

Constitution of the Republic of Bougainville

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PREAMBLE

WE, THE PEOPLE OF BOUGAINVILLE,

Recognising the guidance of Almighty God and the sovereignty of our people;

Recognising the indigenous people of each of the regions of Bougainville—the Southern, Central, Northern and Nissan/Atolls regions—and their ownership of their lands, their unique cultures, customs, traditions and languages;

Recognising the spiritual connection of the clans and tribes of Bougainville to their land and sea;

Recognising other people that live in or share a connection to Bougainville, including people of Papua New Guinea, people of other Pacific islands, and others who have married Bougainvilleans, and acknowledging their cultures, customs, traditions and languages;

Having struggled over many decades to achieve autonomy and self-determination, and remembering the lives lost in that struggle;

Building on the negotiated peace settlement of 2001, and the many years of autonomous government that followed;

Having chosen in 2019 by overwhelming majority to achieve full independence as a nation state, we declare that—

We are all Bougainvilleans united by common and equal citizenship;

We have developed this homegrown Constitution together through a consultative process to ensure it reflects our values and aspirations;

We recognise the Constitution as the supreme law of our new independent republic that provides the framework for the conduct of government and of all Bougainvilleans;

We commit ourselves to the recognition and protection of human rights and respect for human dignity;

We declare our commitment to justice, national sovereignty and security, social and economic well-being, and to safeguarding our environment; and

WE HEREBY GIVE OURSELVES THIS CONSTITUTION FOR THE REPUBLIC OF BOUGAINVILLE.

CHAPTER 1 – FOUNDING PROVISIONS

1 Republic of Bougainville

The Republic of Bougainville is a sovereign, democratic state founded by the people of Bougainville on the core values of—

- (a) respect for human dignity, rights and freedoms, and the rule of law; and
- (b) good governance, integrity, transparency and accountability; and
- (c) national unity and respect for our unique cultural and natural heritage.

2 The Constitution

- (1) This Constitution is the supreme law of the Republic of Bougainville.
- (2) Every person in Bougainville has an obligation to respect, protect and uphold the Constitution.
- (3) Any law, decision or action inconsistent with the Constitution is invalid to the extent of the inconsistency.

3 Area of Bougainville

- (1) The area of the Republic of Bougainville comprises the land and sea, and the atmosphere above the land and sea, within the boundaries stated in schedule 1.
- (2) The Republic of Bougainville is an archipelagic state.

4 Guiding principles

- (1) All office holders are to be guided by the principles set out in this section—
 - (a) in implementing, applying and interpreting this Constitution; and
 - (b) in making and administering laws; and
 - (c) in making and implementing policy decisions and administrative decisions; and
 - (d) in otherwise performing or exercising constitutional or statutory functions and powers.
- (2) The principles are—

- (a) peace, harmony, and the pursuit of unity; and
- (b) respect for the dignity and equality of all persons; and
- (c) democracy and the rule of law; and
- (d) government by and for the people from the bottom up, and the active participation of all citizens of Bougainville in their own governance; and
- (e) the sanctity of the family and the clan as the basic units of society; and
- (f) respect for the customary authority of chiefs and other traditional leaders; and
- (g) guidance by the principles of Christianity, and recognition of the important role that the Christian churches play in Bougainville society and the cooperative relationship that exists between the churches and the Republic; and
- (h) the pursuit of conflict resolution and reconciliation; and
- (i) the pursuit of rehabilitation of people suffering from the effects of conflict.

