) The functions of the Committee are -

- (a) in accordance with Section 161 (*functions of the Committee*) of the *Bougainville Constitution*, to examine and report to the House of Representatives on the public accounts of Bougainville (including any accounts, finances and property that are subject to inspection and audit by the Bougainville Auditor-General under the *Bougainville Constitution* and on the control of and transactions concerning, the public moneys and property of Bougainville; and
- (b) to report to the House of Representatives, with such comments as it thinks proper, any items or matters in those accounts, finances or property, or any circumstances connected with them, to which the Committee is of the opinion that the attention of the House of Representatives should be directed: and
- (c) to report to the House of Representatives any alteration that the Committee thinks desirable -
 - (i) in the form of public accounts; or
 - (ii) in the method of keeping them; or
 - (iii) in the method of collection, receipt, expenditure or issue of public moneys; or
 - (iv) for the receipt, custody, disposal, issue or use of stores and other property of Bougainville; and
- (d) to inquire into any question in connection with the public accounts that is referred to it by the House of Representatives, and to report to the House of Representatives on the question,

and include such other duties as are assigned to the Committee by the Standing Orders of the House of Representatives.

(2) Any member of the House of Representatives may move for the reference to the Committee of any question in connection with the public accounts, for report to the House of Representatives.

12. POWERS OF THE COMMITTEE TO MAKE REFERENCES.

(1) Where the Committee is satisfied, after making an examination or inquiry under this Act, that a person has not complied with *the Bougainville Constitution* or with a Bougainville law in respect of a transaction relating to or dealing with the public accounts or property of Bougainville, it shall refer the matter, together with its report on the matter, to –

- (a) in the case of a leader who is subject to the Leadership Code under the *National Constitution* - the Ombudsman Commission under the *National Constitution*; and
- (b) in the case of leader who is subject to the Bougainville Leadership Code - the Bougainville Ombudsman; and
- (c) in the case of a person other than a leader referred to in Paragraphs (a) or (b) - the Public Prosecutor.

(2) The Committee shall make such recommendations as it thinks fit in relation to a referral under Subsection (1).

13. SITTINGS TO BE PUBLIC EXCEPT IN CERTAIN CASES.

(1) Subject to this section, the Committee shall take all evidence in public.

(2) The Committee may, and at the request of the witness giving the evidence shall, take in private, evidence, whether oral or documentary that, in the opinion of the Committee, relates to a secret or confidential matter.

(3) Where, at the request of a witness, evidence is taken by the Committee in private –

- (a) the Committee or a member shall not, without written consent of the witness; and
- (b) a person who is not a member of the Committee shall not, without the written consent of the witness and the authority of the Committee under Subsection (5),

disclose or publish the whole or part of the evidence (other than evidence which has already been lawfully published).

(4) Where evidence is taken in private otherwise than at the request of a witness, no person (including a member of the Committee) may, without the authority of the Commission under Subsection (5), disclose or publish the whole or a part of that evidence (other than evidence which has already been lawfully published).

(5) The Commission may, in its discretion, disclose or publish, or authorize the disclosure or publication of, evidence taken in private, but this subsection does not operate so as to affect the necessity for the consent of a witness under Subsection (3).

(6) A person, who discloses or publishes evidence in contravention of this section, is guilty of an offence.

Penalty: A fine not exceeding K500.00 or imprisonment for a term not exceeding one year.

14. POWER TO SUMMON WITNESSES.

(1) The Committee may summon witnesses to appear before it to give evidence and to produce records.

(2) A summons to a witness –

(a) shall be in the Form 1 in the Schedule; and

(b) shall be signed by the Chairman; and

(c) may be served on the witness either personally or by being left at, or sent by post to, his usual residence or place of business.

15. DISOBEDIENCE OF SUMMONS.

A person, on whom a summons under Section 14 has been served, who refuses or fails, without reasonable excuse (proof of which is on him), to appear or to continue in attendance or obedience to the summons, is guilty of an offence.

Penalty: A fine not exceeding K500.00 or imprisonment for a term not exceeding one year.

16. PREVENTING WITNESS FROM GIVING EVIDENCE.

A person who, by act or omission, knowingly dissuades or prevents a person from obeying a summons under Section 14, is guilty of an offence.

