

AUTONOMOUS REGION OF BOUGAINVILLE.

AN ACT

Entitled

Bougainville Public Finance (Management and Administration) Act 2014.

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AUTONOMOUS REGION OF BOUGAINVILLE.

A BILL

for

AN ACT

entitled

Bougainville Public Finance (Management and Administration) Act 2014

Being an Act as required by Section 154(5) of the *Bougainville Constitution* to make provision for the public finances of Bougainville, and for related purposes.

MADE by the House of Representatives and this Act comes into operation on a day fixed by the President on the advice of the Bougainville Executive Council, other than Part 7 which comes into operation on a day fixed by the Minister in accordance with a notice in the Bougainville Gazette.

PART 1. - PRELIMINARY

1. COMPLIANCE WITH CONSTITUTIONAL REQUIREMENTS.

In accordance with Section 180(3) of the *Bougainville Constitution*, this Act, to the extent that it regulates or restricts a right or freedom referred to in Section 180(1) of the *Bougainville Constitution*, namely:

- (a) freedom from arbitrary search and entry referred to in Paragraph 180(1)(b) of the *Bougainville Constitution*; and
- (b) the right to privacy referred to in Paragraph 180(1)(g) of the *Bougainville Constitution*; and
- (c) the right to freedom of information referred to in Paragraph 180(1)(i) of the *Bougainville Constitution*;

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

2. INTERPRETATION.

- (1) In this Act, unless the contrary intention appears:

“*accountable officer*” has the meaning given by Subsection (2);

- "accounts and records"** includes any receipts, deeds, statements, writings, images, recordings, documents and other records of information, whether compiled, recorded or stored on paper, manually, by microfilm, by electronic process or otherwise;
- "approved bank"** means a bank carrying on business in Bougainville and approved by the Minister by notice published in the Bougainville Gazette;
- "Audit Committee"** means the audit committee established under Section 4;
- "Bougainville Auditor-General"** means the Bougainville Auditor-General appointed under Section 158 of the *Bougainville Constitution*, and if no such appointment has been made, means the Auditor-General under the *National Constitution*;
- "Bougainville Budget"** means the budget referred to in Section 22;
- "Bougainville Central Agencies Coordinating Committee"** has the same meaning as in the *Bougainville Public Services (Management and Administration) Act 2014*;
- "Bougainville Consolidated Revenue Fund"** means the Bougainville Consolidated Revenue Fund established by Section 10;
- "Bougainville Constitutional body"** means a body established by or under the *Bougainville Constitution* that is prescribed by the regulations for the purpose of this definition;
- "Bougainville Government corporation"** means a corporation set up for governmental, administrative or commercial purposes that is prescribed by the regulations for the purpose of this definition;
- "Bougainville Public Account"** means the Bougainville Public Account established by Section 10;
- "Bougainville Trust Fund"** means the Bougainville Trust Fund established by Section 10;
- "Chief Secretary"** means the person who is the Chief Secretary of the Bougainville Public Service;
- "constituent law"**, in relation to a statutory body, means the Act by or under which the statutory body is established or carries on its operations;

“corporation” means:

- (a) a company within the meaning of the *Companies Act 1997* of the National Parliament; or
- (b) a subsidiary or holding company within the meaning of the *Companies Act 1997* of the National Parliament;

“debt charges” include interest, sinking fund charges and the repayment or amortization of debts;

“Departmental Head” has the same meaning as in the *Interpretation Act 2005*;

“Finance Departmental Head” means the Head of the Department responsible for financial management, and includes a person deemed to be the Finance Departmental Head under Section 88(1);

“finance inspector” means an officer appointed as a finance inspector under Section 9;

“financial controller” means an officer appointed as a financial controller under Section 9;

“Financial Instructions” means Financial Instructions authorized by Section 75, and includes Transitional Financial Instructions under Section 86;

“fiscal year” means the period of 12 months starting on 1 January of each year or on such other prescribed date;

“Internal Audit Unit” means the internal audit unit established under Section 5;

“loan money” means any money borrowed by the Autonomous Bougainville Government in accordance with or as authorized by any law;

“Minister” means the Minister responsible for the administration of this Act;

“officer” means:

- (a) an officer within the meaning of the *Bougainville Public Services (Management and Administration) Act 2014*; or
- (b) a person employed to render temporary or casual assistance to the Bougainville Public Service; or
- (c) an officer appointed to the National Public Service under the *Public Services (Management) Act 1995* of the National Parliament working in the Bougainville Public Service; or
- (d) a member of the Bougainville Police Service or the Bougainville Correctional Service; or

- (e) any other member or officer of any other prescribed Bougainville Government Service;

and in Sections 70 and 71 also includes the chief executive officer (however described) and a member of the board or controlling body of a statutory body;

"prescribed" means prescribed by the regulations made under this Act;

"public body" means:

- (a) a department, agency, office, institution, instrumentality, authority or arm of any of the Bougainville Government Services referred to in Section 138 of the *Bougainville Constitution*; or
- (b) any other body prescribed by the regulations for the purpose of this definition;

"public money" means:

- (a) money appropriated to the Autonomous Bougainville Government, a public body, a statutory body or any other prescribed body, including money appropriated in the National Budget by the State; or
- (b) money raised, received, borrowed, held, controlled or administered by the Autonomous Bougainville Government or a public body or any other prescribed body and includes:
 - (i) fees, taxes, levies, royalties or other charges; or
 - (ii) money from bonds, debentures, shares, securities, term deposits or other investments; or
 - (iii) money from the sale or lease of public property; or
 - (iv) grants, loans, donations or gifts of money made by the National Government, development partners, international organisations or any other person; or
 - (v) money held on trust;

"public office-holder" means:

- (a) a member of any of the Bougainville Government Services; or
- (b) any member of any of the State Services; or
- (c) any National Constitutional Office-holder or Bougainville Constitutional Office-holder; or
- (d) the holder of any office or position established by statute (including a Bougainville law) for administrative or governmental purposes; or
- (e) the holder of any other office or position declared by a statute (including a Bougainville law) to be a public office;

"public property" means real property or personal property, including intellectual property, that is owned, held, controlled or administered by the Autonomous Bougainville Government or a public body or other prescribed body, and includes property held on trust;

"public resources" includes public money and public property;

"State" means the Independent State of Papua New Guinea;

"statutory body" means:

- (a) a Bougainville Constitutional body; or
 - (b) a body established by or under a Bougainville law; or
 - (c) Bougainville Government corporation;
- that is not a public body;

"this Act" includes the Regulations and Financial Instructions;

"Trust Account" means a Trust Account established under Section 15.

- (2) An accountable officer is a person who:
 - (a) is an officer of a public body; or
 - (b) performs a task or procedure relating to the authorization, collection or payment of public money or the management, control or disposal of public resources, whether or not he or she is an officer.

(3) In addition to the definitions in this Section, definitions in the *Interpretation Act 2005* apply to this Act, unless there is a contrary intention. Examples of such definitions include Autonomous Bougainville Government; Bougainville Constitution; Bougainville law; Bougainville Peace Agreement; Department, Departmental Head; House of Representatives; National Constitution; and National Government.

PART 2. - RESPONSIBILITIES FOR FINANCIAL MANAGEMENT

3. RESPONSIBILITIES AND POWERS OF THE MINISTER IN RELATION TO FINANCES.

- (1) The Minister is responsible for the following:
 - (a) overseeing the finances of the Autonomous Bougainville Government so as to ensure that a full accounting is made to the House of Representatives of all transactions involving public resources;
 - (b) providing directions and guidelines regarding the management of public resources;
 - (c) complying with the reporting requirements of the Bougainville Public Account;
 - (d) accounting to the House of Representatives for the performance and financial management of statutory bodies;
 - (e) administering this Act.
- (2) As soon as practicable after the end of the first, second and third quarters of each fiscal year, the Minister must publish in the Bougainville Gazette a summarised statement of the receipts and expenditure of the Bougainville Public Account during the fiscal year up to the end of that quarter.
- (3) As soon as practicable after the end of each fiscal year, the Minister must prepare a detailed statement of the receipts and expenditure of the Bougainville Public Account during the fiscal year, and must provide a copy of it to the Bougainville Auditor-General.
- (4) The Minister may require Departmental Heads to submit additional financial reports on such matters and at such intervals as the Minister determines.
- (5) The Finance Departmental Head must as soon as practicable provide to the Head of the National Department responsible for financial management:
 - (a) a copy of the fiscal statement referred to in Subsection (3); and
 - (b) a copy of any reports submitted under Subsection (4).