5 Social and economic objectives

- (1) All office holders must, in performing their functions and exercising their powers, work towards achieving the social and economic objectives set out in this section.
- (2) The social objectives are—
 - (a) social justice and equality of opportunity; and
 - (b) the eradication of all forms of violence; and
 - (c) the safety and welfare of all persons, including vulnerable persons; and
 - (d) universal primary, secondary and adult education of a high standard; and
 - (e) universal health care of a high standard; and
 - (f) access to tertiary education of a high standard; and
 - (g) access to technical and vocational training of a high standard; and

- (h) access to open and distance education and training of a high standard; and
 - (i) promotion and preservation of Bougainville’s cultural heritage; and
 - (j) protection and restoration of the environment, including flora and fauna.
- (3) The economic objectives are—
- (a) balanced and sustainable economic development; and
 - (b) human resource development; and
 - (c) responsible use of natural resources; and
 - (d) continuous progress towards economic independence; and
 - (e) fiscal responsibility.

6 Citizens of Bougainville

- (1) A person who is a member by birth of a clan that owns customary land in Bougainville is a citizen of Bougainville.
- (2) The House of Representatives may provide for the grant of citizenship to other persons as set out in section 1 of schedule 2.
- (3) A citizen of Bougainville may hold dual or multiple citizenship.
- (4) A citizen may be deprived of citizenship only in accordance with a law contemplated in section 2 of schedule 2.
- (5) A citizen may renounce their citizenship or the citizenship of their child only in accordance with a law contemplated in section 2 of schedule 2.

7 National flag and emblem

- (1) The national flag of the Republic of Bougainville is prescribed in schedule 3.
- (2) The national emblem of the Republic of Bougainville is prescribed in schedule 4.

CHAPTER 2 – LAND, RESOURCES AND ENVIRONMENT

8 The natural environment

Each person in Bougainville—

- (a) recognises that the land and sea that makes up our archipelagic state is a special and complex natural environment; and
- (b) accepts responsibility to care for and preserve the natural environment; and
- (c) has an obligation to maintain a clean and healthy environment for future generations; and
- (d) undertakes to use resources in moderation, and to replenish the land.

9 Land ownership

- (1) The ownership of customary land always remains with the clan or individual having customary ownership of the land, and cannot be taken away, transferred or granted to any person except to the Republic under subsection (2).
- (2) The Republic may acquire land from customary owners if the land is required for a public purpose and the acquisition is—
 - (a) agreed to by the landowners on just terms; or
 - (b) effected compulsorily in accordance with law.

Note: See section 46(2) in relation to the House of Representatives' limited power to provide for the compulsory expropriation of property.

10 Principles of land use and environmental protection

- (1) All land and natural resources must be protected and managed for the benefit of present and future generations in a way that—
 - (a) promotes conservation; and
 - (b) protects biodiversity and ecologically sensitive areas.
- (2) The Republic must—
 - (a) monitor the condition of the natural environment; and
 - (b) use effective systems to undertake an environmental impact assessment before licensing or permitting a project on any land to develop infrastructure or to extract or develop natural resources.
- (3) The House of Representatives may regulate the use of any land, or any interest in or right over any land, to promote public safety, public order, public health, or sound rural or urban development.

11 Fishing grounds and marine areas

- (1) The House of Representatives must regulate rights of access to fishing grounds, reefs and other marine areas.
- (2) The Republic must take appropriate action to protect marine areas.

12 Natural resources

- (1) Natural resources on or under land belong to—
 - (a) if the land is owned by customary owners—the customary owners; or
 - (b) if the land has been acquired by the Republic—the Republic.

Note: In relation to ownership of natural resources on or under land that has been alienated or transferred from customary owners in a way not recognised by law, see section 171.

- (2) Subject to any customary ownership of foreshores and coastal waters and the resources in or under those areas, natural resources on or under the sea bed belong to the people of Bougainville, and are held by the Republic in trust for the benefit of the people.
- (3) Policy, legislation and decision-making in relation to natural resources must be guided by the following principles—
 - (a) resource development and use must responsibly balance each of the following interests—
 - (i) the social and economic benefit of the customary resource owners;
 - (ii) the social, cultural and economic wellbeing of the communities and people affected by resource development;
 - (iii) the economic security of the people of Bougainville;
 - (iv) the protection of the environment;
 - (b) state bodies must keep the public informed and involved in decisions about resource policy and management;
 - (c) all foreseeable social, economic and environmental consequences of a proposed natural resource project should be carefully considered before a decision is made about whether to approve, licence or otherwise permit the project;

