

No. 2 of 2007.

Bougainville Elections Act 2007.

Certified on: 25th June 2007.

AUTONOMOUS REGION OF BOUGAINVILLE.

No. 2 of 2007.

AN ACT

entitled

Bougainville Elections Bill 2007.

ARRANGEMENT OF SECTIONS.

PART I. – PRELIMINARY.

1. Compliance with Constitutional Requirements.
2. Application of this Act.
3. Interpretation.
 - “approved form”
 - “Bougainvillean”
 - “Bougainville Boundaries Commissioner”
 - “Bougainville Electoral Commissioner”
 - “Bougainville general election”
 - “Bougainville High Court”
 - “Boundaries Commissioner”
 - “candidate”
 - “category of election”
 - “Chief Administrator”
 - “Commissioner”
 - “constituency”
 - “Election Enrolment Tribunal”
 - “elector”
 - “electoral officer”
 - “electronic advice”
 - “member”
 - “National Court”
 - “officer”
 - “polling booth”
 - “Police”
 - “polling period”
 - “polling place”
 - “population”
 - “recall poll”
 - “Returning Officer”
 - “Roll”
 - “this Act”

PART II. – ADMINISTRATION.

4. Function of the Commissioner.
5. Chief Administrator to make staff available.
6. Delegation.
7. Returning Officers.
8. Assistant Returning Officers.
9. Appointment in cases of emergency.
10. Date from which appointments are to take effect.
11. Candidates not to be electoral officers.
12. Keeping of forms.

PART III. – CONSTITUENCIES.

13. Constituencies.
14. Bougainville Boundaries Commissioner.
15. Disqualifications from office.
16. Special conditions of employment.
17. Vacation of office.
18. Retirement.
19. Acting Appointment.
20. Chief Administrator to make staff available.
21. Single member constituencies.
22. Regional constituencies.
23. Notification of proposed redistribution.
24. Public inquiry.
25. Report of Boundaries Commissioner.
26. Report to be laid before House of Representatives.
27. Determination of new constituencies.
28. Change of electors from one Roll to another.

PART IV. – ELECTIONS GENERALLY.

29. Elections generally.

PART V. – POLLING PLACES.

30. Polling places.

PART VI. –ELECTORAL ROLLS.

31. Rolls.
32. Form of Rolls.
33. New Rolls.
34. Additions, etc., to new Rolls.
35. Objections and notices to have effect in relation to new Rolls.

- 36. Printing of Rolls.
- 37. Inspection.
- 38. Officers and others to furnish information.

PART VII. – QUALIFICATIONS FOR AND DISQUALIFICATIONS FROM ENROLMENT AND VOTING.

- 39. Persons entitled to enrolment.

PART VIII. – ENROLMENT.

- 40. Officers.
- 41. Addition of names to Rolls.
- 42. Claims for enrolment or transfer of enrolment.
- 43. Form of claim for enrolment or transfer of enrolment.
- 44. Compulsory enrolment and transfer.
- 45. Registration of claim.
- 46. Notification of rejection of claim.
- 47. Time of altering Rolls.
- 48. Penalty on officer neglecting to enrol claimants.
- 49. Alteration of Rolls, etc.,
- 50. Special provisions for certain nominations.
- 51. Incorrect enrolment.
- 52. Alterations to be initialled.
- 53. Inquiry by Returning Officer.

PART IX. – ARRANGEMENT FOR PERSONS OUTSIDE BOUGAINVILLE.

- 54. Arrangements for persons outside Bougainville when making a claim for enrolment.
- 55. Arrangements for persons outside Bougainville during voting period.

PART X. – OBJECTIONS.

- 56. Name on Roll may be objected to.
- 57. Objection.
- 58. Duty to object.
- 59. Notice of objection.
- 60. Answer to objection.
- 61. Determination of objection.

PART XI. – APPEALS.

- 62. Election Enrolment Tribunals.
- 63. Appeal to Election Enrolment Tribunal.

PART XII. – WRITS FOR ELECTIONS.

- 64. Writs for general election.
- 65. Writs for vacancies.
- 66. Form of writs.
- 67. Time of issue of writs.
- 68. Address of writs.
- 69. Date of nomination.
- 70. Date of polling.
- 71. Date of return of writ.
- 72. General election to commence on same day.
- 73. Duty of returning officer on receipt of writ.

PART XIII. – NOMINATIONS.

- 74. Candidates must be nominated.
- 75. Qualifications for nomination.
- 76. Mode of nomination.
- 77. To whom nominations made.
- 78. Form of consent to act.
- 79. Formal defects.
- 80. Deposit to be forfeited in certain cases.
- 81. Place of nomination.
- 82. Hour of nomination.
- 83. Declaration of nominations.
- 84. Withdrawal of nominations.
- 85. Return of deposit in case of candidate's death.
- 86. Proceedings on nomination day.
- 87. Failure of election.

PART XIV. – THE POLLING.

Division 1. – Polling Schedule.

- 88. Polling Schedule.
- 89. Publication of polling schedule.
- 90. Adherence to polling schedule.
- 91. Appeal.
- 92. Election not open to challenge.

Division 2. – General Provisions.

- 93. Returning Officer to make arrangements.
- 94. Allocation of polling places.
- 95. Substitute.
- 96. No licensed premises to be used.

- 97. Separate voting compartments.
- 98. Ballot boxes.
- 99. Certified list of voters.
- 100. Form of ballot papers.
- 101. Ballot papers.
- 102. Ballot papers to be initialled.
- 103. Scrutineers at the polling.
- 104. Provisions relating to scrutineer.
- 105. Persons present at polling.
- 106. The polling.
- 107. Elections at which electors are entitled to vote.
- 108. Persons claiming to vote to give name and other particulars.
- 109. Questions to be put to voter.
- 110. Finger to be marked.
- 111. Right of elector to receive ballot papers.
- 112. List of voters to be marked on issue of ballot papers.
- 113. Votes to be marked in private.
- 114. Method of marking ballot papers.
- 115. Assistance to certain voters.

Division 3. – Special provisions in certain cases.

- 116. Voter claiming to vote whose name on Roll has been marked.
- 117. Blind or physically incapacitated voters.
- 118. Dealing with voters, etc., under this Division.

Division 4. – Miscellaneous.

- 119. Spoilt ballot paper.
- 120. Adjournment of polling on account of riot.

PART XV. – THE SCRUTINY.

Division 1. – Preliminary.

- 121. Scrutiny.
- 122. Counting centres.
- 123. Officers to conduct scrutiny.
- 124. Scrutineers at scrutiny.
- 125. Conduct of scrutiny.
- 126. Action on objection to ballot papers.
- 127. Informal ballot papers.

Division 2. – Provision Relating to the Scrutiny of Ordinary Votes.

- 128. Scrutiny of ordinary votes in elections.

Division 3. – Provisions Relating to Scrutiny of Votes under Division XIV.3.

- 129. Conduct of scrutiny.
- 130. Action on receipt of ballot papers under Division XIV.3.
- 131. Preliminary scrutiny of votes cast under Division XIV.3.
- 132. Further scrutiny.
- 133. Informal ballot papers under Division XIV.3.
- 134. Parcelling of ballot papers.
- 135. Opening of sealed parcels of ballot papers.
- 136. Opening of sealed parcels of declarations.
- 137. Preservation of ballot papers and declarations
- 138. Mode of determining the result of the scrutiny.
- 139. Further provisions relating to scrutiny.

Division 4. – Re-count.

- 140. Re-count.
- 141. Reservation of disputed ballot papers.
- 142. Conduct of re-count.

PART XVI. – INTERPRETERS.

- 143. Interpreters.
- 144. Duty of interpreters.

PART XVII. – THE RETURN OF THE WRITS.

- 145. Return of the writs.
- 146. Correction of errors.
- 147. Extension of time.

PART XVIII. – RECALL OF MEMBER OF THE HOUSE OF REPRESENTATIVES.

Division 1. – General.

- 148. Purpose of this Part.
- 149. Interpretation
 - “member”
 - “recall”
 - “recall poll”.
- 150. Duties of Commissioner on receipt of a petition for recall.

Division 2. – Writs.

- 151. Speaker to issue writs.

- 152. Form of writs.
- 153. Time of issue of writs.
- 154. Address of writs.

Division 3. – Nomination.

- 155. Date and period of nomination.
- 156. Date of polling.
- 157. Date of return of writs.
- 158. Duty of Returning Officer on receipt of writs.
- 159. Nominations.
- 160. Restriction on qualification.
- 161. Proceedings on nomination day, etc.,

Division 4. – Polling.

- 162. Application of Part XIV, etc.,
- 163. Polling Schedule.
- 164. General provisions relating to polling.
- 165. Form of ballot papers.
- 166. Ballot paper to be used in respect of recall poll.
- 167. Right of elector to receive ballot papers.
- 168. Method of marking ballot papers.

Division 5. – Scrutiny.

- 169. Application of Part XV, etc.,
- 170. Scrutineers in recall poll.
- 171. Scrutiny of recall poll to be conducted first.
- 172. Scrutiny of votes in recall poll.
- 173. Further scrutiny.
- 174. Mode of determining the result of scrutiny.
- 175. Recount of recall poll.
- 176. Return of writ for recall poll.
- 177. Further duties of Returning Officer following determination of scrutiny in recall poll.

PART XIX. – OFFENCES.

- 178. Illegal practices.
- 179. Heading to electoral advertisement.
- 180. Articles to be signed.
- 181. Matter broadcast.
- 182. Display of certain electoral posters prohibited.
- 183. Removal of prohibited electoral poster.
- 184. Injunctions.

185. Cards in polling booths.
186. Untrue statements in electoral paper, etc.,
187. Signature to electoral paper.
188. Witnessing electoral papers.
189. Making marks on ballot papers.
190. Electoral offences.
191. Prohibition of canvassing near polling booth.
192. Badges or emblems in polling booths.
193. Failure to transmit claims.
194. Forging or uttering electoral papers.
195. Employers to allow employees leave of absence to vote.
196. Protection of the official mark.
197. Disorderly behaviour at meeting.
198. Neglect to initial ballot paper, etc.,
199. Offender may be removed from polling booth.
200. Defamation of candidate.
201. Publication of matter regarding candidates.
202. Liability for indirect acts.

PART XX. – DISPUTED ELECTIONS, RETURNS, ETC.,

203. Method of disputing returns.
204. Exercise of Jurisdiction of Bougainville High Court.
205. Requisites of petition.
206. Deposit as security for costs.
207. No proceedings unless requisites complied with.
208. Right of Commissioner to be represented.
209. Powers of Bougainville High Court.
210. Production of papers or documents, etc.,
211. Inquiries by Bougainville High Court.
212. Voiding election for illegal practices.
213. Bougainville High Court to report case of illegal practice.
214. Natural justice to be observed.
215. Immaterial errors not to vitiate elections.
216. Evidence that person not permitted to vote.
217. Decision to be final.
218. Copies of petition and order of Bougainville High Court to be sent to the President and the Speaker.
219. Counsel or solicitor.
220. Costs.
221. Deposits applicable for costs.
222. Other costs.
223. Effect of decisions.
224. Definition of "petition".

PART XXI. – MISCELLANEOUS.

- 225. Council of Elders rules on advertising, etc.,
- 226. Institution of proceedings for offences.
- 227. Certificate evidence.
- 228. Electoral matter may be sent by electronic means.
- 229. Averments deemed to be proved.
- 230. Defendant may be called upon to give evidence.
- 231. Production of claims for enrolment etc.,
- 232. Preservation of ballot papers.
- 233. Regulations.

SCHEDULE.

FORMS.

AUTONOMOUS REGION OF BOUGAINVILLE.

No. 2 of 2007.

AN ACT

entitled

Bougainville Elections Act 2007,

Being an Act to implement Section 58 (*recall of member of the House of Representatives*), Section 104 (*Bougainville Boundaries Commissioner*), Section 105 (*Constituencies*), Section 106 (*Bougainville Electoral Commissioner and elections generally*), Section 107 (*Bougainville general elections*) and Section 109 (*form of elections*) of the *Bougainville Constitution* by providing for –

- (a) the appointment of, and procedures relating to the functions of the Bougainville Boundaries Commissioner; and
 - (b) the procedures to be followed by the Bougainville Electoral Commissioner and safeguarding his independence; and
 - (c) the procedures to be followed by the House of Representatives when considering the recommendations of the Bougainville Boundaries Commissioner; and
 - (d) the electoral system, including safeguarding the integrity of elections and appeals on elections on matters to the Bougainville High Court; and
 - (e) matters relating to the recall of a member of the House of Representatives,
- 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 freedom from arbitrary search and entry conferred by Section 44 of the *National Constitution*; and
- (b) the right to freedom of conscience, thought and religion conferred by Section 45 of the *National Constitution*; and
- (c) the right to freedom of expression conferred by Section 46 of the *National Constitution*; and
- (d) the right to freedom of assembly and association conferred by Section 47 of the *National Constitution*; and

- (e) the right to privacy conferred by Section 49 of the *National Constitution*; and
- (f) the right to vote and stand for public office conferred by Section 50 of the *National Constitution*; and
- (g) the right to freedom of information conferred by Section 51 of the *National Constitution*,

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

2. APPLICATION OF THIS ACT.

This Act applies to and in respect of elections to the House of Representatives and in respect of a poll for recall of a member of the House of Representatives.

3. INTERPRETATION.

- (1) In this Act, unless the contrary intention appears –
 - “approved form” means a form approved by the Commissioner;
 - “Bougainvillean” means a Bougainvillean as provided for in Section 7 (*Bougainvillean*) of the *Bougainville Constitution*;
 - “Bougainville Boundaries Commissioner” means the Bougainville Boundaries Commissioner, whose office is established by Section 104 (*Bougainville Boundaries Commissioner*) of the *Bougainville Constitution*, appointed under Section 14;
 - “Bougainville Electoral Commissioner” means the Bougainville Electoral Commissioner appointed under Section 106(1) (*Bougainville Electoral Commissioner and elections generally*) of the *Bougainville Constitution*;
 - “Bougainville general election” means a general election of the President of the Autonomous Region of Bougainville and of members of the House of Representatives;
 - “Bougainville High Court” means the Bougainville High Court established under Section 116 (*establishment of the Bougainville High Court*) of the *Bougainville Constitution*;
 - “Boundaries Commissioner” means the Bougainville Boundaries Commissioner;
 - “candidate” means a person who has nominated and includes a person who, within two months before the first day of the polling period announces himself as a candidate, for election as President or as a member of the House of Representatives;
 - “category of election” has the meaning given to it in Subsection (2);
 - “Chief Administrator” means the person who is the administrative head of the public service staff undertaking work under the direction of the Autonomous Bougainville Government, whatever the title of that person, and irrespective of whether the public service staff are members of the National Public Service or members of a Bougainville Government Public Service;
 - “Commissioner” means the Bougainville Electoral Commissioner;

“constituency” means the area in relation to which a person is to be elected as a member of the House of Representatives, and in relation to –

- (a) the President – means all the single member constituencies, whose boundaries are determined in accordance with Section 105 (*constituencies*) of the *Bougainville Constitution*; and
- (b) each of the directly elected members representing single member constituencies – means the single member constituency, for election to which the person has nominated, whose boundaries are determined in accordance with Section 105 (*constituencies*) of the *Bougainville Constitution*; and
- (c) each of the three women members, one from each Region (North, Central and South) elected to represent the interests of the women of the Region – means the Regional constituency for which she has nominated, whose boundaries are determined in accordance with Section 105 (*constituencies*) of the *Bougainville Constitution*; and
- (d) each of the three former combatant members, one from each Regions (North, Central and South) elected to represent the interests of the former combatants of the Region – means the Regional constituency for which he has nominated, whose boundaries are determined in accordance with Section 105 (*constituencies*) of the *Bougainville Constitution*;

“Election Enrolment Tribunal” means an Election Enrolment Tribunal established under Section 62, and, in relation to a constituency, means the Election Enrolment Tribunal for that constituency;

“elector” means a person whose name appears on the roll as an elector;

“electoral officer” includes the Commissioner, a Returning Officer, an Assistant Returning Officer, presiding officer, assistant presiding officer, substitute presiding officer, poll clerk, interpreter and door-keeper;

“electronic advice” means communication by any electronic means;

“member” means an elected member of the House of Representatives and where appropriate includes the President;

“National Court” means the National Court of Papua New Guinea established under Section 166 (*establishment of the National Court*) of the *National Constitution*;

“officer” means –

- (a) an officer or employee of a Bougainville Government Service; or
- (b) an officer or employee of the National Public Service; or
- (c) a member of the Bougainville Police Service or of the Police Force; or
- (d) a member of the Bougainville Correctional Service or of the Correctional Service; or
- (e) an officer or employee of the Bougainville Administration; or
- (f) an officer or employee of a Council of Elders; or

- (g) an officer or employee of a governmental body;
- “polling booth” means the polling place or part of the polling place determined by the presiding officer to be a polling booth under Section 94;
- “Police” means the Bougainville Police Service or the Police Force;
- “polling period”, in relation to an election or recall poll, means the period for polling the first and last days of which are specified in the writ for that election or recall poll and includes any extension of that period granted under Section 147;
- “polling place” means a place where polling may occur appointed under Section 30;
- “population” means –
 - (a) in a case where a National Census of Population has, in the opinion of the National Statistician, been completed and –
 - (i) from which in his opinion he is able to provide a satisfactory estimate of population; and
 - (ii) in relation to which a redistribution has not previously been carried out,
 the population as at the date of that National Census of Population as estimated by the National Statistician; and
 - (b) in any other case – the population as estimated by the National Statistician as at such date prior to the date of the redistribution as in the opinion of the National Statistician is the most recent date at which he can give a satisfactory estimate;
- “recall poll” means a poll conducted under Part XVII as to whether a members shall be recalled as provided for by Section 58 (*recall of member of the House of Representatives*) of the *Bougainville Constitution*;
- “Returning Officer”, in relation to a constituency, means the Returning Officer for that constituency;
- “Roll” means an Electoral Roll under this Act;
- “this Act” includes the Regulations.

- (2) For the purposes of this Act each of the following is a category of election:
 -
 - (a) an election of President;
 - (b) an election of a member to represent a single member constituency;
 - (c) an election of a woman member to represent a Regional constituency to represent the interests of the women of the Region;
 - (d) an election of a former combatant member to represent a Regional constituency to represent the interests of the former combatants of the Region.

(3) Notwithstanding any other law, where a time limit is imposed under this Act for the taking of an action, then unless the contrary intention appears, that time limit is mandatory.

PART II. – ADMINISTRATION.

4. FUNCTION OF THE COMMISSIONER.

It is the function of the Commissioner to organize and conduct all elections of the President and of members of the House of Representatives and to conduct recall polls.

5. CHIEF ADMINISTRATOR TO MAKE STAFF AVAILABLE.

The Chief Administrator shall, when so requested by the Commissioner, make available to the Commissioner and to each Returning Officer such staff as may be necessary for the discharge of the functions conferred on the Commissioner by Section 106 (*Bougainville Electoral Commissioner and elections generally*) of the *Bougainville Constitution* and this Act.

6. DELEGATION.

(1) The Commissioner may, by instrument in writing, delegate to an officer all or any of his powers and functions under this Act (except this power of delegation), so that the delegated powers or functions may be had, exercised and performed by the delegate in relation to such constituency or constituencies, or to such matters or class of matters, or to the whole of Bougainville or such part of Bougainville as is or are specified in the instrument of delegation.

(2) A delegation under Subsection (1) is revocable, in writing, at will.

(3) No delegation under this section prevents the exercise or performance of a power or function by the Commissioner.

7. RETURNING OFFICERS.

The Commissioner shall, by notice in the Bougainville Gazette, appoint a Returning Officer for each constituency, who shall be charged with the duty of giving effect to this Act within or for his constituency, subject to any directions of the Commissioner, but nothing in this Act prevents a person being appointed as the Returning Officer for more than one constituency.

8. ASSISTANT RETURNING OFFICERS.

(1) Subject to this section, the Commissioner may, by notice in the Bougainville Gazette, appoint a person to be an Assistant Returning Officer for a constituency or for part of a constituency.

(2) A person appointed to be an Assistant Returning Officer for the whole or a part of a constituency may, subject to this Act and to the control of the Returning Officer, perform the functions and exercise the powers of the Returning Officer, in, or in relation to, that constituency or that part of the constituency, as the case may be.

(3) An Assistant Returning Officer shall not be appointed for a part of a constituency for which fewer than 100 electors are enrolled.

9. APPOINTMENT IN CASES OF EMERGENCY.

(1) Subject to Subsection (2), in the event of a vacancy occurring in an office of Returning Officer or Assistant Returning Officer, or in the absence from duty of any such officer, the Commissioner may, by notice in writing, appoint a person to perform the duties of the office during the period of the vacancy or absence.

(2) The Commissioner shall publish each notice under Subsection (1) in the Bougainville Gazette.

(3) In the event of a vacancy occurring in an office of Assistant Returning Officer under Section 8, or in the absence from duty of any such officer, the Returning Officer may, by notice in writing, appoint a person to perform the duties of the office during the period of the vacancy or absence.