4. RESPONSIBILITIES AND POWERS OF THE MINISTER IN RELATION TO THE BOUGAINVILLE BUDGET.

- (1) The Minister is responsible for the following:
 - (a) the formulation of the Bougainville Budget and overseeing its implementation on behalf of the Autonomous Bougainville Government;
 - (b) implementing budget controls and reporting matters relating to the Bougainville Budget;

- (c) monitoring and reporting on economic trends relevant to Bougainville;
- (d) developing and implementing strategies to promote economic and financial transparency to achieve a stable macroeconomic environment;
- (e) developing and implementing strategies and policies for the management of revenues and expenditures;
- (f) managing investments made by the Autonomous Bougainville Government;
- (g) conducting research and analysis on expenditure trends and the effectiveness of spending money.

(2) The Minister may require Departmental Heads to submit reports on matters relating to the Bougainville Budget at such intervals as the Minister determines.

(3) Without limiting Subsection (1), the Minister must establish an Audit Committee with effect from 1 January 2015 consisting of the following members:

- (a) the Chief Secretary; and
- (b) two members of the Bougainville Central Agencies Coordinating Committee, other than the Finance Departmental Head; and
- (c) two persons with experience in financial management and audit appointed by the Minister on the advice of the Bougainville Executive Council.

(4) The duties of the Audit Committee are:

- (a) to examine the accounts of the receipts and expenditure of the Autonomous Bougainville Government; and
- (b) to examine the financial affairs of public bodies and statutory bodies; and
- (c) to provide independent advice to the Minister on the following matters:
 - (i) the management of financial risks;
 - (ii) the effectiveness of internal budget controls;
 - (iii) the accuracy of financial statements;
 - (iv) compliance requirements;
 - (v) internal and external audits;
 - (vi) any other prescribed matter; and
- (d) to review governance arrangements, performance frameworks and portfolio responsibilities; and
- (e) to report to the House of Representatives on any of the matters referred to in Paragraph (a), (b), (c) or (d); and
- (f) such other prescribed duties.

(5) The regulations may prescribe additional functions, powers, membership rules, meeting requirements and other matters relating to the Audit Committee.

5. RESPONSIBILITIES AND POWERS OF THE FINANCE DEPARTMENTAL HEAD IN RELATION TO FINANCES.

(1) The Finance Departmental Head is responsible for undertaking functions that assist the Minister in the implementation of the Minister's responsibilities under Section 3, subject to directions given to him or her by the Minister.

(2) The Finance Departmental Head has control and direction of all matters relating to the management of the financial affairs of the Autonomous Bougainville Government and all public bodies, subject to directions given to him or her by the Minister.

(3) The Finance Departmental Head may require other Departmental Heads to submit financial reports on such matters and at such intervals as the Finance Departmental Head determines.

(4) The Finance Departmental Head:

- (a) has full and free access at all reasonable times to all accounts and records of public bodies that relate, directly or indirectly, to:
 - (i) the collection, receipt, management, expenditure or issue of public money; or
 - (ii) the purchase, receipt, management, custody, disposal, issue or use of public property; and
- (b) may inspect at all reasonable times and inquire into and call for any information arising from those accounts and records.

(5) The Finance Departmental Head must establish an Internal Audit Unit.

(6) The Finance Departmental Head:

- (a) must determine the functions and powers of the Internal Audit Unit in accordance with the Financial Instructions; and
- (b) may direct a Departmental Head to provide support for the effective functioning of the Internal Audit Unit and the Audit Committee; and
- (c) may direct a Departmental Head to comply with and action any findings of the Internal Audit Unit or the Audit Committee.

(7) In the implementation of the responsibilities of the Finance Departmental Head under this Section, the Finance Departmental Head may consult with the Chief Secretary and such other Departmental Heads as he or she considers necessary.

6. RESPONSIBILITIES AND POWERS OF THE FINANCE DEPARTMENTAL HEAD IN RELATION TO THE BOUGAINVILLE BUDGET.

(1) The Finance Departmental Head is responsible for undertaking functions that assist the Minister in the implementation of his or her responsibilities under Section 4, subject to directions given to him or her by the Minister.

(2) The Finance Departmental Head has control and direction of all matters relating to the formulation, implementation, monitoring and reporting of the Bougainville Budget, subject to directions given to him or her by the Minister.

(3) The Finance Departmental Head may require other Departmental Heads to submit reports on budget and economic matters at such intervals as he or she determines.

(4) In the implementation of the responsibilities of the Finance Departmental Head under this Section, the Finance Departmental Head may consult with the Chief Secretary and such other Departmental Heads as he or she considers necessary.

7. RESPONSIBILITIES OF DEPARTMENTAL HEADS.

(1) A Departmental Head must establish internal controls and take all necessary actions to ensure the efficient, effective, economical and ethical use of the public resources for which the Departmental Head is responsible.

(2) Without limiting Subsection (1), a Departmental Head must:

- (a) provide support for the effective functioning of the Internal Audit Unit and the Audit Committee; and
- (b) report any material misstatements in any financial statements of the Department for which he or she is responsible to the Bougainville Auditor-General; and
- (c) establish and maintain up-to-date asset registers of all public property; and
- (d) develop and implement an annual plan to minimise the risk of fraud, misappropriation, mismanagement and waste; and
- (e) manage all public resources consistent with government priorities.

(3) A Departmental Head must develop and implement processes and take all necessary actions to ensure the active collection, proper management and appropriate expenditure of public money for which he or she is responsible.

(4) Without limiting Subsection (3), a Departmental Head must ensure:

- (a) the collection and expenditure of public money is undertaken in accordance with approved plans and estimates; and
- (b) any fee, charge, levy or tax imposed by or under legislation for which the Department is responsible is collected promptly and to the fullest extent; and

- (c) at least every 3 years that any fee, charge, levy or tax referred to in Paragraph (b) is reviewed to determine:
 - (i) whether the level of such fee, charge, levy or tax is appropriate; and
 - (ii) whether such fee, charge, levy or tax should be increased or decreased and, if so, by what amount; and
- (d) all debts owed to the Bougainville Government for which the Departmental Head has general responsibility are actively managed and collected promptly and to the fullest extent; and
- (e) all expenditure is incurred with due regard to proper process, economy, efficiency, effectiveness, ethical use and consistent with government priorities; and
- (f) all expenditure is properly authorised and applied to the purposes for which it is appropriated; and
- (g) a review is undertaken at such intervals as the Departmental Head determines to ensure that there is no over expenditure or over commitment of public money.

(5) A Departmental Head must take all necessary actions to ensure the proper management of public property for which he or she is responsible.

(6) A Departmental Head must take all necessary action to ensure that all accounts and records relating to the functions and operations for which the Departmental Head is responsible are properly maintained, and reports are provided as and when required.

(7) Without limiting Subsection (6), a Departmental Head must:

- (a) provide accurate information as and when required by the Public Accounts Committee; and
- (b) submit financial reports on reviews and such other matters as required by the Finance Departmental Head in the form specified in the Financial Instructions; and
- (c) as soon as practicable after the end of each quarter of each fiscal year, submit to the Finance Departmental Head a report on the financial management of the Department in the form specified in the Financial Instructions.