- (d) all entities involved in resource extraction and development must be required to maintain best practice standards in labour relations, safety, payments and finance, operations, minimisation of environmental harm, rehabilitation of affected land and water, transparency and accountability.
- (4) The House of Representatives may provide for—
 - (a) the requirements that must be met before natural resources can be extracted or developed (for example, the grant of resource development permits and meeting conditions that may be imposed on them); and
 - (b) taxes and royalties payable in relation to the extraction or development of natural resources; and
 - (c) any other matter necessary or desirable for the regulation of natural resources.
- (5) **Natural resources** includes—
 - (a) minerals, oil and gas; and
 - (b) forests; and
 - (c) marine resources.

13 Duty to consult in relation to land and resources

- (1) This section applies if a proponent proposes a project on any land or marine area to develop infrastructure or to extract or develop natural resources in a way that may reasonably be expected to affect the rights or interests of customary owners of the land or marine area or other persons or a community (the **affected persons**) in relation to the land or marine area or resources.
- (2) Before any licence or permit is granted for the project and before the project starts, the Republic and the project proponent must—
 - (a) inform the affected persons about the proposed project in enough detail for them to be able to assess the potential effects of the project on their rights and interests; and
 - (b) engage in constructive consultation with the affected persons to identify any concerns they may have about the effects of the project; and
 - (c) seek consensus with the affected persons by making any reasonable and necessary modifications to the project to protect

- the affected persons' rights and interests and accommodate their concerns; and
- (d) inform the general public about the proposed project and invite the public to make submissions on the proposed project.
- (3) The Republic or a state body that licences or permits a project must impose conditions that, as far as reasonably practicable, protect the rights and interests and accommodate the concerns of affected persons.
- (4) The duty of the Republic and the project proponent to consult with affected persons continues while the project is underway for as long as the rights and interests of the affected persons are affected.

CHAPTER 3 – GOOD GOVERNANCE AND LEADERSHIP

14 Serving the public with integrity

- (1) The conferral of powers and functions on a public officer under this Constitution is an expression of public trust and confidence.
- (2) Each public officer is to exercise their powers and perform their functions in a way that—
- (a) is consistent with the core values and the guiding principles; and
- (b) demonstrates respect for the people; and
- (c) is consistent with the principles of democratic leadership set out in subsection (3); and
- (d) brings honour to the nation and dignity to the office; and
- (e) promotes public confidence in the integrity of the office.
- (3) The guiding principles of democratic leadership are—
- (a) service based solely on the public interest; and
- (b) honesty, diligence, commitment and discipline in service to the people; and
- (c) integrity, objectivity and impartiality in decision-making without favouritism, nepotism or other improper motives, or corrupt practices; and
- (d) avoidance and declaration of any interest that may conflict with public duties; and

- (e) accountability to the public for decisions and actions.
- (4) Each person appointed to a public office under this Constitution must be a person of integrity and good character, in addition to any other qualifications prescribed by law.

15 Conduct of public officers

- (1) Each public officer must—
 - (a) comply with the Leadership Code of Conduct set out in schedule 5; and
 - (b) behave, in public and in private, and in association with others, in a way that avoids all of the following—
 - (i) any conflict between personal interests and public or official duties;
 - (ii) compromising any public or official interest in favour of a personal interest;
 - (iii) demeaning the officer’s public office; and
 - (c) ensure, as far as they are lawfully able, that their spouse, children and any other person for whom they are responsible or who represents them do not conduct themselves in a way that demeans the officer’s office or that is likely to cause public doubt about the officer’s integrity.
- (2) Each of the following is a **public officer**—
 - (a) the President and the Vice President;
 - (b) the Speaker and the Deputy Speaker;
 - (c) a member of the National Executive Council;
 - (d) the Leader of the Opposition;
 - (e) a member of the House of Representatives;
 - (f) the Clerk of the House of Representatives;
 - (g) a judge or other judicial officer;
 - (h) a holder or member of an independent public office;
 - (i) the Chief Secretary;
 - (j) a senior officer in the public service;