10. DATE FROM WHICH APPOINTMENTS ARE TO TAKE EFFECT.

A person appointed to be a Returning Officer under Section 7 or an Assistant Returning Officer under Section 8 shall be deemed to have been appointed as from the date specified in his notice of appointment, or, if no such date is specified, as from the date of his appointment.

11. CANDIDATES NOT TO BE ELECTORAL OFFICERS.

No candidate shall be appointed to be an electoral officer, and if an electoral officer becomes a candidate he thereby vacates his office.

12. KEEPING OF FORMS.

All Returning Officers shall keep forms of claims for enrolment and transfer and such other forms as are approved forms and shall without fee supply them to the public and assist the public in their proper use.

PART III. – CONSTITUENCIES.

13. CONSTITUENCIES.

(1) For the purpose of the election of the President and of members of the House of Representatives there shall be such constituencies as are provided for by Section 105 (*constituencies*) of the *Bougainville Constitution* and this Act.

(2) One member shall be elected for each constituency in each category of election by electors entitled to vote in respect of that constituency.

14. BOUGAINVILLE BOUNDARIES COMMISSIONER.

(1) The Bougainville Boundaries Commissioner shall be a person with relevant experience appointed by the Bougainville Senior Appointments Committee by notice in the Bougainville Gazette.

(2) The Boundaries Commissioner shall be appointed as and when the need arises and for such term as may be necessary for him to carry out his duties and is eligible for re-appointment.

(3) The Boundaries Commissioner shall be appointed on such terms and conditions as are determined by the Bougainville Executive Council.

15. DISQUALIFICATIONS FROM OFFICE.

A person is not qualified to be, or to remain as, the Boundaries Commissioner if he is –

- (a) a member of the House of Representatives or of the National Parliament, or nominates for election to the House of Representatives or the National Parliament; or
- (b) a member of a Council of Elders or of a level of formal government below the level of the Autonomous Bougainville Government; or
- (c) an office-holder in a political party registered under a Bougainville law or a National law; or
- (d) an indischarged bankrupt or insolvent; or
- (e) of unsound mind within the meaning of any law relating to the protection of the person and property of persons of unsound mind; or
- (f) under sentence of death or imprisonment.

16. SPECIAL CONDITIONS OF EMPLOYMENT.

(1) The Boundaries Commissioner shall not –

- (a) actively engage in politics; or
- (b) except on leave granted by the President, or because of illness, absent himself from duty; or
- (c) subject to Subsection (3), acquire by gift or otherwise, or use or hold in any other manner, any interest in any property in Papua New Guinea or solicit, accept or receive any other benefit in addition to his terms and conditions of employment.

(2) Nothing in Subsection (1) prevents the Boundaries Commissioner from holding office in a professional body in relation to which his qualifications are relevant.

(3) Subject to –

- (a) any Bougainville law made under Section 173 (*further provisions concerning the Leadership Code*) of the *Bougainville Constitution*; or

(b) where the office of Bougainville Ombudsman has not been established, any Organic Law made for the purposes of Division III.2 (*Leadership Code*) of the *National Constitution*,
a Boundaries Commissioner who is a citizen may purchase, lease or otherwise acquire land in the same manner and subject to the same conditions as any other citizen.

17. VACATION OF OFFICE.

(1) The Boundaries Commissioner may resign by written notice to the Bougainville Senior Appointments Committee.

(2) Where the Boundaries Commissioner –

- (a) dies; or
- (b) becomes permanently incapable of performing his duties; or
- (c) resigns his office; or
- (d) is disqualified from office under Section 15,

the Bougainville Senior Appointments Committees shall terminate his appointment.

(3) The Bougainville Senior Appointments Committee may, at any time, by written notice, advise the Boundaries Commissioner of its intention to terminate his appointment on the grounds of inability, inefficiency, incapacity or misbehaviour.

(4) The Boundaries Commissioner may, within 14 days of receipt of a notice under Subsection (3), reply in writing to the Bougainville Senior Appointments Committee which shall consider the reply and may terminate the appointment.

(5) Where the Boundaries Commissioner fails to reply in accordance with Subsection (4), his appointment is terminated.

18. RETIREMENT.

(1) Subject to Subsection (2), a person who has attained the age of 55 years shall not be appointed or re-appointed as Boundaries Commissioner and a person shall not be appointed or re-appointed for a period that extends beyond the date on which he attains the age of 55 years.

(2) The Bougainville Senior Appointments Committee may, for special reason in a particular case, appoint or re-appoint a person who is over 55 years of age to be the Boundaries Commissioner, but in no case can a Boundaries Commissioner continue in office after he has attained the age of 60 years.

19. ACTING APPOINTMENT.

(1) At any time when the position of Boundaries Commissioner is not filled on a permanent basis, or when the Boundaries Commissioner is away from the country or for any reason is not able to carry out his duties, the Bougainville Senior Appointments Committee may appoint a person to be Acting Boundaries Commissioner.

(2) The appointment of an Acting Boundaries Commissioner continues until a permanent appointment is made or the Boundaries Commissioner returns to the country or becomes able again to carry out his duties, as the case may be.

(3) An Acting Boundaries Commissioner has and may exercise and perform all the powers, duties and functions of the Boundaries Commissioner.

(4) This Act applies to an Acting Boundaries Commissioner in the same way as it applies to the Boundaries Commissioner.

20. CHIEF ADMINISTRATOR TO MAKE STAFF AVAILABLE.

The Chief Administrator shall make available to the Boundaries Commissioner such staff as are necessary to enable him to carry out his duties under the *Bougainville Constitution* and this Act.

21. SINGLE MEMBER CONSTITUENCIES.

The number of single member constituencies and their boundaries shall be determined in the manner provided by Section 105 (*constituencies*) of the *Bougainville Constitution* and this Act.

22. REGIONAL CONSTITUENCIES.

The number of regional constituencies and their boundaries shall be determined in the manner provided by Section 105 (*constituencies*) of the *Bougainville Constitution* and this Act.

23. NOTIFICATION OF PROPOSED REDISTRIBUTION.

(1) Where the Boundaries Commissioner is of the opinion that a redetermination of boundaries is required he shall –

(a) give public notification of his intention to redetermine boundaries in –

- (i) the Bougainville Gazette; and
 - (ii) a national newspaper circulating throughout Bougainville;
- and

(b) cause a map with a description of the boundaries of the recommended constituencies to be exhibited at the principal offices of the Bougainville Administration and at such District and Local-level Government offices as will give the people of Bougainville a reasonable opportunity of seeing it.

(2) A notification under Subsection (1)(a) shall –

- (a) invite public attention to the map referred to in Subsection (1)(b) and state the places and times at which the map may be inspected; and
- (b) fix a date (being a date not less than two months following the date of publication of the notification under Subsection (1)(a)) on which, and a place at which, a public inquiry into the proposed recommendations for redistribution will be heard; and

- (c) invite any of the following to attend the public inquiry and make representations or objections or make written representations or objections on the proposed recommendations for redistribution:-
 - (i) any member of the House of Representatives affected by the proposed redistribution;
 - (ii) the members of any Council of Elders or of any other level of formal government below the level of the Autonomous Bougainville Government for the area affected by the proposed redistribution;
 - (iii) the officers of the Bougainville Public Service or of the National Public Service employed in the area affected by the proposed redistribution;
 - (iv) any cultural or land groups in the area affected by the proposed redistribution;
 - (v) any other persons whom the Boundaries Commissioner considers relevant; and
- (d) indicate that any member of the public may attend the inquiry and make representations or objections or make written representations or objections on the proposed recommendation.

(3) Any written representations or objections referred to in Subsection (2)(c) and (d) may be lodged with the Boundaries Commissioner at any time before the date fixed for a public inquiry under Subsection (2)(b).

24. PUBLIC INQUIRY.

The Boundaries Commissioner shall hold a public inquiry on the date and at the place fixed under Section 23(2) and shall consider all representations and objections made at the public inquiry or previously submitted to him.

25. REPORT OF BOUNDARIES COMMISSIONER.

(1) The Boundaries Commissioner shall, as soon as practicable after the completion of the public inquiry under Section 24, forward to the Minister a report of his recommendations for the redistribution of Bougainville into constituencies, together with a map signed by him showing the boundaries of each proposed constituency.

(2) The report shall state, as nearly as can be ascertained, the population in each proposed constituency.

(3) The Boundaries Commissioner shall make separate reports for single member constituencies and for Regional constituencies.

26. REPORT TO BE LAID BEFORE HOUSE OF REPRESENTATIVES.

The reports and maps forwarded under Section 25(1) shall be presented by the Minister to the House of Representatives within seven sitting days after their receipt by him.

27. DETERMINATION OF NEW CONSTITUENCIES.

(1) The House of Representatives shall consider a report presented under Section 26 and shall, subject to Subsection (2), by resolution made within four months of the date of presentation of the report –

- (a) accept the recommendations of the Boundaries Commissioner contained in the report for a proposed redistribution; or
- (b) reject the recommendations of the Boundaries Commissioner contained in the report for a proposed redistribution; or
- (c) reject the recommendations of the Boundaries Commissioner contained in the report for a proposed redistribution and refer back to the Boundaries Commissioner specific matters relating to the recommendations for reconsideration.

(2) The House of Representatives may refer a report under Section 26 to an appropriate Committee of the House of Representatives to consider and report back to the House, and where the House makes such a referral, the period of four months referred to in Subsection (1) shall be read as six months.

(3) Where the House of Representatives –

- (a) by resolution under Subsection (1)(a) accepts the recommendations of the Boundaries Commissioner for a proposed redistribution; or
- (b) fails to make a resolution under Subsection (1)(a), (b) or (c) on the recommendations of the Boundaries Commissioner for a proposed redistribution,

the recommendations of the Boundaries Commissioner for a proposed redistribution constitute a determination of the single member constituencies or of the Regional constituencies, as the case may be, and their boundaries, and those constituencies and their boundaries until altered shall, subject to Subsection (5), be the constituencies for the purposes of the election of members of the House of Representatives.

(4) The Minister shall cause –

- (a) the number of single member constituencies and their boundaries; and
- (b) the number of Regional constituencies and their boundaries,

determined in accordance with Subsection (3) or (9) to be published in the Bougainville Gazette.

(5) Until the dissolution or expiration of the House of Representatives next following a determination under Subsection (3) or (9) in respect of a redistribution, the redistribution shall not affect the election of a new member to fill a vacancy occurring in the House of Representatives, but for the purposes of any such election the constituencies as previously existing, and the Rolls in respect of those constituencies, shall continue to have full force and effect notwithstanding that new Rolls for the new constituencies may have been prepared.

- (6) Where the House of Representatives –
- (a) by resolution under Subsection (1)(b) rejects the recommendations of the Boundaries Commissioner for a proposed redistribution; or
 - (b) by resolution under Subsection (1)(c) rejects the recommendations of the Boundaries Commissioner for a proposed redistribution and refers back to the Boundaries Commissioner specific matters relating to the recommendations for reconsideration,
- the Boundaries Commissioner shall, within 40 days from the date of the resolution –
- (c) in a case to which Paragraph (a) applies, reconsider the recommendations in the report submitted under Section 25(1); and
 - (d) in a case to which Paragraph (b) applies, reconsider the specific matters referred to him,
- and shall submit a further report making modifications to his previous recommendations or confirming his previous recommendations and shall forward to the Minister a copy of the further report, together with, in the case of any new recommendations, a map signed by him showing the boundaries of each proposed constituency.
- (7) The report and any map forwarded to the Minister under Subsection (6) shall be presented by him to the House of Representatives within seven sittings days after its receipt by him.
- (8) The House of Representatives shall consider the recommendations contained in a report presented under Subsection (7) and –
- (a) where the report confirms the previous recommendations of the Boundaries Commissioner for a proposed redistribution, may, within three months of such presentation, by resolution –
 - (i) accept the recommendations; or
 - (ii) reject the recommendations; or
 - (iii) reject the recommendations and refer back to the Boundaries Commissioner specific matters relating to the recommendations for reconsideration; and
 - (b) where the report has been modified from the previous recommendations of the Boundaries Commissioner for a proposed redistribution so as to make provision for specific matters to the recommendations referred back to the Boundaries Commissioner under Subsection (1)(c) may, within three months of such presentation, by resolution accept the recommendations.
- (9) Where –
- (a) a resolution under Subsection (8)(a)(i) or (b) accepts the recommendations of the Boundaries Commissioner for a proposed redistribution; or
 - (b) in a case to which Subsection (8)(b) applies, the period of three months referred to in that Paragraph has expired without the determination of a resolution under that Paragraph,

the recommendations of the Boundaries Commissioner, as contained in his report under Subsection (8)(b) for a proposed redistribution, shall constitute a determination of the single member constituencies or of the Regional constituencies, as the case may be, and their boundaries and those constituencies and their boundaries shall, subject to Subsection (5), be the constituencies for the election of members of the House of Representatives.

(10) The House of Representatives shall not reject recommendations submitted in a report under Subsection (8)(b).

28. CHANGE OF ELECTORS FROM ONE ROLL TO ANOTHER.

(1) When boundaries of a constituency are altered, such changes as are thereby rendered necessary for the transfer of the names of the electors from one Roll to another shall be made by removing the names of those electors from the Roll from which they are changed, and by inserting the names so removed in the Roll to which they are changed.

(2) The transfer of names of electors from one Roll to another Roll under this section shall be notified by the Commissioner in the Bougainville Gazette.

(3) Where the Commissioner considers that a notification in accordance with Subsection (2) is not effective as notice to a particular elector whose enrolment has been transferred, he may cause notice of the transfer to be communicated to the elector by such means as he considers practicable and may take such other action as he considers desirable to ensure adequate publicity.

PART IV. – ELECTIONS GENERALLY.

29. ELECTIONS GENERALLY.

(1) Elections of the President of the Autonomous Region of Bougainville and of members of the House of Representatives shall be conducted by the Commissioner in accordance with this Act.

(2) Subject to the *Bougainville Constitution*, the President and members shall be elected under a system of universal, adult citizen, Bougainvillean suffrage and the minimum voting age is 18 years.

(3) For the purposes of the election of the President –

- (a) all constituencies for the election of the directly elected members representing single member constituencies together form one constituency; and
- (b) the Rolls of those constituencies together form one Roll.

(4) Where a person votes in an election of any two or more categories of election at the same time by virtue of Division XIV that person –

- (a) need only make one declaration required by that Division; and
- (b) his ballot papers may be enclosed in one envelope.

PART V. – POLLING PLACES.

30. POLLING PLACES.

- (1) The Commissioner may, by written notice –
 - (a) appoint a chief polling place for each constituency; and
 - (b) appoint such other polling places for each constituency as he thinks necessary and practicable; and
 - (c) abolish a polling place.

(2) No polling place shall be abolished after the issue of the writ and before the time appointed for its return.

PART VI. – ELECTORAL ROLLS.

31. ROLLS.

- (1) There shall be a Roll of the electors for each of –
 - (a) the election of President in accordance with Section 29(3); and
 - (b) the single member constituencies; and
 - (c) the three Regional constituencies of North, Central and South for women members and former combatant members.

(2) The Commissioner may utilize the Rolls of electors used in the immediately preceding Bougainville general election as the basis for the Rolls required by Subsection (1).

32. FORM OF ROLLS.

(1) A Roll shall be in such form as is determined by the Commissioner and shall set out the name, address and occupation and sex of each elector, and shall contain such further particulars as the Commissioner directs.

(2) A direction under Subsection (1) may relate to the whole or a part of Bougainville.

33. NEW ROLLS.

(1) All persons who are entitled to be enrolled on a Roll shall, subject to these electoral provisions, be so enrolled.

(2) New Rolls for any constituency shall be prepared whenever the Commissioner, by notice published in the Bougainville Gazette, directs.

(3) Subject to Subsections (4) and (5), a notice under Subsection (2) may specify the manner in which the Rolls shall be prepared, and may require any person, or member of a class of persons, entitled to enrolment on a new Roll and whose name does not appear on it to make to the proper officer a claim for enrolment or transfer of enrolment and otherwise to comply with the provisions of this Act relating to compulsory enrolment under Section 44.

(4) Notwithstanding anything in Subsection (3), but subject to Subsection (5), where an elector is enrolled in respect of an address in a constituency for which he is entitled to be enrolled, he shall not be required to make any further claim for enrolment in connection with the preparation of a new Roll under this section.

(5) Where the Commissioner is of the opinion that an existing Roll is substantially inaccurate, he may in a notice under Subsection (2) specify that all or any of the provisions of Subsections (3) and (4) shall not apply and may require any person or member of a class of persons entitled to enrolment on a new Roll to make to the proper officer a claim for enrolment or transfer of enrolment and otherwise to comply with the provisions of this Act relating to compulsory enrolment under Section 44.

(6) The Commissioner shall, as soon as it is practicable to do so after the preparation of new Rolls, by notice published in the Bougainville Gazette, notify that the new Rolls have been prepared.

34. ADDITIONS, ETC., TO NEW ROLLS.

Upon the receipt by the Returning Officer of a new Roll for a constituency the Returning Officer shall -

- (a) make additions, alterations and corrections in it; and
- (b) remove names from it,

in accordance with information received by him between the date of the notice directing the preparation of new Rolls and the date of the notification that the Rolls have been prepared, where the additions, alterations or corrections have not already been made in, or the removals have not been made from, the Roll.

35. OBJECTIONS AND NOTICES TO HAVE EFFECT IN RELATION TO NEW ROLLS.

Where objections have been lodged or notices of objection have been issued and action in respect of those objections or notices has not been completed before the notification of the preparation of new Rolls, the objections or notices have effect in relation to the new Rolls as if those Rolls had been in existence at the time of the lodging of the objections or the issuing of the notice.

36. PRINTING OF ROLLS.

(1) Rolls shall be printed whenever the Commissioner so directs.

(2) Supplemental Rolls, setting out additions since the latest print of the Rolls, may, as necessary, be prepared and printed immediately after the issue of the writs for an election, and at such other times as the Commissioner directs.

37. INSPECTION.

Copies of the latest print of the constituency Roll and of all supplemental prints shall be open for public inspection at the office of the Returning Officer at all convenient times during his ordinary office hours without fee, and at such other places as the Returning Officer appoints for the purpose.

38. OFFICERS AND OTHERS TO FURNISH INFORMATION.

All officers and all occupiers of habitations and all persons who are, or appear to be, entitled to enrolment shall upon application furnish to the Commissioner or to a Returning Officer, or to an electoral officer acting under the directions of the Commissioner or the Returning Officer, all information that he requires in connection with the preparation, maintenance or revision of the Rolls.

PART VII. – QUALIFICATIONS FOR AND DISQUALIFICATIONS FROM ENROLMENT AND VOTING.

39. PERSONS ENTITLED TO ENROLMENT.

(1) All persons who –

- (a) have a right to vote under Section 110 (*right to vote*) of the *Bougainville Constitution*; and
- (b) comply with the requirements of Part VIII (*enrolment*) of this Act for enrolment for a constituency,

are entitled to enrolment.

(2) All persons whose names are on the Roll for a constituency are, subject to this Act, entitled to vote at elections of a member for the constituency, but no person is entitled to vote more than once at an election.

(3) Subsection (2) does not prevent a person voting in an election of any two or more of the categories of election when the elections are being held at the same time, but no person may vote more than once in each category of election.

PART VIII. – ENROLMENT.

40. OFFICERS.

(1) The Commissioner may appoint persons to assist in the compilation and revision of the Rolls.

(2) A person appointed under Subsection (1) has such functions and duties as the Commissioner directs.

41. ADDITION OF NAMES TO ROLLS.

In addition to any other method provided for by law, names may be added to Rolls in accordance with claims for enrolment or transfer of enrolment.

42. CLAIMS FOR ENROLMENT OR TRANSFER OF ENROLMENT.

(1) In accordance with Section 39, a person with a right to vote under Section 110 (*right to vote*) of the *Bougainville Constitution* whose name is not on the Roll for any constituency who makes a claim for enrolment is entitled to have his name placed on the roll –

- (a) in the constituency in which he resides; or

- (b) if he does not reside in any constituency but was born in a constituency – in the constituency in which he was born; or
- (c) if he does not reside and was not born in any constituency – in the constituency in which he last resided; or
- (d) if he does not and never has resided in any constituency and was not born in any constituency – in any constituency in which is located the customary land of the clan lineage to which he belongs.

(2) Subject to this section and Section 39, where there is a change in circumstances in relation to a person whose name is on the Roll for a constituency, he is entitled to have his name transferred to the Roll for the constituency on which he is entitled to be as a result of the change in circumstances.

(3) Where the name of a person is placed on a Roll in accordance with Subsection (1) or (2), he shall be enrolled in respect of –

- (a) if he claimed enrolment by virtue of residence in a constituency – the address of his place of residence in that constituency; or
- (b) if he claimed enrolment by virtue of birth in a constituency – the address of his last known place of residence in that constituency, or, if none, the address of his place of birth; or
- (c) if he claimed enrolment by virtue of past residence in a constituency – his last known place of residence in that constituency; or
- (d) if he claimed enrolment by virtue of the location of the customary land of the clan lineage to which he belongs – an address in that location.