8. RESPONSIBILITIES OF PUBLIC OFFICE-HOLDERS AND ACCOUNTABLE OFFICERS.

(1) It is the duty of each public office-holder responsible for the collection of revenue to ensure that such revenue is collected promptly and to the fullest extent, and paid immediately into the Bougainville Public Account.

(2) An accountable officer must comply with the provisions of this Act in respect of all matters for which he or she is responsible and in relation to all public resources, and must duly account for them.

9. FINANCE INSPECTORS AND FINANCIAL CONTROLLERS.

(1) The Finance Departmental Head may appoint officers or other persons to be finance inspectors and financial controllers.

(2) A finance inspector:

- (a) has full and free access at all reasonable times to all accounts and records of public bodies that relate, directly or indirectly, to:
 - (i) the collection, receipt, management, expenditure or issue of public money; or
 - (ii) the purchase, receipt, management, custody, disposal, issue or use of public property; and
- (b) may inspect at all reasonable times and inquire into and call for any information arising from those accounts and records; and
- (c) has such other prescribed functions.

(3) A financial controller:

- (a) must assist and ensure that public bodies comply with the requirements of this Act and the financial procedures in relation to the collection and disbursement of public money; and
- (b) must report to the Finance Departmental Head on the expenditure trends and non-tax revenue performance of public bodies; and
- (c) has such other prescribed functions.

PART 3. - BOUGAINVILLE PUBLIC ACCOUNT

10. THE BOUGAINVILLE PUBLIC ACCOUNT.

There is to be a Bougainville Public Account which is to consist of:

- (a) the Bougainville Consolidated Revenue Fund; and
- (b) the Bougainville Trust Fund.

11. KEEPING OF BOUGAINVILLE PUBLIC ACCOUNT.

(1) Public money must be kept in an approved bank.

(2) A bank account must not be opened or operated without the consent in writing of the Finance Departmental Head.

12. INVESTMENT OF BOUGAINVILLE PUBLIC ACCOUNT.

(1) The Bougainville Executive Council:

- (a) must approve a policy for the investment of money forming part of the Bougainville Public Account; and
- (b) may issue guidelines for the implementation of that policy.

(2) In accordance with the investment policy and guidelines referred to in Subsection (1), the Finance Departmental Head may, with the written consent of the Minister, invest money forming part of the Bougainville Public Account and not immediately required:

- (a) in the securities of any money market towards which the Central Bank acts as lender of last resort; or
- (b) on deposit with an approved bank; or
- (c) in any securities of, or guaranteed by, the State; or
- (d) in the case of any money standing to the credit of the Bougainville Trust Fund, in accordance with any trust instrument relating to the investment of such money; or
- (e) in any other manner approved by the Bougainville Executive Council.

(3) Investment of money out of the Bougainville Trust Fund is deemed to be part of the Bougainville Trust Fund, but subject to anything to the contrary in any law, treaty or trust instrument relating to any such money, the interest on any such investments must be paid into the Bougainville Consolidated Revenue Fund.

(4) Investment of money out of the Bougainville Consolidated Revenue Fund, and the interest on any such investments, form part of that Fund.

(5) Investment of any money standing to the credit of the Bougainville Trust Fund or of the Bougainville Consolidated Revenue Fund is to be made only in accordance with the investment policy and guidelines referred to in Subsection (1).

13. PAYMENTS INTO THE BOUGAINVILLE CONSOLIDATED REVENUE FUND.

(1) All public money must be paid into the Bougainville Consolidated Revenue Fund, other than:

- (a) money payable under any law into or on account of the Bougainville Trust Fund; or
- (b) money advanced to a Trust Account by a foreign government, an international agency or international organisation, by way of either loan or grant, for the purpose of funding a project or the operations of the Autonomous Bougainville Government; or
- (c) money appropriated by the National Government as conditional grants under Section 50 of the *Organic Law on Peace-Building in Bougainville-Autonomous Bougainville Government and Bougainville Referendum 2002*.

(2) All money that is:

- (a) deposited with an approved bank; or
- (b) invested under Section 12; or
- (c) advanced in accordance with this Act;

out of or on behalf of the Bougainville Consolidated Revenue Fund is deemed to be part of that Fund for the purposes of this Act.

(3) There must be paid to the Bougainville Consolidated Revenue Fund all amounts payable to it under this Act or any other law.

14. PAYMENTS OUT OF THE BOUGAINVILLE CONSOLIDATED REVENUE FUND.

(1) No money is to be paid out of the Bougainville Consolidated Revenue Fund except:

- (a) money appropriated under a Bougainville law; or
- (b) money deemed to have been appropriated under a Bougainville law; or
- (c) to meet expenditure that is charged on the Bougainville Consolidated Revenue Fund by a Bougainville law; or
- (d) for the payment of a refund of revenue required or permitted by any law if specific authority for the payment does not exist; or
- (e) for the payment of a refund of revenue provided for under any income tax, customs, stamp duty or other revenue law; or
- (f) subject to Subsection (2), amounts to meet the costs of delivering services provided by the Autonomous Bougainville Government.

(2) Paragraph (1)(f) applies if:

- (a) at the beginning of a fiscal year, the House of Representatives has not made provision for public expenditure or expenditure by the Autonomous Bougainville Government; and
- (b) the Bougainville Executive Council has authorized the issue and expenditure of money out of the Bougainville Consolidated

- Revenue Fund for the purposes of Autonomous Bougainville Government services; and
- (c) the amounts authorized under Paragraph (b) do not exceed in total one third of the budgeted expenditure during the immediately preceding fiscal year by the Autonomous Bougainville Government.

15. ESTABLISHMENT OF TRUST ACCOUNTS.

(1) Within the Bougainville Trust Fund, Trust Accounts may be established as directed by the Minister or prescribed by or under any Bougainville law:

- (a) to receive money held by the Autonomous Bougainville Government as trustee; or
- (b) to receive the proceeds of commercial or trading activities carried on by any Bougainville Government corporation or other prescribed body; or
- (c) to receive and retain interest payments made on funds in a Trust Account for the purpose of the Trust Account; or
- (d) to receive money referred to in Paragraphs 13(1)(b) and (c);
- (e) to receive any other public money; or
- (f) for such other purpose as may be approved in writing by the Minister.

(2) Subject to this Act, money held in a Trust Account may be invested on deposit in an approved bank.

16. PAYMENTS INTO TRUST ACCOUNTS.

(1) There must be paid to the credit of a Trust Account:

- (a) all money appropriated for the purpose of the Account; and
- (b) all money received from any dealing with any articles purchased or produced, or for work paid for, with money standing to the credit of the Account; and
- (c) all money paid by any person for the purposes of the Account; and
- (d) amounts appropriated as the Autonomous Bougainville Government contribution to a project which is partly funded by an international agency, whether by way of a loan or grant.

(2) Subject to Subsection (1), transfers of funds from the Bougainville Consolidated Revenue Fund to the Bougainville Trust Fund are prohibited unless a special transfer is authorized by an Appropriation Act.

17. PAYMENTS OUT OF TRUST ACCOUNTS.

Money may be paid out of a Trust Account only:

- (a) for the purposes of the Account or as authorized by law; and
- (b) if a sufficient credit is available in the Account.

18. MONEY AT CREDIT OF TRUST ACCOUNT NOT TO LAPSE.

Money standing to the credit of a Trust Account at the end of a fiscal year does not lapse at the end of that fiscal year.

19. MANAGEMENT OF TRUST ACCOUNT.

(1) The Finance Departmental Head is responsible for the financial management and operation of all Trust Accounts.

(2) The Finance Departmental Head:

- (a) may, subject to the limits imposed by any financial delegation, authorize payment out of any Trust Account; and
- (b) may, subject to such limits, delegate, either conditionally or unconditionally, the power to authorize withdrawals from any Trust Account; and
- (c) must maintain proper accounts and records relating to each Trust Account; and
- (d) must, as soon as practicable after the end of each fiscal year, prepare a statement of the Account for the preceding fiscal year.

