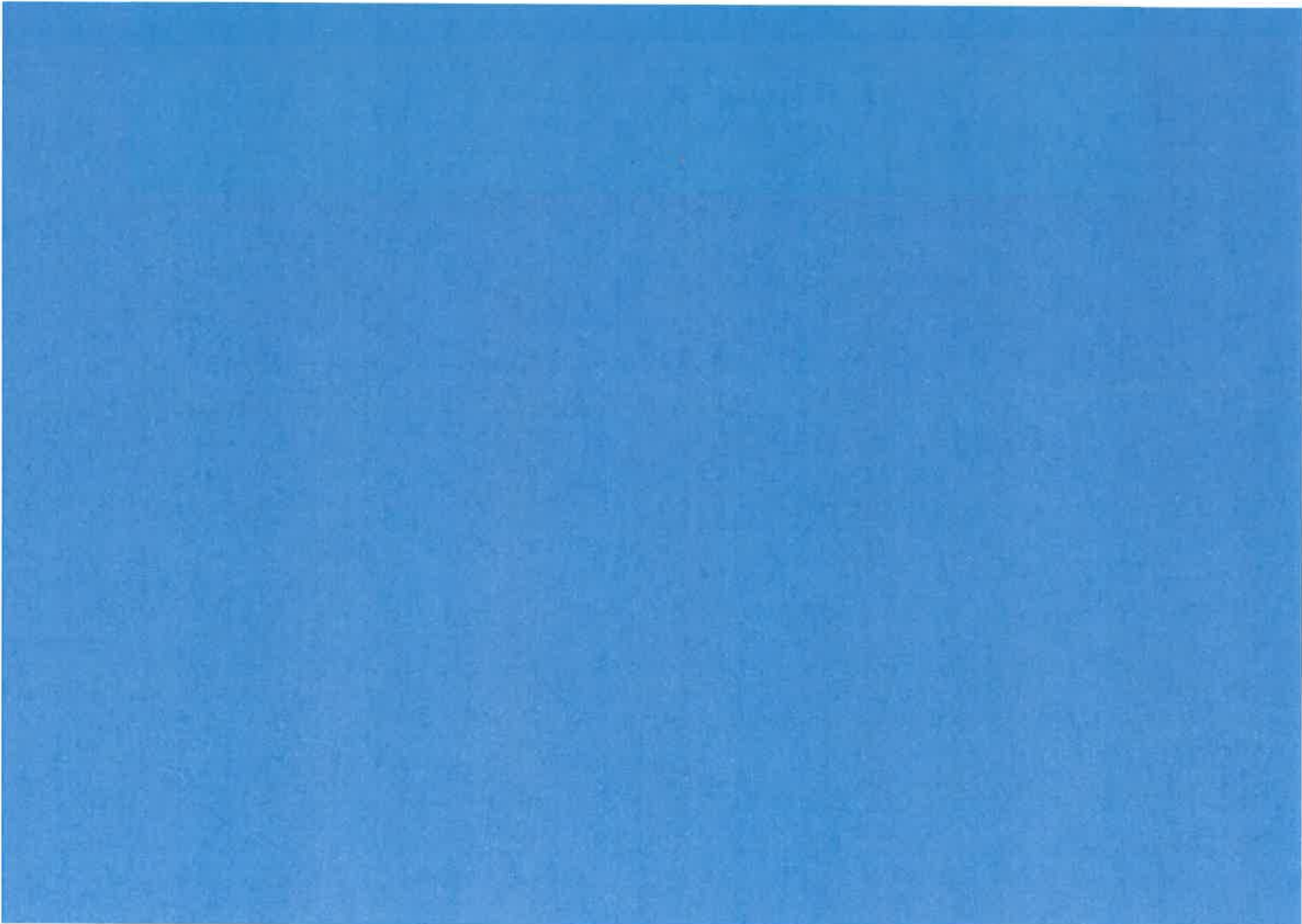


Bougainville Mining (Occupational Health and Safety) Bill 2026

Version updated on 18th August 2026

DRAFT



Contents

PART 1 – PRELIMINARY	1
1. Short title	1
2. Commencement	1
3. Constitutional rights and freedoms	1
4. Public purposes	2
5. Act binds the Autonomous Bougainville Government	2
6. Objects of this Act	2
7. How the objects are to be achieved	3
8. Application of this Act	3
9. Who this Act applies to	4
10. Relationship to the Bougainville Mining Act 2015	5
11. Definitions	6
12. Meaning of mine	10
13. Meaning of mining operations	10
14. Meaning of operator	11
15. Meaning of holder	12
16. Meaning of site senior executive	12
17. Meaning of supervisor	12
18. Meaning of worker	12
19. Meaning of competency	12
20. Meaning of risk	13
21. Meaning of hazard	13
22. Meaning of acceptable level of risk	13
23. Meaning of consultation	13
24. Meaning of safety and health management system	13
25. Interpretation generally	13
PART 2 – BASIC RISK CONCEPTS	13
26. Acceptable level of risk	13
27. Risk management	14
28. Action where risk is at an unacceptable level	14
29. Duty to cooperate	14
30. Standard of care – so far as is reasonably practicable	15
31. Major hazards and hazard control hierarchy	15
PART 3 – ADMINISTRATION	16
32. Appointment of Chief Inspector	16
33. Administrative reporting to the Secretary	17
34. Secretary's powers to direct performance of statutory functions	17
35. Functions of the Chief Inspector	19
36. Independence of Chief Inspector in statutory decision-making	20
37. Delegation by Chief Inspector	20
38. Notification to Secretary of significant matters	21
39. Appointment of inspectors	22
40. Direction and supervision of inspectors	22
41. Identity cards	23
42. Inspectors' general functions	23
43. Establishment and functions of the Mines Inspectorate	23

44.	Relationship with the Secretary and authorised officers under the Bougainville Mining Act 2015	24
45.	Annual report of the Mines Inspectorate	25
46.	Quarterly incident and enforcement action report	25
47.	Conflict of interest and integrity obligations	25
48.	Protection from improper direction or influence	26
49.	Register of enforcement actions	27
PART 4 – DUTY HOLDERS		28
50.	Duties under this Act are not transferable	28
51.	Person may have more than one duty	28
52.	More than one person may have the same duty	28
53.	Duties not limited by this Part	28
54.	Duties of holders	29
55.	Primary duty of operators	29
56.	Safe systems of work	29
57.	Safe plant and substances	30
58.	Safe workplace	30
59.	Information, training, instruction, and supervision	30
60.	Literacy requirements for employment at mines and works	30
61.	Monitoring of health and workplace conditions	33
62.	Welfare at mine	33
63.	Fatigue management and hours of work	33
64.	Transportation and storage	34
65.	Compliance with explosives legislation	35
66.	Duties of the site senior executive	35
67.	Duties of contractors	36
68.	Duties of supervisors	36
69.	Duties of workers	37
70.	Duties of designers	37
71.	Duties of manufacturers	37
72.	Duties of importers and suppliers	38
73.	Duties of site safety and health representatives	38
74.	Officers of bodies corporate	38
75.	Duty of controllers	39
PART 5 – STATUTORY APPOINTMENTS AND COMPETENCY		40
76.	Statutory positions at a mine	40
77.	Site senior executive – appointment and registration	41
78.	Statutory managers – appointment and registration	41
79.	Additional statutory positions – prescribed operations	42
80.	Chief Inspector to maintain register of statutory appointments	42
81.	Duty to notify changes to statutory positions	42
82.	Organisational chart to be displayed	43
83.	Requirement for competency	43
84.	Recognition of competency	43
85.	Suspension and cancellation of certificates	44
86.	Board of Examiners	44
PART 6 – SAFETY AND HEALTH MANAGEMENT SYSTEMS		45
87.	Obligation to establish safety and health management system	45
88.	Contents of the safety and health management system	45
89.	Safety and health management plan	46

90.	Hazard and risk register	46
91.	Mine plans	47
92.	Review of safety and health management system	47
93.	Audit of safety and health management system	48
94.	Specialised safety management plans – catastrophic installations and dams	48
95.	Chief Inspector to be provided with copy of system and plans	49
96.	Commissioning of major works	51
PART 7 – WORKER PARTICIPATION		53
97.	Right to site safety and health representative	53
98.	Election of site safety and health representative	53
99.	Functions of site safety and health representative	53
100.	Powers of site safety and health representative	54
101.	Protection from penalisation	54
102.	Immunity for good-faith performance	55
103.	Establishment of site safety and health committee	55
104.	Membership and constitution of committee	55
105.	Functions of committee	55
106.	Resourcing and administration of committee	56
107.	Inspector-chaired committee process	56
108.	Right to refuse unsafe work	56
109.	Protection of workers who exercise rights	57
PART 8 – INSPECTORS' POWERS		57
110.	Power to enter mining workplaces	57
111.	Entry to land subject to customary rights or landowner rights	57
112.	Entry to private dwellings	58
113.	Inspector to produce identity card	58
114.	Consent to entry	58
115.	General powers on entry	58
116.	Power to take samples	59
117.	Power to take photographs and recordings	59
118.	Power to require information and documents	59
119.	Power to seize evidence	59
120.	Duty of persons to assist inspectors	60
121.	Prohibition notices	60
122.	Improvement notices	60
123.	Withdrawal and variation of notices	61
124.	Compliance with notices	61
125.	Suspension of operations – serious risk	61
126.	Exemption from regulatory provisions	62
127.	Inspector to exercise powers in good faith	62
128.	Confidentiality of information	62
129.	Protection of inspectors	62
PART 9 – INCIDENT NOTIFICATION AND REPORTING		62
130.	Duty to report accidents and serious accidents	62
131.	Duty to report high-potential incidents	63
132.	Content of notification	63
133.	Preservation of accident site	63
134.	Disturbance of accident site in emergencies	64
135.	Notification to the Chief Inspector – change of ownership or management	64

136.	Site occupational health and safety monthly report	64
137.	Mine register	64
138.	Annual report of mine safety data	65
139.	Publication of mine safety information	66
PART 10 – INVESTIGATIONS, COMPLAINTS, AND INQUIRIES		66
140.	Investigation of accidents	66
141.	Inspector-led inquiry	66
142.	Power to request police assistance	67
143.	Findings and recommendations of inquiry	67
144.	Communication of recommendations	68
145.	Cost of investigation and inquiry	68
146.	Right to make complaint	69
147.	Investigation of complaints	69
148.	Protection of complainant's identity	69
149.	Outcome of complaint investigation	69
150.	Coroner may summon inspector	70
151.	Findings of inquest to be provided to Chief Inspector	70
PART 11 – CATASTROPHIC INSTALLATIONS AND DAMS		70
152.	Identification of catastrophic installations	70
153.	Registration of catastrophic installations and dams	70
154.	Safety management plan for catastrophic installations and dams	71
155.	Commissioning of catastrophic installations and dams	71
156.	Design, construction, and modification – safety requirements	73
157.	Inspection and auditing	73
158.	Decommissioning and closure of catastrophic installations and dams	73
PART 12 – TEMPORARY CLOSURE, SUSPENSION, RECOMMENCEMENT, AND ABANDONMENT		74
159.	Notification of suspension or temporary closure	74
160.	Safety obligations during temporary closure	74
161.	Recommendation – prior notification and inspection	74
162.	Abandonment and closure – notification and planning	75
163.	Mine closure plan	75
164.	Relationship with Bougainville Mining Act 2015 closure obligations	75
PART 13 – LANDOWNER AND CUSTOMARY LAND INTERFACE		76
165.	Application of this Part	76
166.	Relationship with Bougainville Mining Act 2015 – landowner rights	76
167.	Inspector entry and customary land – conditions	76
168.	Emergency safety entry	77
169.	Safety zones	77
170.	Community notification of safety matters	78
171.	Dispute resolution – customary processes	78
PART 14 – ENVIRONMENTAL INTERACTIONS		78
172.	Relationship with environmental laws	78
173.	Coordination of safety and environmental compliance activities	78
174.	Duty not to create unsafe environmental conditions at mine	79
PART 15 – OFFENCES AND ENFORCEMENT		79
175.	General penalty – Category 1 offences (recklessness)	79
176.	General penalty – Category 2 offences (failure of duty)	79
177.	General penalty – Category 3 offences (regulatory breach)	80

178.	Continuing offences	80
179.	Liability of officers of bodies corporate	80
180.	Liability of controllers	81
181.	Offence to operate without a registered site senior executive	81
182.	Offence to fail to comply with prohibition notice	82
183.	Offence to fail to comply with improvement notice	82
184.	Obstruction of inspector	82
185.	False or misleading information	82
186.	Failure to notify accidents and incidents	83
187.	Failure to file mine safety data report	83
188.	Offence to operate catastrophic installation or dam without commissioning approval	84
189.	Offence to operate major works without commissioning approval	85
190.	Failure to preserve accident site	85
191.	Industrial manslaughter.	86
192.	Aggravated obstruction.	86
193.	Anti-retaliation conduct.	87
194.	Defence of not reasonably practicable.	87
195.	Prosecution authority and procedures.	88
196.	Infringement notices.	89
197.	Effect of payment of infringement penalty.	89
198.	Court orders on conviction.	90
199.	Failure to comply with court order.	90
200.	Evidence.	90
201.	Interaction with Bougainville Mining Act 2015 enforcement provisions.	91
PART 16 – APPEALS AND REVIEW		91
202.	Decisions subject to internal review.	91
203.	Right of internal review.	92
204.	Effect of application for internal review.	92
205.	Discretionary stay.	92
206.	Natural justice on internal review.	93
207.	Powers on internal review.	93
208.	Timeframe for internal review.	93
209.	Failure to determine internal review within time.	94
210.	External appeal on question of law.	94
211.	Judicial review.	94
212.	Review of conviction and sentence.	95
213.	Costs of appeal.	95
214.	Standing for internal review.	95
PART 17 – REGULATIONS		95
215.	Regulation-making power.	95
216.	Specific matters for regulations.	96
217.	Regulatory offences.	97
218.	Inconsistency with Act.	98
219.	Consultation before making regulations.	98
220.	Codes of practice and guidelines.	98
PART 18 – TRANSITIONAL AND SAVINGS PROVISIONS		99
221.	Displacement of PNG Mining Safety Act.	99
222.	Staged commencement and transitional implementation periods.	99
223.	Consequential effect on Bougainville Mining Act 2015 cross-references.	100

Bougainville Mining (Occupational Health and Safety) Bill 2026

224.	Continuation of existing certificates of competency and approvals.	100
225.	Continuation of existing Inspector appointments.	101
226.	Continuation of existing safety plans and documents.	101
227.	Pending investigations, proceedings, and enforcement actions.	101
228.	Continuation of existing regulations.	102
229.	Accrued rights and liabilities.	102
230.	Transitional regulation-making power.	102
231.	References to Bougainville High Court pending establishment	103

DRAFT

AUTONOMOUS REGION OF BOUGAINVILLE

(No. [] of 2026)

BOUGAINVILLE MINING (OCCUPATIONAL HEALTH AND SAFETY) BILL 2026

Being an Act to regulate the law relating to the safety and health of persons at, or affected by, mining operations in Bougainville, to impose duties on persons who have control over mining operations, mining workplaces, plant, and substances used in mining, to establish a mines inspectorate, to regulate the management of safety and health risk in mining, to provide for worker participation in safety and health management, to provide for incident notification, investigation, and inquiry, to regulate the closure and recommencement of mining operations, to provide for enforcement, offences and penalties, to coordinate the operation of this Act with the *Bougainville Mining Act 2015*, and for related purposes.

MADE by the House of Representatives of the Autonomous Bougainville Government, to commence in accordance with Section 2.

PART 1 – PRELIMINARY

Division 1 – General

1. Short title

This is the *Bougainville Mining (Occupational Health and Safety) Act 2026*.

2. Commencement

This Act comes into operation on a date fixed by the Minister by notice published in the Bougainville Gazette.

3. Constitutional rights and freedoms

(1) For Section 303(2) of the National Constitution and Section 180(3) of the Bougainville Constitution –

- (a) this Act regulates or restricts the following qualified rights set out in Part III.3.C of the National Constitution—
 - (i) freedom from arbitrary search and entry (Section 44);
 - (ii) freedom of employment (Section 48);
 - (iii) the right to privacy (Section 49);
 - (iv) the right to freedom of information (Section 51); and
- (b) any such regulation or restriction is, in the considered opinion of the House of Representatives, necessary for the purpose of giving effect to the public interest in –
 - (i) public safety;

- (ii) public order; and
 - (iii) public welfare.
- (2) For Section 53(1) of the National Constitution, any acquisition, use or occupation of land, or any restriction on the use or enjoyment of land, that is reasonably required for the purposes of administering or enforcing this Act is declared to be for a public purpose.

4. Public purposes

- (1) The regulation of safety and health at mines and works, the protection of workers and other persons from harm arising from mining operations, and the conduct of inspections, investigations, and enforcement actions under this Act, are public purposes within the meaning of Section 53(1) of the National Constitution.
- (2) Anything done under this Act in furtherance of those purposes is done for a public purpose.

5. Act binds the Autonomous Bougainville Government

- (1) This Act binds the Autonomous Bougainville Government and all its agencies.
- (2) The Autonomous Bougainville Government and its agencies may not be prosecuted under this Act.
- (3) Nothing in Subsection (2) affects the liability of an officer, employee, or agent of the Autonomous Bougainville Government for an act or omission in contravention of this Act.

Division 2 – Objects

6. Objects of this Act

The objects of this Act are –

- (a) to protect the safety and health of workers, contractors, and other persons at, or who may be affected by, mining operations in Bougainville;
- (b) to require that risk to persons at or affected by mining operations is managed so that it is at an acceptable level;
- (c) to impose clear and enforceable duties on all persons who have control over mining operations, workplaces, plant, substances, and systems used in mining;
- (d) to establish an effective mines inspectorate with powers adequate to enforce this Act;
- (e) to provide for meaningful worker participation in the management of safety and health at mines;
- (f) to ensure that mining operations in Bougainville comply with safety and health standards consistent with recognised international practice;
- (g) to provide for the safe management of catastrophic installations, dams, and other high-risk facilities associated with mining operations;

- (h) to provide for appropriate closure, decommissioning, and abandonment of mines in a manner that is safe for workers, communities, and the environment;
- (i) to ensure that the rights and interests of landowners, including customary landowners, are respected in the conduct of safety and health regulation; and
- (j) to encourage cooperation among holders, operators, workers, contractors, and the Autonomous Bougainville Government in achieving the objects of this Act.

7. How the objects are to be achieved

The objects of this Act are to be achieved principally through –

- (a) the imposition of duties on persons who are most able to control risk at mines and works;
- (b) the establishment of a general risk-management framework requiring systematic identification, assessment, and control of hazards and risks;
- (c) the requirement that every relevant mine and works maintain a safety and health management system;
- (d) the establishment of a Mines Inspectorate with powers to inspect, investigate, issue notices, and enforce compliance;
- (e) the provision of rights for workers to participate in safety and health management, including through elected representatives and site safety and health committees;
- (f) the requirement for mandatory notification of accidents, serious accidents, and high-potential incidents;
- (g) the establishment of formal investigation and inquiry processes for significant safety and health events;
- (h) the recognition of Bougainville's customary land and landowner framework in the exercise of safety and health powers;
- (i) the making of regulations that set detailed technical, operational, and procedural standards; and
- (j) the provision of proportionate penalty for contraventions of this Act and the regulations.

Division 3 – Application and scope

8. Application of this Act

- (1) This Act applies to –
 - (a) all mines in Bougainville at which mining operations are carried out;
 - (b) all works in Bougainville associated with mining operations;

- (c) all quarrying operations in Bougainville;
 - (d) exploration operations carried out in connection with or in anticipation of mining operations; and
 - (e) any other operation or activity declared by regulation to be subject to this Act.
- (2) For the avoidance of doubt, this Act applies to all types of mining tenure granted under the *Bougainville Mining Act 2015*, including operations conducted under –
- (a) a mining lease;
 - (b) an exploration licence;
 - (c) a quarry lease;
 - (d) a community mining licence;
 - (e) an artisanal mining licence;
 - (f) a lease for mining purposes;
 - (g) a gold dealer licence;
 - (h) mining easements; and
 - (h) channel dredging permit.
- (3) The Minister may by regulation –
- (a) modify or scale the application of specified provisions of this Act to a class of mining operation having regard to the risk profile, size, and nature of that class of operation; and
 - (b) exempt a class of mining operation from specified provisions of this Act where the Chief Inspector is satisfied that an alternative compliance measure affords equivalent protection.
- (4) This Act does not limit any obligation imposed by the *Bougainville Mining Act 2015* or any other law of Bougainville.

9. Who this Act applies to

This Act applies to—

- (a) every person who, at or in connection with a mine or works in Bougainville –
 - (i) carries out mining operations;
 - (ii) has management or control of mining operations or a part of mining operations;
 - (iii) designs, manufactures, imports, supplies, or installs plant, structures, or substances used in mining; or
 - (iv) may affect the safety or health of other persons; and

- (b) every person whose safety or health may be affected by mining operations in Bougainville, including workers, contractors, visitors, and members of communities in the vicinity of a mine.

10. Relationship to the Bougainville Mining Act 2015

- (1) This Act is to be read and construed together with the *Bougainville Mining Act 2015*.
- (2) The obligations imposed by this Act are in addition to the obligations imposed by the *Bougainville Mining Act 2015* and do not limit or replace them.
- (3) Where a provision of this Act and a provision of the *Bougainville Mining Act 2015* both apply to the same conduct or circumstances, both provisions apply and must be complied with.
- (4) Where there is an inconsistency between a provision of this Act and a provision of the *Bougainville Mining Act 2015* that cannot be resolved by reading them together, the provision that provides the greater protection to safety and health prevails in relation to a matter of occupational health and safety.
- (5) Nothing in this Act affects the power of the Secretary under the *Bougainville Mining Act 2015* to suspend mining operations on safety or environmental grounds, but the Secretary must notify the Chief Inspector before exercising a suspension power under the *Bougainville Mining Act 2015* that relates to occupational health and safety.
- (6) For the purposes of Subsection (4) –
 - (a) it is for the Chief Inspector to determine, in the first instance, which provision provides the greater protection to safety and health;
 - (b) in making a determination under paragraph (a), the Chief Inspector must have regard to –
 - (i) the nature and severity of the risk to safety and health that each provision is directed at controlling;
 - (ii) the standard of care, control measure, or outcome each provision requires; and
 - (iii) any relevant guideline issued by the Chief Inspector under Section 43(2);
 - (c) The Chief Inspector must give written notice of a determination under Subsection (2)(a), including the reasons for it, to the holder, operator, and the Secretary;
 - (d) a determination under Subsection (2)(a) is a reviewable decision for the purposes of Part 16; and
 - (e) pending a determination under Subsection (2)(a), a duty holder must comply with whichever provision imposes the more stringent requirement.