- (k) the Police Commissioner;
- (l) the Corrective Services Commissioner;
- (m) the head of a defence force established by a law contemplated in section 138;
- (n) a diplomatic representative of Bougainville;
- (o) an elected member of a sub-national or local government;
- (p) the holder of another office prescribed by law.

16 Criminal misconduct and forfeiture

- (1) The House of Representatives must provide for—
 - (a) criminal offences relating to corruption and other forms of misconduct in office; and
 - (b) forfeiture, on conviction, of any financial or material benefit obtained by criminal misconduct.
- (2) In addition to any penalty of imprisonment, fine or forfeiture prescribed by law, a court that convicts a person who is a public officer or former public officer of criminal misconduct must also impose on the person a period of disqualification from public office (a **disqualification order**).
- (3) For subsection (2), the court, having regard to the seriousness of the offence, must determine an appropriate period of disqualification of at least 3 years and not more than 20 years.

17 Protection for whistle blowers

- (1) This section applies to the disclosure of information by a person (a **public interest disclosure**) if—
 - (a) the disclosure is made in good faith to a public officer or a state body; and
 - (b) at the time of the disclosure the person reasonably believes the information shows or tends to show that a state body or public officer has, in the performance of official functions—
 - (i) contravened this Constitution, or the law; or

- (ii) engaged in conduct that has endangered or is likely to endanger the health or safety of an individual, or to damage the environment.
- (2) A person who makes a public interest disclosure is immune from any criminal, civil or administrative liability for the disclosure.
- (3) Each state body must—
 - (a) establish and maintain a system to receive confidential public interest disclosures and to act on them; and
 - (b) publicise the availability of that system to the public.

18 Ombudsman and Integrity Commission’s functions in relation to good governance and leadership

The Ombudsman and Integrity Commission is responsible for—

- (a) striving to optimise the operation of, and eliminate unfairness and discrimination in, public administration, by—
 - (i) receiving, investigating and reporting on complaints of maladministration; and
 - (ii) proactive monitoring of and reporting on the practices of public administration; and
 - (iii) performing its other functions under this section; and
- (b) consulting with and educating state bodies and the public about ethical standards of good governance and integrity; and
- (c) providing, or assisting in the provision of, training courses for prospective candidates for election, public officers, public servants and teachers about—
 - (i) the core values, the guiding principles and the social and economic objectives; and
 - (ii) the roles and responsibilities of public officers; and
 - (iii) the functions and independence of independent public offices; and
 - (iv) the Leadership Code of Conduct; and
- (d) monitoring compliance with the Leadership Code of Conduct; and
- (e) investigating the conduct of public officers under section 19; and

- (f) referring and prosecuting alleged criminal misconduct by a public officer under section 20; and
- (g) making recommendations to the government about ethical governance, including recommendations about existing or proposed laws.

19 Complaints and investigations

- (1) A person who believes a public officer has acted in a way that is inconsistent with the Leadership Code of Conduct or any other provision of the Constitution, or that may constitute criminal misconduct, may submit a complaint to the Ombudsman and Integrity Commission.
- (2) The Ombudsman and Integrity Commission may investigate the conduct of a public officer—
 - (a) on receipt of a complaint under subsection (1); or
 - (b) on the Commission’s own initiative if the Commission has reasonable cause to suspect the officer may have failed to comply with the Leadership Code of Conduct or with another provision of this Constitution or engaged in criminal misconduct.