(3) The Finance Departmental Head may, after consultation with the Chief Secretary, by written notice, suspend the operation of a Trust Account for such period as is specified in the notice.

(4) The Finance Departmental Head may, after consultation with the Chief Secretary, authorize the transfer of the surplus in a Trust Account, subject to the terms and conditions of the trust instrument.

20. UNCLAIMED TRUST FUND MONEY.

(1) All money standing to the credit of the Bougainville Trust Fund that has remained unclaimed for not less than two years after it has become payable from the Fund must be paid to the Bougainville Consolidated Revenue Fund.

(2) For the purposes of Subsection (1), a sum that is payable on application or on demand is deemed to become payable when a right to apply or to make demand accrues.

(3) Subsections (1) and (2) do not affect the liability of the Autonomous Bougainville Government to pay any amount to which those provisions apply.

21. CLOSING OF TRUST ACCOUNTS.

(1) After consultation with the Chief Secretary and the Finance Departmental Head, the Minister may in writing direct that any Trust Account be closed.

(2) After all liabilities of the Trust Account have been met, the balance must be dealt with in accordance with any trust instrument governing dealings with the trust money on the failure or expiration of the trust.

(3) If there is no such instrument or if the trust instrument makes no provision for dealing with the money on the failure or expiration of the trust, the balance must be paid to the Bougainville Consolidated Revenue Fund.

PART 4. - BOUGAINVILLE BUDGET AND BUDGETARY CONTROL

22. BOUGAINVILLE BUDGET.

(1) The raising and expenditure of finance by the Autonomous Bougainville Government, including the imposition of taxation and the raising of loans, is subject to authorization and control by the House of Representatives and must be regulated by a Bougainville law.

(2) For each fiscal year, there must be a Bougainville Budget as required by Section 155 of the *Bougainville Constitution* comprising:

- (a) estimates of finance proposed to be raised and estimates of proposed expenditure of the Autonomous Bougainville Government in respect of the fiscal year; and
- (b) an appropriation for the expenditure for the service of that year in respect of general public services; and
- (c) such other supplementary budgets and appropriations as are necessary.

(3) In accordance with the Bougainville Peace Agreement, the Autonomous Bougainville Government is not to propose a deficit Bougainville Budget without the prior written approval of the National Minister responsible for finance matters.

(4) Without limiting this Section, the Minister must table in the House of Representatives as part of the Bougainville Budget a projection of:

- (a) the estimated revenue expected to be raised during each year of the multi-year budget; and
- (b) the estimated expenditure expected to be incurred per vote during each year of the multi-year budget, differentiating between capital and recurrent expenditure.

(5) The projection referred to in Subsection (4) must contain the Minister's key macro-economic projections.

(6) In this Section, "multi-year budget" means the four fiscal years following each fiscal year for which the Bougainville Budget is prepared.

23. COMPILATION OF BOUGAINVILLE BUDGET.

(1) On or before 31 March of each year, the Bougainville Executive Council must approve a budget policy statement providing policy directions and guidelines for the preparation of the Bougainville Budget for the following fiscal year.

(2) The Minister must table the budget policy statement at the next sitting of the House of Representatives after approval by the Bougainville Executive Council, but in any event no later than 30 June.

(3) The Finance Departmental Head may, in accordance with the budget policy statement and after consultation with the Chief Secretary, give to other Departmental Heads and public office-holders responsible for activities involving the collection and expenditure of public money directions as to the form and content of estimates prepared for the purpose of compiling the Bougainville Budget.

(4) In preparing the Bougainville Budget, the Minister, the Finance Departmental Head and the Chief Secretary must on a regular basis consult with and advise the Ministers and Departmental Heads responsible for finance and treasury, and the Chief Secretary, of the National Government.

24. ADJUSTMENT OF APPROPRIATION AS BETWEEN SERVICES.

(1) Subject to this Section, if there is insufficient appropriation to meet expenditure incurred for a particular service, the Minister may direct the re-allocation of any unexpended appropriation.

(2) The total of the re-allocation must not exceed a sum specified for the purpose in a Bougainville law.

(3) The re-allocation must be within the budget for general public services or the development budget, and must not be partly within the budget for general public services and partly within the development budget.

(4) A direction is subject to the approval of the Bougainville Executive Council.

25. ADJUSTMENT OF APPROPRIATION FOR NEW SERVICES.

(1) Subject to this Section, if there is insufficient or no appropriation to meet expenditure for a particular service, the Minister may direct the allocation of additional appropriation from the Finance Departmental Head's Advance.

(2) The total additional appropriation so allocated must not exceed the aggregate of the net appropriation for the Finance Departmental Head's Advance and appropriations transferred from services from time to time.

(3) A direction is subject to the approval of the Bougainville Executive Council.

26. DELEGATION.

(1) The Minister may, by written instrument, delegate to the Finance Departmental Head all or any of his or her powers under Section 24.

(2) If the Minister has exercised his or her powers of delegation under Subsection (1), the Finance Departmental Head may, by written instrument, delegate to one or more Departmental Heads all or any of the powers delegated to him or her under Subsection (1) (other than the power of sub-delegation).

(3) A delegation under Subsection (1) or (2) may be made subject to such conditions as the delegator thinks fit.

27. LAPSING OF RECURRENT APPROPRIATIONS.

Subject to Section 34, all recurrent appropriations out of the Bougainville Consolidated Revenue Fund made in respect of a fiscal year lapse at the end of that fiscal year, unless the contrary intention appears in the Bougainville law by or under which the appropriation was made.

28. CERTAIN AMOUNTS DEEMED TO HAVE BEEN APPROPRIATED.

(1) Money recovered in respect of services in the same fiscal year for which the expenditure for those services was authorized is deemed to be appropriated for the services of that fiscal year.

(2) If it is proposed by an Act appropriating a sum for the purposes of a fiscal year that money of a specific description that is received may be credited to a particular item or Department, an amount equal to the total of the money of that description received in that fiscal year is deemed to have been appropriated for the purposes and services referred to in that item or Department, as the case may be.

29. WARRANTS FOR ISSUE AND EXPENDITURE OF PUBLIC MONEY.

(1) The Minister may, by warrant, authorize the Finance Departmental Head to issue warrant authorities authorizing the expenditure of money from the Bougainville Consolidated Revenue Fund for the purpose for which the money was appropriated or charged, or was deemed to have been appropriated or charged.

(2) A warrant so issued may limit the amount of money to be expended from the Fund if, in the opinion of the Minister, financial exigencies or the public interest so require.

30. LAPSE OF CERTAIN WARRANTS.

Subject to Section 34, all warrants relating to recurrent appropriation lapse at the end of the fiscal year in which they were issued.

31. WARRANT AUTHORITIES.

(1) Subject to Subsection (2), no public money is to be committed or expended except as authorized by a warrant authority within a fiscal year.

(2) Subsection (1) does not apply to payments from the Bougainville Trust Fund.

(3) Despite the issue of a warrant authority, if the Minister is of the opinion that financial exigencies or the public interest so require, the Minister may, after consultation with the Chief Secretary and subject to the approval of the Bougainville

Executive Council, limit or suspend any expenditure with or without suspension of the authority.

(4) Subject to Section 34, all warrant authorities lapse at the end of the fiscal year in which they were issued.

32. APPROVAL OF REQUISITIONS.

(1) A Departmental Head may appoint officers to approve requisitions for the expenditure of money in the Department for which he or she is responsible in accordance with a warrant authority and may specify conditions for the exercise of that approval.

(2) A Departmental Head may, in relation to the Department for which he or she is responsible, appoint financial delegates to approve expenditure in accordance with a Cash Fund Certificate.

33. PAYMENT OF ACCOUNTS.

An account in relation to a Department is not to be paid unless the payment has been authorized by an officer appointed to do so by the Departmental Head responsible for that Department.