43. FORM OF CLAIM FOR ENROLMENT OR TRANSFER OF ENROLMENT.

(1) The Commissioner may, in relation to a person or class of persons, direct that a claim for –

- (a) enrolment under Section 42(1); or
- (b) transfer of enrolment under Section 42(2),

be in the approved form, and may in circumstances specified by the Commissioner be made by facsimile.

(2) Where the Commissioner has not given a direction under Subsection (1), the Returning Officer may, subject to Subsection (3), determine the manner and form of a claim.

(3) Where a claim for enrolment or transfer of enrolment –

- (a) is in the approved form; or
- (b) is in writing; or
- (c) is transmitted by facsimile, to a facsimile number directed by the Commissioner,

it shall be signed by the claimant and witnessed by a person who shall sign his name as witness in his own handwriting and who shall be an elector or a person who is qualified to be an elector.

(4) Where a person is to witness a claim for enrolment or transfer of enrolment either –

- (a) where the claim is made on the approved form or in writing and he is to sign that form or writing in accordance with Subsection (3); or
- (b) where the Returning Officer has determined in accordance with Subsection (2), that the claim need not be in writing but must be made in the presence of a witness,

he must, before he signs the approved form or writing or before he allows the claimant to make his oral claim, satisfy himself, by inquiry from the claimant or otherwise, that the statements supporting the claim are true, unless he knows them to be true.

(5) A person, who fails to comply with Subsection (4), is guilty of an offence.

Penalty: A fine not exceeding K200.00.

44. COMPULSORY ENROLMENT AND TRANSFER.

(1) A person who is entitled –

- (a) to have his name placed on a Roll for a constituency in accordance with Section 42(1); or
- (b) to have his name transferred to the Roll for another constituency in accordance with Section 42(2),

shall at the first reasonably practicable opportunity, make a claim to the Returning Officer for that constituency.

(2) A person who is entitled to have his name placed on the Roll for a constituency whether by way of enrolment or transfer of enrolment, and whose name is not on that Roll on the expiration of one month from the date on which he became so entitled, is guilty of an offence unless his non-enrolment is not in consequence of his failure to comply with Subsection (1).

(3) It is a defence to a charge of an offence against Subsection (2) if the defendant shows –

- (a) that he did not know, and had no reasonable opportunity of knowing, that his name was not on the Roll for which he was entitled to be enrolled; or
- (b) that he had no reasonable opportunity of making a claim for enrolment or transfer of enrolment.

(4) Where a person whose name is on the Roll for a constituency –

- (a) being a person enrolled by virtue of residency in that constituency – changes his place of residence to another place within that constituency; or
- (b) being a person enrolled by virtue of being born in that constituency – takes up residency in that constituency at an address other than that in respect of which he is enrolled; or

- (c) being a person enrolled by virtue of prior residency in that or any other constituency – takes up residency in the constituency at an address other than that in respect of which he is enrolled; or
- (d) being a person enrolled by virtue of the location of the customary land of the clan lineage to which he belongs in that constituency – takes up residence in the constituency at an address other than that in respect of which he is enrolled,

he shall notify the change of address to the Returning Officer for that constituency at the first reasonable opportunity.

(5) Subject to Subsection (6), the provisions of Section 42 shall apply to, and in relation to, a claim under Subsection (1) or a notification under Subsection (4).

(6) Where it is not reasonably practicable for a person to comply with all or any of the requirements imposed on him by this section he shall take such action as is reasonable in the circumstances to fulfil, as nearly as possible, those requirements and it is a defence to a charge under this section that he took such action.

(7) A person who is guilty of an offence against this section is punishable, upon conviction, by a fine not exceeding K50.00

(8) A prosecution for an offence against this section shall not be instituted without the consent of the Commissioner.

45. REGISTRATION OF CLAIM.

(1) Upon receipt of a claim for enrolment or transfer of enrolment, notification of change of address within a constituency or application for the alteration or correction of particulars of an existing enrolment, the Returning Officer shall note the date of its receipt by him, and if the claim, notification or application is in order and he is satisfied that the claimant is entitled to be enrolled or to have his name transferred or the particulars of his enrolment altered or corrected, as the case may be, the Returning Officer shall, subject to Section 46 –

- (a) enter on the Roll kept by him the name of the claimant and the particulars relating to him; and
- (b) in the case of a transfer of enrolment, give notice of the transfer to the Returning Officer keeping the Roll from which the elector's name has been transferred.

(2) An interim acknowledgment of the receipt, after the issue of the writ for an election and before the close of the polling at the election, of a claim for enrolment or transfer of enrolment may be issued to the claimant by the Returning Officer in an approved form.

(3) The Returning Officer keeping the Roll from which an elector's name has been transferred shall, upon receipt of notice of the transfer in the approved form, remove the elector's name from the Roll kept by him.

46. NOTIFICATION OF REJECTION OF CLAIM.

The Returning Officer, on receipt of a claim for enrolment or transfer of enrolment, shall, subject to Section 47, after making such inquiry as he considers necessary, if he is satisfied that the claimant is not entitled to enrolment or transfer of enrolment in accordance with the claim, notify the claimant as soon as practicable by post to the claimant's postal address or delivery to the claimant's place of residence as shown on his claim that his claim has been rejected, specifying the reason for the rejection, and advise the claimant that he is entitled, at any time within one month after the receipt of the notification, to appeal against the rejection in accordance with this Act.

47. TIME OF ALTERING ROLLS.

Notwithstanding anything in this Act –

- (a) claims for enrolment or transfer of enrolment which are received after 4 p.m. on the day of the issue of the writ for an election shall not be registered until after the end of the polling period for the election; and
- (b) except by direction of the Returning Officer, no name shall be removed from a Roll under a notification of transfer of enrolment received after 4 p.m. on the day of the issue of the writ for an election and before the end of the polling period for the election.

48. PENALTY ON OFFICER NEGLECTING TO ENROL CLAIMANTS.

An officer, who receives a claim for enrolment or transfer of enrolment and who, without reasonable excuse (proof of which is on him) fails to do everything necessary on his part to be done to secure the enrolment of the claimant in pursuance of the claim, is guilty of an offence.

Penalty: A fine not exceeding K1,000.00.

49. ALTERATION OF ROLLS, ETC.,

(1) In addition to other powers of alteration conferred by this Act, a Returning Officer may alter a Roll kept by him and associated documentation by –

- (a) correcting a mistake or omission in the Roll; and
- (b) correcting a mistake or omission in the particulars of the enrolment of an elector; and
- (c) altering, on the application in writing in the approved form of an elector, the original name, address or occupation of the elector on the same Roll; and
- (d) removing the name of a deceased elector; and
- (e) striking out the superfluous entry where the name of the same elector appears more than once on the same Roll; and
- (f) reinstating a name removed by mistake; and
- (g) reinstating a name removed as the result of an objection where he is satisfied that the objection was based on a mistake as to fact and that the person objected to still retains and has continuously retained his right to the enrolment in respect of which the objection was made; and

- (h) removing a name from the Roll where he is satisfied that the elector has ceased to be qualified for enrolment on the Roll.

(2) Where the name of an elector has, in error, been incorrectly placed on the Roll for a constituency for which he is not entitled to be enrolled, and the elector is entitled to have his name placed on the Roll for another constituency, the Returning Officer for the constituency for which the elector is wrongly enrolled shall remove the name of the elector from that Roll and shall notify the Returning Officer for the other constituency, and that last-mentioned Returning Officer shall place the name of the elector on his Roll and shall notify the elector of the change of enrolment.

(3) No alteration under this section shall, without the authority of the Returning Officer, be made at any time after 4 p.m. on the day of the issue of the writ for an election and before the end of the polling period of the election.

50. SPECIAL PROVISIONS FOR CERTAIN NOMINATIONS.

Notwithstanding anything in this Act, where a person who is entitled to do so has nominated for a constituency other than the constituency for which he is enrolled –

- (a) the Returning Officer for the constituency for which he nominates shall place his name on the Roll for that constituency and notify the Returning Officer for the constituency for which he has until then been enrolled who shall remove his name from the Roll for that constituency; and
- (b) if the nomination is withdrawn, the Returning Officer for the constituency for which he was nominated shall remove his name from the Roll for that constituency and notify the Returning Officer for the other constituency who shall (unless he has in the meantime nominated for some other constituency) restore his name to the Roll for that other constituency; and
- (c) if he fails to be elected, the Returning Officer for the constituency for which he was nominated shall remove his name from the Roll for that constituency and notify the Returning Officer for the other constituency who shall restore his name to the Roll for that other constituency; and
- (d) if he is elected and later ceases to be the member for the constituency, the Returning Officer for the constituency for which he was the member shall remove his name from the Roll for that constituency and notify the Returning Officer for the other constituency who shall restore his name to the Roll for that other constituency unless he has ceased to be eligible for enrolment in that constituency and has been enrolled in another constituency.

51. INCORRECT ENROLMENT.

Where a person whose name has been placed on the Roll for a constituency is not entitled to enrol for that constituency and that person secured enrolment under a claim in which he made a false statement, the Returning Officer may, at any time between the date

of the issue of the writ for an election for that constituency and before the end of the polling period for that election, remove the name from that Roll.

52. ALTERATIONS TO BE INITIALLED.

Every alteration of a Roll shall be made in such manner that the original entry shall not be obliterated, and the reason for each alteration and the date of the alteration shall be set against the alteration, together with the initials of the Returning Officer or of the person who makes the alteration on behalf of the Returning Officer.

53. INQUIRY BY RETURNING OFFICER.

(1) The Returning Officer may, subject to the direction of the Commissioner, make inquiries as to the names of persons entitled to be enrolled, but who are not enrolled, or who have changed their place of residence from one address in the constituency to another address in that constituency without notifying the Returning Officer.

(2) Where the Returning Officer is satisfied that a person has failed to comply with the provisions of Section 44, he may notify him of the non-compliance in the approved form.

(3) A person may reply to a notice under Subsection (2) in the approved form.

(4) Where a person –

(a) fails to reply to a notice under Subsection (2); or

(b) does not reply to a notice under that subsection in a satisfactory manner,

the Returning Officer may, with the consent of the Commissioner, institute proceedings against that person in respect of an offence under Section 44(2).

PART IX. – ARRANGEMENT FOR PERSONS OUTSIDE BOUGAINVILLE.

54. ARRANGEMENTS FOR PERSONS OUTSIDE BOUGAINVILLE WHEN MAKING A CLAIM FOR ENROLMENT.

(1) A person who is outside of Bougainville may make a claim for enrolment in the approved form.

(2) The Commissioner may –

(a) make such arrangements as the Commissioner considers practicable to facilitate the person making his claim for enrolment; and

(b) make such enquiries as the Commissioner considers appropriate to determine whether the person is entitled to have his name placed on the Roll in accordance with Section 42 (1)(a),(b),(c) or (d).

55. ARRANGEMENTS FOR PERSONS OUTSIDE BOUGAINVILLE DURING VOTING PERIOD.

If a person is outside Bougainville during the period of voting for an election, or a recall poll, under this Act, the Commissioner may –

- (a) specify where the person may cast his vote; and
- (b) make such arrangements as the Commissioner considers practicable to facilitate the person voting elsewhere in Papua New Guinea other than in Bougainville.

PART X. – OBJECTIONS.

56. NAME ON ROLL MAY BE OBJECTED TO.

(1) A name on a Roll may be objected to by objection in writing lodged with or made by the Returning Officer.

(2) A sum of K10.00 shall be deposited in respect of each objection lodged by a person other than an electoral officer, to be forfeited to the Autonomous Bougainville Government if the objection is held by the Returning Officer to be frivolous.

57. OBJECTION.

An objection under Section 56 shall be in the approved form, and shall be signed by an elector enrolled on the same Roll as the person objected to, or by the Returning Officer or an Assistant Returning Officer.

58. DUTY TO OBJECT.

It is the duty of the Returning Officer and of any Assistant Returning Officer to lodge or make an objection in writing, setting out the grounds of the objection, in respect of any name which he has reason to believe ought not to be retained on the Roll.

59. NOTICE OF OBJECTION.

(1) When an objection is made by or lodged with a Returning Officer, the Returning Officer shall, subject to Subsection (3), give notice as soon as practicable of the objection to the person objected to.

(2) A notice under Subsection (1) may be in the approved form and may be served by being posted or delivered to the address of enrolment or the last-known place of residence of the person objected to.

(3) Where the Returning Officer is satisfied that the ground of objection stated in an objection is not a good ground of objection or is frivolous, he may dismiss the objection, in which case no notice of the objection need be given to the person objected to.

60. ANSWER TO OBJECTION.

(1) A person objected to under this Part may, orally or in writing in the approved form, answer the objection.

(2) The answer to a notice of objection shall, where it is in writing, be signed by the person to whom the notice is directed, in the presence of a witness who shall be –

- (a) an elector; or
- (b) a person qualified to be an elector.

(3) An answer to an objection shall be given or delivered, as the case may be, to the Returning Officer for the constituency to which the Roll relates.

61. DETERMINATION OF OBJECTION.

(1) Subject to Subsection (2), the Returning Officer shall determine an objection under this Part as soon as practicable after receipt by him of the answer of the person objected to, or, if no answer is received within a period of one month after the posting or delivery of the notice referred to in Section 59(1) and if it appears that the person objected to is not entitled to be enrolled on the Roll in respect of which the objection has been made, the Returning Officer shall remove the name of the person from that Roll and shall cause a copy of the notice of determination to be posted to or served on the objector and the person objected to.

(2) No name shall be removed from a Roll under this section after 4 p.m. on the day of issue of the writ for an election and before the end of the polling period for the election.

PART XI. – APPEALS.

62. ELECTION ENROLMENT TRIBUNALS.

(1) There is established for each constituency an Election Enrolment Tribunal.

(2) An Election Enrolment Tribunal shall consist of –

- (a) a traditional chief or other traditional leader of the area comprising the constituency, who is not a candidate for election, appointed by the Chief Administrator, which traditional chief or traditional leader shall be the Chairman; and
- (b) two other persons of good standing in the constituency who are not candidates for election, appointed by the Chief Administrator.

63. APPEAL TO ELECTION ENROLMENT TRIBUNAL.

(1) A person –

- (a) who has made a claim for enrolment or transfer of enrolment in accordance with this Act, and has not been enrolled; or
- (b) whose name has been removed from a Roll by the Returning Officer after an objection,

may at any time within one month after the receipt of notice of the rejection of the claim, or of notice of the determination of the objection, as the case may be, make application to the Election Enrolment Tribunal for the constituency for which he seeks to be enrolled for an order directing that his name be enrolled or reinstated on the Roll, as the case requires.

(2) Where an objection has been determined by the Returning Officer adversely to the person objecting, that person may apply to the Election Enrolment Tribunal for the constituency for which he seeks to be enrolled for an order sustaining the objection.

(3) Where an application under this section has made reference to the decision of the Returning Officer upon an objection, the applicant shall serve the objector or the person objected to, as the case requires, with notice of the application, and the person so served may appear, or may in writing authorize any person to appear on his behalf, to resist the application.

(4) An application to the Election Enrolment Tribunal for an order –
(a) directing that the name of an elector be enrolled or reinstated on the Roll, as the case requires, under Subsection (1); or
(b) sustaining an objection under Subsection (2),
shall be in writing.

(5) An application under Subsection (4)(b) shall be lodged within 14 days after the determination of the objection.

(6) Service of notice of application under Subsection (3) shall be delivered by any practical method to the last known place of residence of the objector or the person objected to, as the case requires.

(7) The Election Enrolment Tribunal may hear and determine an application under this section.

(8) The Chairman of the Election Enrolment Tribunal shall send to the Returning Officer a certified copy of the order of the Election Enrolment Tribunal, and the Returning Officer shall make such entries (if any) upon the Roll as are necessary to give effect to the order.

PART XII. – WRITS FOR ELECTIONS.

64. WRITS FOR GENERAL ELECTIONS.

The Speaker shall, in accordance with Section 107(2) (*Bougainville general elections*) of the *Bougainville Constitution*, issue his writ for –

- (a) election of the President of the Autonomous Region of Bougainville in accordance with Section 89(1) (*election of President*) of the *Bougainville Constitution*; and
- (b) each of the single member constituencies for the election in each constituency of a member of the House of Representatives to represent the single member constituency in accordance with Section 55(2)(b)(i) (*establishment and composition of the House of Representatives*) of the *Bougainville Constitution*; and
- (c) each of the three Regional constituencies for the election in each constituency of a woman member of the House of Representatives to represent the interests of women in the Region, in accordance with

- Section 55(2)(b)(ii) (*establishment and composition of the House of Representatives*) of the *Bougainville Constitution*; and
- (d) each of the three Regional constituencies for the election in each constituency of a former combatant member of the House of Representatives, to represent the interests of former combatants in the Region, in accordance with Section 55(2)(b)(iii) (*establishment and composition of the House of Representatives*) of the *Bougainville Constitution*.

65. WRITS FOR VACANCIES.

In the case of an election under Section 108 (*by-elections*) of the *Bougainville Constitution*, the Speaker shall, as soon as practicable after the vacancy occurs, issue his writ for the election of a new President or of a new member as the case may be.

66. FORM OF WRITS.

- (1) The writ for election of –
- (a) the President – shall be in Form 1 or 2, as the case requires; and
 - (b) a member to represent a single member constituency – shall be in Form 3 or 4, as the case requires; and
 - (c) a woman member to represent the interests of women – shall be in Form 5 or 6, as the case requires; and
 - (d) a former combatant member to represent the interests of former combatants – shall be in Form 7 or 8, as the case requires,
- set out in the Schedule and shall fix the date for –
- (e) nominations; and
 - (f) the first and last days during which polling shall take place; and
 - (g) the return of the writ.
- (2) The Commissioner shall, as soon as practicable after issue of the writs –
- (a) advertise that they have been issued –
 - (i) in the Bougainville Gazette; and
 - (ii) in at least one newspaper circulated in Bougainville; and
 - (iii) otherwise in the manner he considers to be most effective; and
 - (b) forward a copy of each writ to the Autonomous Bougainville Government and to each Council of Elders; and
 - (c) take such further steps as he considers desirable to ensure adequate publicity.

67. TIME OF ISSUE OF WRITS.

For the purposes of this Act, a writ shall be deemed to have been issued at the hour of 4 p.m. on the day on which the writ was issued.

68. ADDRESS OF WRITS.

- (1) Writs for election –

- (a) of the President – shall be addressed to the Returning Officer for the election of the President; and
- (b) of the members representing single member constituencies – shall be addressed to the respective Returning Officers for the constituencies; and
- (c) of the women members to represent the interests of women – shall be addressed to the respective Returning Officers for the Regional constituencies for the election of the women members to represent the interests of women; and
- (d) of the former combatant members to represent the interests of former combatants – shall be addressed to the respective Returning Officers for the Regional constituencies for the election of the former combatant members to represent the interests of former combatants.

(2) The Commissioner may advise any Returning Officer by telephone, written notice or facsimile of the issue of the writ for an election and the particulars of the writ, and the Returning Officer may act on the advice as if the writ had been received by him.

69. DATE OF NOMINATION.

The date fixed for the nomination of the candidates shall be not less than seven days nor more than 14 days after the date of the writ.

70. DATE OF POLLING.

(1) The date fixed for the commencement of the polling period shall be not less than five weeks nor more than eight weeks after the date of the writ.

(2) The end of the polling period shall be not more than five weeks after its commencement.

71. DATE OF RETURN OF WRIT.

The date fixed for the return of the writ shall not be more than 14 days after the end of the polling period.

72. GENERAL ELECTION TO COMMENCE ON SAME DAY.

The same day shall be fixed for the commencement of the polling period in each constituency, and all writs shall be made returnable on the same day.

73. DUTY OF RETURNING OFFICE ON RECEIPT OF WRIT.

On the receipt of a writ, the Returning Officer to whom it is directed shall endorse on it the date of its receipt.

PART XIII. – NOMINATIONS.

74. CANDIDATES MUST BE NOMINATED.

No person is qualified to be elected as President or as a member unless he has been duly nominated.

75. QUALIFICATIONS FOR NOMINATION.

- (1) No person is qualified for nomination for a constituency –
 - (a) as President, unless he is qualified as a candidate for President in accordance with Section 91 (*qualifications for and disqualifications from election as President*) of the *Bougainville Constitution*, or as a member of the House of Representatives (other than President), unless he is qualified as a candidate for that constituency in accordance with Section 56 (*qualifications for and disqualifications from election*) of the *Bougainville Constitution*; and
 - (b) while he is nominated for another constituency and that last-mentioned nomination has not been withdrawn.
- (2) A person who has nominated for one category of election is not qualified for nomination in another category while the first-mentioned nomination has not been withdrawn.