20 Referral and prosecution

- (1) If the Ombudsman and Integrity Commission is satisfied, after investigating the conduct of a public officer, that there is a *prima facie* case that the officer has engaged in criminal misconduct, the Ombudsman and Integrity Commission must refer the matter to the Director of Public Prosecutions.
- (2) If the Director of Public Prosecutions fails to prosecute the matter within a reasonable period, the Ombudsman and Integrity Commission may prosecute the matter.

21 Standards and procedures for removal from office for incapacity or misconduct

- (1) A public officer may be removed from office for incapacity or misconduct in accordance with the procedures and standards set out in schedule 6.
- (2) Also, the provisions of schedule 6 apply, in the way set out in that schedule, to a person who is a former public officer.

CHAPTER 4 – HUMAN RIGHTS AND FREEDOMS

Part 1—Rights and freedoms recognised

22 Rights and freedoms

- (1) Recognition of our rights and freedoms accords with our fundamental values and principles, is essential to our democracy, and affirms our commitment to justice and the rule of law.
- (2) Our rights and freedoms, as recognised in this chapter—
 - (a) belong inherently to each person and are not granted by the Republic; and
 - (b) may be limited only to the extent contemplated in section 52, or expressly set out in relation to a particular right or freedom, or elsewhere in the Constitution.
- (3) The Republic, and each state body, must respect, protect, promote and fulfil the rights and freedoms recognised in this chapter.

Part 2—Civil and political rights and freedoms

23 Right to life

Everyone has the right to life.

24 Right to dignity

Everyone has inherent dignity, is entitled to respect, and has the right to have their dignity respected and protected.

25 Right to equality and freedom from discrimination

- (1) Everyone is equal before the law and has the right to equal protection and benefit of the law.
- (2) Equality includes the full and equal enjoyment of all rights and freedoms recognised in this chapter or elsewhere in the law.
- (3) The Republic and any state body may not discriminate directly or indirectly against anyone on one or more grounds, including birth, age, ethnicity, social origin, race, colour, primary language, religion, conscience, belief, culture, sex, gender, gender identity, sexual

orientation, pregnancy, marital status, disability, social status or economic status.

- (4) No person may discriminate directly or indirectly against anyone on one or more of the grounds mentioned in subsection (3).
- (5) Treating one person differently from another on any of the grounds mentioned in subsection (3) is discrimination, unless it can be established that the difference in treatment is reasonable in the circumstances.
- (6) To promote the achievement of equality, the Republic may take legislative and other measures designed to protect or advance persons, or groups of persons, who are disadvantaged.

26 Rights of the child

- (1) Every child has the right—
 - (a) to be registered at or soon after birth, and to have a name and nationality; and
 - (b) to basic nutrition, clothing, shelter, sanitation and health care; and
 - (c) to ask questions, and to learn; and
 - (d) to rest, to play and to participate in sports and creative activities; and
 - (e) to family care, protection and guidance, which includes the equal responsibility of the child’s parents to provide for the child—
 - (i) whether or not the parents are, or have ever been, married to each other; and
 - (ii) whether or not the parents are living together, have ever been living together, or are separated; and
 - (f) to express their own views on any matter affecting the child; and
 - (g) to all the rights recognised in this Constitution, other than those restricted to adults; and
 - (h) to be protected from abuse, neglect, harmful cultural practices, any form of violence, inhuman treatment and punishment, and hazardous or exploitative labour; and

- (i) not to be detained, except as a measure of last resort, and when detained, to be held—
 - (i) for the shortest appropriate period of time; and
 - (ii) separately from adults, and in conditions that take account of the child’s sex and age.
- (2) A child’s best interests are the primary consideration in every matter concerning the child.

27 Freedom from slavery, servitude, forced labour and trafficking

- (1) No one may be held in slavery or servitude, or subjected to forced labour or human trafficking.
- (2) Forced labour does not include work that is reasonably required to be undertaken as a civic or communal obligation to participate in the care of the local community.