34. TRANSFER TO TRUST ACCOUNTS OF ADVANCES OF GOVERNMENT CONTRIBUTIONS TO DONOR-FUNDED PROJECTS.

Advances of Autonomous Bougainville Government contributions to donor-funded projects must be transferred to Trust Accounts in accordance with the Financial Instructions.

**PART 5. - BORROWING, GUARANTEES AND LOANS BY THE
AUTONOMOUS BOUGAINVILLE GOVERNMENT**

35. RESTRICTIONS ON BORROWING.

(1) The Autonomous Bougainville Government may not borrow money unless:

- (a) it has consulted with the National Government; and
- (b) it complies with the *Central Banking Act 2000* of the National Parliament; and
- (c) it borrows in accordance with a Bougainville law; and
- (d) in the case of borrowing from a source outside Papua New Guinea, it has obtained the approval of the Central Bank.

(2) Money borrowed under Subsection (1) from whatever sources must not exceed the limit provided by the *Central Banking Act 2000* of the National Parliament.

(3) All debt charges for which the Autonomous Bougainville Government is liable in respect of loan money must be charged on the Bougainville Consolidated Revenue Fund.

36. ADVANCES AND OVERDRAFTS.

(1) Subject to Section 35, the Minister may, after consultation with the National Government, on behalf of the Autonomous Bougainville Government borrow money:

- (a) from such domestic and external sources; and
- (b) on such terms and conditions;

as the Bougainville Executive Council approves, in order to meet deficiencies in revenue in a fiscal year.

(2) Money borrowed under Subsection (1) from whatever sources must not exceed the limit provided by the *Central Banking Act 2000* of the National Parliament.

(3) The principal and interest on money borrowed under Subsection (1) must be charged to the Bougainville Consolidated Revenue Fund and is to be paid from the Fund.

37. GUARANTEES BY THE AUTONOMOUS BOUGAINVILLE GOVERNMENT.

(1) Subject to the approval of the Bougainville Executive Council, the Minister or any other person prescribed by the regulations, may, on behalf of the Autonomous Bougainville Government, guarantee the repayment of a loan (including interest and associated charges) made to any person if the loan was made for purposes approved by Bougainville Executive Council.

(2) The Minister may, on behalf of the Autonomous Bougainville Government, charge such fee in respect of a guarantee given under Subsection (1) as he or she considers appropriate to that guarantee.

(3) If the Bougainville Executive Council has guaranteed the repayment of a loan under Subsection (1), the Minister must, at the first sitting of the House of Representatives following the giving of the guarantee, table the documents relating to the guarantee.

38. LOANS BY THE AUTONOMOUS BOUGAINVILLE GOVERNMENT.

(1) The Minister may, on behalf of the Autonomous Bougainville Government, make a loan to any person if the loan:

- (a) is made for purposes approved of by the Bougainville Executive Council; and
- (b) complies with the terms and conditions of the loan approved by the Bougainville Executive Council.

(2) The Minister may, on behalf of the Autonomous Bougainville Government, charge such fee in respect of a loan as he or she considers appropriate in relation to that loan.

PART 6. – STATUTORY BODIES

39. APPLICATION OF THIS PART.

This Part applies to all statutory bodies, despite any provision of any other Act.

40. PERFORMANCE AND MANAGEMENT PLANS.

(1) A statutory body must submit to the Finance Departmental Head a performance and management plan at such intervals and in such form, and containing such information, as is specified by the Finance Instructions.

(2) A statutory body must submit to the Finance Departmental Head progress reports against its performance and management plan at such intervals and in such form, and containing such information, as is specified by the Finance Instructions.

41. PROPOSED BUDGET.

(1) A statutory body must submit to the Finance Departmental Head estimates of its receipts and expenditure, and its proposed works programme (if any) for each fiscal year.

(2) The estimates and works program must be submitted by such date and in such form as is specified by the Finance Instructions.

42. BANK ACCOUNTS.

(1) A statutory body may open and maintain an account or accounts with an approved bank or approved banks, and must at all times maintain at least one such account.

(2) The statutory body must pay all its money into an account referred to in Subsection (1).

43. BUDGET APPROPRIATIONS TO STATUTORY BODIES.

(1) There is payable to a statutory body such money (if any) as is appropriated by the House of Representatives for the purposes of the statutory body.

(2) Money payable to a statutory body under Subsection (1) must be paid in such amounts and at such times as the Finance Departmental Head determines.

(3) Money payable under Subsection (1) is in the nature of a conditional grant and, in the event of non-expenditure for the purposes for which it was appropriated, may be required to be returned to the Consolidated Revenue Fund as directed by the Minister.

44. LOANS BY THE AUTONOMOUS BOUGAINVILLE GOVERNMENT.

(1) Subject to Section 38, a statutory body may accept an offer by the Minister to loan money for the purposes of the statutory body on such terms as are agreed between the statutory body and the Minister.

(2) The statutory body must repay, in accordance with the terms on which a loan is made, such portion of the loan as is repayable.

45. PRIVATE TREATY LOANS.

(1) A statutory body may, with the consent of the Minister, borrow money for its purposes, from a person on such terms as are agreed between the statutory body and the person.

(2) The statutory body must repay a loan in accordance with the terms on which it was made.

46. BORROWING BY OVERDRAFT.

A statutory body may, with the consent of the Minister, borrow for its purposes, by overdraft, within such limits as the Minister approves.

47. INVESTMENT.

(1) In this section, "authorized short-term money market" means the group of dealer companies that are authorized by the Central Bank to be approved dealers in short-term loans and towards which that Bank acts as a lender of last resort.

(2) The money of a statutory body that is not immediately required may be invested:

- (a) in any securities of, or guaranteed by, the Autonomous Bougainville Government or the State; or
- (b) in any manner in which a trustee may, under any law, invest trust money; or
- (c) on deposit with an approved bank; or
- (d) in the securities of an authorized short-term money market; or
- (e) in any other manner approved by the Minister.

(3) Money invested by a statutory body under Paragraph (2)(e) may not be invested to the extent that the statutory body has an equity holding in any one company exceeding 10% of the issued shares of that company, except with the prior written consent of the Minister.

48. APPLICATION OF MONEY.

The money of a statutory body may be applied only in payment or discharge of expenses, obligations and liabilities of the statutory body arising under this Act or its constituent law.

49. PUBLIC TENDERING FOR PROPERTY AND STORES, AND WORKS AND SERVICES

(1) Subject to the approval of the Bougainville Executive Council, the Minister may, by notice in the Bougainville Gazette, establish Specialized Tenders Boards for statutory bodies for:

- (a) the purchase and disposal of property and stores; and
- (b) the supply of works and services;

for any amount exceeding K500,000.00 or such lesser amount as the Minister may determine.

(2) The purchase and disposal of property and stores, and the supply of works and services, the estimated cost of which is less than the amount referred to in Subsection (1) are subject to such requirements for tenders as are set out in the Financial Instructions.

(3) Subsection (1) does not apply to any property or stores, or works or services:

- (a) that are to be executed, furnished or performed by the State or the Autonomous Bougainville Government, or any other body approved by the Bougainville Executive Council; or
- (b) in respect of which the Bougainville Executive Council certifies that the inviting of tenders is impracticable or inexpedient.

(4) The Minister may make Rules, not inconsistent with this Act or the Financial Instructions, prescribing, in relation to a Board established under this Section:

- (a) the procedures for meetings of the Board including the fixing of a quorum; and
- (b) the manner of inviting tenders publicly; and
- (c) the method of dealing with tenders; and
- (d) the criteria to be applied in the evaluation of tenders; and
- (e) the appointment by the Board of advisers in technical matters; and
- (f) the keeping by the Board of records of the performance of each successful tenderer; and
- (g) the method of obtaining and dealing with quotations for:
 - (i) the purchase and disposal of property and stores; and
 - (ii) the supply of works and services; and
- (h) the manner of regulating the disposal of property and stores no longer required by the statutory body;
- (h) subject to Subsection (5), the membership of the Board.