76. MODE OF NOMINATION.

- (1) A nomination shall be in the approved form and shall –
 - (a) name the candidate, his place of residence and occupation; and
 - (b) specify whether he is nominating for election as President, as a member for a single member constituency (giving the name of the constituency), or as a woman member to represent the interests of women (giving the name of the Regional constituency) or as a former combatant member to represent the interests of former combatants (giving the name of the Regional constituency); and
 - (c) be witnessed by a person to whom the candidate is personally known; and
 - (d) in the case of a person nominating for election as a former combatant member to represent the interests of former combatants, be accompanied with –
 - (i) a statement signed by the person as to whether he is a former combatant of the Bougainville Revolutionary Army or of the Bougainville Resistance Force or of the Me'ekamui Defence Force; and
 - (ii) a letter of support of his nomination signed by –
 - (A) 20 members of the former combatant group to which he belonged; and
 - (B) 10 members of one of the other former combatant groups,

- all resident in the constituency for which he nominates, and each of whom shall, after his signature, indicate his membership in the Bougainville Former Combatants' Association; and
- (iii) a certificate signed by the Joint Presidents of the Bougainville Former Combatants' Association to the effect that –
- (A) the person nominating is a member of the Association, and was a combatant (paitman); and
 - (B) the persons signing the letter of support referred to in Subparagraph (ii) are members of the Association.
- (2) No nomination is valid unless –
- (a) the person nominated consents in writing to act if elected, and declares that he is qualified under the *Bougainville Constitution* to be elected as President or as a member, as the case may be; and
 - (b) the nomination paper, or the facsimile or other notification referred to in Section 77(3), as the case may be, is received by the Returning Officer after the issue of the writ and before the hour of nomination; and
 - (c) at the time of the delivery of the nomination paper the person nominated or some person on his behalf deposits with the Returning Officer or other person to whom the nomination is made the sum of K500.00 in money or in a banker's cheque drawn on a bank licensed by the Bank of Papua New Guinea.

77. TO WHOM NOMINATIONS MADE.

- (1) Nominations of candidates for election as –
- (a) President – shall be made to the Returning Officer for the election of President, or to a person authorized by the Commissioner for that purpose; and
 - (b) a member representing a single member constituency - shall be made to the Returning Officer for the constituency for which the election is to be held, or to an Assistant Returning Officer for that constituency, or to a person authorized by the Commissioner for that purpose; and
 - (c) a woman member to represent the interests of women in a Region – shall be made to the Returning Officer for the election of a woman member to represent the interests of women for the Regional constituency for which the election is to be held or to a person authorized by the Commissioner for that purpose; and
 - (d) a former combatant member to represent the interests of former combatants in a Region – shall be made to the Returning Officer for the election of a former combatant member to represent the interests of former combatants for the Regional constituency for which the

election is to be held or to a person authorized by the Commissioner for that purpose.

- (2) Nominations may be made at any time after the issue of the writ and –
 - (a) in the case of a nomination made to the Returning Officer – before the hour of nomination; and
 - (b) in the case of a nomination made –
 - (i) to an Assistant Returning Officer or person authorized by the Commissioner; or
 - (ii) in respect of a person who is not enrolled for the constituency,before the commencement of the period of 48 hours immediately preceding the hour of nomination.

(3) Where a nomination is made to an Assistant Returning Officer or other person authorized by the Commissioner, he shall immediately notify the Returning Officer by facsimile or other manner approved by the Commissioner, in the approved form, of the details of the nomination and deposit and shall forward the nomination to the Returning Officer.

78. FORM OF CONSENT TO ACT.

The consent and the declaration of qualifications referred to in Section 76(2)(a) shall be sufficient if the candidate signs the form of consent and declaration on the nomination paper, but the Returning Officer receiving the nomination, facsimile or other advice of the nomination, as the case may be, may accept any other form of consent and declaration, whether accompanying the nomination paper or not, that he considers satisfactory, and that acceptance is final.

79. FORMAL DEFECTS.

No nomination shall be rejected by reason of a formal defect or error if the Returning Officer receiving the nomination, or the facsimile or other advice of it, as the case may be, is satisfied that the requirements of this Act have been substantially complied with.

80. DEPOSIT TO BE FORFEITED IN CERTAIN CASES.

The deposit under Section 76(2)(c), made by or on behalf of a candidate at an election shall be retained pending the election, and after the election shall be returned to the candidate, or to some person authorized by him in writing to receive it, if he has obtained more than 10% of the total number of votes polled by the successful candidate in the election, and otherwise it is forfeited to the Autonomous Bougainville Government.

81. PLACE OF NOMINATION.

The office of the Returning Officer for the constituency is the place of nomination in that constituency.

82. HOUR OF NOMINATION.

The hour of nomination is 4.00 p.m. on the day of nomination.

83. DECLARATION OF NOMINATIONS.

The Returning Officer for the constituency for which an election is being held shall, at the hour of nomination, attend at the place of nomination for the constituency, and shall there publicly produce all nomination papers and facsimile or other advices of nominations received by him, and declare the names, addresses and occupations of all candidates nominated.

84. WITHDRAWAL OF NOMINATIONS.

(1) A candidate may withdraw his nomination by lodging with the Returning Officer for the constituency or with an Assistant Returning Officer for the constituency or a person authorized for that purpose by the Commissioner, a notice of withdrawal in the approved form signed by him, and thereupon the nomination shall be cancelled and the deposit lodged shall be returned.

(2) A withdrawal of nomination may be made –

- (a) in the case of a notice of withdrawal lodged with the Returning Officer – at any time before the hour of nomination; or
- (b) in the case of a notice of withdrawal lodged with an Assistant Returning Officer or other person referred to in Subsection (1) – not less than 24 hours before the hour of nomination.

(3) Where a notice of withdrawal of nomination is lodged with an Assistant Returning Officer or other person referred to in Subsection (1), he shall immediately notify the Returning Officer by any manner approved by the Commissioner, in the approved form, of the withdrawal and forward the notice to the Returning Officer.

85. RETURN OF DEPOSIT IN CASE OF CANDIDATE'S DEATH.

In the case of the death of a candidate before the end of the polling period, the deposit lodged by him shall be returned to his legal personal representative.

86. PROCEEDINGS ON NOMINATION DAY.

(1) If, at the hour of nomination, one candidate only is nominated for a constituency, the Returning Officer shall declare that candidate duly elected.

(2) If in an election more candidates than one are nominated, the proceedings shall stand adjourned to the commencement of the polling period.

87. FAILURE OF ELECTION.

- (1) An election shall be deemed to have failed if no candidate is –
- (a) nominated; or
 - (b) returned as elected.

(2) Subject to this Act, whenever an election fails a new writ shall be issued for a supplementary election by the Speaker, as soon as practicable after the failure occurs.

(3) Where an election has failed, the supplementary election shall be held upon the Roll which was prepared for the purpose of the election which failed.

PART XIV. – THE POLLING.

Division 1. – Polling Schedule.

88. POLLING SCHEDULE.

(1) Subject to any directions given by the Commissioner, the Returning Officer shall, as soon as practicable after the close of nominations, prepare a polling schedule showing the anticipated dates and times, within the polling period for the constituency, during which the polling booths will open at the polling places in the constituency, in such manner as he considers will give all electors in the constituency a reasonable and sufficient opportunity to vote at the election.

(2) Nothing in Subsection (1) or in this Act shall be construed to mean that polling shall be conducted on each day throughout the polling period or on any particular day in the polling period.

89. PUBLICATION OF POLLING SCHEDULE.

(1) The Returning Officer shall take such action as he considers necessary or desirable or as directed by the Commissioner, to ensure adequate publicity for the polling schedule.

(2) A copy of the polling schedule shall be forwarded to the Autonomous Bougainville Government and any Councils of Elders in the constituency and shall be exhibited at such other places in the constituency as the Returning Officer appoints.

(3) A copy of the polling schedule for a constituency shall be forwarded to each candidate for the constituency.

90. ADHERENCE TO POLLING SCHEDULE.

(1) As far as possible, polling booths shall be open in accordance with the polling schedule, and the Returning Officer and presiding officers shall take all such action as is necessary or desirable for that purpose, whether expressly authorized by this Act or not.

(2) Subject to any directions given by the Commissioner, the Returning Officer may, where it becomes impracticable to adhere to a polling schedule, vary the schedule, in which case the provisions of Section 88 shall, as far as practicable, be observed in relation to the variation.

(3) Subject to any directions given by the Returning Officer, a presiding officer may, where in his opinion it is necessary or desirable in order to meet an unforeseen contingency or emergency and it is impracticable for the Returning Officer to vary the polling schedule under Subsection (2), depart from the polling schedule in relation to a polling place, and shall advise the Returning Officer of the departure and of the reasons for it as soon as practicable.

(4) Where the presiding officer departs from the polling schedule in relation to a polling place, he shall take such action as he considers is practicable to ensure adequate publicity for that departure at that polling place and amongst the electors likely to vote at it.

91. APPEAL.

(1) An elector may, not less than 14 days before the commencement of the polling period for a constituency, appeal to the Commissioner for an order varying a polling schedule on the ground that it does not give to all electors in the constituency or in a part of the constituency a reasonable opportunity for voting in the election.

(2) Notwithstanding an appeal under Subsection (1), but subject to Section 88, a polling schedule remains valid and in force until varied by order of the Commissioner under Subsection (1).

(3) In making an order under Subsection (1) the Commissioner shall give such directions as he considers desirable and practicable to ensure adequate publicity for the order.

92. ELECTION NOT OPEN TO CHALLENGE.

An election shall not be challenged on the ground of failure to observe a polling schedule or to comply with the provisions of Section 89, or of a variation or a departure from a polling schedule.

Division 2. – General Provisions.

93. RETURNING OFFICER TO MAKE ARRANGEMENTS.

(1) If, on the day of nomination, the proceedings stand adjourned to the commencement of the polling, the Returning Officer shall immediately make all necessary arrangements for taking the poll, and in particular shall –

- (a) appoint a presiding officer to preside at each polling place and all necessary assistant presiding officers, poll clerks, and door-keepers; and
- (b) provide and furnish proper polling booths, voting compartments under Section 97 and ballot boxes; and
- (c) provide ballot papers and all necessary certified lists of voters.

(2) The presiding officer shall, on or before the day of polling, determine the whole or the part of the polling place that shall be the polling booth in relation to that polling place.

(3) In an emergency during the polling due to the absence of an assistant presiding officer, poll clerk, or doorkeeper, or to unforeseen and continued pressure at the polling which cannot be met by the duly appointed officers, the presiding officer may appoint a person to act as assistant presiding officer, poll clerk or doorkeeper, and the person so appointed or acting shall be deemed to have been duly appointed if the Returning Officer afterwards ratifies the appointment.

(4) No person under the age of 18 years shall be appointed to be or to act as presiding officer or assistant presiding officer.

(5) An assistant presiding officer may, subject to any directions of the presiding officer, exercise all or any of the powers of the presiding officer, and shall, in respect of the exercise of those powers, be deemed to be the presiding officer.

94. ALLOCATION OF POLLING PLACES.

(1) The Returning Officer shall on the day of nomination, or as soon thereafter as is practicable, allocate each voter in a constituency to a particular polling place in that constituency and no voter shall be allowed to vote at a polling place other than the one to which he has been allocated under this section.

(2) The Returning Officer shall take all reasonable steps to inform voters to which polling place they have been allocated under this section.

95. SUBSTITUTE.

A presiding officer may appoint an officer to be his substitute to perform his duties during his temporary absence, and the substitute may, while so acting, exercise all the powers of the presiding officer and shall, in the exercise of those powers, be deemed to be the presiding officer.

96. NO LICENSED PREMISES TO BE USED.

No part of any premises licensed, or the subject of a permit, under any law relating to the sale or consumption of alcohol, shall be used for the purpose of a polling booth.

97. SEPARATE VOTING COMPARTMENTS.

Polling booths shall have one or more separate voting compartments, constructed so as to screen the voters from observation while they are marking their ballot papers, and each voting compartment shall be furnished with a pencil for the use of voters.

98. BALLOT BOXES.

(1) Each polling booth shall be provided with the necessary ballot box or ballot boxes.

(2) A ballot box shall have a cleft in the cover through which the ballot papers may be deposited in the box, and shall be provided with means for securely closing the

cleft so that, when the cleft is so closed, no ballot papers or other matters or things can be deposited or placed in the box or withdrawn from it.

- (3) A ballot box shall be capable of being securely fastened with a lock.

99. CERTIFIED LIST OF VOTERS.

The certified list of voters to be used by a presiding officer at a polling place shall be the list of the electors on the Roll enrolled for the constituency for which the polling place is prescribed, certified by the Returning Officer, and shall, before the hour of commencing the poll in the polling area, be delivered to the presiding officer for his guidance during the polling.

100. FORM OF BALLOT PAPERS.

- (1) Ballot papers to be used in an election shall be in the approved form.

- (2) There shall be a separate ballot paper for the election in each of the categories of election.

101. BALLOT PAPERS.

In printing the ballot papers to be used in an election –

- (a) the names of all candidates duly nominated shall be printed in an order determined as follows:-
 - (i) the Returning Officer shall, at the place of nomination, immediately after the close of nominations and before all persons present, make out in respect of each candidate a slip bearing the name of the candidate as shown on his nomination, or the electronic advice of his nomination, enclose the respective slips in separate blank envelopes of exact similarity and deposit the several envelopes in a locked ballot box;
 - (ii) the Returning Officer shall then thoroughly shake and rotate the ballot box and shall permit any other person present, if he so desires, to do the same;
 - (iii) the ballot box shall then be opened and an officer shall take out and open the envelopes from the ballot box one by one;
 - (iv) the candidate whose name appears on the slip enclosed in the envelope first taken from the ballot box shall be placed first on the ballot papers, the candidate whose name appears on the slip enclosed in the envelope next taken from the ballot box shall be placed next on the ballot papers, and so on until the placing of all the candidates has been determined; and
- (b) where similarity in the names of two or more candidates is likely to cause confusion, the names of those candidates may be set out with such description or addition as will distinguish them from one another; and
- (c) except as otherwise prescribed, a square shall be printed opposite the name of each candidate.

102. BALLOT PAPERS TO BE INITIALLED.

(1) No ballot paper shall be delivered to a voter without being first initialled by the presiding officer, and an exact account shall be kept of all initialled ballot papers.

(2) The initials of the presiding officer shall be placed on the back of the ballot paper in such a position so as to be easily seen when the ballot paper is folded so as to conceal the names of the candidates as required by Section 113(b).

103. SCRUTINEERS AT THE POLLING.

(1) Scrutineers may be appointed by candidates to represent them at polling places during polling, but so that not more than one scrutineer, other than relieving scrutineers, shall be allowed to each candidate at each polling booth on any one day.

(2) Appointments of scrutineers shall be made by notice in writing or by facsimile addressed to the Returning Officer or presiding officer, and the notice or facsimile shall be signed by the candidate and shall give the name and address of each scrutineer.

104. PROVISIONS RELATING TO SCRUTINEER.

(1) A scrutineer who –

- (a) interferes with or attempts to influence an elector within the polling booth; or
- (b) communicates with a person in the polling booth except so far as is necessary in the discharge of his functions; or
- (c) enters a voting compartment of a polling booth whilst a voter is present in that voting compartment,

is guilty of an offence.

Penalty: A fine not exceeding K100.00.

(2) A scrutineer shall not be prevented from entering or leaving a polling booth during the polling, and during his absence a relieving scrutineer may act in his place, but so that only one scrutineer for each candidate shall be present in the polling booth at any one time.

(3) A scrutineer who commits a breach of this section, or who misconducts himself or fails to obey the lawful directions of the presiding officer may be removed from the polling booth by a member of the Police or by a person authorized by the presiding officer to remove him.

(4) A scrutineer may not be used to assist any voter to vote under Section 115 or 117.

105. PERSONS PRESENT AT POLLING.

A candidate shall not in any way take part in the conduct of the polling, and no person, other than the presiding officer, assistant presiding officers, officers, poll clerks,

interpreters, doorkeepers and scrutineers, and the electors voting and about to vote, shall enter or remain or be permitted to enter or remain in the polling booth during the polling except by permission of, and on such conditions as are determined by, the presiding officer.

106. THE POLLING.

(1) Subject to Subsections (2) and (3), the polling shall be conducted as follows: –

- (a) before the first ballot paper is placed in an empty ballot box, the Returning Officer or, if he is not present, the presiding officer, shall, in the presence of the poll clerk and of any scrutineers, show that the ballot box is empty, and shall then securely fasten its cover;
- (b) the poll shall open at each polling place at 8 a.m. on each day (other than a Sunday or a public holiday) during the period for taking the poll at that polling place, and shall not close until all electors present in the polling booth at 6 p.m. and desiring to vote, have voted;
- (c) the doors of the polling place shall be closed at 6 p.m. and no person shall be admitted after that hour to the polling booth for the purpose of voting;
- (d) at the close of the polling on each day of the polling period at a polling place, the presiding officer shall, in the presence of the poll clerk and of any scrutineers who are in attendance, publicly close, fasten, lock and take charge of the ballot box;
- (e) when –
 - (i) a ballot box is full or no longer required; or
 - (ii) the polling period for all polling places for which he is the presiding officer has ended,whichever first occurs, the presiding officer shall, with the least possible delay, forward the ballot box to the appropriate counting centre for the purposes of scrutiny under Part XV, and it shall on no account be opened except in accordance with this Act.

(2) Notwithstanding anything in Subsection (1), where –

- (a) the Returning Officer or the presiding officer considers it necessary, the polling may commence at any particular polling place at a time later than 8 a.m. and, except on the last day of the polling period for the constituency, may close at a time later than 6 p.m.; and
- (b) the presiding officer considers that all electors entitled and likely to vote at any particular polling place have done so, or the Returning Officer so directs, the poll may close at that polling place at a time earlier than 6 p.m.

(3) Nothing in Subsection (2) shall be deemed to authorize the commencement of the scrutiny before the end of the polling period in every constituency.

107. ELECTIONS AT WHICH ELECTORS ARE ENTITLED TO VOTE.

(1) Subject to Division 3, an elector shall only be entitled to vote for –

- (a) the President; and
- (b) the member for the single member constituency for which he is enrolled; and
- (c) the woman member to represent the interests of women for the Regional constituency for which he is enrolled; and
- (d) the former combatant member to represent the interests of former combatants for the Regional constituency for which he is enrolled.

(2) For the purposes of this section, the Rolls in force at the time of the election are evidence of the right of each person so enrolled to vote at an election, unless he shows by his answer to a question prescribed by Section 109 that he is not entitled to vote.

108. PERSONS CLAIMING TO VOTE TO GIVE NAME AND OTHER PARTICULARS.

A person claiming to vote at a polling booth shall state his full name or names, and, if so desired by the presiding officer for the purpose of identifying the name under which the vote is claimed, any other particulars necessary to be stated in the Roll or to enable him to be identified in the Roll.

109. QUESTIONS TO BE PUT TO VOTER.

- (1) Subject to this Act, the presiding officer –
 - (a) may, and at the request of a scrutineer shall, put to a person claiming to vote the following questions: –
 - (i) “Have you already voted either here or elsewhere in this election (or these elections (*as the case requires*))?”; and
 - (ii) “Are you at least 18 years of age?”; and
 - (iii) “Are you a Bougainvillean?”; and
 - (iv) “Are you qualified to vote?”; and
 - (b) may, and at the request of a scrutineer shall, also put to any person claiming to vote, whose name appears on the certified list of voters the following question: –

“Are you the person whose name appears as (*here state name*) on the certified list of voters for this constituency?”.

(2) Before putting the question specified in Subsection (1)(a)(iv) to a person claiming to vote, the presiding officer may, and at the request of a scrutineer shall, explain to that person what the qualifications to vote are.

- (3) If a person claiming to vote to whom any of the questions specified in Subsection (1) are put –
 - (a) refuses to answer fully a question so put to him; or
 - (b) does not answer the question prescribed in Subsection (1)(a)(i) absolutely in the negative, when so put to him; or
 - (c) does not answer a question specified in Subsection (1)(a)(ii), (iii) or (iv) or (b) absolutely in the affirmative, when so put to him,

his claim to vote shall be rejected.

(4) The voter's answer to a question put to him by the presiding officer under this section is conclusive, and the matter shall not, subject to this section, be further inquired into during the polling.

110. FINGER TO BE MARKED.

(1) Subject to Subsection (6), a person claiming to vote shall show to the presiding officer –

- (a) the fifth finger on his left hand calculated from and including the thumb of that hand, or if he has no fifth finger the next finger between where the fifth finger would otherwise be and the thumb; or
- (b) if he has no left hand or no fingers on his left hand, the equivalent finger on his right hand,

to ascertain if he has already been marked with indelible ink.

(2) Subject to Subsection (6), the presiding officer shall mark the finger specified in Subsection (1) with indelible ink.

(3) If a person claiming to vote –

- (a) is found to have an indelible ink mark already on his finger; or
- (b) refuses to show his finger as required under Subsection (1); or
- (c) refuses to permit the presiding officer to mark his finger under Subsection (2),

his claim to vote shall be rejected.

(4) The presiding officer may require a person to show him his finger marked with indelible ink in accordance with this section before that person's ballot paper is deposited in a ballot box in accordance with Section 113 or 115 or is enclosed in an envelope in accordance with Section 117 or 118, and where in the opinion of the presiding officer the mark is not clearly visible, he may mark the finger again.