Division 4 – Interpretation

11. Definitions

In this Act, unless the context otherwise requires—

abandon, in relation to a mine or works, means to cease mining operations at the mine or works without intent to recommence and without completing all closure and decommissioning obligations under this Act;

accident means an unplanned or uncontrolled event or series of events arising out of, or in connection with, mining operations that results in injury, illness, or death to a person;

annual mine safety data report means the report required under Section 138.

annual report of the Mines Inspectorate means the annual mine safety data report required under Section 45;

artisanal mining licence has the meaning given in the *Bougainville Mining Act 2015*;

authorised officer has the meaning given in the *Bougainville Mining Act 2015*;

Bougainville means the Autonomous Region of Bougainville;

Bougainville Constitution means the Constitution of the Autonomous Region of Bougainville;

Bougainville Mining Act 2015 means the *Bougainville Mining Act 2015*;

catastrophic accident means an accident at a mine or works that results in multiple fatalities or injuries or that causes a catastrophic environmental or structural failure;

catastrophic installation means a facility, structure, installation, or piece of equipment at a mine or works identified under Section 152 as presenting a risk of catastrophic accident;

certificate of competency means a certificate issued or recognised by the Chief Inspector under this Act or the regulations confirming that a person is competent to perform a specified function or fill a specified statutory position;

channel dredging permit has the meaning given in the *Bougainville Mining Act 2015*;

Chief Inspector means the person appointed as Chief Inspector of Mines under Section 32;

community mining licence has the meaning given in the *Bougainville Mining Act 2015*;

contractor means a person who, pursuant to a contract with an operator or holder, carries out work at a mine or works, and includes a sub-contractor;

controller means a person who exercises, or who is in a position to exercise, sufficient management, operational, or financial control over a holder, operator, or contractor to significantly influence the manner in which the holder, operator, or contractor carries out mining operations or meets its obligations under this Act, and includes –

- (a) a parent company or holding company of the holder, operator, or contractor;

- (b) a person who directly or indirectly holds a majority voting interest in, or a majority of the issued shares of, the holder, operator, or contractor;
- (c) a person who appoints, or who has the power to appoint, remove, or direct, a majority of the board of directors or other governing body of the holder, operator, or contractor;
- (d) a person who has, or who exercises, the right or power to direct or significantly influence the financial, operational, or safety and health policies of the holder, operator, or contractor, whether under a contract, a joint venture agreement, a management agreement, or otherwise; and
- (e) a joint venture partner or consortium member who, under the terms of a joint venture or consortium arrangement, exercises management or operational control over the relevant mining operations;

customary landowner means a person or group holding customary rights over land within the meaning of the *Bougainville Mining Act 2015*;

dam means a dam, tailings storage facility, retention pond, or similar structure associated with a mine or works;

dangerous goods means goods classified as dangerous by virtue of their explosive, flammable, toxic, reactive, or other hazardous properties, and includes explosives used in mining;

dangerous occurrence means an event at a mine or works that, although not causing injury, death, or illness, presents, or by its nature presents, a significant risk of catastrophic accident, including events prescribed by the regulations as dangerous occurrences;

deep sea tailings placement means the discharge of mine tailings, being finely ground rock, process residues, and associated water from mineral processing, into the deep ocean through a pipeline or channel, at depths sufficient to avoid direct contact with coastal ecosystems, with the intent that the tailings settle on the sea floor, and includes:

- (a) all infrastructure used in connection with that process, including above-ground pipelines, submarine pipelines, pump stations, diffusers, and associated plant and equipment;
- (b) monitoring systems and equipment installed or operated in connection with that process;
- (c) any marine or nearshore operations conducted in connection with the installation, operation, maintenance, or decommissioning of that infrastructure; and
- (d) the decommissioning and remediation of all infrastructure and associated systems used for that process;

designer means a person who designs plant, a structure, or a substance intended or likely to be used in mining;

document includes information stored in electronic form;

duty holder means any person who owes a duty under this Act;

exploration licence has the meaning given in the *Bougainville Mining Act 2015*;

hazard has the meaning given in Section 21;

high-potential incident means an unplanned or uncontrolled event arising out of, or in connection with, mining operations that did not result in injury, illness, or death but had the potential to cause a serious accident;

holder has the meaning given in Section 15;

importer means a person who imports plant, a structure, or a substance into Bougainville for use in mining;

improvement notice means a notice issued under Section 122;

incident means an accident or high-potential incident;

inspector means a Mines Inspector appointed under Section 39;

lease for mining purposes has the meaning given in the *Bougainville Mining Act 2015*;

mine-associated power scheme means a power generation or power supply facility or infrastructure that is:

- (a) owned, operated or controlled by the operator of a mine; and
- (b) used wholly or principally to generate or supply power for the conduct of mining operations at the mine;

major hazard means a hazard associated with mining operations that has the potential, if not adequately controlled, to cause a catastrophic accident;

mine has the meaning given in Section 12;

mine register means the register required to be maintained at a mine under Section 137;

mining easement has the meaning given in the *Bougainville Mining Act 2015*;

mining lease has the meaning given in the *Bougainville Mining Act 2015*;

mining operations has the meaning give in Section 13;

Mines Inspectorate means the inspectorate established under Section 43;

Minister means the Minister of the Autonomous Bougainville Government responsible for mining;

National Constitution means the Constitution of the Independent State of Papua New Guinea;

operator has the meaning given in Section 14;

owner means the person who is the legal owner of, or who has controlling management authority over, a mine or works, and who is the holder of a mining tenement granted under the *Bougainville Mining Act 2015* in relation to those operations;

permanent closure means the permanent cessation of mining operations at a mine or works, including the completion of all decommissioning, rehabilitation, and closure obligations;

plant means machinery, equipment, appliance, vehicle, vessel, aircraft, tool, scaffolding, falsework, formwork, and anything used to mine, process, or transport minerals, and includes any component or fitting attached to or used in connection with any of those things;

prohibition notice means a notice issued under Section 121;

quarry means a place where quarrying operations are carried out for the extraction of rock, gravel, sand, or other mineral materials;

quarry lease has the meaning given in the *Bougainville Mining Act 2015*;

quarrying operations means operations carried out at a quarry for the extraction of stone, rock, gravel, sand, clay, or other materials, and includes associated processing, crushing, and transportation activities;

reasonably practicable has the meaning given in Section 30;

risk has the meaning given in Section 20;

risk management has the meaning given in Section 27;

safety and health management plan means a plan required under Section 89;

safety and health management system means the system required under Section 87;

safety zone means an area established around a mine or works under Section 169 for the protection of persons from safety and health hazards arising from mining operations;

Secretary means the Secretary of the Department responsible for mining in the Autonomous Bougainville Government;

serious accident means an accident at a mine or works that results in –

- (a) the death of a person;
- (b) an injury requiring medical treatment beyond first aid that results in hospitalisation or absence from work for more than three days;
- (c) permanent disability or disfigurement; or
- (d) the exposure of a person to a substance in a manner that is likely to cause long-term illness;

site means the land and premises, including the underground and subsurface, on which mining operations are carried out;

site safety and health committee means a committee established under Section 103;

site safety and health representative means a person elected under Section 98;

site senior executive has the meaning given in Section 16;

smelter or **refinery** means a facility at which minerals or mineral products from a mining operation are processed by smelting or refining, whether or not the facility is located on the mine site, being a facility owned, operated or controlled by the operator of the mine or by a related body corporate;

statutory manager means a person appointed to a statutory position under Section 78;

statutory position means a position listed in Section 76;

supervisor has the meaning given in Section 17;

supplier means a person who supplies plant, a structure, or a substance for use in mining;

tenement has the meaning given to it in the *Bougainville Mining Act 2015*;

works means any works, plant, or infrastructure associated with or used in mining operations, including processing plants, ore treatment facilities, tailings storage facilities, and mine-related infrastructure;

worker has the meaning given in Section 18.

12. Meaning of mine

- (1) In this Act, mine means a place or area in Bougainville where mining operations are carried out, and includes –
 - (a) all excavations, workings, tunnels, shafts, open cuts, and other voids made in the course of mining operations;
 - (b) all land, buildings, structures, equipment, plant, and machinery associated with or used in connection with mining operations at the place;
 - (c) any processing plant, workshop, or facility used in connection with mining operations at the place; and
 - (d) any other place declared by regulation to be a mine for the purposes of this Act.
- (2) A mine includes a quarry.
- (3) For the avoidance of doubt, a mine includes a mine or works operating under any class of mining tenement under the *Bougainville Mining Act 2015*.

13. Meaning of mining operations

- (1) In this Act, mining operations means –
 - (a) exploration for minerals, including geotechnical, geophysical, geochemical, and drilling activities;

- (b) extraction of minerals from the earth by any means, including surface mining, open-cut mining, underground mining, alluvial mining, and quarrying;
 - (c) processing, treatment, refining, smelting, or beneficiation of minerals;
 - (d) the removal, stockpiling, transportation, or disposal of overburden, tailings, or waste material associated with mining;
 - (e) the transportation of minerals, mineral products, chemicals, fuel, equipment and dangerous goods to, from and within the mine site, where the transportation is connected with, and carried out by or on behalf of, the mine operator;
 - (f) the storage of minerals, mineral products, chemicals, explosives, fuel, equipment and dangerous at the mine site or at any storage facility owned, operated or controlled by the mine operator in connection with mining operations;
 - (g) the construction, operation, and decommissioning of any infrastructure, plant, or works associated with activities in paragraphs (a) to (f);
 - (h) mine-associated power scheme; and
 - (i) any other activity declared by regulation to be a mining operation for the purposes of this Act.
- (2) For the purposes of Subsection (1)(d), the removal, stockpiling, transportation, or disposal of overburden, tailings, or waste material associated with mining include submarine pipelines, deep sea pump stations, and marine operations that are associated with deep sea tailings placement.
- (3) For the avoidance of doubt, a smelter or refinery that processes minerals obtained from a mining operation is a "mining operation" for the purposes of this Act, and a worker employed at a smelter or refinery in connection with a mine is entitled to the protections provided by this Act, regardless of whether the smelter or refinery is located on or adjacent to the mine site.

14. Meaning of operator

- (1) In this Act, operator means the person who conducts mining operations, and who has management or operational control over a mine or works.
- (2) The operator of a mine or works is –
- (a) where the holder personally conducts mining operations – the holder;
 - (b) where the holder engages another person to conduct mining operations on the holder's behalf – that other person; or
 - (c) where mining operations are conducted by a joint venture or under a contract – the person who has primary day-to-day operational management and control.

- (3) Unless the context otherwise requires, a reference to operator in this Act includes the owner where no separate operator has been appointed and the owner is in operational control.
- (4) An operator must notify the Chief Inspector in writing of the operator's identity, address, and contact details before commencing mining operations, and within 14 days of any change.

15. Meaning of holder

In this Act, holder has the meaning given in the *Bougainville Mining Act 2015*, being the person holding a tenement under that Act.

16. Meaning of site senior executive

In this Act, site senior executive means the person appointed under Section 77 who, for a mine or works, is the most senior person at the site and has overall responsibility for the management and control of safety and health at the mine or works.

17. Meaning of supervisor

In this Act, supervisor means a person who is responsible for directing or overseeing the work of other workers at a mine or works, and who has the competence, authority, and responsibility to implement the requirements of the safety and health management system in the area or activity under their supervision.

18. Meaning of worker

- (1) In this Act, worker means an individual who carries out work, in any capacity, at a mine or works in connection with mining operations, and includes –
 - (a) an employee;
 - (b) a labour hire worker;
 - (c) an apprentice or trainee;
 - (d) a volunteer;
 - (e) a contractor or sub-contractor; and
 - (f) an outworker.
- (2) For the avoidance of doubt, a customary landowner who participates directly in community mining operations is a worker to the extent of that participation.

19. Meaning of competency

In this Act, a person is competent to carry out a task or fill a role if the person:

- (a) has the knowledge, skills, training, experience, and qualifications necessary to carry out that task or fill that role safely and effectively, including the ability to identify hazards associated with the task or role and to take appropriate measures to control the risk they present; and

- (b) has the functional literacy in English or Tok Pisin required by Section 60 for the role in question.

20. Meaning of risk

In this Act, risk, in relation to a hazard, means the probability that the hazard will cause harm, taking into account the nature and severity of the harm, the number of persons likely to be affected, and the circumstances in which exposure to the hazard may occur.

21. Meaning of hazard

In this Act, hazard means a situation or thing that has the potential to harm the safety or health of a person, and includes biological, chemical, ergonomic, mechanical, physical, psychological, and radiological hazards.

22. Meaning of acceptable level of risk

In this Act, risk is at an acceptable level if it is –

- (a) within the limits established by this Act and the regulations; and
- (b) as low as is reasonably practicable having regard to the measures available to eliminate or minimise the risk.

23. Meaning of consultation

In this Act, consultation means a process by which persons who have duties under this Act seek the views of workers and their representatives before making decisions that may affect safety and health, and genuinely take those views into account.

24. Meaning of safety and health management system

In this Act, safety and health management system means the integrated system of policies, plans, procedures, and arrangements established by an operator under Part 6 for the management of safety and health at a mine or works.

25. Interpretation generally

- (1) The *Interpretation Act 2005* of Bougainville applies to this Act.
- (2) A reference in this Act to a provision of the *Bougainville Mining Act 2015* is a reference to that provision as amended from time to time.
- (3) A reference in this Act to a mine includes a works unless the context otherwise requires.

PART 2 – BASIC RISK CONCEPTS

26. Acceptable level of risk

- (1) It is the fundamental obligation of every person who owes a duty under this Act to ensure that risk to any person arising from that person's activities is at an acceptable level.

- (2) A person who fails to ensure that risk is at an acceptable level contravenes this Act unless the person can demonstrate that all measures that were reasonably practicable to achieve an acceptable level of risk were taken.

27. Risk management

- (1) Risk management for the purposes of this Act is a systematic process of –
- (a) identifying hazards and the risks they present;
 - (b) assessing those risks;
 - (c) implementing measures to control the risks so that they are at an acceptable level;
 - (d) monitoring and reviewing the effectiveness of controls;
 - (e) investigating incidents to identify root causes; and
 - (f) mitigating any retained residual risk.
- (2) Duty holders must implement risk management in accordance with this section and any applicable provisions of the regulations.

28. Action where risk is at an unacceptable level

- (1) If a person becomes aware, or ought reasonably to have become aware, that a risk at a mine or works is not at an acceptable level, the person must –
- (a) immediately take all reasonably practicable steps to reduce the risk to an acceptable level; and
 - (b) if the risk cannot be immediately reduced to an acceptable level, suspend the activity or isolate the hazard until the risk is at an acceptable level.
- (2) Where a worker is required to perform work that involves a risk that is not at an acceptable level, the site senior executive or supervisor must not require the worker to perform that work until the risk has been reduced to an acceptable level.
- (3) The obligation under Subsection (1) includes the obligation to evacuate workers from an area where there is an immediate risk to their safety or health.

29. Duty to cooperate

- (1) All persons who have duties under this Act must cooperate with each other in the management of safety and health at a mine or works to the extent necessary to achieve the objects of this Act.
- (2) Cooperation required under this section does not diminish or transfer the separate obligations of each duty holder.

30. Standard of care – so far as is reasonably practicable

- (1) A reference in this Act to ensuring safety and health so far as is reasonably practicable means that a duty holder must do all things that it is reasonably practicable to do to protect safety and health.
- (2) In determining what is reasonably practicable, regard must be had to –
 - (a) the likelihood that the hazard or risk will occur;
 - (b) the degree of harm that may result;
 - (c) what the person knows, or ought reasonably to know, about the hazard or risk and the ways of eliminating or minimising it;
 - (d) the availability and suitability of ways to eliminate or minimise the risk; and
 - (e) after assessing the extent of the risk and the available ways of eliminating or minimising it, the cost associated with available ways of eliminating or minimising the risk, including whether the cost is grossly disproportionate to the risk.
- (3) A cost is not grossly disproportionate to a risk merely because it is significant or that compliance is inconvenient.

31. Major hazards and hazard control hierarchy

- (1) Every operator must identify all major hazards associated with mining operations at the mine or works and document them in the hazard and risk register maintained under Section 90.
- (2) In addressing a major hazard or any hazard, operators and other duty holders must apply controls in accordance with the following hierarchy, starting with the highest-ranked option and proceeding down only if a higher-ranked option is not reasonably practicable –
 - (a) eliminate the hazard;
 - (b) substitute the hazard with something that presents a lower risk;
 - (c) isolate the hazard from persons;
 - (d) implement engineering controls;
 - (e) implement administrative controls, including safe work procedures and training; and
 - (f) provide and require the use of personal protective equipment.
- (3) Reliance on personal protective equipment as the sole control measure is not acceptable unless no other control in Subsection (2) is reasonably practicable.
- (4) Residual risk following the application of controls in Subsection (2) must be documented in the hazard and risk register and reduced to an acceptable level.

PART 3 – ADMINISTRATION

Division 1 – Chief Inspector

32. Appointment of Chief Inspector

- (1) The office of the Chief Inspector of Mines is established.
- (2) The Secretary may, by written instrument, appoint a suitably qualified person as Chief Inspector.
- (3) A person must not be appointed as Chief Inspector unless the person has a minimum first degree in a technical and mining related field and demonstrated knowledge and experience in one or more of the following fields –
 - (a) engineering;
 - (b) geology;
 - (c) occupational health and safety in mining;
 - (d) mine regulation or mine management; or
 - (e) a related technical, scientific, or professional field relevant to mine safety.
- (4) The instrument of appointment must state –
 - (a) the term of the appointment;
 - (b) any conditions of the appointment; and
 - (c) the remuneration and other terms of the appointment, subject to the *Bougainville Public Services (Management and Administration) Act 2014* and any applicable public service determination.
- (5) The Chief Inspector holds office for the term stated in the instrument of appointment and is eligible for reappointment.
- (6) The appointment of the Chief Inspector is subject to the *Bougainville Public Services (Management and Administration) Act 2014*.
- (7) The Secretary may terminate the appointment of the Chief Inspector in accordance with the *Bougainville Public Services (Management and Administration) Act 2014*.
- (8) The Secretary may, by written instrument, appoint a suitably qualified person to act as acting Chief Inspector –
 - (a) during any vacancy in the office of the Chief Inspector;
 - (b) during any period when the Chief Inspector is absent from duty; or
 - (c) during any period when the Chief Inspector is, for any reason, unable to perform the functions of the office.

- (9) A person appointed as acting Chief Inspector under Subsection (8) has, during the period of the appointment, all the powers and functions of the Chief Inspector under this Act.

33. Administrative reporting to the Secretary

- (1) The Chief Inspector reports administratively to the Secretary.
- (2) The administrative reporting relationship under Subsection (1) encompasses –
- (a) budgeting and resourcing of the Mines Inspectorate;
 - (b) staffing of the Mines Inspectorate;
 - (c) internal administrative reporting within the Department;
 - (d) general departmental coordination;
 - (e) compliance with public service policies, rules, and guidelines applicable to the Department;
 - (f) annual and periodic planning and reporting; and
 - (g) administrative performance management.
- (3) The Secretary may give the Chief Inspector written directions on any administrative matter referred to in Subsection (2).
- (4) The administrative reporting relationship under this section does not authorise the Secretary to give the Chief Inspector or an inspector a direction –
- (a) to exercise or refrain from exercising any specific inspection, investigation, enforcement, compliance, or prosecution power under this Act;
 - (b) to issue, vary, or withdraw any prohibition notice, improvement notice, or suspension order;
 - (c) to refer or refrain from referring any matter for prosecution;
 - (d) to reach a particular outcome in any investigation, inquiry, or enforcement proceeding; or
 - (e) in relation to any specific technical, safety, or regulatory decision under this Act, unless this Act expressly provides otherwise.
- (5) A direction by the Secretary that is inconsistent with Subsection (4) has no effect.
- (6) Nothing in this section prevents the Chief Inspector from consulting the Secretary, or seeking the Secretary's views, on any matter of policy or departmental concern.

34. Secretary's powers to direct performance of statutory functions

- (1) Where the Secretary reasonably believes that the Chief Inspector has failed, or is failing, to perform a statutory function conferred by this Act or the regulations, and that such failure is compromising the effectiveness of the Mines Inspectorate or the proper administration of

- this Act, the Secretary may give the Chief Inspector a written direction requiring the Chief Inspector to perform that function, or a specified class of functions, within a reasonable timeframe specified in the direction.
- (2) Before giving a direction under Subsection (1), the Secretary must –
- (a) give the Chief Inspector written notice of –
 - (i) the function or class of functions in respect of which the direction is proposed; and
 - (ii) the grounds on which the Secretary considers the Chief Inspector has failed, or is failing, to perform that function or class of functions; and
 - (b) allow the Chief Inspector a period of not less than 7 days from the date of the notice to provide a written response to the Secretary's proposed direction, unless the Secretary is satisfied that the urgency of the circumstances does not permit such a period, in which case the Secretary must allow the Chief Inspector such shorter period as is reasonable in the circumstances.
- (3) After considering the Chief Inspector's written response (if any), the Secretary may –
- (a) give the direction in the terms proposed or in amended terms; or
 - (b) determine that a direction is not necessary.
- (4) A direction given under Subsection (1) must –
- (a) be in writing;
 - (b) set out the Secretary's reasons for giving the direction;
 - (c) identify the statutory function or class of functions that the Chief Inspector is directed to perform;
 - (d) specify a reasonable timeframe within which the Chief Inspector is required to perform that function or class of functions; and
 - (e) not prescribe or seek to influence –
 - (i) the manner in which the Chief Inspector exercises any specific inspection, investigation, enforcement, compliance, or prosecution power;
 - (ii) the outcome of any specific inspection, investigation, inquiry, or enforcement proceeding; or
 - (iii) any specific technical, safety, or regulatory decision under this Act.
- (5) A direction given under this section does not –
- (a) require the Chief Inspector to achieve a particular outcome in the performance of any function directed;

- (b) limit the Chief Inspector's discretion as to the manner in which the directed function is performed, consistent with this Act; or
 - (c) affect the Chief Inspector's obligations under Section 36 to exercise powers and functions independently, impartially, and in the public interest.
- (6) The Chief Inspector must comply with a direction given under this section and must, as soon as practicable after complying, provide the Secretary with a written report confirming that the directed function or class of functions has been performed.
- (7) Where the Chief Inspector fails to comply with a direction given under this section within the timeframe specified in the direction, the Secretary must –
 - (a) notify the Minister in writing of the failure to comply and the circumstances giving rise to it; and
 - (b) consider what further action is appropriate in the circumstances in accordance , including whether to exercise the power of termination of appointment under Section 32(7) in accordance with the *Bougainville Public Services (Management and Administration) Act 2014*.
- (8) The Secretary must ensure that a summary of any direction given under this section, and the Chief Inspector's response to that direction, is included in the annual report of the Mines Inspectorate submitted under Section 45.
- (9) A direction given under this section is a lawful administrative direction for the purposes of Section 48(3)(b).