(5) The Minister must appoint a representative of a statutory body to be a member of the Board established for that statutory body.

(6) In this Section, "property" means real property or personal property.

50. POLICY DIRECTIONS ON TENDERING.

(1) Subject to the approval of the Bougainville Executive Council, the Minister may issue written directions to statutory bodies on the policy to be followed in relation to the giving of preference to Bougainvillean or national tenderers and local manufacturers in relation to tenders invited and contracts taken by statutory bodies.

(2) A statutory body is bound by the directions issued under Subsection (1).

51. APPROVAL REQUIRED FOR CERTAIN CONTRACTS.

A contract or agreement that is to be entered into by or on behalf of a statutory body must be executed:

- (a) if the amount of the consideration exceeds K10, 000,000.00, by the President, acting with, and in accordance with, the advice of the Bougainville Executive Council; or
- (b) if the amount of the consideration exceeds K 500,000.00 but does not exceed K10, 000,000.00, by the Chairperson of the Specialized Bougainville Supply and Tenders Board which considered the tender leading to the contract or agreement; or
- (c) if the amount of the consideration does not exceed K500, 000.00, by the Chief Executive Officer (however described) of the statutory body.

52. ACCOUNTS, RECORDS, ETC.,

(1) Subject to Subsection (2), a statutory body must:

- (a) cause to be kept proper accounts and records of its transactions and affairs; and
- (b) do all things necessary to ensure that all payments out of its money are correctly made and properly authorized; and
- (c) ensure that adequate control is maintained over its assets, or assets in its custody, and over the incurring of liabilities by it.

(2) In the case of a statutory body that is declared by a constituent law or by the Finance Instructions to be a trading enterprise for the purpose of this section, the accounts and records required by Subsection (1) must be kept in accordance with the accounting principles generally applied in commercial practice.

53. REPORTS AND FINANCIAL STATEMENTS.

(1) A statutory body must prepare and furnish to the Minister financial statements and a performance and management report of its operations for each fiscal year.

(2) The financial statements and report must be submitted by such time and in such form as is specified by the Financial Instructions.

(3) Before furnishing financial statements to the Minister, a statutory body must submit them to the Bougainville Auditor-General who must report to the Minister in accordance with the *Audit Act 1989* of the National Parliament.

(4) Financial statements under Subsection (1) must be:

- (a) in the case of a statutory body declared under Section 52 to be a trading enterprise - in accordance with accounting principles generally applied in commercial practice; and
- (b) in all other cases - in a form set out in the Financial Instructions.

(5) The Minister must cause the report and financial statements, together with the report of the Bougainville Auditor-General, to be tabled in the House of Representatives at the first meeting of the House of Representatives after their receipt by the Minister.

(6) When the report or a financial statement of a statutory body is reproduced for publication or for other purposes, the report of the Bougainville Auditor-General on it must be included in the reproduction.

(7) The first report and financial statements of a statutory body under this section must be furnished as soon as practicable after 31 December next following the commencement of its constituent law.

54. POWERS OF INSPECTION.

(1) The Minister or the Chief Secretary may if he or she has reason to believe that a statutory body:

(a) has or may have failed to implement the performance and management plan as submitted under Section 50; or

(b) has been or may have been in breach of this Act;

authorize the Finance Departmental Head to carry out an investigation into, or inspection of, the records of that body.

(2) If an investigation into, or inspection of, the records of a statutory body is being carried out, the Finance Departmental Head has power to obtain full and free access at all reasonable times to all accounts and records of the statutory body that relate, directly or indirectly to:

(a) the collection, receipt, expenditure and issue of money of the statutory body; and

(b) the receipt, custody, disposal, issue or use of stores or other property of the statutory body.

55. GUIDELINES FOR THE ESTABLISHMENT OR RESTRUCTURE OF STATUTORY BODIES.

(1) The Finance Departmental Head may issue guidelines for the establishment or restructure of statutory bodies.

(2) A proposal for the establishment or restructure of a statutory body may be approved only by the Bougainville Executive Council on the recommendation of the Minister after he or she has received a report from Chief Secretary.

56. ENFORCEMENT OF PART 6.

(1) If a statutory body fails to comply with a provision of Part 6 or any Financial Instruction issued in relation to Part 6, the Minister may, following a written recommendation from the Finance Departmental Head made after consultation with the Chief Secretary, issue a letter of non-compliance to the controlling authority of the statutory body.

(2) A letter of non-compliance must specify the areas of non-compliance by the statutory body and require the statutory body to address those areas within 60 days after receipt of the letter, and must contain such other prescribed information (if any).

(3) If, after 60 days from the receipt of the letter of non-compliance, a statutory body remains in breach of the provisions of Part 6 or any Financial Instruction in relation to Part 6 that were identified in the letter of non-compliance, the Bougainville Executive Council may, by notice in the Bougainville Gazette, suspend or terminate the appointment of the members of the controlling authority of the statutory body.

57. FINANCIAL MANAGEMENT MANUAL.

(1) A statutory body must develop a Financial Management Manual that is in such form and subject to such requirements as are specified by the Financial Instructions.

(2) A statutory body must comply with its Financial Management Manual.

(3) If a Financial Management Manual has not been developed by a statutory body, the Finance Departmental Head may issue a Financial Management Manual for that statutory body.

58. GOVERNANCE.

(1) A statutory body must develop governance rules to manage the performance of its programs, activities, functions and operations based on the following governance principles:

- (a) consistency with the cultural and operational aspects of the statutory body that are influenced by its actions and decisions;
- (b) the concepts of:
 - (i) openness, integrity, and transparency; and
 - (ii) due care; and
 - (iii) public accountability;
- (c) managing performance and risks.

(2) A statutory body must comply with its governance rules.

(3) If governance rules have not been developed by a statutory body, the Finance Departmental Head may issue governance rules for that statutory body.

PART 7. - REGIONAL TREASURIES

59. ESTABLISHMENT OF REGIONAL TREASURIES.

(1) There must be established in each Region an extended service of the Department responsible for financial management to be known as the Regional Treasury, to be headed by a Regional Treasury Head.

(2) The Regional Treasury Head must be appointed by the Finance Departmental Head after consultation with the Chief Secretary.

(3) A person must not be appointed as a Regional Treasury Head unless he or she has an appropriate accounting qualification from a tertiary institution or substantial working experience in financial matters.

(4) The Finance Departmental Head may assign such additional officers and employees as he or she considers necessary for purposes of carrying out adequately the purposes of this Act.

(5) The Finance Departmental Head must oversee the affairs of the Regional Treasuries.

60. DUTIES AND RESPONSIBILITIES OF A REGIONAL TREASURY.

A Regional Treasury Head must ensure that:

- (a) public money in the Regional Treasury is managed and released strictly in accordance with the law; and
- (b) the functions, duties and administrative arrangements of a Regional Treasury are carried out in the manner provided by the Financial Instructions.

PART 8 SURCHARGE

61. IMPOSITION OF SURCHARGE.

(1) The Finance Departmental Head, or the Departmental Head of a Department in the case of matters administered by that Department, may surcharge a person if the person:

- (a) is or has been an accountable officer; and
- (b) has done any act or made any omission referred to in Subsection (2).

(2) The act or omission is:

- (a) has wilfully or negligently omitted to collect or receive any money for the collection or receipt of which he or she was responsible; or
- (b) has failed to account for any money; or
- (c) has been responsible for any improper payment of public money or for any payment of public money that was not vouched and authorized; or
- (d) has authorized or permitted a breach of procedures relating to:
 - (i) the calling, considering and awarding of tenders; or
 - (ii) the execution of an Autonomous Bougainville Government contract; or
- (e) has been responsible for any deficiency in or for the loss or destruction of or damage to any public money or public property; or
- (f) has overcommitted funds under his or her control or failed to comply with any of the provisions of this Act; or
- (g) has approved requisitions for the expenditure of public money without observing the prescribed procedures, rules or provisions of this Act or the Financial Instructions; or
- (h) has failed to deposit immediately the money collected by him or her into the Bougainville Public Account.