(5) Where a voter refuses to have his finger re-marked in accordance with Subsection (4), his ballot paper shall not be deposited in a ballot box or enclosed in an envelope in accordance with this Act, as the case may be, but shall be treated as a spoilt ballot paper.

(6) The Commissioner may, by notice published in the Bougainville Gazette, declare prior to the polling that marking with indelible ink in accordance with Subsection (2) shall not be carried out during the election specified in the notice.

111. RIGHT OF ELECTOR TO RECEIVE BALLOT PAPERS.

(1) The presiding officer or a poll clerk shall, at the polling, hand to each person claiming to vote at the polling place to which he has been allocated in accordance with Section 94 (1), a ballot paper in respect of each category of election duly initialled by the presiding officer –

- (a) if the name under which he claims to vote is on the certified list of voters for the polling place and his right to vote is not challenged; or
- (b) if the name under which he claims to vote is on the certified list of voters for the polling place and his right to vote is challenged, and his answers to the questions prescribed under Section 109(1) show that he is entitled to vote; or
- (c) if he claims to vote under Division 3 and complies with the provisions of that Division.

(2) The presiding officer, at the request of a scrutineer, shall note any objection by the scrutineer to the right of a person to vote, and shall keep a record of that objection.

(3) If the presiding officer puts to a person all or any of the questions prescribed under Section 109(1), his right to vote shall be deemed to have been challenged.

112. LIST OF VOTERS TO BE MARKED ON ISSUE OF BALLOT PAPERS.

Immediately upon handing the ballot papers to a person claiming to vote, the presiding officer or a poll clerk shall place a mark against the person's name on the certified list of voters if his name is on that list.

113. VOTES TO BE MARKED IN PRIVATE.

Except as otherwise prescribed, a voter upon receipt of ballot papers shall without delay and prior to quitting the polling booth –

- (a) retire alone to some unoccupied voting compartment of the polling booth, and in there, in private, mark his vote on the ballot papers in the manner required by Section 114; and
- (b) fold the ballot papers so as to conceal his votes and to show clearly the initials of the presiding officer, and exhibit them so folded to the presiding officer, and then openly, and without unfolding them, deposit them in the ballot box; and
- (c) then quit the polling booth.

114. METHOD OF MARKING BALLOT PAPERS.

Subject to this Act, an elector shall record his votes on his ballot papers by placing the numeral "1" in the square opposite the name of the candidate for whom he votes as his first preference and shall give contingent votes for two other candidates (or where there are less than two other candidates for the remaining candidate) by placing the numerals "2" and "3" in the squares opposite their respective names so as to indicate the order of his preference for them.

115. ASSISTANCE TO CERTAIN VOTERS.

(1) If a voter satisfies the presiding officer that his sight is impaired or that he is so physically incapacitated that he is unable to vote without assistance, the presiding officer shall permit a person appointed by the voter to enter an unoccupied compartment of the booth with the voter, and mark, fold and deposit the voter's ballot papers for him in the ballot box.

(2) If a voter referred to in Subsection (1) fails to appoint a person under that subsection, or if a voter satisfies the presiding officer that he is so illiterate that he is unable to vote without assistance, the presiding officer, in the presence of –

- (a) if the voter so desires, the voter or a person appointed by the voter for the purpose; or
 - (b) in the absence of any such appointment, the poll clerk,
- shall mark, fold and deposit his ballot papers for him in the ballot box, and shall mark the ballot paper in accordance with the instructions of the voter.

(3) A person appointed under Subsection (1) to assist a voter who discloses any knowledge of the vote of the voter, or who influences or attempts to influence, the vote of the voter, is guilty of an offence.

Penalty: A fine not exceeding K200.00 or imprisonment for a term not exceeding three months.

Division 3. – Special Provisions in Certain Cases.

116. VOTER CLAIMING TO VOTE WHOSE NAME ON ROLL HAS BEEN MARKED.

(1) Notwithstanding anything in this Act, where a mark has been placed in accordance with Section 112 against the name of a voter on the certified list of voters used at a polling place in the constituency for which he is enrolled, and the voter subsequently claims to vote in an election at that polling place and makes a declaration in the approved form before the presiding officer, he may, subject to Sections 39 and 109, be permitted to vote.

(2) The ballot paper of a voter under this section shall be dealt with as prescribed in Section 118.

117. BLIND OR PHYSICALLY INCAPACITATED VOTERS.

(1) If a voter who claims to vote under Section 115 satisfies the presiding officer that his sight is so impaired or that he is so physically incapacitated that he is unable to vote without assistance, the presiding officer shall –

- (a) fill in the form of declaration with the required particulars relating to the enrolment of the voter as required by the voter; and
- (b) read over to the voter the form of declaration; and
- (c) require the voter to sign the form of declaration –
 - (i) in his own handwriting if he is able to do so; or
 - (ii) with his mark as his personal signature if he is unable to sign his name in his own handwriting; and
- (d) cause the signature of the voter, if made by means of a mark, to be witnessed by a scrutineer present, or if no scrutineer be present, by the poll clerk; and
- (e) complete and attest the declaration; and

- (f) permit a person appointed by the voter to enter an unoccupied compartment of the booth with the voter and to mark, in accordance with the voter's instructions, and fold the ballot papers for the voter; and
- (g) enclose the ballot papers in the envelope bearing the declaration of the voter, securely fasten the envelope and deposit it in the ballot box.

(2) If a voter to whom Subsection (1) applies fails to appoint a person under that subsection, or if a voter satisfies the presiding officer that he is so illiterate that he is unable to vote without assistance, the presiding officer shall take action in accordance with Subsection (1)(a) to (e) (inclusive) and shall, in the presence of a person appointed by the voter for the purpose if the voter so desires, or in the absence of any such appointment, the poll clerk –

- (a) mark and fold the ballot papers for the voter; and
- (b) enclose the ballot papers in the envelope bearing the declaration of the voter, securely fasten the envelope and deposit it in the ballot box.

118. DEALING WITH VOTERS, ETC., UNDER THIS DIVISION.

(1) The presiding officer shall, upon receiving ballot papers from a person voting under this Division, in the presence of the voter and of such scrutineers as are present and without unfolding the ballot papers, enclose them in an envelope bearing the declaration of the voter under Section 117 and addressed to the Returning Officer, and shall securely fasten the envelope and deposit it in the ballot box.

(2) An Assistant Returning Officer who is authorized under these electoral provisions to open the ballot box shall, without opening the envelope, transmit it to the Returning Officer.

(3) Where the claim of a person to vote under this Division is refused, the presiding officer shall make a note in writing of the fact of the claim and the reasons for the refusal, and the presiding officer and a poll clerk shall sign the note in the presence of such scrutineers as are present, who may also sign the note.

Division 4. – Miscellaneous.

119. SPOILT BALLOT PAPER.

If a voter, before depositing his ballot papers in the ballot box, satisfies the presiding officer that he has spoilt the ballot papers or any one or more of them by mistake or accident, he may, on giving up each spoilt ballot paper, receive from the presiding officer a new ballot paper for each one spoilt, and the presiding officer shall there and then cancel each spoilt ballot paper, write the word "Spoilt" across the face of it, place it in an envelope endorsed with the word "Spoilt" and forward it to the Returning Officer after the polling.

120. ADJOURNMENT OF POLLING ON ACCOUNT OF RIOT.

(1) The presiding officer may adjourn the polling from day to day where the polling is interrupted or obstructed by riot or open violence.

(2) If from any cause a polling booth at a polling place is not open on any day during the period for taking the poll at that polling place, the presiding officer may adjourn the polling for a period not exceeding seven days but in no event beyond the end of the polling period, and shall forthwith give public notice of the adjournment.

(3) Where for any reason the polling is adjourned at a polling place, those electors only –

(a) who are enrolled for the constituency for which the polling place is prescribed; or

(b) who are otherwise entitled to vote as electors for the constituency, and have not already voted, are entitled to vote at the adjourned polling at that polling place.

(4) Nothing in this section shall be deemed to affect the provisions of Division 1.

PART XV. – THE SCRUTINY.

Division 1. – Preliminary.

121. SCRUTINY.

The result of the polling shall be ascertained by scrutiny.

122. COUNTING CENTRES.

The scrutiny shall be conducted at such places, to be known as “counting centres”, as are appointed by the Returning Officer for the purpose.

123. OFFICERS TO CONDUCT SCRUTINY.

The scrutiny at a counting centre shall be conducted by the Returning Officer or, in the absence of the Returning Officer from that counting centre, by an Assistant Returning Officer.

124. SCRUTINEERS AT SCRUTINY.

(1) A candidate may appoint scrutineers to represent him at the scrutiny.

(2) Except as provided by Subsection (3), a candidate is not entitled to be represented at the scrutiny at a counting centre by more than one scrutineer.

(3) The officer who is to conduct, or is conducting, the scrutiny at a counting centre may, subject to any directions given to him from time to time by the Commissioner or the Returning Officer for the constituency in which the counting centre is situated, permit each candidate to be represented at the scrutiny at that counting centre by scrutineers not exceeding such number as that first-mentioned officer determines.

(4) The appointment of a scrutineer under this section to represent a candidate at a counting centre –

- (a) shall be made by notice in writing signed by the candidate, given or sent to the officer who is to conduct, or who is conducting, the scrutiny at the counting centre; and
- (b) shall specify the name and address of the scrutineer.

125. CONDUCT OF SCRUTINY.

The scrutiny shall be conducted as follows: –

- (a) it shall commence as soon as practicable after the end of the polling period;
- (b) any scrutineers duly appointed under Section 124, and any persons approved by the officer conducting the scrutiny, may be present;
- (c) all the proceedings at the scrutiny shall be open to the inspection of the scrutineers;
- (d) the scrutiny may be adjourned from time to time as necessary until the counting of the votes is complete.

126. ACTION ON OBJECTION TO BALLOT PAPERS.

(1) If a scrutineer objects to a ballot paper as being informal, the officer conducting the scrutiny shall mark the ballot paper “Admitted” or “Rejected”, according to his decision to admit or reject the ballot paper.

(2) Nothing in this section prevents the officer conducting the scrutiny from rejecting a ballot paper as being informal although it is not objected to.

127. INFORMAL BALLOT PAPERS.

(1) Subject to this section and to Divisions 3 and 4, a ballot paper is informal where –

- (a) it is not authenticated by the initials of the presiding officer or by an official mark as approved by the Commissioner; or
- (b) subject to Subsections (2) and (3), it has no vote indicated on it or does not indicate the voter’s first preference for one candidate and his contingent votes for two other candidates (or where there are less than two other candidates, for the remaining candidate); or
- (c) it has on it any mark or writing (not authorized by this Act to be put on it) by which, in the opinion of the officer conducting the scrutiny, the voter can be identified.

(2) Where there are two candidates only and the voter has indicated his vote by placing “1” in the square opposite the name of one candidate and has left the other square blank, the voter shall be deemed to have indicated the order of his preference for both candidates.

(3) Where there are three candidates only and the voter has indicated his first preference for one candidate and his contingent votes for one other candidate only, and the

square opposite the name of the remaining candidate has been left blank, the voter's preference for that candidate shall be deemed to be his last and accordingly he shall be deemed to have indicated his preferences for all candidates.

(4) Subsection (1)(c) does not apply to a mark or writing placed on a ballot paper by an officer, notwithstanding that the placing of the mark or writing on the ballot paper is a contravention of this Act.

(5) Subject to Divisions 3 and 4, a ballot paper shall not be informal for any reason other than a reason specified in this section or in Section 133.

Division 2. – Provision Relating to the Scrutiny of Ordinary Votes.

128. SCRUTINY OF ORDINARY VOTES IN ELECTIONS.

(1) The scrutiny shall, subject to the provisions of Divisions 3 and 4, be conducted in accordance with the succeeding provisions of this section.

(2) The electoral officer conducting the scrutiny shall, in the presence of a presiding officer, poll clerk or an officer and of such authorized scrutineers as choose to attend and any other person approved by the Returning Officer –

- (a) open all ballot boxes received from polling places within the constituency; and
- (b) reject all informal ballot papers, and arrange the unrejected ballot papers under the names of the respective candidates by placing in a separate parcel all those on which a first preference vote is indicated for the same candidate; and
- (c) count the first preference votes given for each candidate on all unrejected ballot papers; and
- (d) make out and sign a statement (which may be counter-signed by the presiding officer, poll clerk or officer present and, if they so desire, by such scrutineers as are present) setting out the number of first preference votes given for each candidate, and the number of informal ballot papers; and
- (e) place in a separate parcel all the ballot papers which have been rejected as informal; and
- (f) where an Assistant Returning Officer conducts the scrutiny, transmit the following information, in some expeditious manner to the Returning Officer: –
 - (i) the number of first preference votes given for each candidate; and
 - (ii) the total number of ballot papers rejected as informal; and
- (g) seal up the parcels and endorse on each parcel a description of the contents of it, and permit any scrutineers present, if they so desire, to counter-sign the endorsement; and

- (h) where an Assistant Returning Officer conducts the scrutiny, transmit the parcels to the Returning Officer with the least possible delay, together with the statement referred to in Paragraph (d).

Division 3. – Provisions Relation to the Scrutiny of Votes under Division XIV. 3.

129. CONDUCT OF SCRUTINY.

The scrutiny of votes under Division XIV.3. (*special provisions in certain cases*) shall be conducted by the Returning Officer and shall commence as soon as practicable after the end of the polling period for a constituency in the presence of an Assistant Returning Officer or an officer and such scrutineers as choose to attend.

130. ACTION ON RECEIPT OF BALLOT PAPERS UNDER DIVISION XIV.3.

The Returning Officer shall produce unopened all envelopes containing ballot papers used for voting under Division XIV.3, and shall, before opening an envelope or allowing any other person to do so, examine the declaration of the voter and, if it is in order, shall deal with the ballot paper in accordance with this Division, and make such correction (if any) to the Roll as is necessary.

131. PRELIMINARY SCRUTINY OF VOTES CAST UNDER DIVISION XIV.3.

(1) The Returning Officer shall, in relation to envelopes containing ballot papers used for voting under Division XIV.3 –

- (a) place in one parcel the envelopes bearing the declarations of persons who he is satisfied are entitled to vote in respect of the constituency, accept for further scrutiny the ballot papers contained in the envelopes and in respect of envelopes under Section 118, make notation on a certified copy of the Roll used by him for the purposes of the scrutiny against the names of the persons voting that those persons have been permitted to vote under Section 116; and
- (b) place in another parcel the envelopes bearing the declarations of persons who he is satisfied are not entitled to vote in respect of the constituency, or whose declarations are not signed and attested, fasten and seal the parcel, endorse thereon the words “Division 3 voters’ ballot papers rejected at the preliminary scrutiny” and add the name of the constituency, his signature and the date; and
- (c) place the envelopes containing the ballot papers accepted for further scrutiny before him on a table in such a manner that the face only of each envelope bearing the address of the Returning Officer is visible; and
- (d) number each envelope consecutively from one upwards in the top right-hand corner until all of the envelopes have been dealt with; and
- (e) without further examining the declaration of a voter, or permitting any other person to do so, withdraw from the envelope each ballot paper contained in it, and, without inspecting or unfolding the ballot paper or allowing any other person to do so, place on it a number

corresponding with that placed on the envelope from which the ballot paper has been withdrawn, and deposit the folded ballot paper in a locked ballot box for further scrutiny; and

- (f) place the envelopes in a parcel, endorsed with the words "Envelopes bearing Division 3 voters' declarations from which ballot papers have been withdrawn for further scrutiny", fasten the parcel and add the name of the constituency, his signature and the date.

(2) A Division XIV.3 voters' ballot paper shall not be rejected at the preliminary scrutiny by reason only of the fact that the presiding officer has omitted to attest the declaration of the elector.

132. FURTHER SCRUTINY.

At the further scrutiny, the officer conducting the scrutiny shall, as soon as practicable after the preliminary scrutiny under Section 131, open the ballot box referred to in Section 131(1)(e), examine the Division XIV.3 voters' ballot papers contained in the ballot box, and follow the steps set out in Section 128(2)(b), (c), (d), (e) and (g).

133. INFORMAL BALLOT PAPERS UNDER DIVISION XIV.3.

In addition to the matters specified in Section 127, a Division XIV.3 voters' ballot paper is informal if it is not contained in an envelope bearing the declaration of the elector.

134. PARCELLING OF BALLOT PAPERS.

The officer conducting the scrutiny shall place in separate parcels –

- (a) all Division XIV.3 voters' ballot papers allowed or admitted as formal; and
- (b) all Division XIV.3 voters' ballot papers disallowed or rejected as informal,

and shall fasten and seal each parcel, and endorse on it particulars of the contents of it and the name of the constituency, and add his signature and the date.

135. OPENING OF SEALED PARCELS OF BALLOT PAPERS.

The sealed parcels of Division XIV.3 voters' ballot papers may only be opened –

- (a) for the purposes of an authorized re-count; or
- (b) by direction of the Bougainville High Court.

136. OPENING OF SEALED PARCELS OF DECLARATIONS.

The sealed parcels of Division XIV.3 voters' declarations may only be opened by direction of the Bougainville High Court.

137. PRESERVATION OF BALLOT PAPERS AND DECLARATIONS.

Subject to any action referred to in Section 135 or 136, the Returning Officer shall preserve the sealed parcels of –

- (a) Division XIV.3 voters' ballot papers allowed or admitted to the scrutiny; and

- (b) Division XIV.3 voters' ballot papers disallowed or rejected at the scrutiny; and
 - (c) envelopes bearing Division XIV.3 voters' declarations from which ballot papers have been withdrawn for further scrutiny; and
 - (d) envelopes bearing Division XIV.3 voters' declarations and containing ballot papers rejected at the preliminary scrutiny,
- until their destruction has been authorized by the Commissioner.

138. MODE OF DETERMINING THE RESULT OF THE SCRUTINY.

(1) The result of an election shall be determined by scrutiny in the following manner: –

- (a) the Returning Officer shall ascertain the total number of first preference votes given for each candidate;
- (b) the candidate who has received the largest number of first preference votes, if that number be an absolute majority of votes, is elected;
- (c) if no candidate has received an absolute majority of votes, a second count shall be held;
- (d) on the second count the sealed parcels of ballot papers shall be opened by the Returning Officer, the candidate who has received the fewest number of first preference votes shall be excluded and each ballot paper counted to him shall be counted to the candidate next in the voter's preference;
- (e) where a candidate then has an absolute majority of votes he is elected, but where no candidate then has an absolute majority of votes the process of excluding the candidate who has the fewest votes and counting each of the ballot papers to the unexcluded candidate next in the voter's order of preference shall be repeated until one candidate has received an absolute majority of votes;
- (f) the candidate who has received an absolute majority of votes is elected;
- (g) if, on any count, two or more candidates have an equal number of votes and one of them has to be excluded, the Returning Officer shall decide, by drawing lots, which shall be excluded, and if, in the final count, two candidates have an equal number of votes, the Returning Officer shall decide, by drawing lots, which shall be elected.

(2) Where on any count being conducted in accordance with Subsection (1)(d) or (e), a ballot paper shows no preference capable, in accordance with this Act, of being counted in that count to an unexcluded candidate, that ballot paper –

- (a) shall be deemed to be exhausted; and
- (b) shall be excluded from that count and any subsequent count; and
- (c) shall not be taken into account in the calculation of an absolute majority in relation to that count and any subsequent count.

(3) The procedure for drawing lots is as follows:-

- (a) the Returning Officer shall immediately after the conclusion of the counting and before all persons present, make out in respect of each of the candidates having an equal number of votes a slip bearing the name of the candidate as shown on the ballot paper, enclose the respective slips in separate blank envelopes of exact similarity and deposit the envelopes in a locked ballot box; and
- (b) the Returning Officer shall then thoroughly shake and rotate the ballot box and shall permit any other person present, if he so desires, to do the same; and
- (c) the ballot box shall be opened and an officer shall take out and open one of the envelopes; and
- (d) the candidate whose name appears on the slip enclosed in the envelope taken from the ballot box is excluded from the count or is elected, as the case may be.

(4) In this section, "absolute majority of votes", in relation to any count, means a greater number than one half of the whole number of ballot papers (other than informal ballot papers and ballot papers excluded from that count under Subsection (2)).

139. FURTHER PROVISIONS RELATING TO SCRUTINY.

The officer conducting the scrutiny shall, in respect of ballot papers scrutinized by him –

- (a) place in a separate parcel all the ballot papers which have been rejected as informal; and
- (b) place in a separate parcel all the unrejected ballot papers; and
- (c) seal up the parcels and endorse on each parcel a description of its contents, and permit any scrutineers present, if they so desire, to countersign the endorsement.

Division 4. – Re-count.

140. RE-COUNT.

(1) At any time before the declaration of the result of an election, the Returning Officer may, if he thinks fit, on the request of a candidate setting forth the reasons for the request or of his own motion, and shall if so directed by the Commissioner, re-count the ballot papers contained in a parcel.

(2) The officer conducting a re-count has the same powers as if the re-count were the scrutiny, and may reverse any decision in relation to the scrutiny as to the allowance and admission or disallowance and rejection of any ballot paper.