35. Functions of the Chief Inspector

- (1) The Chief Inspector has the following functions –
 - (a) to lead and manage the Mines Inspectorate;
 - (b) to direct and supervise inspectors;
 - (c) to oversee and coordinate the enforcement of this Act;
 - (d) to register and maintain records of statutory appointments and certificates of competency;
 - (e) to issue, vary, or revoke prohibition notices and improvement notices;
 - (f) to conduct or authorise the conduct of inquiries under Part 10;
 - (g) to issue guidelines and codes of practice to assist duty holders;
 - (h) to provide advice and recommendations to the Secretary on matters relating to mining safety and health;
 - (i) to prepare and publish the annual report of the Mines Inspectorate under Section 45; and

- (j) to perform any other function conferred by this Act or the regulations.
 - (2) The Chief Inspector may issue guidelines on the interpretation and application of this Act, including guidance on what constitutes reasonably practicable measures for classes of mining operation.
 - (3) Guidelines issued under Subsection (2) are not binding but compliance with a guideline is evidence that the duty to which the guideline relates has been discharged.
- 36. Independence of Chief Inspector in statutory decision-making**
- (1) The Chief Inspector and each inspector must exercise their respective powers and functions under this Act –
 - (a) independently and impartially;
 - (b) in the public interest; and
 - (c) having regard solely to the objects of this Act and the relevant facts and circumstances.
 - (2) In the exercise of any power or function under this Act, the Chief Inspector and each inspector must not –
 - (a) act in accordance with the direction of any person as to how a specific inspection, investigation, enforcement, compliance, or prosecution decision is to be made; or
 - (b) act for any improper purpose.
 - (3) Subsection (2) does not prevent –
 - (a) the Secretary from giving administrative directions to the Chief Inspector under Section 33;
 - (b) the Chief Inspector from giving operational directions to inspectors under Section 40; or
 - (c) any person from making a lawful complaint, providing information, or making submissions to the Chief Inspector or an inspector.
 - (4) The Chief Inspector must not give a direction under Section 40 that would require an inspector to –
 - (a) exercise or refrain from exercising an urgent safety power under this Act in a manner that would compromise the safety of any person; or
 - (b) act inconsistently with the inspector's lawful exercise of powers under this Act
- 37. Delegation by Chief Inspector**
- (1) The Chief Inspector may, by instrument in writing, delegate any function or power of the Chief Inspector under this Act to an inspector.
 - (2) An instrument of delegation under Subsection (1) must –
 - (a) be in writing;

- (b) identify the function or power delegated; and
 - (c) specify any conditions or limitations on the exercise of the delegated function or power.
- (3) A delegation under Subsection (1) does not prevent the Chief Inspector from exercising the delegated function or power personally.
- (4) A delegated function or power must be exercised in accordance with any written direction of the Chief Inspector.
- (5) The Chief Inspector must not delegate a function or power to an inspector who has a known conflict of interest in relation to the matter to which the delegation relates.
- (6) The Chief Inspector may revoke or vary a delegation at any time by written instrument.

38. Notification to Secretary of significant matters

- (1) The Chief Inspector must notify the Secretary in writing as soon as practicable after –
 - (a) the death of any person at or in connection with mining operations;
 - (b) a serious accident involving serious injury to three or more persons;
 - (c) a catastrophic accident or dangerous occurrence at a mine or works;
 - (d) the issue of a suspension order under Section 125;
 - (e) the commencement of an inquiry under Part 10;
 - (f) a referral for prosecution to the Chief Inspector's own prosecution authority or to the Public Prosecutor;
 - (g) a request for police assistance under this Act; or
 - (h) any other enforcement action of a serious or significant nature as determined by the Chief Inspector.
- (2) A notification under Subsection (1) must include –
 - (a) a description of the relevant event or action;
 - (b) the location of the relevant mine or works;
 - (c) a summary of the action taken or proposed; and
 - (d) a description of any immediate safety concerns.
- (3) Notification under this section is for the purpose of keeping the Secretary informed of significant matters and does not require the Secretary's approval for any action taken by the Chief Inspector or an inspector.
- (4) A failure to comply with the notification requirement under Subsection (1) does not –
 - (a) affect the validity of any action taken by the Chief Inspector or an inspector; or
 - (b) constitute a defence to any proceeding for an offence under this Act.

Division 2 – Mines Inspectors

39. Appointment of inspectors

- (1) The Chief Inspector may, by written instrument, appoint suitably qualified persons as Mines Inspectors.
- (2) A person must not be appointed as an inspector unless the person has –
 - (a) demonstrated knowledge and experience in mining, mining engineering, occupational health and safety, or mine regulation; and
 - (b) such qualifications as the Chief Inspector considers appropriate for the duties to be performed.
- (3) An inspector holds office on terms and conditions determined by the Secretary, subject to the *Bougainville Public Services (Management and Administration) Act 2014*.
- (4) An instrument of appointment under Subsection (1) also constitutes a designation of the appointee as a Mines Inspector authorised to exercise the powers of an inspector under this Act.
- (5) The appointment of a person as an inspector may be limited to specified functions, areas, or classes of mining operation.
- (6) Where an urgent operational need requires temporary additional inspection capacity, the Chief Inspector may authorise a suitably qualified person to act as a Mines Inspector for a period not exceeding three months.
- (7) A person who, immediately before the commencement of this section, was appointed as the Chief Inspector or an inspector under the *Mining Safety Act (Chapter 195)* is taken, for the period of six months after the commencement of this section (or such longer period as the Secretary may, by notice, prescribe), to be designated as Chief Inspector or inspector until a new appointment under this section is made in respect of that person.

40. Direction and supervision of inspectors

- (1) Inspectors are subject to the direction and supervision of the Chief Inspector in the exercise of their functions under this Act.
- (2) The Chief Inspector may issue written general directions to inspectors governing the exercise of their functions under this Act, including directions relating to –
 - (a) inspection priorities and inspection programs;
 - (b) investigation procedures and protocols;
 - (c) notice-issuing practices and record-keeping;
 - (d) reporting by inspectors to the Chief Inspector; and
 - (e) any other operational matter relevant to the exercise of functions under this Act.

- (3) An inspector must comply with a lawful direction of the Chief Inspector given under Subsection (2).
- (4) The Secretary does not have the power to give directions to inspectors in relation to the exercise of their statutory functions under this Act.
- (5) Subject to Section 44, nothing in this section requires an inspector to obtain prior approval from the Chief Inspector or the Secretary before –
 - (a) issuing a prohibition notice under Section 121;
 - (b) taking any action necessary to address an imminent risk to the safety or health of any person; or
 - (c) exercising any other urgent safety power under this Act.

41. Identity cards

- (1) The Chief Inspector must issue each inspector with an identity card in the prescribed form.
- (2) An inspector must carry the identity card at all times when exercising powers under this Act.
- (3) A person claiming to be an inspector who does not produce an identity card on request is not authorised to exercise any power of an inspector under this Act.

42. Inspectors' general functions

An inspector has the following functions –

- (a) to inspect mines, works, and associated premises and equipment;
- (b) to investigate accidents, incidents, and complaints;
- (c) to assess compliance with this Act and the regulations;
- (d) to issue prohibition notices and improvement notices;
- (e) to investigate and report on matters referred by the Chief Inspector;
- (f) to chair site safety and health committees under Section 107;
- (g) to assist operators and workers in understanding their obligations under this Act; and
- (h) to perform any other function delegated by the Chief Inspector or conferred by this Act.

Division 3 – Mines Inspectorate

43. Establishment and functions of the Mines Inspectorate

- (1) There is established a Mines Inspectorate within the Department responsible for mining in the Autonomous Bougainville Government.
- (2) The Mines Inspectorate consists of –
 - (a) the Chief Inspector; and

- (b) all inspectors appointed under Section 39.
- (3) The Mines Inspectorate has the following functions –
 - (a) to administer and enforce this Act and the regulations;
 - (b) to inspect mines and works;
 - (c) to investigate accidents, incidents, and complaints;
 - (d) to issue notices and take enforcement action;
 - (e) to maintain registers required by this Act;
 - (f) to provide technical advice and assistance on mining safety and health; and
 - (g) to undertake any other function conferred by this Act or the regulations.
- 44. Relationship with the Secretary and authorised officers under the Bougainville Mining Act 2015**
 - (1) The Mines Inspectorate and the authorised officers of the Department exercising powers under the *Bougainville Mining Act 2015* must coordinate their activities to avoid unnecessary duplication and inconsistency.
 - (2) Where an inspector considers that action is required in relation to a matter that may also attract a response under the *Bougainville Mining Act 2015*, the inspector must notify the Secretary or an authorised officer as appropriate.
 - (3) A function or power of the Chief Inspector or an inspector under this Act is distinct from a function or power of an authorised officer under the *Bougainville Mining Act 2015*, and one does not limit the other except as expressly provided by this Act.
 - (4) The Chief Inspector or an inspector must coordinate with the Secretary before exercising enforcement powers that may result in the closure of a mine or mining operations.
 - (5) Before exercising any enforcement power under this Act in circumstances where the Chief Inspector or an inspector reasonably believes that the exercise of that power may result in the suspension or closure of a mine or works, the Chief Inspector or an inspector must –
 - (a) notify the Secretary in writing of the proposed enforcement action and the grounds on which it is proposed to be taken; and
 - (b) consult with the Secretary and take into account any views expressed by the Secretary before exercising the power.
 - (6) The obligation to consult under Subsection (5) does not apply where the Chief Inspector or an inspector is satisfied that immediate action is necessary to prevent or address an imminent risk to the safety or health of persons at or near the mine or works, in which case the Chief Inspector must notify the Secretary in writing of –
 - (a) the enforcement action taken; and

- (b) the reasons for proceeding without prior consultation, as soon as practicable after exercising the power, and in any event within 24 hours of doing so.
 - (7) A failure to comply with Subsection (5) or (6) does not affect the validity of any enforcement action taken by the Chief Inspector.
- 45. Annual report of the Mines Inspectorate**
- (1) The Chief Inspector must prepare and submit to the Secretary an annual report on the activities and performance of the Mines Inspectorate within three months after the end of each calendar year.
 - (2) The annual report must include –
 - (a) a summary of inspections conducted;
 - (b) notices issued and withdrawn;
 - (c) investigations carried out;
 - (d) prosecutions commenced and their outcome;
 - (e) accidents and incidents reported under Part 9;
 - (f) the status of registered statutory appointments;
 - (g) the summary of enforcement actions and their outcomes; and
 - (h) any other matters specified by the regulations.
 - (3) The Secretary must forward the annual report to the Minister within a reasonable time of receiving it.
 - (4) The Minister may present the annual report to the Bougainville Executive Council within a reasonable time of receiving it.

46. Quarterly incident and enforcement action report

The Chief Inspector must provide the Secretary with a quarterly report summarising –

- (a) inspections conducted during the quarter;
- (b) notices issued during the quarter;
- (c) serious accidents, dangerous occurrences, and mine deaths during the quarter;
- (d) significant enforcement actions taken during the quarter; and
- (e) any other matters the Secretary reasonably requests.

Division 4 – Conflict of interest, integrity obligations, etc.

47. Conflict of interest and integrity obligations

- (1) The Chief Inspector and each inspector must –

- (a) act independently, impartially, and in the public interest in the exercise of their functions under this Act;
 - (b) disclose in writing any actual or apparent conflict of interest that may affect the exercise of their functions under this Act; and
 - (c) not hold any financial interest, directly or indirectly, in any mining operation in respect of which they exercise, or are likely to exercise, functions under this Act.
- (2) A disclosure under Subsection (1)(b) must be made –
 - (a) by the Chief Inspector, to the Secretary, as soon as the conflict comes to the Chief Inspector's knowledge; and
 - (b) by an inspector, to the Chief Inspector, as soon as the conflict comes to the inspector's knowledge.
- (3) Where a conflict of interest is disclosed by the Chief Inspector, the Secretary must —
 - (a) assess the nature and extent of the conflict; and
 - (b) take appropriate steps to manage the conflict, including by appointing an acting Chief Inspector to perform the relevant function.
- (4) Where a conflict of interest is disclosed by an inspector, the Chief Inspector must –
 - (a) assess the nature and extent of the conflict; and
 - (b) take appropriate steps to manage the conflict, including by assigning the relevant function to another inspector.
- (5) The prohibition in Subsection (1)(c) –
 - (a) applies to direct and indirect financial interests, including through family members of whom the Chief Inspector or inspector is aware; and
 - (b) does not prevent the holding of a de minimis interest in a broadly based managed fund or superannuation fund that is not specifically invested in Bougainville mining operations.
- (6) A breach of Subsection (1) may be grounds for removal from office or termination of appointment in accordance with the applicable law.
- (7) A conflict of interest disclosure made under this section must be recorded by the Chief Inspector (or the Secretary, in the case of the Chief Inspector's disclosure) and included in summary form in the annual report under Section 45.

48. Protection from improper direction or influence

- (1) A person must not –

- (a) direct, instruct, request, or otherwise seek to influence the Chief Inspector or an inspector to exercise, or to refrain from exercising, any power under this Act for an improper purpose;
 - (b) offer or give any benefit, inducement, or reward to the Chief Inspector or an inspector in connection with the exercise of any power under this Act;
 - (c) threaten, intimidate, or harass the Chief Inspector or an inspector in connection with the exercise of any power under this Act; or
 - (d) engage in any conduct that constitutes bribery of, or corruption of, the Chief Inspector or an inspector in connection with the exercise of any power under this Act.
- (2) A person who contravenes Subsection (1)(b) or (1)(c) commits an offence and is subject to –
- (a) for an individual – a fine not exceeding K250,000, or imprisonment for a term not exceeding three years, or both; and
 - (b) for a body corporate – a fine not exceeding K1,250,000.
- (3) Nothing in Subsection (1) prevents –
- (a) any person from making a lawful complaint, providing information, or making submissions to the Chief Inspector or an inspector under this Act;
 - (b) the Secretary from giving a lawful administrative direction under Section 33 or 34; or
 - (c) the Public Prosecutor from exercising lawful powers in relation to prosecutions under this Act.
- (4) Conduct constituting an offence under Subsection (1)(d) may also constitute an offence under applicable anti-corruption legislation of Bougainville or Papua New Guinea, and nothing in this section limits the application of that legislation.

Division 4 – Register of enforcement actions

49. Register of enforcement actions

- (1) The Chief Inspector must maintain a register of enforcement actions taken under this Act.
- (2) The register must include –
 - (a) all prohibition notices issued;
 - (b) all improvement notices issued;
 - (c) all suspension notices issued;
 - (d) all exemptions granted under Section 126;
 - (e) all approvals granted or refused in relation to safety and health management systems;
 - (f) all prosecutions commenced;

- (g) all infringement notices issued;
 - (h) all referrals to the Public Prosecutor; and
 - (i) any other significant enforcement action.
- (3) The register must record, in relation to each entry –
- (a) the date and nature of the action;
 - (b) the mine or works to which it relates;
 - (c) the person to whom the action is directed;
 - (d) the factual and legal basis for the action; and
 - (e) the outcome, including any withdrawal, variation, review outcome, or prosecution result.
- (4) The register must be available for inspection by any person on request, subject to any applicable confidentiality obligation under this Act.
- (5) The Chief Inspector must include a summary of the register in the annual report submitted to the Secretary under Section 45.

PART 4 – DUTY HOLDERS

Division 1 – General principles

50. Duties under this Act are not transferable

A duty imposed under this Act cannot be transferred to another person, but nothing prevents a duty holder from –

- (a) engaging another person to carry out work or functions relevant to the duty; or
- (b) arranging for another person to assist in discharging the duty,

provided that the duty holder remains responsible for ensuring that the obligations of this Act are complied with.

51. Person may have more than one duty

A person may owe duties as holder, operator, supervisor, and worker concurrently.

52. More than one person may have the same duty

Where more than one person owes the same duty under this Act, each person must comply with that duty to the extent of the person's capacity to influence and control the matter to which the duty relates.

53. Duties not limited by this Part

Nothing in this Part limits any other obligation imposed on a person under this Act.

Division 2 – Duties of holders

54. Duties of holders

- (1) A holder must –
 - (a) ensure, so far as is reasonably practicable, that the operator of any mining operations conducted under the holder's tenement complies with this Act;
 - (b) not direct, require, or permit the operator to carry out mining operations in a manner that contravenes this Act;
 - (c) ensure that the operator has been notified to the Chief Inspector in accordance with Section 14(4);
 - (d) include conditions in any contract with an operator requiring the operator to comply with this Act; and
 - (e) ensure, so far as is reasonably practicable, that adequate financial and other resources are available to the operator to discharge the operator's obligations under this Act.
- (2) A holder who is also the operator must comply with both the obligations of a holder and the obligations of an operator under this Act.

Division 3 – Duties of operators

55. Primary duty of operators

- (1) An operator of a mine or works must ensure, so far as is reasonably practicable, the safety and health of –
 - (a) all workers engaged in mining operations;
 - (b) contractors and their employees working at the mine or works;
 - (c) any other person at the mine or works; and
 - (d) persons in the vicinity of the mine or works whose safety or health may be affected by mining operations.
- (2) The duty in Subsection (1) is not discharged merely because no accident or incident has occurred.

56. Safe systems of work

An operator must provide and maintain safe systems of work, including –

- (a) identifying and assessing hazards and risks;
- (b) implementing appropriate controls in accordance with the hierarchy in Section 31(2);
- (c) developing and implementing safe work procedures;
- (d) reviewing and revising work procedures when hazards change; and

- (e) ensuring workers are informed of and trained in the safe work procedures applicable to their work.

57. Safe plant and substances

An operator must ensure, so far as is reasonably practicable, that –

- (a) plant used at the mine or works is suitable for its intended purpose, properly maintained, and safe to use;
- (b) substances used at the mine or works are handled, stored, used, and disposed of safely; and
- (c) records of inspections and maintenance of plant are maintained as required by the regulations.

58. Safe workplace

An operator must ensure, so far as is reasonably practicable, that –

- (a) the mine or works is safe, without risk to the health of workers or other persons;
- (b) the workplace environment does not pose a risk to health or safety;
- (c) adequate facilities are provided for the welfare of workers, including sanitation, drinking water, and shelter; and
- (d) emergency response equipment and facilities are maintained and accessible.

59. Information, training, instruction, and supervision

An operator must ensure, so far as is reasonably practicable, that –

- (a) every worker is provided with the information, induction, training, instruction, and supervision necessary to perform the worker's work safely;
- (b) induction and training covers hazards and risks at the mine, safe work procedures, emergency response, and the worker's rights and responsibilities under this Act;
- (c) induction and training records are maintained as required by the regulations; and
- (d) workers whose first language is not the primary language in which safety information is communicated receive information in a form they understand.

60. Literacy requirements for employment at mines and works

- (1) A holder, operator, or contractor must not employ or engage a non-citizen to work at a mine or works, and smelters or refineries in any capacity unless the holder, operator, or contractor is reasonably satisfied that the person has sufficient functional literacy in English or Tok Pisin, or both, to –
 - (a) understand safety inductions, safety briefings, and safety training delivered at the mine or works smelters and refineries;

- (b) read and comprehend –
 - (i) safety signs, warnings, hazard markers, and emergency directions posted or displayed at the mine or works;
 - (ii) safe work procedures, operating instructions, and emergency response procedures applicable to the person's role;
 - (iii) mine plans and other technical drawings to the extent required by the person's role; and
 - (iv) any documents forming part of the safety and health management system that the person is required to read, complete, or act upon in the course of the person's work; and
 - (c) communicate with supervisors, statutory managers, and other workers about safety and health matters at the mine or works, and smelters or refineries.
- (2) For the purposes of Subsection (1), a non-citizen has sufficient functional literacy if the non-citizen person is able –
- (a) to demonstrate competency in the English language —
 - (i) at Level 6 or higher of the International English Language Testing System (IELTS), or an equivalent standard determined by the Chief Inspector; or
 - (ii) at such other language proficiency standard as may be approved by the Chief Inspector.
 - (b) is able to read and understand written safety information, notices, and instructions of the type used at the mine or works in English or Tok Pisin; and
 - (c) is able to write, in English or Tok Pisin, information, records, or reports required of the person in the course of the person's role to a standard sufficient to communicate the relevant safety or health matter.
- (3) Before employing or engaging a person to work at a mine or works, the holder, operator, or contractor must take reasonable steps to assess whether the person satisfies the standard in Subsection (2), and must document the outcome of that assessment in the person's employment or engagement record.
- (4) Where a holder, operator, or contractor employs or engages a person who –
- (a) satisfies the functional literacy standard in Subsection (2) in Tok Pisin but not in English; or
 - (b) satisfies the functional literacy standard in Subsection (2) in English but not in Tok Pisin,
- the holder, operator, or contractor must ensure that safety information, instructions, and training delivered to that person in the course of work is provided in the language in which

- the person is functionally literate, and that safety signs, notices, and warnings in areas in which the person is deployed are displayed in a form the person is able to read and understand.
- (5) A holder, operator, or contractor must not employ or engage a person in a role in which the person –
- (a) is required to read, prepare, sign, or act upon mine plans, safety management documents, or statutory records; or
 - (b) holds a supervisory, management, or statutory position under this Act,
- unless that person satisfies the functional literacy standard in Subsection (2) in both English and Tok Pisin.
- (6) Subject to Subsection (7), nothing in Subsections (1) to (5) prevents –
- (a) a holder, operator, or contractor from employing or engaging a person in a role that does not involve any of the activities referred to in Subsection (1)(b) or (1)(c), provided that the person is adequately supervised by a person who satisfies the requirements of this section; or
 - (b) a holder, operator, or contractor from providing literacy training or support to a person after engagement, provided the person is not assigned to a role requiring the functional literacy standard in Subsection (2) until that standard is achieved and verified.
- (7) Subsection (6) does not apply to a person who is engaged in a mine to work in a catastrophic installation, mine-associated power scheme, plant, smelter or refinery, or underground or open pit site.
- (8) A holder, operator, or contractor must –
- (a) maintain records of literacy assessments conducted under Subsection (3) and make those records available to an inspector on request; and
 - (b) include literacy assessment and verification as a documented component of the induction process within the safety and health management system established under Section 87.
- (9) For the avoidance of doubt, the obligations imposed by this section on a holder and a contractor are in addition to, and do not limit, the obligations imposed on an operator under Section 59.
- (10) The regulations may prescribe –
- (a) the form and minimum standards of literacy assessments to be used for the purposes of this section; and

- (b) minimum literacy requirements for specified roles or classes of work at a mine or works.
- (10) A holder, operator, or contractor that does not comply with this section commits a Category 2 offence under Section 176.

61. Monitoring of health and workplace conditions

An operator must, so far as is reasonably practicable –

- (a) monitor the health of workers who are, or may be, exposed to dangerous goods or conditions at the mine or works;
- (b) monitor conditions in the mine or works workplace environment;
- (c) keep records of health monitoring in accordance with the regulations; and
- (d) take action to address any adverse health or workplace condition identified through monitoring.

62. Welfare at mine

- (1) An operator must provide and maintain adequate welfare facilities for workers at a mine or works, including –
 - (a) safe drinking water;
 - (b) toilet and washing facilities;
 - (c) mess facilities where workers are required to eat at the mine;
 - (d) first aid facilities and trained first aid personnel in accordance with the regulations; and
 - (e) accommodation where workers are required to reside at or near the mine.
- (2) The regulations may prescribe minimum standards for welfare facilities required under this section.

