

**AUTONOMOUS REGION OF BOUGAINVILLE.**

No. 2 of 2013

AN ACT

entitled

***Bougainville Elections (Amendment) Act 2013.***

**ARRANGEMENT OF SECTIONS.**

- 1 Commencement.
- 2 Insertion of new Section 49A. into Principal Act.
- 3 Amendment of Part IX of Principal Act.
- 4 Amendment of Section 69 of Principal Act.
- 5 Replacement of Section 70 of Principal Act.
- 6 Replacement of Section 85 of Principal Act.
- 7 Amendment of Section 106 of Principal Act.
- 8 Insertion of Section 117A. to Principal Act.
- 9 Insertion of Sections 128A. and 128B. to Principal Act.
- 10 Amendment of Section 138 of the Principal Act.

**AUTONOMOUS REGION OF BOUGAINVILLE.**

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***Bougainville Elections (Amendment) Act 2013.***

Being an Act to amend the *Bougainville Elections Act 2007*.

**MADE** by the House of Representatives.

**1. COMMENCEMENT.**

This Act commences on the date it is published in the Bougainville Gazette.

**2. INSERTION OF NEW SECTION 49A INTO PRINCIPAL ACT.**

After Section 49 of the *Bougainville Elections Act 2007*, in this Act called the “Principal Act”, insert the following new Section 49A –

**“ 49A. MAKING ELECTORAL ROLL AVAILABLE FOR INSPECTION AND APPLICATION FOR CHANGES TO THE ROLL.**

- (1) The electoral Roll must be made available for inspection by the public each calendar year during a period of not less than 14 days which must end on or before the 15<sup>th</sup> day of June.
- (2) The electoral Roll must be made available by –
  - (a) each returning officer, for each constituency, having a copy available on request; and
  - (b) copies being lodged at such places or with such other persons as the Commissioner must direct or cause to be lodged.
- (3) Any person who is eligible for registration in the electoral Roll but whose name has not been included in the Roll may make an application before the end of the inspection period for the inclusion of his or her name in the Roll.

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- (4) Before the end of the inspection period any person may make application to the Commissioner for –
  - (a) the inclusion or deletion of any names from an electoral Roll;
  - (b) the correction of any matter in an electoral Roll;
  - (c) the addition or deletion of any matter in an electoral Roll.”
- (5) A notice of each place or person appointed under Subsection (3) must be published in the Bougainville Gazette as soon as possible after the date of the appointment.”

**3. AMENDMENT OF PART IX OF PRINCIPAL ACT.**

Part IX of the Principal Act is amended –

- (a) after the title “ **PART IX – ARRANGEMENT FOR PERSONS OUTSIDE BOUGAINVILLE**”, insert the following words “ **Division 1- PERSONS OUTSIDE BOUGAINVILLE**” below it;
- (b) after Section 55 add the following new Division 2:-

**“Division 2 – POSTAL VOTERS.**

**55A. APPLICATION OF POSTAL BALLOT PAPERS.**

- (1) A registered voter who –
  - (a) is prevented by illness or physical disability from attending a polling place in order to vote in an election;
  - (b) resides outside the Autonomous Region of Bougainville or who will be outside the Autonomous Region of Bougainville during the period of an election,  
may apply for a postal ballot paper.
- (2) An application for a postal ballot paper must be postmarked or made to reach the Commissioner –
  - (a) after the day on which the list of candidates is published under Section 83 or after the 10 days before the period for elections commences, whichever is the earlier; and
  - (b) no later than –
    - (i) five days before the period for election commences, if the applicant will be outside the Autonomous Region of Bougainville during the period of election or the applicant is prevented by illness or physical disability from attending a polling place in order to vote in an election and will be in the Autonomous Region of Bougainville during the period of election;

- (ii) fourteen days before the election, if the applicant resides outside the Autonomous Region of Bougainville, however an application for a postal ballot paper received through the mail will not be accepted on or after a date three days prior to the date of the election.
- (3) The application must include –
  - (a) sufficient information to allow the right of the applicant to vote, and the constituency, with respect to which the applicant is entitled to vote, to be established;
  - (b) the address to which the applicant wishes the postal ballot paper to be forwarded; and
  - (c) the grounds of the application.
- (4) Regulations may be made on any matter relating to the subject of postal voters, including but not limited to –
  - (a) the proof that may be required to show that a person will be outside of the Autonomous Region of Bougainville during the period of the election; and
  - (b) the manner in which an application for a postal vote may be lodged and voting by postal vote.