141. RESERVATION OF DISPUTED BALLOT PAPERS.

(1) The officer conducting a re-count may, and at the request of a scrutineer shall, reserve any ballot paper for the decision of the Commissioner.

(2) The Commissioner shall decide whether a ballot paper reserved for his decision under this section is to be allowed and admitted or disallowed and rejected.

(3) In the event of the validity of the election being disputed, the Court may consider any ballot papers which were reserved for the decision of the Commissioner, but shall not order a further re-count of the whole or part of the ballot papers in connection with the election unless it is satisfied that the re-count is justified.

142. CONDUCT OF RE-COUNT.

(1) Before proceeding to re-count any ballot papers, the Returning Officer shall send to each candidate notice of the time and place of the re-count.

(2) The Returning Officer shall, at the time and place fixed for the re-count, in the presence of the scrutineer or scrutineers in attendance and of an officer, open every sealed parcel of ballot papers to be re-counted and count the votes in it.

(3) Each parcel of ballot papers to be re-counted shall be opened separately without destroying or rendering illegible any endorsement on the parcel, and every care shall be taken to prevent the ballot papers in the parcel from being mixed with the ballot papers in any other parcel.

(4) After a parcel has been opened and the votes in it counted, the Returning Officer shall replace the ballot papers in their original cover, which he shall reseal, refasten and then place in a new cover which he shall also seal and fasten and endorse with the fact and date of the re-count, and the Returning Officer and such persons authorized to be present at the re-count as choose to do so shall sign the endorsement.

(5) When any ballot papers at a re-count are reserved for the decision of the Commissioner, the Returning Officer shall, in the presence of the scrutineer or scrutineers in attendance –

- (a) place the ballot papers in a properly fastened and sealed parcel bearing his signature and the signature or signatures of the scrutineer or scrutineers, together with an endorsement setting out the number of ballot papers contained in the parcel, the name of the constituency and the date; and
- (b) place the parcel in a fastened and sealed outer cover fully addressed to the Commissioner, and transport the parcel to the Commissioner by hand or otherwise deliver it.

(6) On receipt of a parcel referred to in Subsection (5), the Commissioner shall, in the presence of an officer and, if a candidate so desires, of a person appointed by the candidate, open the parcel and scrutinize the ballot papers, and shall mark each ballot paper “Admitted” or “Rejected”, according to his decision to admit or reject the ballot paper.

(7) When the Commissioner has given his decision on the ballot papers reserved for his decision, he shall –

- (a) restore them to their original cover, refasten and reseal the cover; and
- (b) endorse on the cover –
 - (i) the number of papers contained in the cover; and
 - (ii) a statement that the ballot papers have been the subject of a decision by him; and
 - (iii) his signature and the date; and
- (c) request the persons in whose presence he scrutinized the ballot papers to add their signatures; and
- (d) place the parcel in a new cover; and
- (e) cause the new parcel to be fastened, sealed and returned by hand or otherwise delivered to the Returning Officer.

(8) The Commissioner shall advise the Returning Officer, in writing, as to the number of ballot papers admitted or rejected by him, and the decision of the Commissioner shall be accepted by the Returning Officer in completing his re-count of the ballot papers.

(9) The receipt of every parcel of ballot papers shall be acknowledged in writing by the Commissioner and the Returning Officer respectively.

PART XVI. – INTERPRETERS.

143. INTERPRETERS.

(1) Notwithstanding the provisions of this Act, for the purposes of, and at any stage of, the proceedings at the polling or at the scrutiny, a person may, with the approval of the presiding officer or the officer conducting the scrutiny, as the case requires, make use of the services of a person as an interpreter.

(2) A candidate shall not be an interpreter, and a scrutineer shall not be an interpreter except for another scrutineer.

144. DUTY OF INTERPRETERS.

(1) An interpreter referred to in Section 143 shall –

- (a) to the best of his ability, correctly interpret any matter which he is required to interpret; and
- (b) comply with any directions given by the presiding officer or the officer conducting the scrutiny, as the case may be; and
- (c) refrain from disclosing any knowledge of the vote of an elector for or to whom he interprets.

(2) An interpreter shall not influence, or attempt to influence, in any way, the vote of an elector for or to whom he interprets, and shall not disclose any knowledge of the vote of the elector.

(3) An interpreter who fails to comply with Subsection (1)(a), (b) or (c) or Subsection (2), is guilty of an offence.

Penalty: A fine not exceeding K200.00 or imprisonment for a term not exceeding six months.

PART XVII. – THE RETURN OF THE WRITS.

145. RETURN OF WRITS.

(1) The Returning Officer shall, as soon as conveniently may be after the result of an election has been ascertained –

- (a) at the place of nomination, publicly declare the result of the election and the name of the candidate elected; and
- (b) by endorsement under his hand certify on the writ the name of the candidate elected; and
- (c) return the writ to the Commissioner.

(2) Where the Returning Officer cannot complete his inquiries into the facts set out in the declarations received by him under Section 116 without unduly delaying the declaration of the poll, and he is satisfied that the votes recorded on the ballot papers could not possibly affect the result of the election, he may, subject to the concurrence of the Commissioner, declare the result of the election and return the writ without awaiting the receipt of the ballot papers or the completion of inquiries, as the case may be.

146. CORRECTION OF ERRORS.

Any delay, error or omission in the printing, preparation, issue, transmission or return of any Roll, writ, ballot paper or certified list of voters may be remedied, removed, rectified and supplied by the Commissioner, by notice published in the Bougainville Gazette, specifying the matter dealt with and providing for the course to be followed, and that course shall be valid and sufficient.

147. EXTENSION OF TIME.

(1) Subject to Subsections (2) and (3), within one month before or at any time during the polling period for an election in a constituency or portion of a constituency, the Commissioner may, where he is of the opinion that it is necessary to do so, provide for –

- (a) extending the time –
 - (i) for holding the election; or
 - (ii) for returning the writ; or
- (b) meeting any difficulty which might otherwise interfere with the due course of the election,

and provision so made shall be valid and sufficient.

(2) Where an extension of time granted under Subsection (1) does not apply to all constituencies in which elections are being conducted at the same time –

- (a) the last day of the polling period shall not be more than two weeks after the date originally fixed as the last day; and

- (b) the date fixed for the return of the writ shall not be more than two weeks after the date originally fixed for its return.

(3) In the case of an extension of time under Subsection (1), public notice of the extension shall be immediately given in the constituency or the portion of the constituency for which the election is to be held.

PART XVIII. – RECALL OF MEMBER OF THE HOUSE OF REPRESENTATIVES.

Division 1. – General.

148. PURPOSE OF THIS PART.

The recall of a member of the House of Representatives is authorized by, and shall be effected in accordance with, Section 58 (*recall of member of the House of Representatives*) of the *Bougainville Constitution* and the purpose of this Part is to make provision for matters relating to recall as authorized by Subsection (9) of that section.

149. INTERPRETATION.

In this Part, unless the contrary intention appears –

“member” includes the President;

“recall” means recall of a member of the House of Representatives in accordance with Section 58 (*recall of member of the House of Representatives*) of the *Bougainville Constitution* and this Part;

“recall poll” means the poll conducted under this Part as to whether a member should be recalled, as provided for by Section 58 (*recall of member of the House of Representatives*) of the *Bougainville Constitution*.

150. DUTIES OF COMMISSIONER ON RECEIPT OF A PETITION FOR RECALL.

(1) Where a petition for recall of a member is presented to the Commissioner he shall ascertain that the petition –

- (a) is not banned under Section 58(3) (*recall of member of the House of Representatives*) of the *Bougainville Constitution*; and
- (b) has been signed by at least one third of the enrolled voters for the constituency.

(2) Where the Commissioner is satisfied that the petition –

- (a) is not banned under Section 58(3) (*recall of member of the House of Representatives*) of the *Bougainville Constitution*; and
- (b) has been signed by least one third of the enrolled voters for the constituency,

he shall advise the Speaker of the petition and of its validity and shall request the Speaker to issue –

- (c) a writ for a poll as to whether the member be recalled; and
- (d) a writ for the by-election of a new member for the constituency.

(3) For the purposes of this section, "enrolled voters" means voters enrolled for the Bougainville general election immediately preceding the presentation of the petition.

Division 2. – Writs.

151. SPEAKER TO ISSUE WRITS.

Where the Speaker has received advice from the Commissioner under Section 148, he shall, as soon as is practicable, issue –

- (a) a writ for a recall poll; and
- (b) a writ for the by-election of a new member for the constituency.

152. FORM OF WRITS.

(1) The writ for –

- (a) a recall poll under Section 151 (a) shall be in Form 9 or 11 as the case requires; and
- (b) a by-election under Section 151(b) shall be in Form 10 or 12 as the case requires,

and each writ shall fix the same date for –

- (c) the first and last days of the period during which polling shall take place, which period shall not exceed seven days; and
- (d) subject to Subsection (2), the return of the writ.

(2) Where, as a result of the recall poll, the member is determined not to have been recalled, the result of the by-election shall not be determined and the writ for the by-election shall not be returned.

(3) The writ for a by-election under Section 151(b) shall fix the date for nominations.

(4) The Commissioner shall, as soon as practicable after the issue of the writs –

- (a) advertise that they have been issued –
 - (i) in the Bougainville Gazette; and
 - (ii) in at least one newspaper circulated in Bougainville; and
 - (iii) otherwise in the manner he considers to be most effective; and
- (b) forward a copy of each writ to the Autonomous Bougainville Government and to each Council of Elders in the constituency; and
- (c) take such further steps as he considers desirable to ensure adequate publicity.

153. TIME OF ISSUE OF WRITS.

For the purposes of this Act, a writ issued under Section 151 shall be deemed to have been issued at 4 p.m. on the day on which the writ was issued.

154. ADDRESS OF WRITS.

(1) Writs for a recall poll and for a by-election under Section 151 shall be addressed to the Returning Officer for the constituency in respect of which they are issued and may be issued through the Commissioner.

(2) The Commissioner may advise the Returning Officer by electronic advice of the issue of the writ for a recall poll and for a by-election under Section 151 and the particulars of the writ, and for the purposes of Section 158 the Returning Officer may act on the advice as if the writ had been received by him.

Division 3. – Nomination.

155. DATE AND PERIOD OF NOMINATION.

Nomination of the candidates for the by-election shall commence on the date of the writ, and the period of nomination shall not exceed seven days, including the date of the writ.

156. DATE OF POLLING.

The date fixed for the commencement of the polling period for both the recall poll and the by-election shall be not less than eight weeks nor more than 11 weeks after the date of the writ.

157. DATE OF RETURN OF WRITS.

The date fixed for the return of the writs issued under Section 151 shall be not more than 21 days after the end of the polling period and subject to Sections 152(2) and 177(1)(c), the same date shall be fixed for both writs.

158. DUTY OF RETURNING OFFICER ON RECEIPT OF WRITS.

On the receipt of the writs, the Returning Officer to whom they are directed shall endorse on each the date of their receipt.

159. NOMINATIONS.

Subject to Sections 155 and 160, nominations for a by-election under this Part shall be in accordance with Part XIII.

160. RESTRICTION ON QUALIFICATION.

(1) As provided by Section 58(8) (*recall of member of the House of Representatives*) of the *Bougainville Constitution*, the member of the House of Representatives, the petition for whose recall has given rise to the by-election under this Part, is not qualified to nominate for the by-election.

(2) The restriction on qualification contained in Subsection (1) does not limit in any way the ability of the member of the House of Representatives the petition for whose recall has given rise to the by-election from taking part in all other activities in and in relation to the recall poll and the by-election.

161. PROCEEDINGS ON NOMINATION DAY, ETC.,

(1) If one candidate only is nominated for a by-election under this Part, the Returning Officer shall defer any declaration until the Returning Officer has declared the result of the recall poll, and where, as a result of the recall poll –

- (a) the member is declared not to have been recalled, no declaration of the by-election shall be made; and
- (b) the member is declared to have been recalled, the Returning Officer shall declare that candidate duly elected.

(2) If in a by-election under this Part more candidates than one are nominated, the proceedings shall, subject to the provisions of this Part, stand adjourned to the commencement of the polling period.

(3) Where no candidate is nominated for the by-election, the Commissioner shall, as soon as practicable, cause a new writ to be issued by the Speaker for the by-election.

(4) Where a new writ for the by-election is issued under Subsection (3), the recall poll shall be deferred to the polling period specified in the new writ, and the writ for the recall poll is deemed to have been amended to correspond with the dates of polling and return of the writ in the new writ.

Division 4. – Polling.

162. APPLICATION OF PART XIV, ETC.,

(1) The provisions of Part XIV, so far as not inconsistent with this Part, apply to a recall poll and a by-election under this Part.

(2) Electors are entitled to vote in a recall poll.

(3) The rolls shall be as certified by the Commissioner.

163. POLLING SCHEDULE.

The provisions of Division XIV.1 apply to a polling schedule for polls under this Part.

164. GENERAL PROVISIONS RELATING TO POLLING.

(1) The general provisions relating to polling contained in Part XIV and in Sections 146 and 147 apply to polls under this Division except as modified by this Part.

(2) In a recall poll, only –

- (a) the member whose recall is the subject of the poll; and
- (b) two persons, selected by the Commissioner from amongst those who presented the petition for recall,

are entitled to scrutineers in accordance with Section 103.

165. FORM OF BALLOT PAPERS.

(1) There shall be one ballot paper for the recall poll and one ballot paper for the by-election.

(2) Each ballot paper shall be in the approved form.

166. BALLOT PAPER TO BE USED IN RESPECT OF RECALL POLL.

(1) The ballot paper to be used in a recall poll as to whether the President is to be recalled shall be in the following format:-

“Should, President of the Autonomous Region of Bougainville, be recalled from the Office of President?

YES ☐
“”
NO ☐ ”.

(2) The ballot paper to be used in a recall poll as to whether a member of the House of Representatives is to be recalled shall be in the following format:-

“Should, member of the House of Representatives for single member/womens representative/former combatants representative constituency be recalled from the office of member of the House of Representatives?

YES ☐
NO ☐ ”.

(3) The ballot paper for a by-election shall be in accordance with Section 101.

167. RIGHT OF ELECTOR TO RECEIVE BALLOT PAPERS.

The right of an elector to receive ballot papers shall be in accordance with Section 111(1), except that the words “a ballot paper for the recall poll and a ballot paper for the by-election” shall be read in place of the words “a ballot paper in respect of each category of election”.

168. METHOD OF MARKING BALLOT PAPERS.

(1) Subject to this Act, an elector shall record his vote on the ballot paper for a recall poll –

- (a) where he wishes the President or member, as the case may be, to be recalled from office, by placing an “X” in the square opposite the word “YES”; and
- (b) where he does not wish the President or member, as the case may be, to be recalled from office, by placing an “X” in the square opposite the word “NO”.

(2) Subject to this Act, an elector shall record his votes on his ballot paper for a by-election under this Part by placing the numeral “1”. in the square opposite the name of

the candidate for whom he votes as his first preference and shall give contingent votes for two other candidates (or where there are less than two other candidates for the remaining candidate) by placing the numerals "2" and "3" in the squares opposite their respective names so as to indicate the order of his preference for them.

Division 5. – Scrutiny.

169. APPLICATION OF PART XV.

The provisions of Part XV, so far as not inconsistent with the provisions of this Part, apply to the scrutiny in respect of –

- (a) with such adaptation as is necessary, a recall poll; and
- (b) a by-election under this Part.

170. SCRUTINEERS IN RECALL POLL.

In a scrutiny in respect of a recall poll, only –

- (a) the member whose recall is the subject of the poll; and
- (b) two persons, selected by the Commissioner from amongst those who presented the petition for recall,

are entitled to scrutineers in accordance with Section 103.

171. SCRUTINY OF RECALL POLL TO BE CONDUCTED FIRST.

In accordance with Section 58(6) (*recall of a member of the House of Representatives*) of the *Bougainville Constitution*, the Commissioner shall first ascertain by scrutiny the result of the recall poll.

172. SCRUTINY OF VOTES IN RECALL POLL.

(1) The scrutiny of votes in a recall poll shall, subject to Divisions XV.2 and XV.3, be conducted in accordance with the succeeding provisions of this section.

(2) The electoral officer conducting the scrutiny shall, in the presence of a presiding officer, poll clerk or an officer and such authorized scrutineers as choose to attend and any other person approved by the Returning Officer –

- (a) open all ballot boxes relating to the recall poll received from polling places within the constituency; and
- (b) reject all informal ballot papers, and arrange the unrejected ballot papers under the headings "YES" and "NO" and place all those indicating "YES" in one parcel and all those indicating "NO" in another parcel; and
- (c) count the votes for "YES" and the votes for "NO" on all unrejected ballot papers; and
- (d) make out and sign a statement (which may be counter-signed by the presiding officer, poll clerk or officer present and, if they so desire, by such scrutineers as are present) setting out the number of votes for "YES" and the number of votes for "NO", and the number of informal ballot papers; and

- (e) place in a separate parcel all the ballot papers which have been rejected as informal; and
- (f) where an Assistant Returning Officer conducts the scrutiny, transmit the following information, in some expeditious manner to the Returning Officer:-
 - (i) the number of votes given for "YES" and the number of votes given for "NO"; and
 - (ii) the number of ballot papers rejected as informal; and
- (g) seal up the parcels and endorse on each parcel a description of the contents of it, and permit any scrutineers present, if they so desire, to countersign the endorsement; and
- (h) where an Assistant Returning Officer conducts the scrutiny, transmit the parcels to the Returning Officer with the least possible delay, together with the statement referred to in Paragraph (d).

173. FURTHER SCRUTINY.

At the further scrutiny, the officer conducting the scrutiny shall, as soon as practicable after the preliminary scrutiny under Section 172, open the parcel referred to in Section 172(2)(e), examine the Division XIV.3 voters' ballot papers contained in the parcel and follow the steps set out in Section 172(2)(b), (c), (d), (e) and (g).

174. MODE OF DETERMINING THE RESULT OF THE SCRUTINY.

(1) The result of a recall poll shall be determined by scrutiny in the following manner:-

- (a) the Returning Officer shall ascertain the total number of votes given for "YES" and the total number of votes given for "NO";
- (b) where the total number of votes given for "YES" is more than one half of the enrolled voters in the constituency, the member is recalled;
- (c) where the total number of votes given for "YES" is not more than one half of the enrolled votes in the constituency, the member is not recalled.

(2) For the purposes of Subsection (1), the Commissioner shall provide to the Returning Officer a certificate certifying the number of enrolled voters in the constituency in accordance with Section 150 (3).

175. RECOUNT OF RECALL POLL.

(1) At any time before the declaration of the result of a recall poll the Returning Officer may, if he thinks fit, on the request of the member whose recall is the subject of the poll setting forth the reasons for the request or of his own motion, and shall if directed by the Commissioner, re-count the ballot papers contained in a parcel.

(2) The officer conducting a recount has the same powers as if the recount were the scrutiny, and may reverse the decision in relation to the scrutiny as to the allowance and admission or disallowance and rejection of any ballot paper.

176. RETURN OF WRIT FOR RECALL POLL.

(1) The Returning Officer shall, as soon as conveniently may be after the result of a recall poll has been ascertained –

- (a) at the place of nomination, publicly declare the result of the recall poll, declaring that the member has, or has not, been recalled according to the poll; and
- (b) by endorsement under his hand certify on the writ the result of the recall poll and return the writ to the Commissioner.

(2) Where the Returning Officer cannot complete his enquiries into the facts set out in the declarations received by him under Section 172 without unduly delaying the declaration of the poll, and he is satisfied that the votes recorded on the ballot papers could not possibly affect the result of the recall poll, he may, subject to the concurrence of the Commissioner, declare the result of the recall poll and return the writ without awaiting the receipt of the ballot papers or the completion of enquiries, as the case may be.

177. FURTHER DUTIES OF RETURNING OFFICER FOLLOWING DETERMINATION OF SCRUTINY IN RECALL POLL.

(1) Where, as a result of a recall poll, the member is determined not to have been recalled, the Returning Officer –

- (a) shall not proceed with the scrutiny of votes in the by-election; and
- (b) shall retain the ballot papers in the by-election, pending the determination of any dispute as to the recall poll; and
- (c) in accordance with Section 152(2), shall not return the writ for the by-election.

(2) Where, as a result of a recall poll, the member is determined to have been recalled, the Returning Officer shall, as soon as practicable, determine the result of the by-election by scrutiny in accordance with Part XV.

(3) On determining of the result by scrutiny the Returning Officer shall return the writ for the by-election in accordance with Part XVII.

(4) The Returning Officer shall advise the Commissioner of the result of the recall poll, and where the member is determined to have been recalled, of the by-election.

(5) The Commissioner shall give notification in the Bougainville Gazette of the result of the recall poll, and where applicable of the by-election.

PART XIX. – OFFENCES.