63. Fatigue management and hours of work

- (1) An operator must identify, assess and control all risks to the safety and health of workers that arise from or are associated with –
 - (a) work rosters and roster cycles, including fly-in fly-out and drive-in drive-out roster arrangements;
 - (b) shift patterns and shift lengths;
 - (c) travel time and travel arrangements to and from the mine site; and
 - (d) rest and recovery periods and the cumulative effect of hours worked.
- (2) Without limiting Subsection (1), an operator must –

- (a) ensure that each operational worker's work shift must be limited to three eight-hourly shift in a 24 hour period;
 - (b) ensure that the workers' roster cycle must be limited to:
 - (i) 14 days on site and 7 days off site; or
 - (ii) 15 days on site and 13 days off site;
 - (c) ensure that work rosters do not require or permit a worker to work in circumstances where fatigue is likely to impair the worker's capacity to perform work safely;
 - (d) include fatigue risk management as a documented element of the safety and health management system for the mine; and
 - (e) ensure that safe work procedures relating to fatigue management are prepared, implemented and maintained.
- (3) The regulations or an applicable code of practice may:
- (a) prescribe maximum shift lengths for workers in specified roles or classes of mining operations in accordance with Subsection (2);
 - (b) prescribe minimum rest periods between shifts and between roster cycles in accordance with Subsection (2);
 - (c) prescribe requirements for roster design, including requirements specific to fly-in fly-out or drive-in drive-out arrangements in accordance with Subsection (2);
 - (d) prescribe fatigue monitoring and reporting requirements; and
 - (e) provide for exceptions to maximum shift length requirements in specified circumstances, including emergency response, maintenance shutdowns, and remote or fly-in fly-out operations, subject to compensatory rest requirements.
- (4) For the avoidance of doubt, Subsection (2)(b) does not apply to non-operational workers.
- (5) Nothing in this section limits any applicable industrial award, determination or employment law relating to hours of work, but an obligation under those instruments does not relieve an operator of obligations under this section.

64. Transportation and storage

- (1) An operator must –
- (a) identify, assess and control all risks to the safety and health of workers arising from the transportation and storage of materials in connection with mining operations; and
 - (b) ensure that all materials transported or stored in connection with mining operations at or from the mine site are transported and stored safely and in accordance with –
 - (i) this Act and the regulations; and
 - (ii) any applicable law relating to the transport of dangerous goods.

- (2) The regulations may prescribe specific safety requirements for –
- (a) transport on mine roads and within the mine site;
 - (b) transport on public roads or public infrastructure;
 - (c) transport by sea, river or air;
 - (d) port, wharf and loading facility operations; and
 - (e) storage of dangerous goods, explosives, fuel and chemicals on or off the mine site.

65. Compliance with explosives legislation

- (1) An operator must ensure that the handling, storage, transport and use of explosives in connection with mining operations at or from the mine comply with the *Explosives Act (Chapter 308)* and the *Explosives Act (Adopted) (Chapter 309)*.
- (2) An operator must include, as a documented element of the safety and health management system for the mine, an explosives management plan setting out the controls and procedures for the safe handling, storage, transport and use of explosives at the mine, consistent with the requirements of the Acts referred to in Subsection (1).
- (3) An inspector conducting an inspection under this Act may inspect explosives storage facilities and explosives management procedures at a mine as part of the inspection, and may require the operator to produce evidence of compliance with the Acts referred to in Subsection (1).
- (4) This section does not limit the operation of the Acts referred to in Subsection (1), and compliance with those Acts does not relieve an operator of obligations under this Act.

Division 4 – Duties of the site senior executive

66. Duties of the site senior executive

- (1) The site senior executive of a mine or works must –
 - (a) take overall responsibility for the safety and health of all persons at the mine or works;
 - (b) implement and maintain the safety and health management system;
 - (c) ensure that all statutory positions required by Part 5 are filled by competent persons;
 - (d) ensure that work at the mine or works is carried out in accordance with the safety and health management system and this Act;
 - (e) report accidents, serious accidents, and high-potential incidents in accordance with Part 9;
 - (f) facilitate the election of site safety and health representatives and the establishment and operation of the site safety and health committee;

- (g) notify the Chief Inspector of changes to statutory positions within the time required by Section 81;
 - (h) ensure that the organisational chart is displayed in accordance with Section 82; and
 - (i) cooperate with inspectors in the exercise of their powers under this Act.
- (2) A site senior executive must not direct a worker to perform work that presents a risk that is not at an acceptable level.

Division 5 – Duties of contractors

67. Duties of contractors

- (1) A contractor carrying out work at a mine or works must –
- (a) comply with the safety and health management system of the operator to the extent it applies to the contractor's work;
 - (b) identify, assess, and control hazards associated with the contractor's work in accordance with this Act;
 - (c) ensure that workers employed or engaged by the contractor are competent to perform their work safely;
 - (d) provide workers employed or engaged by the contractor with the information, training, and instruction necessary to perform their work safely; and
 - (e) cooperate with the operator, site senior executive, and inspectors in the management of safety and health at the mine or works.
- (2) Where a contractor has control over a particular activity or area of the mine or works, the contractor's duty of care extends to all persons affected by that activity or area.

Division 6 – Duties of supervisors

68. Duties of supervisors

A supervisor at a mine or works must –

- (a) ensure that work under the supervisor's direction is carried out in accordance with the safety and health management system and this Act;
- (b) identify hazards associated with the work and take appropriate control measures;
- (c) monitor the safety performance of workers under the supervisor's direction;
- (d) immediately report any incident or hazard to the site senior executive or the appropriate statutory manager; and
- (e) not direct a worker to perform work that presents an unacceptable risk unless the supervisor is taking immediate action to reduce the risk to an acceptable level.

Division 7 – Duties of workers

69. Duties of workers

- (1) A worker at a mine or works must –
 - (a) take reasonable care for the worker's own safety and health;
 - (b) take reasonable care that the worker's acts or omissions do not adversely affect the safety or health of other persons;
 - (c) comply with any reasonable instruction given by the operator, site senior executive, supervisor, or other duty holder regarding safety and health;
 - (d) cooperate with any reasonable safety and health policy or procedure of the operator;
 - (e) use personal protective equipment provided to the worker;
 - (f) not misuse or interfere with plant, equipment, or any safety system at the mine or works;
 - (g) report any hazard, unsafe condition, or incident to the supervisor or site senior executive as soon as practicable; and
 - (h) not attend work in a state, including due to the influence of alcohol or drugs, that is likely to adversely affect the worker's own safety or the safety of others.
- (2) A worker's obligations under this section do not affect the worker's right to refuse unsafe work under Section 108.

Division 8 – Duties of designers, manufacturers, importers, and suppliers

70. Duties of designers

- (1) A person who designs plant, a structure, or a substance intended or likely to be used at a mine or works must ensure, so far as is reasonably practicable, that the plant, structure, or substance is designed to be safe and without risk to safety or health when used as intended.
- (2) In discharging the duty in Subsection (1), a designer must –
 - (a) carry out or commission tests and analyses of the design necessary to ensure it is safe; and
 - (b) give to the person supplied with the design the information necessary to use the plant, structure, or substance safely.

71. Duties of manufacturers

- (1) A manufacturer of plant or a substance intended or likely to be used at a mine or works must ensure, so far as is reasonably practicable, that the plant or substance is manufactured to be safe and without risk to health when used as intended.

- (2) A manufacturer must provide information about the safe use, handling, storage, and disposal of the plant or substance.

72. Duties of importers and suppliers

- (1) An importer or supplier of plant, a structure, or a substance for use at a mine or works must ensure, so far as is reasonably practicable, that the plant, structure, or substance is safe and without risk to health when used as intended.
- (2) An importer or supplier must provide to the person to whom plant, a structure, or a substance is supplied the information necessary to use it safely.
- (3) A supplier of second-hand plant must ensure, before supplying it, that it has been inspected and is safe for use.

Division 9 – Duties of site safety and health representatives

73. Duties of site safety and health representatives

- (1) A site safety and health representative is a person elected under Section 98.
- (2) A site safety and health representative must –
 - (a) conduct regular inspections of the mine or works jointly with the site senior executive or a statutory manager;
 - (b) record safety and health matters raised by workers and present those matters to the site senior executive or statutory manager for action;
 - (c) represent workers at the site safety and health committee and at inspector-conducted inquiries;
 - (d) report any hazard or risk identified during an inspection or raised by a worker to the site senior executive or statutory manager immediately;
 - (e) liaise with the inspector, site safety and health committee, and management concerning the safety and health of persons at the mine or works;
 - (f) accompany an inspector during inspections of the mine or works; and
 - (g) protect the identity of persons who provide information on safety and health risks.

Division 10 – Due diligence of officers of corporations

74. Officers of bodies corporate

- (1) An officer of a body corporate that is a holder, operator, or contractor must exercise due diligence to ensure that the body corporate complies with its obligations under this Act.
- (2) For the purposes of Subsection (1), due diligence includes –
 - (a) acquiring and keeping up to date knowledge of the safety and health requirements relating to the operations of the body corporate;

- (b) gaining an understanding of the nature of the mining operations of the body corporate and the hazards and risks associated with them;
 - (c) ensuring that the body corporate has and uses appropriate resources and processes to eliminate or minimise risks to safety and health;
 - (d) ensuring that the body corporate has and implements processes for receiving and considering information regarding incidents, hazards, and risks, and for responding to that information;
 - (e) ensuring that the body corporate has and implements processes for complying with any duty or obligation under this Act; and
 - (f) verifying the provision and use of the resources, processes, and systems referred to in paragraphs (c), (d), and (e).
- (3) An officer of a body corporate may be convicted of an offence under this Act arising from a breach of duty by the body corporate whether or not the body corporate is charged with or convicted of an offence.
- (4) In this section, officer, in relation to a body corporate, has the meaning given under the *Companies Act 1997*.

75. Duty of controllers

- (1) A controller of a holder, operator, or contractor must exercise due diligence to ensure that the holder, operator, or contractor complies with its obligations under this Act, to the extent of the controller's capacity to influence and control the operations of the holder, operator, or contractor or the matter to which the obligation relates.
- (2) For the purposes of Subsection (1), due diligence by a controller includes –
- (a) acquiring and maintaining knowledge of the safety and health obligations of the holder, operator, or contractor under this Act;
 - (b) gaining an understanding of the nature of the mining operations conducted by the holder, operator, or contractor and the hazards and risks associated with those operations;
 - (c) ensuring that the holder, operator, or contractor has adequate financial, human, and technical resources to meet its obligations under this Act, including the obligation to establish and maintain a safety and health management system under Part 6;
 - (d) establishing, or requiring the establishment of, appropriate governance structures, performance reporting mechanisms, and oversight processes to enable the controller to monitor and verify the safety and health performance of the holder, operator, or contractor;

- (e) taking prompt and appropriate action upon becoming aware, or upon having reasonable grounds to believe, that the holder, operator, or contractor is failing, or is likely to fail, to meet its obligations under this Act; and
 - (f) not directing, requiring, or permitting the holder, operator, or contractor to carry out mining operations in a manner that, to the controller's knowledge or to the knowledge the controller ought reasonably to have, contravenes this Act or places persons at an unacceptable level of risk.
- (3) The duty under Subsection (1) –
- (a) applies whether or not the controller is also the holder, operator, or contractor;
 - (b) is not discharged by delegation of management or operational responsibilities to the holder, operator, or contractor or to any other person; and
 - (c) applies in respect of all mining operations over which the controller exercises, or is in a position to exercise, control, regardless of the corporate, contractual, or commercial structure through which that control is exercised.
- (4) Nothing in this section –
- (a) requires a controller to direct the specific manner in which the holder, operator, or contractor exercises its operational or safety and health management functions, provided that the controller complies with Subsection (2)(f); or
 - (b) transfers or diminishes the obligations of the holder, operator, or contractor under this Act.
- (5) Where a controller and a holder, operator, or contractor owe the same duty under this Act, Section 52 applies.
- (6) A controller who fails to exercise due diligence as required by this section may be liable under Section 180.

PART 5 – STATUTORY APPOINTMENTS AND COMPETENCY

Division 1 – Statutory positions

76. Statutory positions at a mine

- (1) The following statutory positions are required at every mine or works to which this section applies –
- (a) site senior executive;
 - (b) safety and health manager (for a mine or works at which more than 50 workers are employed); and
 - (c) such other positions as are prescribed by the regulations for the class of operation concerned.

- (2) The regulations may prescribe additional mandatory statutory positions for –
 - (a) underground mines;
 - (b) mines with dams or tailings storage facilities;
 - (c) mines using explosives;
 - (d) mines using dangerous goods; and
 - (e) any other class of operation presenting particular safety and health risks.
- (3) The site senior executive may, by instrument in writing, appoint any additional statutory positions as the site senior executive considers necessary for the safety and health of persons at the mine.

77. Site senior executive – appointment and registration

- (1) The operator must, before commencing mining operations, appoint a site senior executive for the mine or works.
- (2) The site senior executive must be –
 - (a) a natural person;
 - (b) resident at or able to be physically present at the mine or works as necessary;
 - (c) competent to manage overall safety and health at the mine or works; and
 - (d) registered with the Chief Inspector.
- (3) The operator must apply to the Chief Inspector for registration of the site senior executive in the prescribed form, including evidence of the person's qualifications and competency.
- (4) The Chief Inspector must register the site senior executive if satisfied that the person meets the requirements of Subsection (2), and must record the registration in the register of statutory appointments.
- (5) An operator must not conduct mining operations unless a registered site senior executive is in place.

78. Statutory managers – appointment and registration

- (1) The site senior executive must appoint, and ensure registration with the Chief Inspector of, any statutory managers required by –
 - (a) Section 76; or
 - (b) the regulations for the class of operation concerned.
- (2) A statutory manager must be –
 - (a) a natural person;
 - (b) competent to discharge the responsibilities of the statutory position; and

- (c) registered with the Chief Inspector.
- (3) The procedure for registration of statutory managers under this section is the same as that for the site senior executive under Section 77.

79. Additional statutory positions – prescribed operations

The regulations may, for a class of mining operation, prescribe the following statutory positions –

- (a) underground manager;
- (b) open-cut manager;
- (c) ventilation officer;
- (d) geotechnical officer;
- (e) electrical officer;
- (f) structural officer;
- (g) explosives officer;
- (h) dangerous goods officer; and
- (i) any other position necessary to manage safety and health risks specific to that class of operation.

80. Chief Inspector to maintain register of statutory appointments

- (1) The Chief Inspector must maintain a register of all statutory appointments made under this Part.
- (2) The register must include –
 - (a) the name and contact details of each person appointed to a statutory position;
 - (b) the mine or works to which the appointment relates;
 - (c) the statutory position held;
 - (d) the date of appointment and registration;
 - (e) the relevant qualifications and competency basis; and
 - (f) any conditions attached to the registration.
- (3) The register is to be maintained in the manner determined by the Chief Inspector and made available to inspectors on request.

81. Duty to notify changes to statutory positions

- (1) An operator must notify the Chief Inspector in writing within 14 days of any change in a statutory position, including –

- (a) the resignation, termination, incapacity, or death of a person holding a statutory position;
 - (b) the appointment of a new person to a statutory position; and
 - (c) any change in the responsibilities or scope of a statutory position.
- (2) Pending the appointment and registration of a new person to fill a vacancy in a statutory position, the site senior executive must make temporary alternative arrangements satisfactory to the Chief Inspector for the discharge of the responsibilities of the vacant position.

82. Organisational chart to be displayed

- (1) The site senior executive must ensure that an organisational chart showing –
 - (a) the name of each person holding a statutory position;
 - (b) the reporting lines between statutory positions; and
 - (c) the contact details of the site senior executive and each statutory manager,is displayed in a prominent and accessible location at the mine or works.
- (2) The organisational chart must be kept current and updated within 7 days of any change in a statutory position.
- (3) A copy of the current organisational chart must be provided to the Chief Inspector on request.

Division 2 – Competency requirements

83. Requirement for competency

- (1) A person must not carry out a task, or fill a statutory position, at a mine or works unless the person is competent to do so.
- (2) An operator must not direct or permit a person to carry out a task, or fill a statutory position, unless the operator has taken reasonable steps to verify that the person is competent.
- (3) The regulations may prescribe minimum competency standards for specified tasks and statutory positions.

84. Recognition of competency

- (1) The Chief Inspector may –
 - (a) issue a certificate of competency to a person who demonstrates competency for a specified function or statutory position;
 - (b) recognise a certificate of competency or qualification issued by a competent authority in another jurisdiction;
 - (c) determine the conditions applicable to a recognition under paragraph (b); and

- (d) maintain a register of certificates of competency issued or recognised under this Act.
- (2) An application for a certificate of competency or for recognition of a certificate must be made in the prescribed form and accompanied by the prescribed fee.
- (3) The Chief Inspector must assess an application and issue or recognise a certificate if satisfied that the applicant meets the relevant competency standards.

85. Suspension and cancellation of certificates

- (1) The Chief Inspector may issue a show-cause notice to a person requiring the person to show cause why the person's certificate of competency should not be suspended or cancelled where –
 - (a) an inquiry under Part 10 is being or has been conducted in relation to an accident at the mine or works at which the person is or was employed;
 - (b) a written complaint has been received from an inspector, a site safety and health representative, or a worker that the person has failed to competently perform the responsibilities of the relevant statutory position; or
 - (c) the Chief Inspector reasonably believes that the person has committed a serious contravention of this Act.
- (2) The show-cause notice must –
 - (a) be provided in writing;
 - (b) state the grounds for the proposed suspension or cancellation; and
 - (b) give the person a reasonable opportunity to respond.
- (3) After considering the person's response, the Chief Inspector may –
 - (a) suspend the certificate for a specified period;
 - (b) cancel the certificate; or
 - (c) take no action if satisfied that no grounds exist.
- (4) A person whose certificate is suspended or cancelled may apply for review under Part 16.

86. Board of Examiners

- (1) The Minister may, by notice in the Bougainville Gazette, establish a Board of Examiners to assist the Chief Inspector in –
 - (a) assessing applications for certificates of competency;
 - (b) conducting examinations or assessments; and
 - (c) making recommendations on competency matters.
- (2) The Board of Examiners is advisory and the Chief Inspector retains the power to make final decisions on certificates of competency.

- (3) The composition, functions, and procedures of the Board of Examiners are to be prescribed by regulation.

PART 6 – SAFETY AND HEALTH MANAGEMENT SYSTEMS

87. Obligation to establish safety and health management system

- (1) An operator of a mine or works must establish and maintain a safety and health management system before commencing mining operations.
- (2) The safety and health management system must be –
 - (a) documented;
 - (b) implemented across all aspects of mining operations at the mine or works;
 - (c) communicated to all workers at the mine or works;
 - (d) accessible to workers in a form they understand; and
 - (e) reviewed and updated regularly as required by this Part.
- (3) For the avoidance of doubt, the safety and health management system for a mine must include an assessment of the risks arising from the power supply arrangements for the mine, including risks arising from:
 - (a) the operation of any mine-associated power scheme; and
 - (b) the supply of power from any third-party power supplier to the mine site.
- (4) The regulations may prescribe safety requirements for the interface between a mine site and a third-party power supply facility.

88. Contents of the safety and health management system

- (1) The safety and health management system must cover, at a minimum –
 - (a) the safety and health policy of the operator;
 - (b) the organisational structure and responsibilities of all statutory positions and supervisors;
 - (c) the safety and health management plan required by Section 89;
 - (d) the hazard and risk register required by Section 90;
 - (e) safe work procedures for all activities that present significant risk;
 - (f) the procedures for incident and accident reporting, investigation, and corrective action;
 - (g) induction and ongoing training arrangements;
 - (h) competency records for workers in safety-critical roles;
 - (i) emergency response plans;

- (j) consultation and communication procedures, including with site safety and health representatives and the site safety and health committee;
 - (k) change management procedures;
 - (l) health surveillance and monitoring arrangements; and
 - (m) document control and records management.
- (2) The regulations may prescribe additional elements required to be included in a safety and health management system for a class of mining operation.

89. Safety and health management plan

- (1) The operator must prepare, and the site senior executive must maintain and implement, a safety and health management plan that –
- (a) identifies the principal hazards and risks at the mine or works;
 - (b) describes the risk controls in place or to be implemented;
 - (c) sets out the work procedures and rules for safe conduct of mining operations;
 - (d) establishes a schedule for inspection, review, and audit of safety performance; and
 - (e) provides for emergency preparedness and response.
- (2) The safety and health management plan must be reviewed –
- (a) at least annually;
 - (b) following any serious accident or high-potential incident;
 - (c) before the introduction of any significant change to mining operations, plant, or substances; and
 - (d) when directed to do so by an inspector.

90. Hazard and risk register

- (1) The operator must establish and maintain a hazard and risk register for the mine or works.
- (2) The hazard and risk register must –
- (a) identify all known and reasonably foreseeable hazards associated with mining operations at the mine or works;
 - (b) assess the risk presented by each hazard before and after the application of controls;
 - (c) record the controls implemented for each hazard;
 - (d) identify the person responsible for managing each hazard; and
 - (e) be reviewed and updated regularly and following any incident.
- (3) The major hazards identified under Section 31(1) must be included in the hazard and risk register.

- (4) The hazard and risk register must be –
 - (a) prepared or verified by a competent person;
 - (b) approved by the site senior executive;
 - (c) readily accessible to workers at the mine or works; and
 - (d) made available to an inspector on request.

91. Mine plans

- (1) The site senior executive must prepare and maintain certified mine plans for the mine or works.
- (2) Mine plans must –
 - (a) be prepared, certified, and updated by a competent surveyor;
 - (b) show the current state of all excavations, workings, shafts, tunnels, open cuts, infrastructure, and stockpile areas;
 - (c) for underground mines, additionally show –
 - (i) emergency escape routes and ladder ways;
 - (ii) refuge chambers and emergency caches;
 - (iii) emergency communication points;
 - (iv) locations of dangerous goods, compressed air, and water points;
 - (v) locations of first aid facilities; and
 - (vi) geohazard zones.
- (3) Mine plans must be –
 - (a) maintained in a mine register at the mine or works;
 - (b) updated at intervals prescribed by the regulations;
 - (c) sent promptly to the Chief Inspector following any significant change or extension to operations; and
 - (d) made available to an inspector on request.

- (4) Upon cessation of operations, updated mine plans must be submitted to the Chief Inspector within the period prescribed by the regulations.

92. Review of safety and health management system

- (1) The operator must ensure that the safety and health management system is reviewed –
 - (a) at least once every two years;
 - (b) following a serious accident;

- (c) following a significant change to the scale, nature, or methods of mining operations; and
 - (d) when directed by the Chief Inspector.
- (2) A review of the safety and health management system must consider whether the system is effective and must identify and implement improvements.
- (3) Workers and their representatives must be consulted during a review of the safety and health management system.

93. Audit of safety and health management system

- (1) The operator must arrange for an independent audit of the safety and health management system at intervals not exceeding three years, or at such shorter intervals as the Chief Inspector may direct.
- (2) An audit under this section must be conducted:
 - (a) by a person who is competent and independent of the management of the mine or works; and
 - (b) be completed within 90 days after each anniversary on which an audit is required under Subsection (1).
- (3) The operator must provide the Chief Inspector with a copy of each audit report within 30 days of completing the audit.
- (4) The operator must take prompt and documented action to address deficiencies identified in an audit.