**55B. PROVISION AND USE OF POSTAL BALLOT PAPERS.**

- (1) If the Commissioner is satisfied that prima-facie an applicant for a postal ballot paper is entitled to receive one, the Commissioner must forward to the postal voter –
  - (a) an official ballot paper;
  - (b) a ballot envelop, in a form approved by the Commissioner;
  - (c) a form of affidavit for completion by the applicant verifying –
    - (i) his or her right to vote in the election; and
    - (ii) his or her right to a postal vote, in a form approved by the Commissioner; and
  - (d) a covering reply envelope marked “Postal Ballot Paper Enclosed”.

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- (2) The postal voter must –
  - (a) mark the ballot paper in the usual way, and so that no person can see or know how it is marked (except as allowed by Sections 115 and 117);
  - (b) deposit the ballot paper in the ballot envelope and securely seal it;
  - (c) complete the affidavit, and swear it before a person authorized to administer oaths in the place where the applicant is; and
  - (d) enclose the ballot envelope and the affidavit in the covering reply envelope.
- (3) The covering reply envelope must be placed in the mail and be postmarked on or before the date of the election.
- (4) A covering reply envelope referred to in Subsection (3) that is received through the mail will not be accepted on or after a date 14 days after the date of the election.

**55C. EXAMINATION OF POSTAL VOTES.**

On receipt of a covering envelope the Commissioner or the person appointed by the Commissioner for the purpose must –

- (a) open the envelope and remove their contents; and
- (b) examine the affidavits as to their proper execution and the respective voters' right to vote as postal voter.

**55D. ADMISSION OF BALLOT PAPERS.**

- (1) If the Commissioner, or a person appointed under Section 55C, is satisfied that an affidavit shows that the voter was entitled to vote with respect to the constituency for which he or she voted, no other vote has been cast in his or her name, and the postal voter has complied with Section 55A, as the case requires, the ballot paper must be deposited in a container that is-
  - (a) securely sealed except for an opening sufficient to permit the deposit of ballot envelopes; and
  - (b) marked with the words "Bougainville Electoral Commissioner" and "This container holds postal ballot papers and must be opened only pursuant to law", or words to that effect.

- (2) The container referred to in Subsection (1) must be kept safely until the Commissioner is satisfied that all postal ballot papers have been received.

**55E. REJECTION OF BALLOT PAPERS.**

- (1) If when an envelope is opened-
  - (a) the Commissioner, or the person appointed under Section 55C is not satisfied that the voter is entitled to vote as a postal voter at the election; or
  - (b) it is found that the voter has not complied with Section 55A; or
  - (c) the ballot envelope is open, or has been opened and resealed; or
  - (d) it is found that the voter is not registered on the electoral Roll for the constituency in which the ballot was cast,then the ballot envelope must not be opened and the Commissioner or the person appointed under Section 55C must mark across its face the word "Rejected", giving his or her reason for rejection, and must preserve it in the same manner and for the same period that other rejected ballot papers are preserved.
- (2) If when an envelope is opened it is found that another vote has been cast in the name of the voter, the ballot envelop must not be opened, and it must be treated as a spoilt ballot paper under Section 119.
- (3) If a covering reply envelop is received by the Commissioner after the period of the election, the Commissioner must endorse on it the date and time of receipt.
- (4) Envelopes referred to in Subsection (3) must be kept, unopened, by the Commissioner for the period of time required under Section 137 for the preservation of ballot papers and must then, without being opened, be destroyed in the same manner as other ballot papers."

**4. AMENDMENT OF SECTION 69 OF PRINCIPAL ACT.**

Section 69 Of the Principal Act is amended by deleting the phrase “shall be not less than seven days nor more than 14 days” and substituting the phrase “must be not less than three days nor more than seven days”.

**5. REPLACEMENT OF SECTION 70 OF PRINCIPAL ACT.**

Section 70 of the Principal Act is repealed and the following section is substituted –

**“ 70. DATE OF POLLING.**

The date fixed for the commencement of the polling period must be not less than three days nor more than seven days after the date of the writ.”