Penalty: A fine not exceeding K500.00 or imprisonment for a term not exceeding one year.

17. POWER TO TAKE EVIDENCE ON OATH OR AFFIRMATION.

(1) The Committee may take evidence on oath or affirmation, and the Chairman may administer oaths or affirmations to a witness appearing before the Committee.

(2) The oath or affirmation administered to a witness shall be in Form 2 in the Schedule.

(3) A witness who objects to taking an oath shall not be compelled to take an oath, but may be compelled to make an affirmation.

18. REFUSING TO BE SWORN, ETC.,

A person who, without reasonable excuse (proof of which is on him), refuses -

- (a) to be sworn or make affirmation; or
- (b) to answer a question put to him by the Committee or a member of the Committee; or
- (c) to produce records that he is required by the Committee to produce,

is guilty of an offence.

Penalty: A fine not exceeding K500.00 or imprisonment for a term not exceeding one year.

19. PRIVILEGES OF WITNESSES.

A witness summoned to appear or appearing before the Committee has the same protection and privileges as a witness in a case tried in the National Court.

20. PROTECTION TO WITNESSES.

A person who uses, causes, inflicts or procures any violence, punishment, damage, loss or disadvantage to or on any person for or on account of evidence lawfully given by him before the Committee, is guilty of an offence.

Penalty: A fine not exceeding K500.00 or imprisonment for a term not exceeding one year.

21. FALSE EVIDENCE.

A person who wilfully gives false evidence on oath or affirmation before the Committee is guilty of an offence.

Penalty: A fine not exceeding K2,000.00 or imprisonment for a term not exceeding five years.

22. WITNESSES' EXPENSES.

A witness appearing before the Committee to give evidence shall be paid such witness fees and travelling expenses as the Chairman thinks fit to allow, in accordance with the prescribed scale.

23. ALLOWANCES.

(1) A Chairman and other members of the Committee shall be paid allowances in accordance with the determination by the House of Representatives on the recommendation of the National Salaries and Remuneration Commission or the Bougainville Salaries and Remuneration Commission, as the case may be.

(2) The allowances of the members of the Committee are payable on the certificate of the Chairman.

24. ANNUAL REPORT BY CHAIRMAN ON EXPENDITURE.

As soon as practicable after the end of each financial year, the Chairman shall present to the Parliament a report settling out –

- (a) the total amount paid out of the Bougainville Consolidated Revenue Fund during the immediately proceeding financial year in accordance with Section 23; and
- (b) details of each amount so paid; and
- (c) details of the purposes for which the liability to pay each such amount was incurred.

PART IV. - MISCELLANEOUS.

25. REGULATIONS.

The Bougainville Executive Council may make Regulations, not inconsistent with this Act prescribing all matters that by this Act are required or permitted to be prescribed, or that are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

SCHEDULE.

Section 14(2)(a) *Public Accounts Committee Act 2005*

FORM 1

SUMMONS TO WITNESS BEFORE COMMITTEE.

The House of Representatives.

To:.....

You are required by this summons to attend before the Public Accounts Committee of the House of Representatives at..... on at am/pm and there to give evidence concerning..... and then and there to produce the following books, papers, documents and articles:-

DATEDday of.....

Chairman (or Clerk) of Public Accounts Committee.

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FORM 2

OATH AND AFFIRMATION BY WITNESS.

Oath

I,....., do swear that I will answer honestly and to the best of my ability, questions put to me by the Public Accounts Committee of the House of Representatives in relation to

So help me God!

Affirmation

I,....., do solemnly and sincerely affirm and declare that I will answer honestly and to the best of my ability, questions put to me by the Public Accounts Committee of the House of Representatives in relation to.....

I hereby certify that the foregoing is a fair copy of the *Public Accounts Committee Act 2005* which has been made by the House of Representatives.

Acting Clerk of House of Representatives.

I, **NICHOLAS PENIAI**, Speaker of the House of Representatives, hereby certify that the *Public Accounts Committee Act 2005* was made by the House of Representatives on 4 August 2005.

Speaker of the House of Representatives.