94. Specialised safety management plans – catastrophic installations and dams

- (1) Where a mine or works includes a catastrophic installation or a dam, the operator must prepare a specialised safety management plan for that installation or dam in addition to the safety and health management plan required by Section 89.
- (2) A specialised safety management plan must address –
 - (a) the identification and management of major hazards associated with the installation or dam;
 - (b) design, construction, and alteration standards;
 - (c) inspection, testing, and monitoring requirements;
 - (d) emergency response procedures specific to the installation or dam; and
 - (e) decommissioning and closure procedures.
- (3) Further requirements for specialised safety management plans are set out in Part 11.

95. Chief Inspector to be provided with copy of system and plans

- (1) The operator must provide the Chief Inspector with –
 - (a) a copy of the safety and health management system before –
 - (i) commencement of mining operations;
 - (ii) resumption of mining operations after care and maintenance; or
 - (iii) resumption of mining operations after compliance with a prohibition notice or improvement notice;
 - (b) a copy of any updated safety and health management system within 30 days of the update; and
 - (c) copies of the safety and health management plan and specialised safety management plans, upon request.
- (2) Upon receiving the safety and health management system under Subsection (1)(a), the Chief Inspector must, within 28 days –
 - (a) review the system and determine whether it is adequate to meet the operator's obligations under this Act; and
 - (b) notify the operator in writing of the Chief Inspector's decision to –
 - (i) approve the system;
 - (ii) approve the system subject to conditions, including conditions requiring the operator to revise specified elements of the system within a specified timeframe; or
 - (iii) refuse to approve the system on the ground that it does not provide adequate protection and does not meet the requirements of this Act, with written reasons.
- (3) Where the Chief Inspector approves the safety and health management system under Subsection (2)(b)(i) or (2)(b)(ii), the operator may commence mining operations, subject to –
 - (a) full compliance with the approved system; and
 - (b) compliance with any conditions imposed under Subsection (2)(b)(ii) within the timeframes specified.
- (4) Where the Chief Inspector refuses to approve the safety and health management system under Subsection (2)(b)(iii), the operator must not commence mining operations until –
 - (a) the operator has revised the system to address the Chief Inspector's stated grounds for refusal; and
 - (b) the Chief Inspector has approved the revised system in accordance with this section.

- (5) Where the Chief Inspector receives an updated safety and health management system under Subsection (1)(b), the Chief Inspector may –
- (a) approve the updated system;
 - (b) approve the updated system subject to conditions; or
 - (c) direct that specified elements of the updated system be further revised, and must notify the operator of the decision in writing within 28 days of receiving the updated system.
- (6) The Chief Inspector may, at any time after approving a safety and health management system under this section, withdraw approval by written notice to the operator if –
- (a) the operator has failed to implement the system in accordance with its terms or with any conditions of approval;
 - (b) circumstances at the mine or works have materially changed such that the system no longer provides adequate protection;
 - (c) circumstance at the mine or works have materially changed due to a variation under the *Bougainville Mining Act 2015*; or
 - (c) an audit or inspection under this Act has identified significant deficiencies in the system that have not been remedied within the timeframe directed by the Chief Inspector.
- (7) Where the Chief Inspector withdraws approval under Subsection (6)(a) and (b), the Chief Inspector must –
- (a) give the operator written notice of the withdrawal and the reasons for it;
 - (b) allow the operator not less than 14 days to remedy the deficiencies identified, unless the Chief Inspector is satisfied that an immediate safety risk requires a shorter period; and
 - (c) consider whether to issue a prohibition notice under Section 121 pending the operator's remediation of the deficiencies.
- (8) The approval power under this section extends to specialised safety management plans required under Section 94, and the Chief Inspector may approve, conditionally approve, or refuse to approve a specialised safety management plan in the same manner as the safety and health management system under Subsections (2) to (4).
- (9) A decision of the Chief Inspector under this section to refuse approval, to impose conditions on approval, or to withdraw approval is a reviewable decision for the purposes of Part 16.
- (10) The Chief Inspector must not unreasonably withhold or delay approval of a safety and health management system or specialised safety management plan that, on its face, meets the requirements of this Act and the regulations.

96. Commissioning of major works

- (1) In this section, major works means any significant new works, infrastructure, plant, or facility that –
 - (a) is being brought into operation for the first time as part of, or as a material addition to, a mine or works, smelter or refiner; and
 - (b) is prescribed by the regulations as major works for the purposes of this section, or is determined by the Chief Inspector by written notice to be major works having regard to –
 - (i) the nature, scale, and complexity of the works;
 - (ii) the risk profile of the works, including the class or classes of hazard presented by the works; and
 - (iii) whether the commissioning of the works materially alters the risk profile of the mine or works as a whole.
- (2) No major works may be brought into operation for the first time, or brought back into operation following a material alteration, without the written commissioning approval of the Chief Inspector, given in a form prescribed by regulation.
- (3) An operator must not commission major works at a mine or works unless –
 - (a) the operator has updated the safety and health management system for the mine or works to incorporate the risks, hazards, safe work procedures, and emergency response arrangements applicable to the major works, and has provided the updated system to the Chief Inspector in accordance with Section 95;
 - (b) the operator has notified the Chief Inspector in writing of the proposed commissioning of the major works not less than 21 days before the proposed commissioning date;
 - (c) the operator has obtained any approval required under Sections 154 if the major works include or involve a catastrophic installation or dam; and
 - (d) the operator has complied with any conditions imposed by the Chief Inspector under Subsection (5).
- (4) A notification given under Subsection (2)(b) must include –
 - (a) a description of the major works and their location within the mine or works, melter or refinery;
 - (b) the proposed commissioning date and commissioning program;
 - (c) a summary of the changes to the safety and health management system made to incorporate the major works;

- (d) a statement prepared by a competent person confirming that the major works have been designed, constructed, and tested in accordance with applicable standards and are safe to commission;
 - (e) confirmation that all workers required to operate or work in connection with the major works have received the training, instruction, and induction necessary to do so safely; and
 - (f) details of the emergency response arrangements applicable to the major works.
- (5) Following receipt of a notification under Subsection (2)(b), the Chief Inspector may –
 - (a) direct that an inspector or a competent person authorised by the Chief Inspector conduct a pre-commissioning inspection of the major works before commissioning;
 - (b) impose conditions on the commissioning of the major works; or
 - (c) accept the notification without further requirement,and must notify the operator of the Chief Inspector's decision within 14 days of receiving the notification.
- (6) Where the Chief Inspector directs a pre-commissioning inspection under Subsection (4)(a), the operator must not commission the major works before the inspection has been completed and the Chief Inspector has confirmed in writing that the major works may safely be commissioned, with or without conditions.
- (7) An operator must not commission major works in a manner that creates a risk to the safety or health of any person that is not at an acceptable level.
- (8) Within 14 days after commissioning of major works is complete, the operator must –
 - (a) provide the Chief Inspector with written confirmation of the commissioning completion date and a summary of any significant findings arising from the commissioning process; and
 - (b) update the hazard and risk register for the mine or works under Section 90 to reflect any hazards identified during or arising from commissioning.
- (9) The commissioning of major works does not relieve the operator of the obligation under Section 87 to maintain and implement the safety and health management system for the mine or works as a whole, and the updated safety and health management system incorporating the major works must be operational from the date of commissioning.
- (10) The regulations may prescribe –
 - (a) the classes of works that constitute major works for the purposes of this section;
 - (b) minimum pre-commissioning testing and verification requirements for specified classes of major works; and
 - (c) the form and content of notifications and reports required under this section

PART 7 – WORKER PARTICIPATION

Division 1 – Site safety and health representatives

97. Right to site safety and health representative

- (1) Workers at a mine or works have the right to elect a site safety and health representative.
- (2) Where there are 10 or more permanent workers employed at a mine or works, the operator must facilitate the election of at least one site safety and health representative in accordance with Section 98.
- (3) Where there are fewer than 10 workers, the workers may collectively elect a person to perform the functions of a site safety and health representative, and the operator must cooperate.

98. Election of site safety and health representative

- (1) The site senior executive must facilitate the election, by secret ballot, of a site safety and health representative from each work area or department.
- (2) Only workers in the relevant work area are entitled to vote in an election for their representative.
- (3) A representative –
 - (a) must be a worker at the mine or works;
 - (b) holds office for three years, unless the representative resigns, ceases employment at the mine, or is removed by a vote of the workers who elected the representative; and
 - (c) may be re-elected.
- (4) Where a vacancy occurs in the office of a site safety and health representative, the site senior executive must facilitate a fresh election within 30 days.
- (5) The site senior executive is an ex officio member of the site safety and health committee and must provide administrative support for the committee, but must not control or direct the activities of the site safety and health representative.
- (6) Records of elections must be kept at the mine and produced to an inspector on request.

99. Functions of site safety and health representative

A site safety and health representative has the following functions –

- (a) to inspect the mine or works, or any part of the mine or works, with respect to safety and health at regular intervals and after any accident or incident;
- (b) to record and present to the site senior executive or statutory manager safety and health concerns raised by workers;
- (c) to participate in and assist with accident and incident investigations;

- (d) to accompany an inspector during an inspection of the mine or works;
- (e) to attend and participate in site safety and health committee meetings;
- (f) to review documents related to safety and health at the mine or works;
- (g) to assist in the consultation process required by this Act; and
- (h) to report hazards, risks, and concerns to the site senior executive or an inspector.

100. Powers of site safety and health representative

- (1) A site safety and health representative may –
 - (a) inspect any part of the mine or works at any reasonable time after giving reasonable notice to the site senior executive;
 - (b) inspect without notice following an accident or where there is an imminent risk;
 - (c) inspect safety and health records and documents relevant to the representative's functions;
 - (d) be present at any investigation of an accident or high-potential incident at the mine or works;
 - (e) make requests to the site senior executive for the remedying of hazards or risks; and
 - (f) escalate unresolved safety and health concerns to the inspector.
- (2) Where a site safety and health representative forms the view that a risk to the safety or health of a worker is serious and immediate, the representative may request that the site senior executive stop the relevant work until the risk is at an acceptable level.
- (3) The site senior executive must respond to a request under Subsection (2) without delay and must either stop the work or demonstrate to the representative that the risk is at an acceptable level.
- (4) If the site senior executive fails to act under Subsection (3), the site safety and health representative may immediately notify an inspector, who must attend or arrange for an inspector to attend as soon as practicable.

101. Protection from penalisation

- (1) A holder, operator or contractor must not penalise a worker because the worker –
 - (a) is a site safety and health representative or candidate for that role;
 - (b) exercises a function or power under this Act;
 - (c) raises a safety and health concern; or
 - (d) makes a complaint or provides information to an inspector.
- (2) Penalisation for the purposes of this section includes dismissal, demotion, reduction in pay, transfer, harassment, or any other detrimental treatment of the worker.

- (3) A worker who is penalised in contravention of this section may –
- (a) make a complaint to an inspector; and
 - (b) apply to the Bougainville High Court for a remedy, including reinstatement, compensation, or an injunction.

102. Immunity for good-faith performance

A site safety and health representative is not personally liable for anything done or omitted in good faith in the performance of the representative's functions under this Act.

Division 2 – Site safety and health committees

103. Establishment of site safety and health committee

- (1) A site safety and health committee must be established at every mine or works at which 10 or more permanent workers are employed.
- (2) The site senior executive must ensure that the committee is established within 30 days of the commencement of operations or within 30 days of the number of workers reaching 10.
- (3) Where fewer than 10 permanent workers are employed, the Chief Inspector may direct that a site safety and health committee be established if considered necessary for the safety and health of persons at the mine or works.

104. Membership and constitution of committee

- (1) The site safety and health committee consists of –
 - (a) the site senior executive or a nominated representative of management as ex officio management member;
 - (b) all elected site safety and health representatives; and
 - (c) such other persons as the committee determines are necessary.
- (2) The Chief Inspector must appoint an inspector to chair the committee.
- (3) The inspector-chair must –
 - (a) chair all meetings of the committee;
 - (b) set the agenda in consultation with members;
 - (c) ensure that meetings are recorded; and
 - (d) provide the Chief Inspector with copies of meeting records.

105. Functions of committee

The site safety and health committee has the following functions –

- (a) to review and provide recommendations on the safety and health management system and plan;

- (b) to consider and assist in resolving safety and health concerns raised by workers or management;
- (c) to consider accident and incident investigation reports and recommendations;
- (d) to monitor the implementation of corrective actions following accidents and incidents;
- (e) to advise the site senior executive on safety and health matters;
- (f) to review and provide input on changes to mining operations that may affect safety and health; and
- (g) to perform any other safety and health function relevant to the mine or works.

106. Resourcing and administration of committee

- (1) The operator must –
 - (a) provide the committee with adequate resources, including meeting facilities, administrative support, and access to relevant documents;
 - (b) ensure that site safety and health representatives are paid at their ordinary rate for time spent on committee functions during working hours; and
 - (c) meet the reasonable costs of the committee's activities.
- (2) Time spent by a representative on committee functions during working hours is not to be treated as a deduction from the representative's entitlements.

107. Inspector-chaired committee process

- (1) The committee must meet at least once every three months, or more frequently as the committee determines or the inspector-chair directs.
- (2) Meetings must be documented and the records kept at the mine and provided to the Chief Inspector.
- (3) The inspector-chair may direct that a meeting be called at any time where the chair considers it necessary in the interests of safety and health.

Division 3 – General protections

108. Right to refuse unsafe work

- (1) A worker may refuse to perform work that presents a risk to safety or health that is not at an acceptable level.
- (2) A worker who refuses to perform work under this section must –
 - (a) immediately notify the supervisor or site senior executive of the refusal and the reason for it; and
 - (b) remain available to perform safe alternative work at the mine or works.

- (3) A worker must not be penalised for exercising the right of refusal under this section in good faith.
- (4) Where a worker refuses to perform work, the site senior executive must –
 - (a) investigate the concern raised by the worker;
 - (b) take appropriate action to address the risk; and
 - (c) advise the worker of the outcome of the investigation.

109. Protection of workers who exercise rights

- (1) A worker who exercises a right under this Act, including the right to refuse unsafe work, to participate in a safety and health committee, or to make a complaint or provide information to an inspector, must not be penalised for doing so.
- (2) Section 101 applies to the protection of workers who exercise rights under this section.

PART 8 – INSPECTORS' POWERS

Division 1 – Entry powers

110. Power to enter mining workplaces

- (1) An inspector may, at any reasonable time and without prior notice, enter –
 - (a) a mine or works;
 - (b) any land or premises used in connection with mining operations; or
 - (c) any vehicle or vessel used in connection with mining operations.
- (2) An inspector may enter a place under this section for the purpose of –
 - (a) inspecting the place for compliance with this Act;
 - (b) investigating an accident, incident, or complaint; or
 - (c) performing any other function of an inspector under this Act.
- (3) A person in control of a place entered under this section must not hinder, obstruct, or fail to cooperate with an inspector exercising powers under this Act.

111. Entry to land subject to customary rights or landowner rights

- (1) Where an inspector proposes to enter land outside a mining tenement over which customary rights are held, the inspector must, prior to entry –
 - (a) give reasonable notice to the customary landowner or the approved landowner organisation representing the customary landowner;
 - (b) explain the purpose of the intended entry; and
 - (c) seek the consent of the customary landowner or approved landowner organisation, unless urgency or the nature of the investigation makes prior consent impracticable.

- (2) Where consent is refused and there is no immediate safety emergency, the inspector must report the refusal to the Chief Inspector, who may apply to the Bougainville High Court for an order authorising entry.
- (3) The exercise of entry powers under this Part must be consistent with the provisions of the *Bougainville Mining Act 2015* governing access to land subject to customary rights, except where Section 157 applies.
- (4) Nothing in this section prevents an inspector from exercising emergency safety entry under Section 168.

112. Entry to private dwellings

- (1) An inspector must not enter a private dwelling without –
 - (a) the consent of the occupier; or
 - (b) a warrant issued by the Bougainville High Court.
- (2) Nothing in this section prevents an inspector from entering an area of a mine or works that includes permanent accommodation facilities for workers where the inspector's purpose is to inspect welfare facilities or investigate a safety matter, provided the inspector gives reasonable notice to the site senior executive.

113. Inspector to produce identity card

An inspector must produce the inspector's identity card for inspection by any person at the place entered before or immediately upon request.

114. Consent to entry

- (1) Before seeking consent to enter a place under this Division, an inspector must –
 - (a) inform the person whose consent is sought of the purpose of the proposed entry; and
 - (b) advise the person that consent may be refused.
- (2) If consent is given, the inspector may enter and exercise powers under Division 2.
- (3) If consent is withdrawn, the inspector must leave the place promptly unless authorised to remain under a warrant.

Division 2 – Powers on entry

115. General powers on entry

An inspector who has entered a place under this Part may –

- (a) inspect any part of the mine or works, including plant, equipment, and working areas;
- (b) inspect, copy, or take extracts of documents, including electronic records;
- (c) take measurements, record observations, and make notes;

- (d) take samples of any substance or material;
- (e) operate plant or equipment for the purpose of inspection or testing;
- (f) direct that a place, area, plant, or equipment be made available for inspection; and
- (g) require persons to attend and answer questions relevant to the inspection or investigation.

116. Power to take samples

- (1) An inspector may take samples of any substance, material, dust, or other matter for the purpose of analysis.
- (2) The inspector must give a portion of the sample to the operator, where practicable.
- (3) Samples must be handled, stored, and analysed in accordance with requirements prescribed by the regulations.

117. Power to take photographs and recordings

- (1) An inspector may take photographs, make video recordings, or use other recording devices in the exercise of functions under this Act.
- (2) Recordings made under this section may be used as evidence in any proceeding under this Act.

118. Power to require information and documents

- (1) An inspector may require a person to –
 - (a) answer questions relevant to the inspection or investigation;
 - (b) produce documents or records, including electronic records; and
 - (c) provide other information relevant to the inspector's functions.
- (2) A person who refuses to comply with a requirement under Subsection (1) without reasonable excuse commits an offence.
- (3) A person is not excused from answering a question or providing information on the ground that the answer or information may tend to incriminate the person, but any information so provided is not admissible in evidence against that person in a criminal proceeding, other than a proceeding for an offence of giving false or misleading information.

119. Power to seize evidence

- (1) An inspector may seize any thing at a mine or works that the inspector reasonably believes is –
 - (a) evidence of a contravention of this Act; or
 - (b) a thing that presents an immediate risk to the safety or health of any person.
- (2) The inspector must give a receipt for any thing seized to the person from whom it was taken.

- (3) A thing seized under this section must be dealt with in accordance with the regulations.

120. Duty of persons to assist inspectors

A person at a mine or works must, when requested by an inspector –

- (a) give assistance reasonably necessary for the inspector to exercise powers under this Act; and
- (b) provide information, documents, and access to plant, equipment, and areas as required by the inspector.

Division 3 – Compliance powers

121. Prohibition notices

- (1) An inspector may issue a prohibition notice to the site senior executive or any other duty holder where the inspector reasonably believes that an activity at the mine or works involves or will involve a serious risk from imminent or actual exposure to a hazard.
- (2) A prohibition notice may be –
 - (a) given verbally in the first instance, with immediate effect; but
 - (b) must be confirmed in writing as soon as practicable and in any event within 24 hours of verbal notification.
- (3) A prohibition notice must –
 - (a) state the activity or area to which the notice applies;
 - (b) describe the nature of the hazard and the basis for the inspector's belief that a serious risk exists;
 - (c) direct the cessation or prohibition of the relevant activity or the exclusion of persons from the relevant area until the risk is at an acceptable level; and
 - (d) specify, where practicable, the measures required to bring the risk to an acceptable level.
- (4) An activity or area to which a prohibition notice applies must not be resumed until –
 - (a) the Chief Inspector confirms that the measures required by the notice have been implemented; or
 - (b) the prohibition notice is withdrawn by the inspector or the Chief Inspector.
- (5) A person who fails to comply with a prohibition notice commits an offence.

122. Improvement notices

- (1) An inspector may issue an improvement notice to the site senior executive or any other duty holder where the inspector reasonably believes –
 - (a) a contravention of this Act is occurring or is likely to occur; and

- (b) the contravention has not yet created an imminent serious risk.
- (2) An improvement notice must –
 - (a) identify the provision contravened or likely to be contravened;
 - (b) describe the nature of the contravention or likely contravention;
 - (c) require the person to whom the notice is given to remedy the contravention or prevent the likely contravention within a specified reasonable time; and
 - (d) where appropriate, suggest measures by which compliance may be achieved.
- (3) A person who fails to comply with an improvement notice within the specified time commits an offence.

123. Withdrawal and variation of notices

- (1) An inspector may withdraw or vary a prohibition notice or improvement notice by notice in writing.
- (2) The Chief Inspector may direct an inspector to withdraw or vary a notice.
- (3) A variation may extend the time for compliance with an improvement notice where the person to whom the notice was given has taken reasonable steps toward compliance.

124. Compliance with notices

- (1) A person given a notice under this Division must comply with the notice.
- (2) A notice does not prevent the Chief Inspector or an inspector from taking further enforcement action, including prosecution, in relation to the conduct to which the notice relates.

125. Suspension of operations – serious risk

- (1) Where the Chief Inspector reasonably believes that a continuing activity or condition at a mine or works presents a serious risk to the safety or health of any person, the Chief Inspector may direct the suspension of all or part of operations at the mine or works.
- (2) A direction under Subsection (1) must –
 - (a) be given in writing;
 - (b) state the reason for the suspension; and
 - (c) specify the conditions to be met before operations may recommence.
- (3) Before suspending operations, the Chief Inspector must give the site senior executive an opportunity to be heard, unless the urgency of the situation makes this impracticable.
- (4) The Chief Inspector must notify the Secretary under the *Bougainville Mining Act 2015* before issuing a suspension order under this section.

- (5) A person who continues operations in contravention of a direction under this section commits an offence.

126. Exemption from regulatory provisions

- (1) An operator may apply to the Chief Inspector for an exemption from a specified provision of the regulations where the operator demonstrates that –
- (a) compliance with the provision is impracticable having regard to the scale, nature, or location of the operation; and
 - (b) an alternative measure affords equivalent or greater protection to safety and health.
- (2) The Chief Inspector may grant an exemption by notice in the Bougainville Gazette, subject to conditions and for the period specified in the notice.
- (3) An exemption under this section does not affect the obligation of the operator to maintain safety and health at an acceptable level.

Division 4 – Inspector conduct

127. Inspector to exercise powers in good faith

An inspector must exercise powers under this Act in good faith and for purposes consistent with this Act.

128. Confidentiality of information

- (1) An inspector must not disclose information obtained in the exercise of functions under this Act unless –
- (a) the disclosure is required for the purposes of this Act;
 - (b) the disclosure is required by law; or
 - (c) the person to whom the information relates has consented to the disclosure.
- (2) An inspector who contravenes this section commits an offence.

129. Protection of inspectors

An inspector is not personally liable for an act done or omitted in good faith in the exercise or purported exercise of the inspector's powers under this Act.