178. ILLEGAL PRACTICES.

(1) Subject to Subsection (2), the following are illegal practices at elections: –

- (a) publishing an electoral advertisement, handbill or pamphlet or issuing an electoral notice (other than the announcement by advertisement in a newspaper of the holding of a meeting) without the name and address of the person authorizing the publication or issue being printed at the foot of it;
- (b) printing or publishing a printed electoral advertisement, handbill or pamphlet (other than an advertisement in a newspaper) without the name and place of business of the printer being printed at the foot of it;
- (c) printing, publishing or distributing an electoral advertisement, notice, handbill, pamphlet or card containing a representation of a ballot paper or a representation apparently intended to represent a ballot paper, and having on it any directions intended or likely to mislead or improperly interfere with an elector in or in relation to the casting of his vote;
- (d) printing, publishing or distributing an electoral advertisement, notice, handbill, pamphlet or card containing an untrue or incorrect statement intended or likely to mislead or interfere improperly with an elector in or in relation to the casting of his vote;
- (e) wilfully informing an elector during the polling period that he is not enrolled or entitled to be enrolled for a particular constituency or is not entitled to vote, when as a fact he is enrolled or entitled to be enrolled for that constituency or is entitled to vote, as the case may be.

(2) Nothing in Subsection (1)(c) or (d) prevents the printing, publishing or distributing of a card, not otherwise illegal, which contains instructions on how to vote for a particular candidate, so long as those instructions are not intended or likely to mislead an elector in or in relation to the casting of his vote.

(3) A person guilty of an illegal practice under this section is guilty of an offence.

Penalty: A fine not exceeding K200.00 or imprisonment for a term not exceeding six months.

179. HEADING TO ELECTORAL ADVERTISEMENT.

(1) The proprietor of a newspaper shall cause the word "advertisement" to be printed as a headline, in letters not smaller than 10 point or long primer, to each article or paragraph in his newspaper containing electoral matter, the insertion of which is or is to be paid for or for which a reward or compensation or promise of reward or compensation is, or is to be, made.

(2) A proprietor of a newspaper, who fails to comply with Subsection (1), is guilty of an offence.

Penalty: A fine not exceeding K1,000.00

(3) In Subsection (1), "electoral matter" includes all matter intended or calculated to affect the result of the election, and a report of the speech of a candidate if the report is, or is to be, paid for.

180. ARTICLES TO BE SIGNED.

(1) On and after the date of issue and before the return of a writ for the election of a member, or for a recall poll, every article, report, letter or other matter commenting upon a candidate or political party, or in the case of a recall poll the member whose recall is the subject of the poll, printed and published in a newspaper, circular, pamphlet or dodger shall be signed by the author, giving his true name and address at the end of the article, report, letter or other matter, or where part only of the article, report, letter or matter appears in any issue of a newspaper, circular, pamphlet or dodger, at the end of that part.

(2) The author of an article, report, letter or other matter commenting upon a candidate or political party, printed and published in a newspaper, circular, pamphlet or dodger, who fails to comply with Subsection (1) is guilty of an offence.

Penalty: A fine not exceeding K1,000.00.

(3) A newspaper editor or proprietor who permits, in a newspaper which he edits or owns, the publication of an unsigned article, report, letter or other matter commenting upon a candidate or political party or in the case of a recall poll the member whose recall is the subject of the poll, after the issue and before the return of any writ for the election of a member, is guilty of an offence.

Penalty: A fine not exceeding K1,000.00.

(4) This section does not apply to the publication in a newspaper of –

- (a) a leading article; or
- (b) an article in a newspaper which consists solely of a report of a meeting and does not contain any comment (other than comment made by a speaker at the meeting) upon a candidate or political party, or in the case of a recall poll the member whose recall is the subject of the poll.

181. MATTER BROADCAST.

(1) On and after the date of issue and before the return of a writ for the election of a member or for a recall poll, a person who broadcasts or televises or permits to be broadcast or televised, from a broadcasting station or television station an announcement, statement or other matter commenting upon a candidate or political party, or, in the case of a recall poll, the member whose recall is the subject of the poll, unless that announcement, statement or other matter includes the true name and address of the author of it, is guilty of an offence.

Penalty: A fine not exceeding K1,000.00.

(2) Where an announcement, statement or other matter is broadcast or televised in contravention of Subsection (1), the person who supplied the announcement, statement or other matter to the broadcasting station or television station for broadcasting or televising is, unless he proves that the true name and address of the author were included in the announcement, statement or other matter so supplied, guilty of an offence.

Penalty: A fine not exceeding K1,000.00.

(3) This section does not apply to the inclusion in a summary of news of a report of a meeting which contains no comment (other than comment made by a speaker at the meeting) upon a candidate or political party, or, in the case of a recall poll, the member whose recall is the subject of the poll.

(4) For the purposes of this section, "broadcasting station" means a station broadcasting messages by means of wireless telegraphy or any form of telecommunications.

182. DISPLAY OF CERTAIN ELECTORAL POSTERS PROHIBITED.

(1) Subject to this section, a person who writes, draws or depicts electoral matters directly on a roadway, footpath, building, vehicle, vessel, hoarding or place (whether it is or is not a public place or in a public place, and whether on land or water or in the air), is guilty of an offence.

Penalty: A fine not exceeding K200.00.

(2) The application of Subsection (1) extends in relation to an election although the writ for that election has not been issued.

(3) Nothing in this section prohibits –

- (a) the posting up, exhibiting, writing, drawing or depicting of a sign on or at the office or committee room of a candidate or political party indicating only that the office or room is the office or committee room of the candidate or party, and specifying the name of the candidate or the name of the party concerned; or
- (b) the projection, by means of a cinematograph or other similar apparatus, of electoral matter onto a screen in a public theatre, hall or premises used for public entertainment.

(4) In this section –

"electoral matter" means any matter intended or calculated to affect the result of an election;

"electoral poster" means any material whatsoever on which electoral matter is written, drawn or depicted.

183. REMOVAL OF PROHIBITED ELECTORAL POSTER.

(1) A member of the Police may, and shall, if so directed by the Commissioner or by a Returning Officer –

- (a) remove an electoral poster which appears to have been posted up or to be exhibited in contravention of Section 182; or
- (b) obliterate electoral matter which appears to have been written, drawn or depicted in contravention of that section.

(2) A person who obstructs or hinders a member of the Police in the exercise or attempted exercise of any power or in the discharge or attempted discharge of any duty, conferred or imposed upon that member of the Police under this section, is guilty of an offence.

Penalty: A fine not exceeding K200.00.

184. INJUNCTIONS.

For the purpose of ensuring compliance with Section 182, the Bougainville High Court may, upon the application of an officer, grant an injunction –

- (a) restraining an apprehended contravention of that section; or
- (b) directing the removal of an electoral poster posted up or exhibited in contravention of that section, or the obliteration of electoral matter written, drawn or depicted in contravention of that section,

and may make an order incidental or supplementary to an order under this section, including an order as to costs.

185. CARDS IN POLLING BOOTHS.

(1) A person, who exhibits or leaves in a polling booth a card or paper having on it a direction or instruction as to how an elector should vote or as to the method of voting, is guilty of an offence.

Penalty: A fine not exceeding K200.00.

(2) This section does not apply to official instructions exhibited by electoral officers at the direction of the Commissioner at a polling booth.

186. UNTRUE STATEMENTS IN ELECTORAL PAPER, ETC.

(1) A person who makes an untrue statement in an electoral paper, or in answer to a question under this Act or in information supplied to an officer for the purposes of the preparation, maintenance or revision of a Roll, is guilty of an offence.

Penalty: A fine not exceeding K200.00.

(2) In Subsection (1), "electoral paper" includes an approved form.

187. SIGNATURE TO ELECTORAL PAPER.

(1) Every electoral paper which by this Act has to be signed by a person, shall be signed by that person with his personal signature and in the case of the Commissioner by the personal signature of the Commissioner.

(2) Where a person who is unable to sign his name in writing makes his mark as his signature to an electoral paper, the mark shall be deemed to be his personal signature, if it is identifiable as such and is made in the presence of a witness who signs the electoral paper as a witness to the signature.

(3) A person who makes the signature of any other person on an electoral paper is guilty of an offence.

Penalty: A fine not exceeding K200.00.

(4) In this section, "electoral paper" includes an approved form.

188. WITNESSING ELECTORAL PAPERS.

(1) A person who –

- (a) signs his name as witness on a blank electoral paper; or
- (b) signs his name as witness on an electoral paper which has been wholly or partly filled in unless it has been signed by the person intended to sign it; or
- (c) signs his name as witness on an electoral paper unless he has seen the person whose signature he purports to witness sign it; or
- (d) writes on an electoral paper as his own name-
 - (i) the name of another person; or
 - (ii) any name not being his own name,

is guilty of an offence.

Penalty: A fine not exceeding K200.00.

(2) In Subsection (1), "electoral paper" includes an approved form.

189. MAKING MARKS ON BALLOT PAPERS.

Except where expressly authorized by or under this Act, a person (other than the elector to whom the ballot paper has been lawfully issued), who makes a mark or writing on the ballot paper of an elector, is guilty of an offence.

Penalty: A fine not exceeding K200.00.

190. ELECTORAL OFFENCES.

The matters specified in Column 1 of the Table in this section are electoral offences punishable in accordance with the provision in Column 2 of that Table opposite the statement of the offence in Column 1.

Column 1. – Offences	Column 2. – Punishments.
1. Voting more than once in any one category at an election.	A fine not exceeding K200.00 or imprisonment for a term not exceeding three months.
2. Wagering on the result of an election.	A fine not exceeding K200.00.
3. Wilfully defacing, mutilating, destroying or removing a notice, list or other document affixed by a Returning Officer or by his authority.	A fine not exceeding K200.00.
4. Knowingly making a false statement in a claim, application, return or declaration or in answer to a question put under this Act.	Imprisonment for a term not exceeding six months.
5. Distributing an advertisement, handbill or pamphlet published in contravention of Section 178.	A fine not exceeding K200.00 or imprisonment for a term not exceeding one month.
6. Any contravention of these electoral provisions for which no other punishment is provided.	A fine not exceeding K200.00.
7. Falsely personating a person to secure a ballot paper to which the personator is not entitled, or personating any other person for the purposes of voting.	Imprisonment for a term not exceeding six months.
8. Fraudulently destroying or defacing a nomination paper or ballot paper.	Imprisonment for a term not exceeding six months.
9. Fraudulently putting a ballot paper or other paper into a ballot box.	Imprisonment for a term not exceeding six months.
10. Fraudulently taking a ballot paper out of a polling booth.	Imprisonment for a term not exceeding six months.
11. Taking a ballot paper out of a polling booth.	A fine not exceeding K200.00.
12. Forging or uttering knowing it to be forged, a nomination paper or ballot paper.	Imprisonment for a term not exceeding six months.

13. In a polling booth during the polling, misconducting himself, or failing to obey the lawful directions of the presiding officer.	A fine not exceeding K200.00 or imprisonment for a term not exceeding one month.
14. Supplying ballot papers without authority.	Imprisonment for a term not exceeding six months.
15. Unlawfully destroying, taking, opening or otherwise interfering with ballot boxes or ballot papers.	Imprisonment for a term not exceeding six months.
16. Removing or attempting to remove, cover or disguise the indelible ink applied under Section 110.	Imprisonment for a term not exceeding six months.

191. PROHIBITION OF CANVASSING NEAR POLLING BOOTH.

(1) A person who, during the polling period and on all days to which the polling is adjourned, at an entrance of or within a polling booth, or within 7 m of an entrance of a polling booth –

- (a) canvasses for votes; or
- (b) solicits the vote of an elector; or
- (c) induces an elector not to vote for a particular candidate; or
- (d) induces an elector not to vote at the election; or
- (e) exhibits a notice or sign (other than an official notice) relating to the election,

is guilty of an offence.

Penalty: A fine not exceeding K200.00.

(2) Where –

- (a) a building used as a polling booth is situated in grounds within an enclosure; and
- (b) the presiding officer at the polling booth causes to be displayed throughout the polling at each entrance to those grounds a notice signed by him stating that those grounds are part of the polling booth,

those grounds shall, for the purposes of Subsection (1), be deemed to be part of a polling booth.

192. BADGES OR EMBLEMS IN POLLING BOOTHS.

An officer or scrutineer who wears or displays in a polling booth during the polling period a badge or emblem of a candidate or political party is guilty of an offence.

Penalty: A fine not exceeding K200.00.

193. FAILURE TO TRANSMIT CLAIMS.

A person who accepts a claim for enrolment or transfer of enrolment for transmission to a Returning Officer and who fails to transmit the claim to the Returning Officer forthwith, is guilty of an offence.

Penalty: A fine not exceeding K200.00.

194. FORGING OR UTTERING ELECTORAL PAPERS.

(1) A person who –
(a) forges an electoral paper; or
(b) utters a forged electoral paper, knowing it to be forged,
is guilty of an offence.

Penalty: Imprisonment for a term not exceeding six months.

(2) In Subsection (1), “electoral paper” includes an approved form.

195. EMPLOYERS TO ALLOW EMPLOYEES LEAVE OF ABSENCE TO VOTE.

(1) If an employee who is an elector notifies his employer that he desires leave of absence to enable him to vote at an election, the employer shall, if the absence desired is necessary to enable the employee to vote at the election, allow him leave of absence without any penalty or disproportionate deduction of pay for such reasonable period as is necessary to enable the employee to vote at the election.

(2) An employer, who fails to comply with Subsection (1), is guilty of an offence.

Penalty: A fine not exceeding K200.00.

(3) An employee who obtains leave of absence under this section under pretence that he intends to vote at the election but without the *bona fide* intention of doing so, is guilty of an offence.

Penalty: A fine not exceeding K200.00

(4) Subsections (1) and (2) do not apply to an elector whose absence may cause danger or substantial loss in respect of the employment in which he is engaged.

196. PROTECTION OF THE OFFICIAL MARK.

(1) A person who, without lawful authority (proof of which is on him) –
(a) makes an official mark on or in a paper; or
(b) has in his possession a paper bearing an official mark; or
(c) makes use of or has in his possession an instrument capable of making on or in a paper an official mark,
is guilty of an offence.

Penalty: A fine not exceeding K200.00.

(2) A person who, without lawful authority (proof of which is on him) makes on or in a ballot paper, or on or in a paper purporting to be a ballot paper, an official mark, shall be deemed to have forged an electoral paper and is punishable accordingly.

(3) All paper bearing an official mark, and all instruments capable of making on or in a paper an official mark, made or used by, or in the possession of, a person without lawful authority (proof of which authority is on him) are forfeited to the Commissioner and may without warrant be seized by any member of the Police and destroyed or dealt with as prescribed.

(4) In this section, "official mark" means a prescribed mark to be placed or made on or in an electoral paper, and includes a mark so nearly resembling an official mark as to be likely to deceive.

197. DISORDERLY BEHAVIOUR AT MEETING.

(1) This section applies to any lawful public political meeting held in relation to an election or recall poll between the date of the issue of the writ for the election and the date of the return of the writ.

(2) A person who, at a public meeting to which this section applies, acts in a disorderly manner for the purpose of preventing the transaction of the business for which the meeting is held, is guilty of an offence.

Penalty: A fine not exceeding K200.00 or imprisonment for a term not exceeding one month.

(3) The Chairman of a public meeting to which this section applies may direct any member of the Police to remove from the room, building or place in which the meeting is being held a person who, in the opinion of the Chairman, is preventing the transaction of the business for which the meeting is held, and thereupon the member of the Police may take such steps as are necessary for the removal of the person from the room, building or place.

(4) A person –
(a) who has been removed from a room or building in accordance with a direction given under Subsection (3); or
(b) whose removal from a room, building or place has been directed under Subsection (3) and who has left that room, building or place,
and who, without the authority of the Chairman (proof of which authority is on that person) returns to that room or building while the meeting is in progress, is guilty of an offence.

Penalty: A fine not exceeding K200.00 or imprisonment for a term not exceeding one month.

(5) A member of the Police may arrest without warrant a person who commits an offence against Subsection (4).

198. NEGLECT TO INITIAL BALLOT PAPER, ETC.

An officer who, contrary to his duty, fails to initial a ballot paper, correctly to mark a certified list of voters, or properly to attest a declaration, is guilty of an offence.

Penalty: A fine not exceeding K200.00.

199. OFFENDER MAY BE REMOVED FROM POLLING BOOTH.

(1) A person who, in a polling booth during the polling, misconducts himself, or fails to obey the lawful direction of the presiding officer, may be removed from the polling booth by a member of the Police or by a person authorized by the presiding officer.

(2) A person who has been removed from a polling booth by direction of the presiding officer under Subsection (1) and who re-enters the polling booth without the permission of the presiding officer is guilty of a further electoral offence, punishable on conviction by twice the penalty prescribed by Section 189 for the original offence.

200. DEFAMATION OF CANDIDATE.

(1) Subject to Subsection (2), a person who makes or publishes a false and defamatory statement in relation to the personal character or conduct of a candidate, or, in the case of a recall poll under Part XVIII the member whose recall is the subject of the poll, is guilty of an offence.

Penalty: A fine not exceeding K200.00 or imprisonment for a term not exceeding six months.

(2) It is a defence to a prosecution for an offence against Subsection (1), if the defendant proves that he had reasonable grounds for believing and did in fact believe the statement made or published by him to be true.

(3) A person who makes a false and defamatory statement in relation to the personal character or conduct of a candidate or member in contravention of this section may be restrained by injunction, at the suit of the candidate aggrieved, from repeating the statement or any similar false and defamatory statement.

201. PUBLICATION OF MATTER REGARDING CANDIDATES.

(1) Subject to this section, where in any matter announced or published by a person, or caused by a person to be announced or published, on behalf of an association, league, organization or other body of persons, it is, without the authority of the candidate (proof of which authority is on that person) –

(a) claimed or suggested that a candidate in an election is associated with, or supports the policy or activities of, that association, league, organization or other body of persons; or

(b) expressly or impliedly advocated or suggested that that candidate is the candidate for which a vote should be given, that person is guilty of an offence.

Penalty: A fine not exceeding K200.00 or imprisonment for a term not exceeding three months.

(2) Where any matter, the announcement or publication of which by a person without the written authority of a candidate would be an offence against Subsection (1) on the part of that person, is announced or published by or on behalf of, or with the support of, an association, league, organization or other body of persons, every person who was an officer of that association, league, organization or other body at the time of that announcement or publication shall be deemed to be guilty of an offence against that subsection.

(3) For the purposes of this section, where any matter purports expressly or impliedly to be announced or published by or on behalf of, or in the interests or with the support of, an association, league, organization or other body of persons the matter shall, in the absence of proof to the contrary, be deemed to be announced or published by or on behalf of, or with the support of, as the case may be, that association, league, organization or other body of persons.

(4) Nothing in the preceding provisions of this section applies to or in relation to an announcement or publication made or authorized by a registered political party or by a branch of a registered political party respecting a candidate who, by public announcement, has declared his intention to be a candidate on behalf of or in the interests of that party.

202. LIABILITY FOR INDIRECT ACTS.

Every person is liable for an illegal practice or an offence against this Part committed directly or indirectly by himself, or by any other person on his behalf and with his knowledge or authority.

PART XX. – DISPUTED ELECTIONS, RETURNS, ETC.,

203. METHOD OF DISPUTING RETURNS.

(1) Subject to Subsection (2), the validity of an election, recall poll or return under this Act may be disputed by petition addressed to the Bougainville High Court and not otherwise.

(2) In the event that the Bougainville High Court has not been established, the validity of an election, recall poll or return under this Act may be disputed by petition addressed to the National Court and not otherwise, and all references in this Part and in Sections 135, 136 and 184 to the Bougainville High Court shall be read and treated as references to the National Court.

204. EXERCISE OF JURISDICTION OF BOUGAINVILLE HIGH COURT.

The jurisdiction of the Bougainville High Court in relation to any matter under this Part may be exercised by a Judge of the Bougainville High Court.

205. REQUISITES OF PETITION.

A petition shall –

- (a) set out the facts relied on to invalidate the election, recall poll or return; and
- (b) specify the relief to which the petitioner claims to be entitled; and
- (c) be signed by a candidate at the election in dispute (or in the case of a recall poll by the member whose recall was the subject of the poll) or by a person who was qualified to vote at the election or recall poll or by the Commissioner; and
- (d) be attested by two witnesses whose occupations and addresses are stated; and
- (e) be filed in the Registry of the Bougainville High Court at Buka, or elsewhere as directed by the Bougainville High Court, within one month after the declaration of the result of the election in accordance with Section 145(1)(a) or the result of the recall poll under Section 176(1)(a).

206. DEPOSIT AS SECURITY FOR COSTS.

At the time of filing the petition the petitioner shall deposit with the Bougainville High Court the sum of K2,000.00 as security for costs.

207. NO PROCEEDINGS UNLESS REQUISITES COMPLIED WITH.

Proceedings shall not be had on a petition unless the requirements of Sections 205 and 206 are complied with.

208. RIGHT OF COMMISSIONER TO BE REPRESENTED.

The Commissioner may, by leave of the Bougainville High Court, enter an appearance in any proceedings in which the validity of an election or return is disputed, and be represented and heard in the proceedings, and in that case shall be deemed to be a party respondent to the petition.