(3) The amount of a surcharge may be one or total more than one of the following:

- (a) any amount not collected, received, accounted for, improperly paid, not vouched or authorized or the amount of any deficiency;
- (b) the value of any property lost or damaged;
- (c) the value of any property damaged or, in the discretion of the Finance Departmental Head the cost of repairs;
- (d) in a case to which Paragraph (2)(e) relates, the amount of any improper payment or other loss of public money.

(4) An accountable officer who has committed or is responsible for any or all financial irregularities specified in Subsection (2) is further liable to disciplinary action:

- (a) if he or she is an officer of a Bougainville Government Service - under the appropriate Bougainville law; or
- (b) if he or she is an officer of the National Public Service- under the *Public Services (Management) Act 1995* of the National Parliament and General Orders made under that Act.

62. PROCEDURE FOR IMPOSITION OF A SURCHARGE.

(1) Before imposing a surcharge under Section 61, the Finance Departmental Head or the Departmental Head must:

- (a) forward to the person against whom it is proposed to make the surcharge a notice in the prescribed form; and
- (b) consider any submissions made by that person within the period specified in the notice.

(2) The Finance Departmental Head or the Departmental Head may in light of those submissions decide:

- (a) to impose a surcharge for the amount specified in the notice or for a different amount; or
- (b) not to impose a surcharge.

(3) If the Finance Departmental Head or the Departmental Head imposes a surcharge, he or she must forward to the person surcharged a notice in the prescribed form.

(4) If the Finance Departmental Head or Departmental Head, forwards a notice under Subsection (1) to a person and later decides not to impose a surcharge, he or she must so notify the person.

63. ANNULMENT OF SURCHARGE.

The Minister may, at any time, annul a surcharge and any amount paid in consequence of it must be refunded.

64. APPEAL AGAINST SURCHARGE.

(1) A person on whom a surcharge has been imposed may appeal to the District Court within the period of one month after he or she has been notified of the surcharge or within such further period as the District Court allows (whether before or after the expiration of that period of one month).

(2) The District Court may on appeal make such order as it thinks proper.

65. RECOVERY OF AMOUNT OF SURCHARGE.

(1) The amount of surcharge may be recovered as a debt from the person on whom it was imposed.

(2) Despite any other law, the Finance Departmental Head may direct that the amount of a surcharge imposed on any person employed by the State or by the Autonomous Bougainville Government be deducted from any money paid or payable to that person by the State or by the Autonomous Bougainville Government arising out of his or her employment by the State or by the Autonomous Bougainville Government.

PART 9. - MISCELLANEOUS

66. EX-GRATIA PAYMENTS.

(1) The Bougainville Executive Council:

- (a) must approve a policy for the making of ex gratia payments; and
- (b) may issue guidelines for the implementation of that policy.

(2) In accordance with the ex-gratia payments policy and guidelines referred to in Subsection (1), the Minister may, with the approval of the Bougainville Executive Council, make an *ex gratia* payment out of public money of Bougainville to any person in an amount not exceeding the prescribed amount.

(3) In accordance with the ex-gratia payments policy and guidelines referred to in Subsection (1), the Minister may, with the approval of the Bougainville Executive Council, make an *ex gratia* payment out of the public money of Bougainville to any person in an amount exceeding the prescribed amount.

(4) Until an amount is prescribed by the Regulation, the prescribed amount is K5,000.00.

(5) This section is not to be taken to be an appropriation of public money.

67. WRITING-OFF.

The Minister may, with the approval of the Bougainville Executive Council, write off:

- (a) losses and deficiencies of public monies; and
- (b) irrecoverable amounts of revenue; and
- (c) irrecoverable debts and overpayments; and
- (d) the value of lost, deficient, condemned, unserviceable or obsolete public property.

68. WAIVER OF FEES.

(1) The Minister may, with the approval of the Bougainville Executive Council:

- (a) waive, reduce or defer an amount of:
 - (i) fees or forfeitures; or
 - (ii) fines or penalties in respect of fees; or
- (b) by agreement, vary rent or royalties, chargeable under any law.

(2) Nothing in Subsection (1) affects any power of waiver, reduction, deterrent or variation conferred by any other law.

69. DELEGATION.

The Finance Departmental Head and any other Departmental Head may, by instrument, delegate to a person all or any of his or her powers and functions under this Act (other than this power of delegation).

70. FINANCIAL MISCONDUCT.

If an officer:

- (a) fails to comply with a requirement of this Act (other than a section referred to in Section 71(1)) or the Financial Instructions; or
- (b) makes or permits an expenditure of money that is not authorised by or under this Act or any other Bougainville law; or
- (c) recklessly or negligently makes or authorises an expenditure of money;

the officer commits an act of financial misconduct and is, for the purposes of the *Bougainville Public Services (Management and Administration) Act 2014*, guilty of a serious disciplinary offence and must be dealt with in accordance with Part 10 of that Act and the General Orders made under that Act.

71. SERIOUS FINANCIAL MISCONDUCT.

(1) If an officer fails to comply with Section 7(7)(a), 8(1), 14, 17, 33 or 48, the officer is guilty of an offence.

Penalty: A fine not exceeding K100,000 or imprisonment for a term not exceeding 5 years, or both.

(2) An officer who commits an offence against a Section referred to in Subsection (1) is, for the purposes of the *Bougainville Public Services (Management and Administration) Act 2014*, guilty of a serious disciplinary offence and may also be dealt with under Part 10 of that Act and the General Orders made under that Act.

- (3) If a person, other than a person authorised by or under this Act:
- (a) borrows or purports to borrow money; or
 - (b) issues or purports to issue an indemnity or security or other prescribed financial instrument; or
 - (c) enters into or purports to enter into a contract for a future financial commitment;

for or on behalf of the Autonomous Bougainville Government or a statutory body, the person is guilty of an offence.

Penalty: A fine not exceeding K100, 000 or imprisonment for a term not exceeding 5 years, or both.

(4) A person who aids, abets, counsels or procures the commission of an offence against Subsection (1) or (3) by another person is taken to have committed that offence and is punishable accordingly.

72. DISCIPLINING OF DEPARTMENTAL HEADS, ETC., IN CERTAIN CIRCUMSTANCES.

(1) For the purposes of this section, "appointing authority" means the authority by whom, under the *Bougainville Constitution*, a Bougainville law, a National

Constitutional Law or an Act of the National Parliament, a Departmental Head or chief executive of a statutory body is appointed.

(2) If a Departmental Head or the chief executive of a statutory body authorizes expenditure:

- (a) over the approved aggregate ceiling for the Department or statutory body, as the case may be; or
- (b) in advance of the issuance of warrant authority under this Act;

the appointing authority may suspend without pay the Departmental Head or the chief executive, as the case may be, with effect on and from the date on which the Finance Departmental Head certifies the unauthorized expenditure.

(3) A Departmental Head or chief executive suspended under Subsection (1) may, within 14 days of the date of such suspension, make written submissions to the appointing authority as to the circumstances giving rise to the unauthorized expenditure.

(4) After the expiry of 14 days from the date of suspension the appointing authority, after considering any submission made under Subsection (2), may uplift the suspension or terminate the appointment of the Departmental Head or chief executive.