PART 9 – INCIDENT NOTIFICATION AND REPORTING

Division 1 – Incident notification

130. Duty to report accidents and serious accidents

- (1) Where an accident occurs at a mine or works, the worker or person who witnessed or was involved in the accident must report it to the supervisor or site senior executive as soon as practicable.

- (2) The site senior executive must –
 - (a) where the accident is a serious accident, immediately notify the Chief Inspector and the relevant emergency services;
 - (b) in any case, notify the Chief Inspector of the accident in writing within 24 hours of the accident; and
 - (c) submit a full written accident report in the prescribed form within the period prescribed by the regulations.
- (3) Where a serious accident results in the death of a person, the site senior executive must additionally –
 - (a) immediately notify the relevant law enforcement authorities; and
 - (b) facilitate coroner access to the site.

131. Duty to report high-potential incidents

- (1) The site senior executive must notify the Chief Inspector of a high-potential incident in writing within 48 hours of the incident occurring.
- (2) The notification must include an initial description of the incident and its circumstances.
- (3) A full written report of the high-potential incident must be submitted to the Chief Inspector in the prescribed form within the period prescribed by the regulations.

132. Content of notification

- (1) An accident or incident notification must include –
 - (a) the date, time, and location of the accident or incident;
 - (b) the nature of the accident or incident;
 - (c) the names of any persons involved;
 - (d) the nature of any injuries or property damage;
 - (e) the immediate cause of the accident or incident to the extent known; and
 - (f) any immediate remedial action taken.
- (2) The regulations may prescribe additional content requirements for notifications.

133. Preservation of accident site

- (1) Where a serious accident occurs at a mine or works, the site senior executive must ensure that the accident site is preserved in the condition it was in at the time of the accident until an inspector has attended and inspected the site or the inspector has authorised disturbance of the site.
- (2) No person may move, remove, alter, or disturb any equipment, plant, or material at the accident site without the authority of an inspector, except as permitted by Section 134.

- (3) The Chief Inspector must ensure that an inspector attends the accident site as soon as practicable following notification.

134. Disturbance of accident site in emergencies

- (1) Notwithstanding Section 133, the accident site may be disturbed or altered to the minimum extent necessary to –
- (a) rescue or render assistance to injured persons;
 - (b) prevent further injury or death; or
 - (c) prevent further damage to plant, equipment, or the environment where the risk of such damage is serious and immediate.
- (2) Where the site is disturbed under this section, the site senior executive must immediately notify the inspector and document what was disturbed and the reason.

135. Notification to the Chief Inspector – change of ownership or management

- (1) An operator must notify the Chief Inspector in writing within 14 days of any change in –
- (a) the ownership or control of the mine or works;
 - (b) the identity of the operator; or
 - (c) the contact details of the site senior executive.
- (2) A holder must notify the Chief Inspector of any transfer or assignment of a tenement that includes a mine or works within 14 days of the transfer or assignment taking effect.

Division 2 – Registers and reports

136. Site occupational health and safety monthly report

- (1) The site senior executive must prepare and submit to the Chief Inspector a monthly occupational health and safety report in the prescribed form.
- (2) The monthly report must include –
- (a) the number and nature of accidents and incidents during the reporting period;
 - (b) the number of lost-time injuries;
 - (c) the number and outcome of hazard notifications;
 - (d) inspection and audit activities;
 - (e) corrective actions taken; and
 - (f) such other information as the regulations may prescribe.

137. Mine register

- (1) The site senior executive must maintain a mine register at the mine or works.
- (2) The mine register must contain –

- (a) a record of all inspections and the results of those inspections;
 - (b) a record of all accidents and incidents;
 - (c) particulars of unsafe conditions reported;
 - (d) copies of all notices issued under Part 8;
 - (e) copies of all inquiry reports;
 - (f) records of the safety and health management system and any updates; and
 - (g) such other documents and records as the regulations may prescribe.
- (3) The mine register must be –
- (a) maintained in a durable and accessible form;
 - (b) available to an inspector on request; and
 - (c) available to site safety and health representatives for the purpose of their functions.

138. Annual report of mine safety data

- (1) By 31 March of each year, the operator must submit to the Chief Inspector an annual mine safety data report for the preceding calendar year.
- (2) The annual report must include –
- (a) the total number of workers employed at the mine during the year;
 - (b) a summary of all accidents and incidents;
 - (c) injury frequency rates and lost-time injury statistics;
 - (d) the results of health monitoring relevant to the mine;
 - (e) a summary of the outcomes of safety and health management system reviews and audits; and
 - (f) such other information as the regulations may prescribe.
- (3) The Chief Inspector may, on application by an operator made before the due date in Subsection (1), grant a written extension of time for filing the annual mine safety data report, for a period not exceeding 30 days from the original due date.
- (4) The Chief Inspector may, by written instrument, approve a simplified reporting arrangement for holders of artisanal mining licences or community mining licences in lieu of the annual mine safety data report required under this section.
- (5) A simplified reporting arrangement approved under Subsection (4) may include:
- (a) a declaration by the licence holder that the licence holder's operations have complied with the applicable code of practice during the reporting period; and
 - (b) such other information as the Chief Inspector specifies in the instrument of approval.

- (6) A simplified reporting arrangement does not relieve a licence holder of the obligation to notify the Chief Inspector of any death, serious bodily injury or dangerous occurrence in accordance with the notification requirements of this Act.
- (7) The Chief Inspector may vary or revoke an approval under subsection (4) by written notice to the affected licence holders.
- (5) The regulations may –
 - (a) prescribe the form and content of a simplified reporting arrangement for artisanal mining or community mining operations; and
 - (b) differentiate between classes of artisanal mining or community mining operations by reference to the scale of operations, the number of workers, the use of explosives, the use of machinery, or whether underground operations are carried out.

139. Publication of mine safety information

- (1) The Chief Inspector may publish mine safety data and information for the purpose of improving safety performance in the mining sector.
- (2) Before publishing information that may identify an individual or specific operator, the Chief Inspector must give the person or operator an opportunity to comment.

PART 10 – INVESTIGATIONS, COMPLAINTS, AND INQUIRIES

Division 1 – Accident investigation

140. Investigation of accidents

- (1) Where a serious accident or a high-potential incident occurs at a mine or works, the Chief Inspector must –
 - (a) cause an inspector to investigate the accident or incident; and
 - (b) ensure that the investigation is commenced as soon as practicable.
- (2) The site senior executive must –
 - (a) cooperate fully with the investigation;
 - (b) provide the investigating inspector with access to the accident site, plant, records, and personnel; and
 - (c) not obstruct or hinder the investigation.
- (3) The investigating inspector must prepare an investigation report in accordance with Section 143.

141. Inspector-led inquiry

- (1) The Chief Inspector must appoint an inspector to conduct a formal inquiry where –
 - (a) a serious accident results in death, serious bodily injury, or serious illness; or

- (b) the Chief Inspector considers that the circumstances of an accident or incident warrant a formal inquiry.
- (2) An inspector conducting an inquiry under this section may –
 - (a) summon any person to appear and give evidence or produce documents;
 - (b) take evidence on oath or affirmation;
 - (c) inspect and copy any relevant documents; and
 - (d) require the production of relevant plant, equipment, or records.
- (3) The Chief Inspector may engage a suitably qualified expert to assist an inspector in an inquiry.

142. Power to request police assistance

- (1) The Chief Inspector may, in writing, request the Commissioner of Police (or the equivalent law enforcement authority in Bougainville) to provide police personnel to assist the Chief Inspector or an inspector in investigating –
 - (a) any death occurring in connection with mining operations at a mine;
 - (b) any serious bodily injury occurring in connection with mining operations at a mine;
 - (c) a dangerous occurrence at a mine; or
 - (d) a suspected offence under this Act that the Chief Inspector reasonably believes warrants police investigation.
- (2) Where police personnel are provided in response to a request under Subsection (1), they may exercise all powers conferred on them by any law of Bougainville, or if there is no relevant law of Bougainville, the law of Papua New Guinea, in connection with the investigation of the death, injury, dangerous occurrence or suspected offence.
- (3) This section does not limit the power of police to independently investigate any death, injury, dangerous occurrence or suspected criminal conduct arising from or connected with mining operations.
- (4) The Chief Inspector and police personnel engaged in an investigation referred to in Subsection (1) may share information and evidence relevant to the investigation, subject to any applicable law governing the disclosure of information.

143. Findings and recommendations of inquiry

- (1) An inspector who conducts an inquiry under Section 141 must prepare a report that sets out –
 - (a) the facts established before and after the accident or incident;
 - (b) the immediate and root causes of the accident or incident;
 - (c) contributing factors;

- (d) findings on compliance with this Act; and
- (e) recommendations for preventive measures.
- (2) The report must be provided to the Chief Inspector within a reasonable time after completion of the inquiry.

144. Communication of recommendations

- (1) The Chief Inspector must communicate the recommendations of an inquiry report to –
 - (a) the site senior executive and operator;
 - (b) the holder; and
 - (c) the Minister.
- (2) The Chief Inspector must determine, in the public interest, whether and how the findings and recommendations are to be made public, having regard to –
 - (a) the interests of affected workers and communities;
 - (b) the benefit to mine safety in Bougainville generally; and
 - (c) the interests of persons involved.
- (3) The Chief Inspector may, where warranted by the findings, recommend that prosecution proceedings be instituted.
- (4) Where prosecution is recommended, the Chief Inspector must forward the report to the relevant prosecuting authority.

145. Cost of investigation and inquiry

- (1) The Autonomous Bougainville Government may, by regulation, prescribe a cost-recovery mechanism under which the costs reasonably incurred by the Mines Inspectorate in conducting an investigation or inquiry following a serious accident may be recovered from the operator.
- (2) Cost recovery under Subsection (1) must not be imposed –
 - (a) before the investigation or inquiry is completed; or
 - (b) where the investigation or inquiry establishes that the accident was not caused or contributed to by a contravention of this Act.
- (3) Nothing in this section requires an operator to fund the costs of an investigation or inquiry before those costs are determined and any liability established.

Division 2 – Complaint investigation

146. Right to make complaint

- (1) Any person, including a worker, a site safety and health representative, or a member of the public, may make a formal written complaint addressed to the Chief Inspector or an inspector about –
 - (a) a contravention or suspected contravention of this Act at a mine or works;
 - (b) a hazard or unsafe condition at a mine or works; or
 - (c) the safety and health of persons at a mine or works.
- (2) A complaint may be made anonymously.

147. Investigation of complaints

- (1) Upon receipt of a written complaint, the inspector must investigate the complaint without unnecessary delay unless the inspector is satisfied that the complaint is not genuine or does not warrant investigation.
- (2) If the inspector decides not to investigate a complaint, the inspector must notify the complainant of that decision and the reason, unless the complaint was anonymous.
- (3) The inspector must not disclose the identity of a complainant without the complainant's consent.

148. Protection of complainant's identity

- (1) An inspector must not disclose the identity of a person who makes a complaint under Section 146.
- (2) An inspector who discloses the identity of a complainant in contravention of this section commits an offence.
- (3) Disclosure of a complainant's identity is not required in any proceeding under this Act.

149. Outcome of complaint investigation

- (1) Following a complaint investigation, the inspector must –
 - (a) notify the complainant, where the complainant has provided contact details, of the outcome of the investigation; and
 - (b) take such action as is appropriate in the circumstances, including issuing a notice or recommending prosecution.
- (2) Where a complaint discloses a systemic failure, the inspector must report the matter to the Chief Inspector with recommendations.

Division 3 – Interaction with coronial proceedings

150. Coroner may summon inspector

- (1) Where a person dies at a mine or works in connection with mining operations, a Coroner conducting an inquest into the death may –
 - (a) summon an inspector to appear and give evidence;
 - (b) require the production of relevant inspection records, investigation reports, and documents; and
 - (c) seek the assistance of the Mines Inspectorate in identifying relevant witnesses.
- (2) An inspector so summoned must comply with the summons and cooperate with the Coroner.

151. Findings of inquest to be provided to Chief Inspector

- (1) Following the conclusion of an inquest into a death at a mine or works, the relevant Coroner or court must provide the Chief Inspector with the findings and recommendations of the inquest.
- (2) The Chief Inspector must consider the findings and recommendations and take such action as is appropriate, including revising guidelines or recommending legislative or regulatory amendment.

PART 11 – CATASTROPHIC INSTALLATIONS AND DAMS

152. Identification of catastrophic installations

- (1) For every mine or works, the site senior executive must identify all installations, structures, or items of plant that, if they were to fail, could cause a catastrophic accident.
- (2) Identified catastrophic installations must include, without limitation –
 - (a) dams and tailings storage facilities;
 - (b) underground excavations that present a risk of catastrophic collapse or flooding;
 - (c) pressure vessels, boilers, and other high-energy equipment;
 - (d) explosives storage facilities; and
 - (e) any other installation identified by the Chief Inspector by notice.
- (3) The identification of catastrophic installations must be documented in the hazard and risk register.

153. Registration of catastrophic installations and dams

- (1) The operator must register all catastrophic installations and dams with the Chief Inspector in the prescribed form within the period prescribed by the regulations.
- (2) Registration must include –

- (a) a description and location of the installation;
 - (b) the nature of the risk it presents;
 - (c) a summary of the safety controls in place; and
 - (d) a reference to the specialised safety management plan required under Section 89.
- (3) The operator must notify the Chief Inspector of any material change to a registered catastrophic installation or dam within 14 days of the change.

154. Safety management plan for catastrophic installations and dams

The operator must prepare and implement a specialised safety management plan for each registered catastrophic installation or dam in accordance with Section 94, addressing design, construction, operation, inspection, monitoring, emergency response, and decommissioning.

155. Commissioning of catastrophic installations and dams

- (1) No catastrophic installation or dam in respect of which design and construction approval has been granted under Section 154 may be brought into operation for the first time, or brought back into operation following a material alteration approved under Section 154, without the written commissioning approval of the Chief Inspector, given in a form prescribed by regulation.
- (2) An operator that proposes to commission a catastrophic installation or dam must, not less than 28 days before the proposed date of commissioning –
- (a) give the Chief Inspector written notice of –
 - (i) the installation or dam proposed to be commissioned;
 - (ii) the proposed commissioning date; and
 - (iii) the proposed commissioning program and procedures;
 - (b) provide the Chief Inspector with a pre-commissioning verification report prepared by a competent person that confirms –
 - (i) the installation or dam has been constructed, altered, or extended in accordance with the design plans and standards approved under Section 154;
 - (ii) all safety systems, monitoring systems, and emergency response systems for the installation or dam have been tested and are functional;
 - (iii) all instrumentation, controls, and alarms associated with the installation or dam have been calibrated and are operational;
 - (iv) the safety management plan for the installation or dam prepared under Section 154 has been updated to reflect the as-constructed condition of the installation or dam and is ready for implementation; and

- (v) all persons required to operate or work in connection with the installation or dam have received the training, instruction, and induction necessary to do so safely; and
 - (c) request a pre-commissioning inspection under Subsection (3).
- (3) The Chief Inspector must cause an inspector or a competent person authorised by the Chief Inspector to conduct a pre-commissioning inspection of the catastrophic installation or dam before granting commissioning approval under this section.
- (4) The pre-commissioning inspection must assess –
 - (a) whether the installation or dam conforms to the approved design plans and specifications;
 - (b) whether the safety systems, emergency response systems, and monitoring systems are functional and tested;
 - (c) whether the safety management plan is adequate and ready for implementation; and
 - (d) whether there are any conditions, defects, or deficiencies that present a risk to safety and health that must be remedied before commissioning.
- (5) Following the pre-commissioning inspection, the Chief Inspector may –
 - (a) grant commissioning approval unconditionally;
 - (b) grant commissioning approval subject to conditions; or
 - (c) refuse commissioning approval on the ground that the installation or dam, or any system associated with it, is not safe for commissioning,and must give written reasons for the decision in each case.
- (6) Where the Chief Inspector refuses commissioning approval under Subsection (5)(c), the operator must address the deficiencies identified by the Chief Inspector before making a further application for commissioning approval under this section.
- (7) An operator must not commission a catastrophic installation or dam, or permit any person to commence operations at or in connection with a commissioned installation or dam, except in accordance with –
 - (a) the commissioning approval granted under this section; and
 - (b) any conditions to which the approval is subject.
- (8) Within 14 days after commissioning is complete, the operator must provide the Chief Inspector with a written commissioning completion report confirming –
 - (a) the date on which the installation or dam was commissioned;
 - (b) that commissioning was carried out in accordance with the commissioning program approved under this section;

- (c) any variations from the approved commissioning program and the reasons for them; and
 - (d) the results of any tests or trials conducted during commissioning, including any anomalies identified and the corrective actions taken.
- (9) The Chief Inspector must record commissioning approval and completion in the register of catastrophic installations maintained under Section 153.
- (10) A decision of the Chief Inspector to refuse or conditionally grant commissioning approval under this section is a reviewable decision for the purposes of Part 16.
- (11) The regulations may prescribe –
 - (a) the form and content of pre-commissioning verification reports for specified classes of catastrophic installation or dam; and
 - (b) minimum commissioning testing and trial requirements for specified classes of catastrophic installation or dam.

156. Design, construction, and modification – safety requirements

- (1) No person may design, construct, modify, or extend a catastrophic installation or dam without the written approval of the Chief Inspector.
- (2) An application for approval must include –
 - (a) design plans prepared and certified by a competent engineer;
 - (b) a risk assessment relevant to the design;
 - (c) proposed construction or modification standards; and
 - (d) the proposed safety management plan for the installation.
- (3) The Chief Inspector may approve an application unconditionally or subject to conditions.

157. Inspection and auditing

- (1) A catastrophic installation or dam must be inspected by a competent person at intervals prescribed by the regulations.
- (2) The results of inspections must be documented and provided to the Chief Inspector.
- (3) The Chief Inspector may at any time direct that an independent audit of a catastrophic installation or dam be conducted.

158. Decommissioning and closure of catastrophic installations and dams

- (1) No catastrophic installation or dam may be decommissioned or closed without the written approval of the Chief Inspector.
- (2) Upon decommissioning or closure, the operator must ensure that –
 - (a) the installation or dam is rendered permanently safe;

- (b) all hazardous materials are removed or contained;
- (c) the site is rehabilitated in accordance with the applicable closure plan; and
- (d) a final inspection report is submitted to the Chief Inspector.

PART 12 – TEMPORARY CLOSURE, SUSPENSION, RECOMMENCEMENT, AND ABANDONMENT

159. Notification of suspension or temporary closure

- (1) An operator that suspends or temporarily closes all or a significant part of mining operations at a mine or works must notify the Chief Inspector in writing –
 - (a) within 7 days of the suspension or closure; and
 - (b) of the expected duration of the suspension or closure.
- (2) A notification under this section must include –
 - (a) the reason for the suspension or closure;
 - (b) the status of safety and health measures in place during the suspension or closure; and
 - (c) the proposed caretaking arrangements.

160. Safety obligations during temporary closure

During a temporary closure or suspension, the operator must –

- (a) ensure that the mine or works is maintained in a condition that is safe for persons and does not present a hazard to the community or the environment;
- (b) ensure that plant and equipment are rendered safe;
- (c) maintain security to prevent unauthorised access;
- (d) maintain monitoring and reporting obligations where relevant; and
- (e) notify the Chief Inspector of any significant change in circumstances during the closure.

161. Recommencement – prior notification and inspection

- (1) An operator that proposes to recommence mining operations following a suspension or temporary closure must –
 - (a) notify the Chief Inspector in writing at least 14 days before the proposed recommencement date; and
 - (b) request an inspection of the mine or works.
- (2) The Chief Inspector must cause an inspector to inspect the mine or works and report with recommendations on whether operations may safely recommence.

- (3) The operator must not recommence operations without the written confirmation of the Chief Inspector that the mine or works is safe for recommencement or without appropriate conditions being met.
- (4) Before providing the written confirmation to the operator under Subsection (3), the Chief Inspector must consult the Secretary under the *Bougainville Mining Act 2015* and have regard to the Secretary's views.

162. Abandonment and closure – notification and planning

- (1) An operator that proposes to permanently close or abandon a mine or works must notify the Chief Inspector in writing at least 90 days before the proposed date of closure or abandonment.
- (2) A notice under this section must be accompanied by a draft mine closure plan meeting the requirements of Section 163.
- (3) The Chief Inspector must consult the Secretary under the *Bougainville Mining Act 2015* before approving a mine closure plan.

163. Mine closure plan

- (1) A mine closure plan must address –
 - (a) the cessation of all mining activities in a safe and orderly manner;
 - (b) the decommissioning of all plant, equipment, and infrastructure;
 - (c) the removal of hazardous materials and dangerous goods;
 - (d) the stabilisation and rehabilitation of excavations, waste dumps, and tailings storage facilities;
 - (e) the ongoing monitoring obligations during and after closure;
 - (f) emergency response arrangements during the closure period;
 - (g) the arrangements for access security and restriction after closure; and
 - (h) the communication plan for affected workers, landowners, and communities.
- (2) The mine closure plan must be prepared by or under the supervision of competent persons and submitted for approval by the Chief Inspector.
- (3) The Chief Inspector may require amendment of a mine closure plan and must not approve it until satisfied it meets the requirements of this section.

164. Relationship with Bougainville Mining Act 2015 closure obligations

- (1) The obligations imposed by this Part in relation to safe closure, decommissioning, and abandonment are in addition to, and do not replace, the obligations imposed by the *Bougainville Mining Act 2015* in relation to –

- (a) surrender, expiry, or cancellation of tenements;
 - (b) removal of mining plant;
 - (c) rehabilitation of land;
 - (d) compensation to landowners and affected persons; and
 - (e) any other obligation arising under the tenement or under the *Bougainville Mining Act 2015*.
- (2) The operator must coordinate compliance with this Part and compliance with the *Bougainville Mining Act 2015* closure and rehabilitation obligations.

PART 13 – LANDOWNER AND CUSTOMARY LAND INTERFACE

165. Application of this Part

This Part applies where the exercise of powers under this Act intersects with the rights of landowners, including customary landowners, recognised under the *Bougainville Mining Act 2015*.

166. Relationship with Bougainville Mining Act 2015 – landowner rights

- (1) Nothing in this Act diminishes or overrides the rights of landowners, including customary landowners, under the *Bougainville Mining Act 2015*.
- (2) In particular, nothing in this Act –
- (a) removes the requirement under the *Bougainville Mining Act 2015* to obtain landowner consent or permission before accessing customary land, except as provided in this Section 166;
 - (b) overrides the compensation entitlements of landowners under the *Bougainville Mining Act 2015*; or
 - (c) limits the rights of approved landowner organisations under the *Bougainville Mining Act 2015*.
- (3) Terms used in this Part that are defined in the *Bougainville Mining Act 2015*, including landowner, customary landowner, approved landowner organisation, holder, and tenement, have the same meaning in this Part as in that Act.