**6. REPLACEMENT OF SECTION 85 OF PRINCIPAL ACT.**

Section 85 of the Principal Act is repealed and replaced by the following –

**“85. DEPOSIT FORFEITED IN CASE OF CANDIDATE’S DEATH.**

If a candidate dies before the end of the polling period, the deposit lodged by the candidate must be forfeited to the Autonomous Bougainville Government.”

**7. AMENDMENT OF SECTION 106 OF PRINCIPAL ACT.**

Section 106 of the Principal Act is amended –

- (a) in Subsection (1)(b) by deleting “6 p.m.” and substituting “4 p.m.”;
- (b) in Subsection (1) (c) by deleting “6 p.m.” and substituting “4 p.m.”;
- (c) in Subsection (2) (a) by deleting “ 6 p.m.” and substituting “ 4 p.m.”;
- (d) in Subsection (2) (b) by deleting “ 6 p.m.” and substituting “ 4 p.m.”.

**8. INSERTION OF SECTION 117A. TO PRINCIPAL ACT.**

The Principal Act is amended by inserting after Section 117 the following new Section 117A. –

**“117A. SPECIAL PROCEDURES.**

The regulations may prescribe special procedures to enable voters who are –

- (a) inpatients at a hospital or members of staff of a hospital;
- (b) members of the Police Force providing security at an election;
- (c) Returning Officers and Assistant Returning Officers at an election,

who would otherwise be required to vote in accordance with the other provisions of this Act, to vote at the hospital, or Police Station or

other place appointed by the Commissioner, and for the delivery of the ballot papers to the Returning Officer or Assistant Returning Officer at counting centres.”

**9. INSERTION OF SECTIONS 128A. AND 128B. TO PRINCIPAL ACT.**

The Principal Act is amended by inserting after Section 128 the following new Sections –

**“128A. APPROVAL OF COMPUTER PROGRAM FOR ELECTRONIC COUNTING OF VOTES.**

“(1) The Commissioner may approve a computer program to allow electronic scrutiny of votes in an election –

- (a) by itself; or
- (b) in addition to manual scrutiny of votes.

“(2) The Commissioner may only approve a program if the proper use of the program would give the same result in the scrutiny of votes in an election as would be obtained if the scrutiny were conducted without computer assistance.

“(3) The Commissioner must determine processes that must be followed in relation to the use of an approved computer program in the scrutiny of votes in an election.

“(4) Without limiting Subsection (3), the Commissioner may approve a process—

- (a) for entering preferences shown on ballot papers into the approved computer program; and
- (b) for counting preferences using the program to work out—
  - (i) the number of unrejected ballot papers on which a first preference is recorded for each candidate; and
  - (ii) the number of informal ballot papers for each electorate.

**128B. SECURITY OF ELECTRONIC DEVICES AND RELATED MATERIAL.**

“(1) The Commissioner must take steps to ensure that electronic devices and computer programs used or intended to be used for or in connection with electronic vote scrutiny are kept secure from interference at all times.



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- “(2) The Commissioner must keep backup copies of electronic data produced at a counting centre until whichever of the following happens last –
- (a) the beginning of the pre-election period for the next election;
  - (b) the documents are no longer required by the Commissioner, for exercising a function under this Act”.

**10. AMENDMENT OF SECTION 138 OF THE PRINCIPAL ACT.**


Section 138 of the Principal Act is amended in Subsection (1) by deleting paragraph (g) and substituting the following paragraph –

- “(g) if-
- (i) on any count, two or more candidates have an equal number of votes and one of them has to be excluded, the Returning Officer or Assistant Returning Officer must revert to the votes of each candidate from the last results and the candidate receiving the lesser number of votes will be eliminated;
  - (ii) there has not been a previous counting then the elimination will be based on “rank order” established by the draw on “Nomination Day.””

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**Certifications.**

I certify that the foregoing is a fair copy of the *Bougainville Elections (Amendment) Act 2013* which has been made by the House of Representatives.



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**ROBERT TAPI,**

Clerk of the House of Representatives.

I, **Andrew Miriki**, Speaker of the House of Representatives, hereby certify that the *Bougainville Elections (Amendment) Act 2013* was made by the House of Representatives on 5<sup>th</sup> June 2013.



**ANDREW MIRIKI,**

Speaker of the House of Representatives.