209. POWERS OF BOUGAINVILLE HIGH COURT.

(1) In relation to any matter under this Part, the Bougainville High Court shall sit as an open court and may, amongst other things –

- (a) adjourn; and
- (b) compel the attendance of witnesses and the production of documents; and
- (c) grant to a party to a petition leave to inspect, in the presence of the Returning Officer, the Rolls and other documents (except ballot papers) used at or in connection with an election (including a recall

- poll) and take, in the presence of the Returning Officer, extracts from those Rolls and documents; and
- (d) order a recount of ballot papers in a constituency or a recall poll; and
 - (e) examine witnesses on oath; and
 - (f) declare that a person who was returned as elected was not duly elected; and
 - (g) declare a candidate duly elected who was not returned as elected; and
 - (h) declare that a member, declared to have been recalled, was not recalled; and
 - (i) declare that a member, declared not to have been recalled, was recalled; and
 - (j) declare an election or recall poll absolutely void; and
 - (k) dismiss or uphold a petition in whole or in part; and
 - (l) award costs; and
 - (m) punish contempt of its authority by fine or imprisonment.

(2) The Bougainville High Court may exercise all or any of its powers under this section on such grounds as the Bougainville High Court in its discretion thinks just and sufficient.

(3) Without limiting the powers conferred by this section, the power of the Bougainville High Court referred to in Subsection (1) (f) to (i) inclusive may be exercised on the ground that illegal practices were committed in connection with the election.

210. PRODUCTION OF PAPERS OR DOCUMENTS, ETC.

- (1) Without limiting the powers conferred by Section 209 –
- (a) when it is proved that a ballot paper issued under Section 111 or 167 has, in an election, been marked by a person who was not entitled to vote at the election, the Bougainville High Court may require the production of any other papers or documents relating to the ballot papers issued under that section; and
 - (b) the Bougainville High Court may reject a ballot paper.

(2) The production from proper custody of a ballot paper purporting to have been used in an election and bearing an official number, and of other papers or documents referred to in Subsection (1)(a) bearing an official number corresponding to the official number on the ballot paper, is *prima facie* evidence that the person who marked the ballot paper was the person who made the declaration.

(3) In Subsection (2), “official number” means a number purporting to have been placed on the ballot paper under this Act.

211. INQUIRIES BY BOUGAINVILLE HIGH COURT.

The Bougainville High Court shall inquire whether or not the petition is duly signed, and so far as Rolls and voting are concerned may inquire into the identity of

persons and whether their votes were improperly admitted or rejected, assuming the Roll to be correct, but the Bougainville High Court shall not inquire into the correctness of a Roll.

212. VOIDING ELECTION FOR ILLEGAL PRACTICES.

(1) If the Bougainville High Court finds that a candidate has committed or has attempted to commit bribery or undue influence, his election, if he is the successful candidate, shall be declared void.

(2) A finding by the Bougainville High Court under Subsection (1) does not bar or prejudice a prosecution for an illegal practice.

(3) The Bougainville High Court shall not declare that a person returned as elected was not duly elected, or declare an election or recall poll void –

(a) on the ground of an illegal practice committed by a person other than the candidate (or in the case of a recall poll the member whose recall was the subject of the poll) and without the candidate's (or, in the case of a recall poll, the member's) knowledge or authority; or

(b) on the ground of an illegal practice other than bribery or undue influence or attempted bribery or undue influence,

unless the Bougainville High Court is satisfied that the result of the election or recall poll was likely to be affected, and that it is just that the candidate should be declared not to be duly elected or that the election or recall poll should be declared void.

213. BOUGAINVILLE HIGH COURT TO REPORT CASE OF ILLEGAL PRACTICE.

Where the Bougainville High Court finds that a person has committed an illegal practice, the Registrar of the Bougainville High Court shall promptly –

(a) report the finding to –

(i) the Speaker; and

(ii) the Commissioner; and

(iii) the Bougainville Prosecutor (or where that office has not been established, the Public Prosecutor); and

(iv) the Commissioner for Police (or where the Bougainville Police Service has been established the Chief of Bougainville Police); and

(b) forward all papers relevant to the finding to the Commissioner of Police (or where the Bougainville Police Service has been established, the Chief of Bougainville Police).

214. NATURAL JUSTICE TO BE OBSERVED.

The Bougainville High Court shall be guided by the substantial merits and good conscience of each case without regard to legal forms or technicalities, or whether the evidence before it is in accordance with the law of evidence or not, and shall comply with the principles of natural justice.

215. IMMATERIAL ERRORS NOT TO VITIATE ELECTION.

(1) Subject to Subsection (2), an election or recall poll shall not be avoided on account of a delay in the declaration of nominations, the polling, the declaration of the poll or the return of the writ, or on account of the absence or an error of, or an omission by, an officer which did not affect the result of the election or recall poll.

(2) Where an elector was, on account of the absence of, or an error or an omission by, an officer, prevented from voting in an election or recall poll, the Bougainville High Court shall not for the purpose of determining whether the absence of, or error or the omission by, the officer did or did not affect the result of the election or recall poll, admit evidence of the way in which the elector intended to vote in the election or recall poll.

216. EVIDENCE THAT PERSON NOT PERMITTED TO VOTE.

On the trial of a petition, the Bougainville High Court shall not admit the evidence of a witness that he was not permitted to vote in an election or recall poll during the hours of polling in the polling period unless the witness satisfies the Bougainville High Court –

- (a) that he claimed to vote in the election or recall poll, under that provision of this Act under which he was entitled or might be permitted to vote; and
- (b) that he complied with the requirements of this Act relating to voting by electors in so far as he was permitted to do so.

217. DECISION TO BE FINAL.

A decision of the Bougainville High Court on or in relation to a petition under this Part is final and conclusive and without appeal, and shall not be questioned in any way.

218. COPIES OF PETITION AND ORDER OF BOUGAINVILLE HIGH COURT TO BE SENT TO THE PRESIDENT AND THE SPEAKER.

The Bougainville High Court shall promptly after the filing of a petition forward to the President and to the Speaker a copy of the petition, and after the trial of the petition shall promptly forward to the President and to the Speaker a copy of the order of the Bougainville High Court.

219. COUNSEL OR SOLICITOR.

(1) A party to a petition shall not, except by consent of all parties or leave of the Bougainville High Court, be represented by counsel or by a solicitor.

(2) In no case shall more than one counsel appear on behalf of a party.

220. COSTS.

The Bougainville High Court may award costs against an unsuccessful party to a petition.

221. DEPOSITS APPLICABLE FOR COSTS.

If costs are awarded to a party against the petitioner, the deposit lodged under Section 204 is applicable in payment of the sum ordered, but otherwise the deposit shall be paid to the petitioner.

222. OTHER COSTS.

All other costs awarded by the Bougainville High Court, including any balance above the deposit payable by the petitioner, are recoverable as if the order of the Bougainville High Court were a judgement of the Bougainville High Court, and the order, certified by the Bougainville High Court, may be entered as a judgement of the Bougainville High Court and enforced accordingly.

223. EFFECT OF DECISIONS.

Effect shall be given to a decision of the Bougainville High Court as follows:—

- (a) if a person returned is declared not to have been duly elected, he shall cease to be a member or the President, as the case may be; and
- (b) if a person not returned is declared to have been duly elected, he may take his seat accordingly; and
- (c) if an election is declared absolutely void a new election shall be held; and
- (d) in the case of a recall poll —
 - (i) if a member returned as recalled is declared not to have been recalled, he is restored as a member of the House of Representatives and a person declared to have been elected to the House of Representatives in the by-election ceases to be a member; and
 - (ii) if a member returned as not recalled is declared to have been recalled, he ceases to be member of the House of Representatives, and the result of the by-election shall be determined by scrutiny.

224. DEFINITION OF “PETITION”.

In this Part, “petition” means a petition disputing an election or return.

PART XXI. – MISCELLANEOUS.

225. COUNCIL OF ELDERS RULES ON ADVERTISING, ETC.,

Any rule of a Council of Elders dealing with advertising, publishing of matter or any similar matter that —

- (a) discriminates or may discriminate against any candidate or class of candidates at an election; or
- (b) gives preference or may give preference to one candidate over another candidate in an election; or
- (c) gives preference or may give preference to one registered political party over another registered political party; or
- (d) allows a Council of Elders to do any of the matters specified in Paragraphs (a), (b) or (c),

is, to the extent that it discriminates, may discriminate, gives preference, may give preference, or allows a Council of Elders to discriminate or give preference, void.

226. INSTITUTION OF PROCEEDINGS FOR OFFENCES.

(1) The Commissioner shall, where the Bougainville Prosecutor (or, where the office of Bougainville Prosecutor has not been established, the Public Prosecutor) so advises, institute legal proceedings against a person committing an offence against this Act.

(2) Nothing in Subsection (1) affects the rights of any person to institute proceedings in respect of an offence against this Act.

227. CERTIFICATE EVIDENCE.

On a prosecution under this Act, the certificate of the Commissioner or the Returning Officer that an election or recall poll referred to in the certificate was duly held and that the person named in the certificate was a candidate at the election is evidence of the matters stated.

228. ELECTORAL MATTER MAY BE SENT BY ELECTRONIC MEANS.

(1) In all cases where it is impracticable to communicate any electoral matter by post or otherwise without occasioning undue delay, any electronic advice communicated in the ordinary course shall suffice for all the purposes of this Act as if the matter sent electronically had been communicated in the manner prescribed by this Act.

(2) Subject to Subsection (3), where, after the result of an election has been declared, the Returning Officer has certified by electronic communication addressed to the Commissioner –

(a) that by reason of distance, or the infrequency of, or any interruption to, the postal services, the writ for the election, endorsed by the Returning Officer with the name of the candidate elected, cannot reach the Commissioner within 21 days; and

(b) the name of the candidate elected,

the Commissioner may endorse upon a copy of the writ a certified copy of the electronic communication received by him, and the copy so endorsed shall have the same force and effect as if it were the original writ duly endorsed by the Returning Officer.

(3) If, upon the return of an original writ, any inconsistency is found to exist between the original writ and the copy of the writ endorsed under Subsection (2) as to the name of the candidate elected, the copy shall thereupon cease to have any force or effect, and action shall be taken in accordance with the endorsement on the original writ.

229. AVERMENTS DEEMED TO BE PROVED.

In a prosecution in a Court of summary jurisdiction in respect of a contravention of the provisions of this Act relating to compulsory enrolment, instituted by an officer or by a person acting under the direction of an officer, the averments of the prosecutor contained in

the information or complaint shall be deemed to be proved in the absence of evidence to the contrary.

230. DEFENDANT MAY BE CALLED UPON TO GIVE EVIDENCE.

Where a person has secured enrolment in pursuance of an electoral claim, or has made a claim for enrolment or transfer of enrolment, and proceedings arise in a Court of competent jurisdiction in respect of the claim for enrolment or transfer of enrolment, the person may be called upon to give evidence upon oath to the Court as to the truth of the statements contained in the claim for enrolment or transfer of enrolment.

231. PRODUCTION OF CLAIMS FOR ENROLMENT, ETC.,

(1) A person who is, or has been, an officer shall not, except for the purposes of this Act, be required –

- (a) to produce in Court, or give evidence of, a claim for enrolment or transfer of enrolment under this Act; or
- (b) to divulge or communicate to a Court any matter or thing in relation to a claim for enrolment or transfer of enrolment under this Act, being a matter or thing that has come under his notice in the performance of his duties or functions under this Act.

(2) In this section, “officer” includes any person performing duties, or exercising powers or functions, under or in relation to this Act.

232. PRESERVATION OF BALLOT PAPERS.

(1) At the end of the polling period, the presiding officer at each polling place shall –

- (a) place the certified list of voters for the polling place used in the polling place in a sealed parcel; and
- (b) endorse on the parcel a description of its contents; and
- (c) transmit the parcel to the Returning Officer with the least possible delay.

(2) Subject to Subsection (3), all ballot papers, certified lists of votes and declarations used at or in connection with an election shall be preserved until the election can no longer be questioned, when they shall be destroyed.

(3) Ballot papers, certified lists of voters and declarations referred to in Subsection (2) shall be preserved for a period of at least six months after the date of the declaration of the poll.

233. REGULATIONS.

The Bougainville Executive Council may make Regulations not inconsistent with this Act, prescribing all matters that 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, and in particular for prescribing penalties not exceeding K200.00 for contraventions of the Regulations.

SCHEDULE.

**WRIT FOR A GENERAL ELECTION OF PRESIDENT OF THE AUTONOMOUS
REGION OF BOUGAINVILLE**

SECTION 66 (1)(a)

FORM 1

To: Returning Officer for the Constituency for the election of
President (being all the constituencies for the election of members of single member
constituencies taken together)

GREETING:

This is to command you to cause election to be made according to law of the President of
the Autonomous Region of Bougainville, and I appoint the following dates for the purpose
of the said election:-

1. For nomination..... 200
2. For the first day of the polling period in the constituency if the election is contested
..... 200.
3. For the last day of the polling period in the constituency if the election is contested
..... 200.
4. For the return of the writ, on or before 200

GIVEN under my hand at the day of 200

SPEAKER OF THE HOUSE OF REPRESENTATIVES.

**WRIT FOR AN ELECTION OF PRESIDENT OF THE AUTONOMOUS REGION
OF BOUGAINVILLE TO FILL A CASUAL VACANCY.**

SECTION 66 (1)(a)

FORM 2

To: Returning Officer for the Constituency for the election of
President (being all the constituencies for the election of members of single member
constituencies taken together).

GREETING:

This is to command you to cause election to be made according to law to fill the vacant
office of President of the Autonomous Region of Bougainville, and I appoint the following
dates for the purpose of the said election:-

1. For nomination 200
2. For the first day of the polling period in the constituency if the election is
contested 200.
3. For the last day of the polling period in the constituency if the election is
contested200.
4. For the return of the writ, on or before 200

GIVEN under my hand at the day of 200

SPEAKER OF THE HOUSE OF REPRESENTATIVES.

WRIT FOR A GENERAL ELECTION OF MEMBERS (REPRESENTING SINGLE MEMBER CONSTITUENCIES) OF THE HOUSE OF REPRESENTATIVES.

SECTION 66 (1)(b)

FORM 3

To: Returning Officer for
..... Constituency

GREETING:

This is to command you to cause election to be made according to law of the Member of the House of Representatives for the constituency to serve in the House of Representatives, and I appoint the following dates for the purpose of the said election:—

1. For nomination 200
2. For the first day of the polling period in the constituency if the election is contested 200
3. For the last day of the polling period in the constituency if the election is contested200
4. For the return of the writ, on or before200

GIVEN under my hand at the day of 200

SPEAKER OF THE HOUSE OF REPRESENTATIVES.

WRIT FOR AN ELECTION OF A MEMBER (REPRESENTING A SINGLE MEMBER CONSTITUENCY) OF THE HOUSE OF REPRESENTATIVES TO FILL A CASUAL VACANCY.

SECTION 66 (1)(b)

FORM 4

To: Returning Officer for
..... Constituency.

GREETING:

This is to command you to cause election to be made according to law of one Member of the House of Representatives to fill the vacant office for the..... constituency to serve in the House of Representatives, and I appoint the following dates for the purpose of the said election:-

1. For nomination200
2. For the first day of the polling period in the constituency if the election is contested 200.
3. For the last day of the polling period in the constituency if the election is contested 200.
4. For the return of the writ, on or before 200

GIVEN under my hand at the day of 200

SPEAKER OF THE HOUSE OF REPRESENTATIVES.

WRIT FOR A GENERAL ELECTION FOR A WOMAN MEMBER OF THE HOUSE OF REPRESENTATIVES TO REPRESENT THE INTERESTS OF WOMEN.

SECTION 66 (1)(c)

FORM 5

To: Returning Officer for
..... Regional Constituency.

GREETING:

This is to command you to cause election to be made according to law of one Woman Member of the House of Representatives to serve in the House of Representatives for the Regional constituency to represent the interests of women, and I appoint the following dates for the purpose of the said election:—

1. For nomination200
2. For the first day of the polling period in the constituency if the election is contested 200.
3. For the last day of the polling period in the constituency if the election is contested 200.
4. For the return of the writ, on or before 200

GIVEN under my hand at the day of 200

SPEAKER OF THE HOUSE OF REPRESENTATIVES.

WRIT FOR AN ELECTION FOR A WOMAN MEMBER OF THE HOUSE OF REPRESENTATIVES TO REPRESENT THE INTERESTS OF WOMEN TO FILL A CASUAL VACANCY.

SECTION 66 (1)(c)

FORM 6

To: Returning Officer for
..... Regional Constituency.

GREETING:

This is to command you to cause election to be made according to law to fill a casual vacancy of one Woman Member of the House of Representatives to serve in the House of Representatives for the Regional constituency to represent the interests of women, and I appoint the following dates for the purpose of the said election:—

1. For nomination 200
2. For the first day of the polling period in the constituency if the election is contested 200.
3. For the last day of the polling period in the constituency if the election is contested 200.
4. For the return of the writ, on or before 200

GIVEN under my hand at the day of 200

SPEAKER OF THE HOUSE OF REPRESENTATIVES.

**WRIT FOR A GENERAL ELECTION OF A FORMER COMBATANT MEMBER
OF THE HOUSE OF REPRESENTATIVES TO REPRESENT THE INTERESTS
OF FORMER COMBATANTS.**

SECTION 66 (1)(d)

FORM 7

To: Returning Officer for
..... Regional Constituency.

GREETING:

This is to command you to cause election to be made according to law of one former combatant Member of the House of Representatives for the Regional constituency to serve in the House of Representatives to represent the interests of former combatants, and I appoint the following dates for the purpose of the said election:-

1. For nomination200
2. For the first day of the polling period in the constituency if the election is contested 200.
3. For the last day of the polling period in the constituency if the election is contested 200.
4. For the return of the writ, on or before 200

GIVEN under my hand at the day of 200

SPEAKER OF THE HOUSE OF REPRESENTATIVES.

WRIT FOR AN ELECTION OF A FORMER COMBATANT MEMBER OF THE HOUSE OF REPRESENTATIVES TO REPRESENT THE INTERESTS OF FORMER COMBATANTS TO FILL A CASUAL VACANCY.

SECTION 66 (1)(d)

FORM 8

To: Returning Officer for
..... Regional Constituency.

GREETING:

This is to command you to cause election to be made according to law to fill a casual vacancy of one former combatant Member of the House of Representatives for the Regional constituency to serve in the House of Representatives to represent the interests of former combatants, and I appoint the following dates for the purpose of the said election:—

1. For nomination 200
2. For the first day of the polling period in the constituency if the election is contested 200.
3. For the last day of the polling period in the constituency if the election is contested 200.
4. For the return of the writ, on or before 200

GIVEN under my hand at the day of 200

SPEAKER OF THE HOUSE OF REPRESENTATIVES.

FORM 9.

GREETINGS:

1. For the first day of the polling period in the constituency200
2. For the last day of the polling period in the constituency200
3. For the return of the writ, on or before

GIVEN under my hand at the day of 200

SPEAKER OF THE HOUSE OF REPRESENTATIVES.

WRIT FOR AN ELECTION OF PRESIDENT OF THE AUTONOMOUS REGION OF BOUGAINVILLE, TO BE HELD IN CONJUNCTION WITH A RECALL POLL.

SECTION 152 (1)(b)

FORM 10

To Returning Officer for the Constituency for the election of President (being all the constituencies for the election of single member constituencies taken together).

GREETINGS:

This is to command you to cause election to be made according to law, in conjunction with a recall poll, to fill the vacant office of the President of the Autonomous Region of Bougainville, in the event that the President is recalled as a result of the recall poll, and I appoint the following dates for the purposes of the said election:-

1. For nomination 200
2. For the first day of polling in the constituency if the election is contested 200
3. For the last day of polling in the constituency if the election is contested200
4. For the return of writs, to be made only in the event that the President is recalled as a result of the recall poll, on or before 200

GIVEN under my hand at the day of 200

SPEAKER OF THE HOUSE OF REPRESENTATIVES.

WRIT FOR AN ELECTION OF A MEMBER OF THE HOUSE OF REPRESENTATIVES, TO BE HELD IN CONJUNCTION WITH A RECALL POLL.

SECTION 152 (1)(b)

FORM 12

To Returning Officer for
..... Constituency

GREETINGS:

This is to command you to cause election to be made according to law, in conjunction with a recall poll, of a member of the House of Representatives for the Constituency to serve in the House of Representatives in the event that the member for Constituency be recalled as a result of the recall poll, and I appoint the following dates for the purposes of the said election:-

1. For nomination200
2. For the first day of polling in the constituency if the election is contested 200
3. For the last day of polling in the constituency if the election is contested200
4. For the return of the writs, to be made only in the event that the member is recalled as a result of the recall poll, on or before200

SPEAKER OF THE HOUSE OF REPRESENTATIVES.

I hereby certify that the forgoing is a fair copy of the *Bougainville Elections Act 2007* which has been made by the House of Representatives.

Acting Clerk of the House of Representatives.

I, **NICHOLAS PENIAI**, Speaker of the House of Representatives, hereby certify that the *Bougainville Elections Act 2007* was made by the House of Representatives on 2^{1st} June 2007.

Speaker of the House of Representatives.