167. Inspector entry and customary land – conditions

- (1) When exercising entry powers under Part 8 in relation to land subject to customary rights, an inspector must –
- (a) comply with Section 111;
 - (b) conduct the entry in a manner respectful of the cultural and customary significance of the land;

- (c) minimise disturbance to the land and to customary activities on the land; and
 - (d) where possible, be accompanied by a representative of the customary landowner or approved landowner organisation.
- (2) Nothing in Subsection (1) prevents an inspector from exercising emergency safety entry under Section 168 without prior consent.

168. Emergency safety entry

- (1) An inspector may enter any land, including land subject to customary rights, without consent or prior notice where –
- (a) the inspector reasonably believes that a serious and imminent risk to the safety or health of any person exists; and
 - (b) the urgency of the situation does not permit prior consent to be obtained.
- (2) Emergency safety entry under this section must –
- (a) be limited to the extent necessary to address the immediate safety risk;
 - (b) be conducted with respect for the land and persons on it;
 - (c) be reported to the customary landowner or approved landowner organisation as soon as practicable after the entry; and
 - (d) be documented in the mine register.
- (3) Entry under this section does not suspend or extinguish any compensation entitlement of the landowner arising under the *Bougainville Mining Act 2015*.

169. Safety zones

- (1) The Chief Inspector may, by written notice to the operator, the holder, and the relevant landowner or approved landowner organisation, declare a safety zone around or within a mine or works where the Chief Inspector is satisfied that a safety or health hazard associated with mining operations presents a risk to persons outside the mine site.
- (2) A safety zone notice must –
- (a) describe the area of the safety zone;
 - (b) state the hazard giving rise to the declaration;
 - (c) specify the restrictions applicable within the safety zone; and
 - (d) be published in the Bougainville Gazette.
- (3) The operator must implement the safety zone in accordance with the notice.
- (4) A safety zone does not affect the entitlement of a landowner to compensation under the *Bougainville Mining Act 2015* for any restriction on the use of their land caused by the safety zone.

170. Community notification of safety matters

- (1) An operator must notify communities in the vicinity of a mine or works of significant safety and health events that may affect those communities, including –
 - (a) serious accidents;
 - (b) hazardous spills or releases of dangerous goods; and
 - (c) any other event that presents a risk to community safety or health.
- (2) Notification under this section must be –
 - (a) given as soon as practicable after the event;
 - (b) provided in a form and language that is accessible to the community; and
 - (c) coordinated with any emergency response notification obligations.
- (3) The regulations may prescribe the form, timing, and content of community notifications.

171. Dispute resolution – customary processes

- (1) Where a dispute arises between an inspector or the Mines Inspectorate and a customary landowner or approved landowner organisation in relation to the exercise of powers under this Part, the parties must first attempt to resolve the dispute through –
 - (a) direct negotiation; or
 - (b) where appropriate, a culturally appropriate mediation or dispute resolution process recognised under Bougainville law.
- (2) Where a dispute cannot be resolved under Subsection (1), either party may apply to the Bougainville High Court for a determination.
- (3) The existence of a dispute under this section does not prevent an inspector from exercising emergency safety entry under Section 168 where there is an imminent risk to safety or health.

PART 14 — ENVIRONMENTAL INTERACTIONS

172. Relationship with environmental laws

- (1) This Act operates alongside, and does not displace, the *Environment Act 2000*.
- (2) An obligation imposed by the *Environment Act 2000* on an operator does not relieve the operator of the obligation to comply with this Act, and vice versa.

173. Coordination of safety and environmental compliance activities

- (1) Where the exercise of powers under this Act overlaps with the exercise of powers under applicable environmental laws, the responsible authorities must –
 - (a) communicate and share relevant information;

- (b) coordinate inspections and compliance activities where practicable; and
- (c) avoid unnecessary duplication of compliance requirements.
- (2) The Chief Inspector and the relevant environmental authority may enter into an arrangement for the coordination of activities under Subsection (1).

174. Duty not to create unsafe environmental conditions at mine

An operator must ensure, so far as is reasonably practicable, that mining operations do not create environmental conditions at or around the mine or works that present a risk to the safety or health of workers, the community, or the environment, including risks from –

- (a) acid mine drainage;
- (b) release of hazardous substances;
- (c) dust, noise, or vibration; and
- (d) tailings or waste material.

PART 15 – OFFENCES AND ENFORCEMENT

Division 1 – General penalty provisions

175. General penalty – Category 1 offences (recklessness)

- (1) A duty holder commits a Category 1 offence if the duty holder, without reasonable excuse, engages in conduct that exposes an individual to a risk of death or serious injury and is reckless as to the risk.
- (2) For the purposes of Subsection (1), a duty holder is reckless as to a risk if the duty holder is aware of a substantial risk that the conduct will expose an individual to a risk of death or serious injury, and it is unjustifiable, having regard to the circumstances known to the duty holder, to take that risk
- (3) The penalty for a Category 1 offence is –
 - (a) for an individual – a fine not exceeding K750,000, or imprisonment for a period not exceeding 8 years, or both; and
 - (b) for a body corporate – a fine not less than K5,000,000.

176. General penalty – Category 2 offences (failure of duty)

- (1) A duty holder commits a Category 2 offence if the duty holder fails to comply with a duty imposed by this Act and the failure exposes an individual to a risk of death or serious injury.
- (2) A duty holder may commit a Category 2 offence whether or not the duty holder was aware that the failure exposed an individual to a risk of death or serious injury, provided that a reasonable person in the duty holder's position would have foreseen the risk.
- (3) The penalty for a Category 2 offence is –

- (a) for an individual – a fine not exceeding K500,000, or imprisonment for a period not exceeding 5 years, or both; and
- (b) for a body corporate – a fine not less than K2,500,000 and not exceeding K5,000,000.

177. General penalty – Category 3 offences (regulatory breach)

- (1) A duty holder commits a Category 3 offence if the duty holder fails to comply with a duty imposed by this Act and the failure does not expose any person to a risk of death or serious injury.
- (2) The penalty for a Category 3 offence is –
 - (a) for an individual – a fine not exceeding K50,000; and
 - (b) for a body corporate – a fine not less than K500,000 and not exceeding K2,500,000.

178. Continuing offences

- (1) Where a person fails to remedy a contravention of this Act within the period required by –
 - (a) a prohibition notice issued under Section 121;
 - (b) an improvement notice issued under Section 122;
 - (c) a direction of the Chief Inspector or an inspector under this Act;
 - (d) an order of a court under Section 198; or
 - (e) any other provision of this Act or the regulations that specifies a time for compliance,the person commits a further offence for each day during which the contravention continues after the expiry of that period.
- (2) The daily penalty for a continuing offence under Subsection (1) is –
 - (a) for an individual – a fine not exceeding K5,000 per day; and
 - (b) for a body corporate – a fine not exceeding K50,000 per day.
- (3) Nothing in this section prevents the commencement of prosecution for the original offence giving rise to the contravention.
- (4) Where a person is convicted of a continuing offence under this section, the court may order the person to remedy the contravention within a period specified by the court.
- (5) Failure to remedy a contravention within the period specified by the court under Subsection (4) constitutes a further offence under Section 199.

179. Liability of officers of bodies corporate

- (1) Where a body corporate commits an offence under this Act, an officer of the body corporate who failed to exercise due diligence under Section 74 to prevent the commission of the offence also commits an offence and is liable to –

- (a) a fine not exceeding the maximum fine applicable to an individual for the relevant category of offence; and
 - (b) imprisonment for the applicable maximum term, where the officer –
 - (i) personally participated in the conduct constituting the offence;
 - (ii) consented to or connived in the conduct constituting the offence; or
 - (iii) had actual knowledge of the contravention and failed to take reasonable steps to prevent it.
- (2) An officer of a body corporate may be convicted of an offence under this section whether or not the body corporate has been charged with or convicted of an offence.
- (3) A conviction of the body corporate does not prevent the conviction of an officer, and vice versa.
- (4) In this section, officer, in relation to a company or mining operator, has the meaning given under the *Companies Act 1997*, and includes a director, secretary, manager, and any person who is concerned in, or takes part in, the management of the company or mining operator.

180. Liability of controllers

- (1) Where a holder, operator, or contractor commits an offence under this Act, a controller of that holder, operator, or contractor who failed to exercise the due diligence required by Section 75 to prevent the commission of the offence also commits an offence and is liable to –
- (a) for an individual controller – a fine not exceeding K250,000 or imprisonment of a term not less than 6 months; and
 - (b) for a body corporate controller – a fine not less than K2,000,000.

Division 2 – Specific offences

181. Offence to operate without a registered site senior executive

- (1) A person who conducts mining operations at a mine or works without a registered site senior executive commits an offence and is subject to –
- (a) for an individual – a fine not exceeding K100,000, or imprisonment for a term not exceeding 1 year; and
 - (b) for a body corporate – a fine not exceeding K1,000,000.
- (2) The offence under Subsection (1) is a continuing offence for the purposes of Section 178, and a daily penalty applies from the date on which the person knew, or ought reasonably to have known, that no registered site senior executive was in place.
- (3) It is a defence to a charge under this section that the defendant took all reasonable steps to appoint a registered site senior executive as soon as practicable after becoming aware of the

vacancy, and that operations were suspended or restricted to the extent necessary to maintain safety pending the appointment.

182. Offence to fail to comply with prohibition notice

- (1) A person who fails to comply with a prohibition notice commits a Category 1 offence under Section 175.
- (2) For the purposes of this section, a prohibition notice is taken to have been served on the person to whom it is addressed on the day on which it is given verbally or delivered in writing under Section 121(2), whichever is the earlier.
- (5) It is not a defence that the person was unaware of the content of the prohibition notice if the notice was served in accordance with this Act.

183. Offence to fail to comply with improvement notice

- (1) A person who fails to comply with an improvement notice within the time specified commits a Category 2 offence under Section 176.
- (2) Where the time specified in an improvement notice has been extended by an inspector under Section 122(3), the continuing daily penalty under Section 178 runs from the expiry of the extended period.

184. Obstruction of inspector

- (1) A person must not –
 - (a) obstruct, hinder, or intimidate an inspector in the exercise of the inspector's powers under this Act;
 - (b) refuse or fail to provide information, documents, or access to an inspector when lawfully required to do so under this Act; or
 - (c) fail to comply with a lawful direction given by an inspector under this Act.
- (2) A person who contravenes Subsection (1) commits an offence and is subject to –
 - (a) for an individual – a fine not exceeding K100,000, or imprisonment for a term not exceeding 5 years, or both; and
 - (b) for a body corporate – a fine not less than K1,000,000.

185. False or misleading information

- (1) A person must not provide information to an inspector or to the Chief Inspector that the person knows, or ought reasonably to know, is false or misleading in a material particular.
- (2) A person who contravenes Subsection (1) commits an offence and is subject to –
 - (a) for an individual – a fine not exceeding K150,000, or imprisonment for a period not exceeding 3 years, or both; and

- (b) for a body corporate – a fine not less than K2,000,000.

186. Failure to notify accidents and incidents

- (1) A site senior executive who, without reasonable excuse, fails to notify the Chief Inspector of a serious accident in accordance with Section 130 commits an offence and is subject to –
 - (a) for an individual – a fine not exceeding K300,000, or imprisonment for a term not exceeding 2 years (where the failure is wilful or reckless); and
 - (b) for a body corporate – a fine not less than K1,000,000.
- (2) A site senior executive who fails to notify the Chief Inspector of a high-potential incident in accordance with section 131 commits an offence and is subject to –
 - (a) for an individual – a fine not exceeding K100,000; and
 - (b) for a body corporate – a fine not less than K375,000.
- (3) A site senior executive who provides a notification under Section 130 or Section 131 that is materially incomplete in a material particular commits an offence and subject to –
 - (a) for an individual – a fine not exceeding K75,000, or imprisonment for a term not exceeding 2 years, or both; and
 - (b) for a body corporate – a fine not less than K250,000.
- (4) It is a defence to a charge under Subsections (1) and (2) that the site senior executive demonstrates that immediate notification was impracticable due to circumstances beyond the site senior executive's control, and that notification was given as soon as it became practicable.

187. Failure to file mine safety data report

- (1) An operator who fails to submit an annual mine safety data report in accordance with Section 138 by the date required by that section commits an offence and is subject to –
 - (a) for an individual – a fine not exceeding K25,000; and
 - (b) for a body corporate – a fine not less than K500,000.
- (2) The offence under Subsection (1) is a continuing offence for the purposes of Section 178.
- (3) An operator who submits an annual mine safety data report that is false or materially incomplete or misleading in a material particular commits an offence and is subject to –
 - (a) for an individual – a fine not exceeding K100,000; and
 - (b) for a body corporate – a fine not less than K1,000,000.
- (3) It is a defence to a charge under Subsection (1) that:
 - (a) the Chief Inspector granted the operator an extension of time to file the report under Section 138, and the report was filed within the extended period; or

- (b) the operator had a reasonable excuse for the failure to file the report by the required date.

188. Offence to operate catastrophic installation or dam without commissioning approval

- (1) A holder or operator who operates, or who permits or causes any person to operate, a catastrophic installation or dam at a mine or works without a commissioning approval granted under Section 155 commits an offence.
- (2) A person who commits an offence under Subsection (1) is subject to –
 - (a) for an individual – a fine not exceeding K500,000, or imprisonment for a term not exceeding 5 years, or both; and
 - (b) for a body corporate – a fine not less than K2,500, 000.
- (3) The offence under Subsection (1) is a continuing offence for the purposes of Section 178, and a daily penalty applies from –
 - (a) the date on which the holder or operator first operated the catastrophic installation or dam without a commissioning approval under Section 150A; or
 - (b) where the Chief Inspector refused commissioning approval or imposed conditions on commissioning approval under Section 155, the date on which the holder or operator operated the installation or dam in contravention of that refusal or those conditions,and continues for each day on which the holder or operator continues to operate the installation or dam without a valid commissioning approval.
- (4) It is a defence to a charge under Subsection (1) that –
 - (a) the holder or operator had, at the time of the alleged offence, applied for commissioning approval under Section 155;
 - (b) the Chief Inspector had not refused or conditionally granted that application; and
 - (c) the operation of the catastrophic installation or dam was necessary to prevent an immediate and serious risk to the safety or health of a person, and the holder or operator notified the Chief Inspector in writing of the operation and the circumstances giving rise to it as soon as practicable.
- (5) The defence under Subsection (4) is not available where the holder or operator knew, or ought reasonably to have known, that the Chief Inspector would not have granted commissioning approval in the circumstances.
- (6) Nothing in this section prevents the Chief Inspector from:
 - (a) issuing an improvement notice under Section 122 requiring the operator to achieve compliance with Section 155 within a specified period; or

- (b) issuing a prohibition notice under Section 121 where the operation of the catastrophic installation or dam without compliance with Section 155 presents an unacceptable risk to the safety or health of any person.

189. Offence to operate major works without commissioning approval

- (1) An operator who commissions major works at a mine or works in contravention of Section 96 commits an offence.
- (2) A person who commits an offence under Subsection (1) is subject to –
 - (a) for an individual – a fine not exceeding K250,000, or imprisonment for a term not exceeding 3 years, or both; and
 - (b) for a body corporate – a fine not less than K1,250,000.
- (3) The offence under Subsection (1) is a continuing offence for the purposes of Section 178, and a daily penalty applies from the date on which the major works were first commissioned in contravention of Section 96 and continues for each day on which the major works continue to be operated in that contravention.
- (4) It is a defence to a charge under Subsection (1)(d) that –
 - (a) the urgency of a safety emergency required the commencement of operations before the Chief Inspector's written confirmation was received; and
 - (b) the operator notified the Chief Inspector in writing of the commencement and the circumstances giving rise to it as soon as practicable.
- (5) Nothing in this section prevents the Chief Inspector from –
 - (a) issuing an improvement notice under Section 122 requiring the operator to achieve compliance with Section 96 within a specified period; or
 - (b) issuing a prohibition notice under Section 121 where the operation of the major works without compliance with Section 96 presents an unacceptable risk to the safety or health of any person.

190. Failure to preserve accident site

- (1) A person who, without the authority of an inspector or the grounds set out in Section 134, disturbs or alters an accident site in contravention of Section 133 commits an offence and is subject to –
 - (a) for an individual – a fine not exceeding K100,000; and
 - (b) for a body corporate – a fine not less than K1, 000,000.
- (2) It is a defence under this section that the disturbance was necessary to –
 - (a) rescue or render assistance to injured persons; or
 - (b) prevent further injury or death,

and that the site senior executive was immediately notified of the disturbance and its extent in accordance with Section 134(2)

Division 3 – Industrial manslaughter

191. Industrial manslaughter.

- (1) A person commits industrial manslaughter if –
 - (a) a worker dies in the course of work at a mine or works; and
 - (b) the person's grossly negligent conduct, or the grossly negligent conduct of an officer or employee of the person acting within the scope of their authority, substantially contributed to the death.
- (2) For the purposes of Subsection (1), grossly negligent conduct means conduct that involves a gross departure from the standard of care that a reasonable person in the defendant's position would have exercised, having regard to the risk of death or serious injury to workers that the conduct created.
- (3) Industrial manslaughter under this section applies to all duty holders.
- (4) An officer of a body corporate within a category specified in Subsection (3) is personally liable for industrial manslaughter under this section if the officer's own grossly negligent conduct substantially contributed to the death of the worker.
- (5) A body corporate may be convicted of industrial manslaughter whether or not any officer of the body corporate is convicted.
- (6) An officer may be convicted of industrial manslaughter whether or not the body corporate of which the officer is an officer is convicted.
- (7) A person who commits industrial manslaughter under this section is subject to –
 - (a) for an individual – imprisonment for a term not exceeding 20 years; and
 - (b) for a body corporate – a fine not less than K10,000,000.
- (8) An offence of industrial manslaughter under this section is triable on indictment before the Bougainville High Court.
- (9) The Chief Inspector must refer any matter that may constitute industrial manslaughter to the Public Prosecutor as soon as practicable after becoming aware of the relevant facts.

Division 4 – Additional specific offences

192. Aggravated obstruction.

- (1) A person who commits an offence under Section 184 in circumstances where the obstruction, hindrance, intimidation, or non-compliance with a lawful direction –
 - (a) was associated with, or contributed to, conduct that caused death or serious injury to any person; or

- (b) created or substantially increased an imminent risk of death or serious injury to any person,commits an aggravated offence under this section.
- (2) A person who commits an aggravated offence under this section is subject to –
 - (a) for an individual – a fine not exceeding K500,000, or imprisonment for a term not exceeding 5 years, or both; and
 - (b) for a body corporate – a fine not less than K2,250,000.
- (3) A prosecution for an aggravated offence under this section does not require a prior conviction or proceeding under Section 184.

193. Anti-retaliation conduct.

- (1) A person commits an offence under this section if the person –
 - (a) dismisses, injures, alters the position of, threatens, or otherwise penalises a worker by reason of the worker having exercised, or proposed to exercise, any right or function under this Act;
 - (b) exerts undue pressure on, or exercises undue influence over, a site safety and health representative in the exercise of the representative's functions under this Act; or
 - (c) prevents or deters, or attempts to prevent or deter, any person from making a report or complaint under this Act.
- (2) A person who commits an offence under this section commits a Category 2 offence under Section 176.
- (3) In any proceeding under this section, proof that –
 - (a) a worker exercised, or indicated an intention to exercise, a right or function under this Act; and
 - (b) the worker was subsequently dismissed, penalised, or otherwise adversely affected in their employment or engagement,is, in the absence of evidence to the contrary, sufficient to establish a prima facie case under Subsection (1)(a).

Division 5 – Defences

194. Defence of not reasonably practicable.

- (1) In any proceeding for a Category 1 or Category 2 offence under this Act, it is a defence if the defendant proves, on the balance of probabilities, that it was not reasonably practicable in the circumstances to comply with the relevant obligation.
- (2) For the purposes of Subsection (1), in determining whether compliance was not reasonably practicable, regard must be had to –

- (a) the likelihood and degree of potential harm associated with the relevant hazard or risk;
 - (b) the state of knowledge of the hazard or risk at the relevant time;
 - (c) the availability of measures to eliminate, substitute, or control the risk; and
 - (d) the proportionality of the cost and practicability of those measures having regard to the magnitude of the risk.
- (3) The defence under this section is not available in any proceeding for industrial manslaughter under Section 191.
- (4) The availability of this defence does not affect the burden of proof in respect of any element of the relevant offence, which remains with the prosecution.

Division 6 – Prosecution, limitation and procedures

195. Prosecution authority and procedures.

- (1) The Chief Inspector is authorised to prosecute Category 3 offences under this Act before a Magistrate's Court.
- (2) Category 2 offences under this Act must be prosecuted –
 - (a) by the Public Prosecutor; or
 - (b) by the Chief Inspector with the written concurrence of the Public Prosecutor,before a Magistrate's Court or the Bougainville High Court, as appropriate to the circumstances of the matter.
- (3) If the Public Prosecutor does not institute proceedings for a Category 2 offence within 90 days after the Chief Inspector refers the matter to the Public Prosecutor for prosecution, the Chief Inspector may institute proceedings for that offence without the concurrence of the Public Prosecutor.
- (4) Category 1 offences under this Act, including the offence of industrial manslaughter under Section 191, must be prosecuted by the Public Prosecutor before the Bougainville High Court.
- (5) All proceedings for an offence under this Act must comply with –
 - (a) the constitutional guarantee of a fair hearing; and
 - (b) the right of review of conviction and sentence under the applicable law.
- (6) Nothing in this section prevents the Chief Inspector from –
 - (a) taking regulatory action under this Act; or
 - (b) issuing prohibition notices, improvement notices, or other compliance tools under this Act,

pending the commencement or outcome of any prosecution.

Division 7 – Infringement notices

196. Infringement notices.

- (1) An inspector who reasonably suspects that a person has committed a Category 3 offence specified in the Regulation as an offence for which an infringement notice may be issued may issue an infringement notice to the person.
- (2) An infringement notice must –
 - (a) identify the alleged offence;
 - (b) specify the infringement penalty payable in respect of the alleged offence; and
 - (c) advise the recipient that the recipient may –
 - (i) pay the infringement penalty specified in the notice within the period specified in the notice; or
 - (ii) elect to have the matter heard and determined by a court.
- (3) The offences for which infringement notices may be issued, and the infringement penalty amounts payable in respect of each such offence, are to be prescribed in the Regulation.
- (4) An infringement penalty prescribed in respect of an offence must not exceed the maximum penalty applicable to that offence under this Act.

197. Effect of payment of infringement penalty.

- (1) Payment of the infringement penalty specified in an infringement notice within the period specified in the notice –
 - (a) is not an admission of guilt or liability in respect of the alleged offence; and
 - (b) bars the commencement of proceedings against the person for the alleged offence arising from the same conduct in respect of which the infringement notice was issued.
- (2) If the recipient of an infringement notice elects to have the matter heard by a court, the infringement notice is of no further effect and proceedings may be commenced for the alleged offence as if no infringement notice had been issued.
- (3) Where a court is determining a penalty in respect of conduct for which an infringement notice was issued, the court must take into account any amount paid under this section.