73. REGULATIONS.

The President, acting on advice of the Bougainville Executive Council, may make regulations, not inconsistent with this Act, prescribing all matters that:

- (a) by this Act are required or permitted to be prescribed; or
- (b) are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

74. DIRECTIONS AS TO MONEY OUTSIDE BOUGAINVILLE.

(1) The Minister may give such written directions consistent with this Act as he or she thinks necessary for or in relation to:

- (a) the collection, receipt, custody, expenditure, control, management and use, outside of Bougainville and Papua New Guinea, of public money and property of the Autonomous Bougainville Government, and the due accounting for such money and property; and
- (b) the keeping of accounts and records and the furnishing of statements, returns and vouchers in respect of the matters referred to in Paragraph (a); and
- (c) the execution of works and supply of services outside Bougainville and Papua New Guinea for or by the Autonomous Bougainville Government; and
- (d) the purchase outside Bougainville and Papua New Guinea of property for or by the Autonomous Bougainville Government; and
- (e) the custody, issue, sale or other disposal and writing-off of property of the Autonomous Bougainville Government outside

- Bougainville and Papua New Guinea, and the proper accounting for and stocktaking of such property; and
- (f) the inspection and examination (other than by the Bougainville Auditor-General), and the Departmental check, of accounts and records prepared or kept outside Bougainville and Papua New Guinea in respect of public accounts and property of the Autonomous Bougainville Government.

(2) Directions under Subsection (1) are subject to the approval of the Bougainville Executive Council and must be laid by the Minister before the House of Representatives at the first meeting of the House of Representatives after their approval.

- (3) In this section, "property" means real property or personal property.

75. FINANCIAL INSTRUCTIONS AND DIRECTIONS.

The Finance Departmental Head may issue Financial Instructions and financial directions, not inconsistent with this Act, as to any matter prescribed by this Act to be so provided for, or that are necessary or desirable for carrying out or giving effect to this Act and in general for the better control and management of public money and public property of Bougainville.

76. DISAPPLIANCE OF PUBLIC FINANCES (MANAGEMENT) ACT.

In accordance with the Bougainville Peace Agreement, the *Public Finances (Management) Act* 1995 does not apply in respect of:

- (a) public resources; or
- (b) statutory bodies to which this Act applies,
- on and from the date of coming into operation of this Act.

PART 10. - TRANSITIONAL

77. INTERPRETATION.

In this Part, "the Public Finances Act" means the *Public Finances (Management) Act 1995* of the National Parliament as in force immediately before the coming into operation of this Act, and includes all Regulations, Financial Instructions and financial directions under that Act.

78. REFERENCE TO CONSOLIDATED REVENUE FUND.

A reference in any Bougainville law in force immediately before the coming into operation of this Act to the Consolidated Revenue Fund, or any similar expression, must, on that coming into operation, insofar as such reference relates to the public money of Bougainville, be read as a reference to the Bougainville Consolidated Revenue Fund established under Section 10.

79. TRANSFER OF CERTAIN SUMS AT CREDIT OF CONSOLIDATED REVENUE FUND.

All money standing to the credit of the Consolidated Revenue Fund established under Section 10 of the Public Finances Act immediately before the coming into operation of this Act are, to the extent that they form part of the public money of Bougainville on that coming into operation, transferred to and stand to the credit of the Bougainville Consolidated Revenue Fund established under Section 10 of this Act.

80. REFERENCE TO TRUST FUND AND TRUST ACCOUNTS.

Any reference in any Bougainville law in force immediately before the coming into operation of this Act to:

- (a) the Trust Fund; or
- (b) a Trust Account;

must, on that coming into operation, insofar as such references relate to the public money of Bougainville, be read as a reference to:

- (c) the Bougainville Trust Fund established under Section 10; or
- (d) the appropriate Trust Account established under, or deemed by Section 81 to have been established under Section 15.

81. TRANSFER OF TRUST ACCOUNTS, ETC.,

(1) Each head of the Trust Fund and each Trust Account established under or deemed to have been established under the Public Finances Act, in existence immediately before the coming into operation of this Act, to the extent that they form part of the public money of Bougainville is deemed, on that coming into operation, to be established as a Trust Account established under Section 15, for the same purposes as before.

(2) All money standing to the credit of a head of the Trust Fund or a Trust Account under the Public Finances Act immediately before the coming into operation of this Act are to the extent that they form part of the public money of Bougainville on that coming into operation, transferred to and stand to the credit of the appropriate Trust Account deemed to be established by Subsection (1).

82. FORMER INVESTMENTS.

All public money invested or deemed to have been invested, immediately before the coming into operation of this Act under the Public Finances Act, to the extent that they form part of the public money of Bougainville are deemed, on that coming into operation, to be public money duly invested in the name of the Autonomous Bougainville Government under Section 12.

83. UNCLAIMED TRUST FUND MONEY.

In the case of money standing to the credit of the Trust Fund under the Public Finances Act immediately before the coming into operation of this Act, to the extent that they form part of the public money of Bougainville the period of two years referred to in Section 20 is deemed to have commenced to run when they were placed to the credit of that Fund.

84. FORMER WARRANTS, ETC.,

(1) All warrants under Section 29 of the Public Finances Act in force immediately before the coming into operation of this Act are, to the extent that they form part of the public money of Bougainville on that coming into operation, deemed to be warrants under Section 29 of this Act.

(2) All warrant authorities under Section 31 of the Public Finances Act in force immediately before the coming into operation of this Act are, to the extent that they form part of the public money of Bougainville on that coming into operation, deemed to be warrant authorities issued under Section 31 of this Act.

85. CONTINUANCE OF FORMER ACTS, ETC.,

All acts, matters or things done or suffered or deemed to have been done or suffered or taken or procedural steps taken under or for the purposes of a provision of the Public Finances Act and having effect immediately before the coming into operation of this Act, are to the extent that they form part of the public money of Bougainville after that coming into operation, deemed to have been done or suffered or taken under, or for the purpose of, this Act.

86. TRANSITIONAL FINANCIAL INSTRUCTIONS, ETC.,

Until Financial Instructions and financial directions are given under this Act, the provisions of and procedures laid down in Financial Instructions and financial directions under the Public Finances Act apply with such adaptation as is required to comply with the provisions of this Act and must be complied with as if given under this Act.

87. REFERENCES TO DISAPPLIED ACT.

Any reference in any Bougainville law in force as at the date of the coming into operation of this Act to a provision of the Public Finances Act must, on that coming into operation, be read as a reference to the equivalent provision of this Act.

88. ARRANGEMENTS FOR CERTAIN OTHER MATTERS.

(1) The officer who immediately before the coming into operation of this Act was the Chief Executive Officer of the Division in the Administration of the Autonomous Bougainville Government responsible for financial management is, on and after that date, deemed to have the functions, powers and duties of the Finance Departmental Head under this Act and any other law, until a person is appointed as the Finance Departmental Head under a Bougainville law.

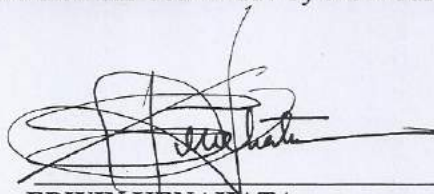
(2) The Finance Departmental Head may enter into an arrangement with the Departmental Head of the National Department responsible for financial management:

- (a) to manage staff of that National Department in Bougainville until such time as the Autonomous Bougainville Government have their own staff in place under the *Bougainville Public Services (Management and Administration) Act 2014*; and
- (b) to use accounting systems of the National Government, including the Provincial Government Accounting System (PGAS), until such time as the Autonomous Bougainville Government has established under Section 16 of the *Bougainville Public Services (Management and Administration) Act 2014* a department responsible for financial matters.

Certifications

I certify that the foregoing is a fair copy of the ***Bougainville Public Finance (Management and Administration) Act 2014*** which has been made by the House of Representatives.

Dated this 3rd day of April 2014



EDWIN KENAHATA
Acting Clerk of the House of
Representatives

In accordance with Sections 66 and 180(3) of the *Bougainville Constitution* and Section 302(2)(d) of the Papua New Guinea Constitution, I, ***Hon Andrew Miriki***, Speaker of the House of Representatives, certify that the ***Bougainville Public Finance (Management and Administration) Act 2014*** was made by the House of Representatives on 2nd April 2014 by an absolute majority vote.

Dated this 3rd day of April 2014



HON. ANDREW MIRIKI
Speaker of the House of Representatives