Division 8 – Court orders on conviction

198. Court orders on conviction.

- (1) In addition to any fine or term of imprisonment imposed on a person convicted of an offence under this Act, a court may, on application by the Chief Inspector or the Public Prosecutor, make any of the following orders –
 - (a) a safety improvement order, requiring the defendant to take specified steps to remedy the contravention constituting the offence, or to prevent its recurrence, within a period specified in the order;
 - (b) an adverse publicity order, requiring the defendant to publicise, in a form and manner specified in the order and at the defendant's own cost, the conviction, the facts constituting the offence, and the penalty imposed; and
 - (c) a work prohibition order, prohibiting the defendant from performing specified work, or from holding a specified statutory position under this Act, for a period specified in the order.
- (2) An order under Subsection (1) may be made –
 - (a) whether or not a fine or term of imprisonment is imposed; and
 - (b) in addition to any penalty imposed under this Act.
- (3) A person against whom an order under Subsection (1) is made may appeal against the order in the same manner as against a conviction.

199. Failure to comply with court order.

A person who fails to comply with an order made under Section 198 commits an offence and is subject to –

- (a) for an individual – a fine not exceeding K100,000, or imprisonment for a term not exceeding 2 years, or both; and
- (b) for a body corporate – a fine not exceeding K500,000.

Division 9 – Evidence

200. Evidence.

- (1) In any proceedings under this Act –
 - (a) the production of a document purporting to be signed by the Chief Inspector is, in the absence of proof to the contrary, evidence of the matters stated in the document;
 - (b) an entry in a register maintained under this Act is evidence of the matters recorded in the register;
 - (c) a copy of a regulation, code of practice, or guideline certified by the Chief Inspector is evidence of the contents of that instrument; and

- (d) a certificate purporting to be signed by the Chief Inspector stating any matter with respect to the appointment or identity of an inspector is, in the absence of proof to the contrary, evidence of that matter.
- (2) Notification information provided by a site senior executive or any worker to the Chief Inspector for the purposes of incident reporting under Part 9 is not admissible against that person in any criminal proceedings, except in proceedings for an offence of giving false or misleading information under Section 185.
- (3) Subsection (2) applies for the purpose of ensuring that reporting obligations under this Act are not undermined by the risk of self-incrimination and to promote full and honest reporting of accidents and incidents.

Division 10 – Interaction with Bougainville Mining Act 2015 enforcement provisions

201. Interaction with Bougainville Mining Act 2015 enforcement provisions.

- (1) The offences and enforcement provisions of this Act operate in addition to and independently of the enforcement provisions of the *Bougainville Mining Act 2015*.
- (2) Nothing in this Act limits the power of the Secretary to –
 - (a) issue directions;
 - (b) suspend operations; or
 - (c) take any other enforcement action,under the *Bougainville Mining Act 2015*.
- (3) Where a person is subject to enforcement action under both this Act and the *Bougainville Mining Act 2015* arising from the same facts, any penalty imposed under either Act must be taken into account by the court in determining any further penalty to be imposed under the other Act, so as to avoid a combined penalty that is disproportionate to the conduct having regard to the purposes of both Acts.

PART 16 – APPEALS AND REVIEW

Division 1 – Reviewable decisions

202. Decisions subject to internal review.

- (1) The following decisions are subject to internal review by the Chief Inspector under this Part –
 - (a) an improvement notice issued by an inspector under Part 8;
 - (b) a prohibition notice issued by an inspector under Part 8;
 - (c) a decision of the Chief Inspector to refuse, vary, or revoke approval of a safety and health management plan under Part 6;

- (d) a decision of the Chief Inspector to refuse registration or certification of a statutory appointment under Part 5;
 - (e) a decision of the Chief Inspector to revoke or suspend a certificate of registration under Part 5; and
 - (f) any other decision of an inspector or the Chief Inspector prescribed in the Regulation as a reviewable decision for the purposes of this Part.
- (2) A decision of the Chief Inspector made on internal review under this Part is not itself subject to a further internal review.
- (3) The following are not reviewable decisions for the purposes of this Part –
- (a) a decision to commence or not to commence a prosecution under this Act; and
 - (b) a decision to refer a matter to the Public Prosecutor.

Division 2 – Internal review

203. Right of internal review.

- (1) A person aggrieved by a reviewable decision may apply to the Chief Inspector for internal review of the decision.
- (2) An application for internal review must –
- (a) be made in writing;
 - (b) set out the grounds of the review; and
 - (c) be made within 14 days after the person is notified of the reviewable decision, or such longer period as the Chief Inspector allows in the circumstances.
- (3) The Chief Inspector may extend the period referred to in Subsection (2)(c) on application by the person if the Chief Inspector is satisfied that exceptional circumstances justify the extension.

204. Effect of application for internal review.

An application for internal review under Section 203 does not operate to stay the reviewable decision under review.

205. Discretionary stay.

- (1) On application by a person who has applied for internal review under Section 203, the Chief Inspector may stay the operation of the reviewable decision pending the determination of the review.
- (2) The Chief Inspector must not grant a stay under this section where –
- (a) the reviewable decision was made on the basis of an imminent risk to the safety or health of any person; or

- (b) the grant of a stay would, in the Chief Inspector's opinion, materially compromise safety at the relevant mine or works.
- (3) A stay granted under this section –
 - (a) may be granted subject to conditions, including conditions requiring specified interim safety measures to remain in effect during the period of the stay; and
 - (b) may be revoked or varied by the Chief Inspector at any time.

206. Natural justice on internal review.

- (1) In conducting an internal review, the Chief Inspector must –
 - (a) give the applicant written notice of the grounds on which the original decision was made;
 - (b) give the applicant a reasonable opportunity to make written submissions on the grounds of the review;
 - (c) where the review raises significant factual questions, give the applicant a reasonable opportunity to be heard; and
 - (d) not delegate the internal review function to the inspector who made the original decision under review.
- (2) The duty to act fairly and to be seen to act fairly is the minimum constitutional requirement applicable to the exercise of the internal review function under this Part, and must be respected throughout the review process.

207. Powers on internal review.

- (1) On completing an internal review, the Chief Inspector may –
 - (a) confirm the original decision;
 - (b) vary the original decision;
 - (c) revoke the original decision; or
 - (d) substitute a new decision in place of the original decision.
- (2) The Chief Inspector must notify the applicant in writing of the outcome of the review and the reasons for the decision made on review.

208. Timeframe for internal review.

- (1) The Chief Inspector must complete an internal review within 28 days after receiving the application for review.
- (2) The Chief Inspector may extend the period referred to in Subsection (1) by giving the applicant written notice stating –
 - (a) the extension sought; and

- (b) the reasons for the extension.
- (3) The applicant may consent in writing to a period longer than 28 days for the Chief Inspector to complete the review.

209. Failure to determine internal review within time.

Where the Chief Inspector fails to determine an internal review within the period required by Section 208 –

- (a) the original decision is taken to be confirmed for the purposes of any external appeal under Division 3; and
- (b) the applicant may immediately exercise external appeal rights under Division 3 as if the original decision had been confirmed on internal review.

Division 3 – External appeal

210. External appeal on question of law.

- (1) A person aggrieved by –
 - (a) a decision of the Chief Inspector on internal review under Division 2; or
 - (b) any other decision of the Chief Inspector that is not subject to internal review under this Part,

may appeal to the Bougainville High Court on a question of law.

- (2) An appeal under this section must be lodged within 28 days after the person is notified of the relevant decision, or such longer period as the Bougainville High Court allows.
- (3) An appeal under this section does not operate to stay the decision under appeal unless the Bougainville High Court orders otherwise on an application by the appellant.
- (4) On an appeal under this section, the Bougainville High Court may –
 - (a) confirm the decision;
 - (b) vary the decision;
 - (c) set aside the decision; or
 - (d) remit the matter to the Chief Inspector for reconsideration in accordance with any directions of the Court.

211. Judicial review.

- (1) Nothing in this Part limits any right of a person to apply for judicial review of a decision made under this Act in the Bougainville High Court or the National Court in accordance with the applicable law.
- (2) The review procedures in this Part are additional to and do not substitute for any judicial review rights available under the general law.

212. Review of conviction and sentence.

The constitutional right of a person convicted of an offence under this Act to have their conviction and sentence reviewed by a higher court or tribunal is not affected by anything in this Part, and the applicable appellate processes for criminal convictions follow the normal appellate procedures of the relevant court. No person is to be deprived of an existing right of appeal in respect of a conviction or sentence under this Act.

213. Costs of appeal.

- (1) Unless the Bougainville High Court otherwise orders, each party to an external appeal under Section 210 bears their own costs.
- (2) The Bougainville High Court may award costs in favour of a successful appellant where –
 - (a) the decision under appeal was unreasonable; or
 - (b) the decision under appeal was made without an adequate factual basis.
- (3) A costs order made against the Chief Inspector under this section must not operate as a disincentive to the exercise of legitimate enforcement functions under this Act.

Division 4 – Standing

214. Standing for internal review.

- (1) An application for internal review under this Part may be made only by a person who is –
 - (a) the direct recipient of the relevant decision or notice;
 - (b) a person directly affected by the decision, including a holder, operator, site senior executive, or duty holder who is directly subject to the obligations or restrictions imposed by the decision; or
 - (c) a site safety and health representative whose direct interest in the safety conditions at the mine or works at which the representative serves is materially affected by the decision.
- (2) Workers and worker representatives have standing to seek review of decisions that materially affect the safety conditions at the mine or works at which they work or which they represent, consistent with the worker participation principles of this Act.

PART 17 – REGULATIONS

215. Regulation-making power.

- (1) The Bougainville Executive Council may, on the recommendation of the responsible Minister, make regulations prescribing any matter—
 - (a) required or permitted by this Act to be prescribed; or
 - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

- (2) Regulations are made by notice in the Gazette.
- (3) A regulation may apply generally to all mines and works or may be limited in its application to –
 - (a) a specified class of mine or works;
 - (b) a specified area within Bougainville; or
 - (c) a specified class of person.

216. Specific matters for regulations.

Without limiting Section 215, regulations may be made prescribing or providing for any of the following matters –

- (a) risk management requirements, including major hazard registration content and review intervals, risk assessment procedures, risk control documentation, and the application of the hierarchy of controls by mine class;
- (b) safety and health management plan and system content, format, submission procedures, approval criteria, and review intervals for each class of mine or works;
- (c) the classes of mines and works to which specified obligations of this Act apply, and the graduated compliance requirements applicable to each class, differentiated by size, hazard profile, tenure type, and operational complexity;
- (d) mandatory statutory positions for each class of mine or works and competency requirements for each statutory position, including technical statutory positions such as ventilation engineer, geotechnical engineer, electrical engineer, structural engineer, dam engineer, surveyor, and explosive inspector;
- (e) procedures for the appointment, registration, and certification of persons in statutory positions, and for the Chief Inspector's register of statutory appointments;
- (f) examination and assessment requirements for persons seeking registration or certification in statutory positions;
- (g) the establishment, composition, functions, and procedures of a Board of Examiners;
- (h) incident notification categories, timeframes, forms, and procedures, including timeframes for oral and written notification of fatalities, serious accidents, high potential incidents, and dangerous occurrences;
- (i) the content and submission procedures for annual safety and health reports required under Part 9;
- (j) procedures for Inspector investigation of serious accidents and high potential incidents under Part 10;

- (k) worker participation requirements, including election procedures for site safety and health representatives, site safety and health committee composition, quorum and meeting procedures, and related matters;
- (l) emergency preparedness requirements and emergency response plan content and review intervals;
- (m) requirements for registration, design approval, pre-operation certification, operation, monitoring, and auditing of catastrophic installations, including dams and tailings storage facilities;
- (n) the Catastrophic Installations Safety and Health Fund, including the classes of operations required to establish the fund, the required funding levels, and the management of fund moneys;
- (o) pre-commencement notification requirements, closure notification requirements, decommissioning plan content requirements, and closure criteria for mines and works by class;
- (p) infringement notice procedures, the offences for which infringement notices may be issued, and the infringement penalty amounts payable in respect of each such offence;
- (q) the form and manner of community notification requirements for safety incidents on or adjacent to customary land under Part 13;
- (r) standards for the engagement and independence of competent persons and organisations conducting reviews, studies, audits, or independent reports under this Act;
- (s) fees and charges for applications, registrations, approvals, and inspections under this Act;
- (t) records to be kept under this Act, the manner of keeping them, and their retention periods;
- (u) transitional matters facilitating the staged implementation of requirements under this Act for different classes of mines and works; and
- (v) any other matter required or permitted by this Act to be prescribed.

217. Regulatory offences.

- (1) The regulations may create offences for contraventions of provisions of the regulations.
- (2) The maximum penalty for a regulatory offence created by regulation must not exceed –
 - (a) for an individual – a fine equivalent to the maximum fine for a Category 3 offence under Section 177; and

- (b) for a body corporate – a fine equivalent to the maximum fine for a body corporate Category 3 offence under Section 177.
- (3) A regulatory offence created by regulation must not impose a term of imprisonment.
- (4) A regulatory offence created by regulation is a Category 3 offence for the purposes of this Act.

218. Inconsistency with Act.

- (1) A regulation that is inconsistent with this Act is of no effect to the extent of the inconsistency.
- (2) Where a regulation and a provision of this Act deal with the same subject matter, this Act prevails to the extent of any inconsistency.

219. Consultation before making regulations.

Before recommending the making of a regulation under this Act, the responsible Minister must, to the extent practicable, consult with –

- (a) the Secretary and the Chief Inspector;
- (b) relevant industry representatives; and
- (c) any other person or body the Minister considers appropriate having regard to the subject matter of the proposed regulation.

220. Codes of practice and guidelines.

- (1) The Chief Inspector may, with the approval of the responsible Minister, issue codes of practice and guidelines for the purpose of providing practical guidance on the application of obligations under this Act or the regulations.
- (2) A code of practice or guideline issued under this section –
 - (a) is not a legislative instrument;
 - (b) does not have the force of law; and
 - (c) does not create, vary, or extinguish any right or obligation under this Act or the regulations.
- (3) Compliance with an applicable code of practice is evidence that a person has complied with the obligation to which the Act or regulation relates, but non-compliance with a code of practice does not of itself constitute a contravention of this Act.
- (4) The Chief Inspector must make all current codes of practice and guidelines publicly available.
- (5) The Chief Inspector must review all codes of practice and guidelines at intervals of not more than 5 years from their issue or last review.

PART 18 – TRANSITIONAL AND SAVINGS PROVISIONS

Division 1 – Displacement of the PNG Mining Safety Act

221. Displacement of PNG Mining Safety Act.

- (1) The *Mining (Safety) Act (Chapter 195)* of Papua New Guinea ceases to have effect in Bougainville on the commencement of this Act.
- (2) The responsible Minister may, by notice in the Gazette, declare a later date for the commencement of specified provisions of this Act in relation to specified classes of mines or works, to allow for staged implementation consistent with the capacity of relevant operators to achieve compliance.
- (3) The displacement of the *Mining (Safety) Act (Chapter 195)* under this section does not affect any right, obligation, liability, or proceeding that –
 - (a) accrued or was incurred before the commencement date; or
 - (b) was commenced before the commencement date,under or in relation to the *Mining (Safety) Act (Chapter 195)*.

Division 2 – Staged commencement and transitional implementation

222. Staged commencement and transitional implementation periods.

- (1) This Act's compliance obligations apply to existing mines and works in accordance with any transitional implementation period prescribed under this section.
- (2) The responsible Minister may, by notice in the Gazette, prescribe –
 - (a) a transitional implementation period for specified classes of mines and works during which those operations are not required to comply with specified provisions of this Act;
 - (b) the steps that owners or operators of existing mines and works must take during the transitional implementation period to progress towards full compliance with this Act; and
 - (c) the date by which full compliance with specified provisions is required.
- (3) During any applicable transitional implementation period, the owner or operator of an existing mine or works must continue to comply with the safety obligations that applied to the mine or works under –
 - (a) the *Mining (Safety) Act (Chapter 195)*; or
 - (b) applicable provisions of the *Bougainville Mining Act 2015*,to the extent those obligations are not inconsistent with this Act.

Division 3 – Consequential Effect on Bougainville Mining Act 2015 cross-references

223. Consequential effect on Bougainville Mining Act 2015 cross-references.

- (1) On and after the commencement of this Act –
 - (a) every reference in the *Bougainville Mining Act 2015* (including in any condition of a licence, lease, or other instrument issued under that Act) to the *Mining (Safety) Act (Chapter 195)* of Papua New Guinea is to be read and construed as a reference to this Act and the regulations made under it;
 - (b) every requirement in the *Bougainville Mining Act 2015* that an operation be carried out in accordance with the *Mining (Safety) Act (Chapter 195)* is to be read as a requirement to carry out the operation in accordance with this Act; and
 - (c) this reference-updating provision applies to the *Bougainville Mining Act 2015* as amended from time to time and to all instruments made under that Act, without the need for any further formal amendment to those instruments or to the *Bougainville Mining Act 2015*.
- (2) This section operates to give effect to the interpretive rule in the *Bougainville Mining Act 2015* providing that references in that Act to Acts of the National Parliament are to be read, upon Bougainville legislating on the corresponding subject matter, as references to the applicable Bougainville law.

Division 4 – Continuation of existing instruments, appointments and documents

224. Continuation of existing certificates of competency and approvals.

- (1) Any certificate of competency, certificate of fitness, approval, authorisation, or similar instrument –
 - (a) issued to a person or in relation to a mine or works under the *Mining (Safety) Act (Chapter 195)*; and
 - (b) in force immediately before the commencement of this Act,is, on and after commencement, to be treated as the corresponding certificate, approval, or authorisation issued under this Act.
- (2) An instrument continued under Subsection (1) –
 - (a) is valid and effective for the period for which it was originally issued, or for a period of 2 years from the commencement of this Act, whichever first expires, unless earlier revoked; and
 - (b) is subject to any conditions under which it was issued, modified to the extent necessary to be consistent with this Act.
- (3) The Chief Inspector must, within the transitional period applicable to the relevant class of mine or works, take steps to assess existing certificates and approvals against the

requirements of this Act and the regulations and, where appropriate, issue new instruments under this Act in substitution.

225. Continuation of existing Inspector appointments.

- (1) Any person appointed as an inspector under the *Mining (Safety) Act (Chapter 195)* whose appointment was in force immediately before the commencement of this Act is, on and after commencement, to be treated as an inspector appointed under this Act for the remaining period of the person's existing appointment, subject to the qualification and competency requirements of this Act.
- (2) This section is consistent with the constitutional provision that the National Government remains responsible for the operation of a State Service to the extent necessary where the equivalent Bougainville government service has not been established or is not fully operational, which provision is relevant to the transitional period during which the Bougainville Mines Inspectorate is being established.
- (3) This section does not prevent the Secretary from making fresh appointments under this Act during or after the transitional period.

226. Continuation of existing safety plans and documents.

- (1) Any safety and health management plan, emergency plan, or similar document –
 - (a) submitted or approved under the *Mining (Safety) Act (Chapter 195)*; and
 - (b) in force immediately before the commencement of this Act,continues in force for 12 months after commencement, or until the owner or operator is required to submit a new plan under this Act, whichever is earlier.
- (2) During the period referred to in Subsection (1), the owner or operator of the relevant mine or works must develop and submit for Chief Inspector approval a safety and health management plan that meets the requirements of this Act and the regulations.

Division 5 – Pending proceedings and enforcement actions

227. Pending investigations, proceedings, and enforcement actions.

- (1) Any investigation, proceeding, prosecution, appeal, inquiry, or other enforcement action –
 - (a) commenced before the commencement of this Act under or in connection with the *Mining (Safety) Act (Chapter 195)*; and
 - (b) not concluded before commencement,must be continued and disposed of under the *Mining (Safety) Act (Chapter 195)* as if that Act had not been displaced, with any necessary modifications to procedure to accommodate Bougainville's institutional arrangements.

- (2) A conviction, penalty, order, or other outcome arising from a proceeding to which Subsection (1) applies has the same force and effect as if it had been made under this Act.

Division 6 – Existing regulations

228. Continuation of existing regulations.

- (1) Any regulation made under the *Mining (Safety) Act (Chapter 195)* and in force in Bougainville immediately before the commencement of this Act continues in force in Bougainville as a regulation made under this Act –
- (a) to the extent the regulation is not inconsistent with this Act; and
 - (b) for a period of 2 years from the commencement of this Act, or until replaced by a regulation made under this Act, whichever is earlier.
- (2) The Chief Inspector must, within 6 months of the commencement of this Act –
- (a) identify any inconsistencies between regulations continued under Subsection (1) and the provisions of this Act; and
 - (b) advise the responsible Minister on the regulations to be made or remade as a matter of priority under this Act.

Division 7 – Accrued rights and liabilities

229. Accrued rights and liabilities.

- (1) Nothing in this Act affects any right, liability, obligation, or entitlement that accrued to any person before the commencement of this Act under or in connection with the *Mining (Safety) Act (Chapter 195)*.
- (2) Proceedings may be brought and liabilities enforced in respect of accrued rights and obligations as if the *Mining (Safety) Act (Chapter 195)* had not been displaced by this Act, subject to any applicable limitation period.

Division 8 – Transitional regulation-making power

230. Transitional regulation-making power.

- (1) The Minister may make regulations prescribing matters of a transitional, savings, or consequential nature to facilitate or give effect to the transition from the *Mining (Safety) Act (Chapter 195)* to this Act.
- (2) Without limiting Subsection (1), regulations made under this section may –
- (a) modify the application of this Act in relation to existing mines, works, or operations for a specified transitional period;
 - (b) treat anything done under the *Mining (Safety) Act (Chapter 195)* as done under this Act;

- (c) provide for the transfer of records, data, registers, and other materials maintained under the *Mining (Safety) Act (Chapter 195)* to the Inspectorate; and
- (d) address any matter arising out of the transition from the *Mining (Safety) Act (Chapter 195)* to this Act for which this Act makes no express provision.

Division 9 – Bougainville High Court transitional arrangements

231. References to Bougainville High Court pending establishment

- (1) This section applies for so long as the Bougainville High Court has not been established under Section 116 of the Constitution of the Autonomous Region of Bougainville.
- (2) While this section applies, a reference in this Act to the Bougainville High Court, including a reference to a power, jurisdiction, or function of the Bougainville High Court, is to be read as a reference to –
 - (a) a Judge of the National Court appointed as a Bougainville Judge under Section 309(4) of the Constitution of the Independent State of Papua New Guinea and Section 241(2) of the Constitution of the Autonomous Region of Bougainville, exercising the relevant power, jurisdiction, or function; or
 - (b) if no such appointment is in force, the National Court, exercising that power, jurisdiction, or function in accordance with Section 241 of the Constitution of the Autonomous Region of Bougainville.
- (3) A thing done by, or a proceeding commenced in or before, the National Court or a Judge referred to in Subsection (2) in reliance on this section is as valid and effective as if it had been done by, or commenced in or before, the Bougainville High Court.
- (4) On and from the establishment of the Bougainville High Court under Section 116 of the Constitution of the Autonomous Region of Bougainville, every reference in this Act to the Bougainville High Court takes effect according to its terms, and this section ceases to apply.
- (5) The establishment of the Bougainville High Court does not affect the validity of anything done, or any proceeding commenced, before that establishment in accordance with this section.