28 Right to liberty and personal security

- (1) Everyone has the right to liberty, which includes the right not to be detained without trial.
- (2) Everyone has the right to freedom from physical or mental torture.
- (3) Everyone has the right to freedom from cruel, inhuman, degrading or disproportionately severe treatment or punishment.
- (4) Everyone has the right to security of the person, which includes the right to be free from any form of violence from any source, at home, at school, at work or in any other place.
- (5) Everyone has the right to bodily and psychological integrity, which includes the right—
 - (i) to make decisions concerning reproduction; and
 - (ii) to exercise control over their own body; and
 - (iii) not to be subjected to any scientific or medical treatment or procedure without their informed consent.

29 Right to privacy

Everyone has the right to privacy, which includes the right—

- (a) to confidentiality of their personal information; and

- (b) to confidentiality of their communications; and
- (c) to respect for their private and family life; and
- (d) not to have—
 - (i) their person, home or property searched; or
 - (ii) their possessions seized.

30 Freedom of religion, belief and opinion

- (1) Everyone has freedom of conscience, religion, belief, thought and opinion.
- (2) Everyone has the right, either individually or in community with others, in private or in public, to manifest and practise their religion or belief in worship, observance, practice or teaching.
- (3) Everyone has the right not to be compelled—
 - (a) to act in a way that is contrary to the person’s religion or belief; or
 - (b) to take an oath, or take an oath in a way, that—
 - (i) is contrary to the person’s religion or belief; or
 - (ii) requires the person to express a belief that the person does not hold.

31 Freedom of expression, publication and media

- (1) Everyone has freedom of expression and publication, which includes freedom to seek, receive and impart information, knowledge and ideas.
- (2) Freedom of expression and publication does not protect—
 - (a) propaganda for conflict or war; or
 - (b) incitement to violence or insurrection against this Constitution; or
 - (c) advocacy of hatred that—
 - (i) is based on any prohibited ground of discrimination mentioned in section 25(3); and
 - (ii) constitutes incitement to cause harm.

32 Freedom of movement and residence

- (1) Everyone has freedom of movement.
- (2) Everyone has the right to leave Bougainville.
- (3) Every citizen has the right to apply for and be issued a passport or similar travel document, in accordance with the law contemplated in section 3 of schedule 2.
- (4) Every citizen and permanent resident has the right to enter Bougainville and to remain and reside in Bougainville.

33 Freedom of association

Everyone has freedom of association.

34 Freedom of assembly, demonstration, picket and petition

Everyone has the right, peaceably and unarmed, to assemble, to demonstrate, to picket and to present petitions to public authorities.

35 Political rights

- (1) Every citizen has the freedom to make political choices, and the right—
 - (a) to form or join a political party; and
 - (b) to participate in the activities of, or recruit members for, a political party; and
 - (c) to campaign for a political party, candidate or cause.
- (2) Every citizen who has reached age 18 has the right—
 - (a) to be registered as an elector; and
 - (b) to vote by secret ballot in any election or referendum under this Constitution; and
 - (c) to be a candidate for elected public office, or office within a political party of which the citizen is a member, subject only to satisfying any qualifications for such an office; and
 - (d) if elected, to hold office.

36 Access to information

- (1) Everyone has the right of access to—

- (a) information held by state bodies; and
 - (b) information held by another person and required for the exercise or protection of any legal right.
- (2) Everyone has the right to the correction or deletion of untrue or misleading information that affects that person.
 - (3) The Republic must publish and publicise any significant information affecting the nation that would ordinarily be published in a free and democratic society.

37 Executive and administrative justice

- (1) Everyone has the right to executive or administrative action that is lawful, rational, proportionate, procedurally fair, and reasonably prompt.
- (2) A person who has been adversely affected by an executive or administrative action has the right to be given written reasons for the action.
- (3) An executive or administrative action may be reviewed by a court, or if appropriate, another independent and impartial tribunal, in accordance with law.

38 Access to courts or tribunals

- (1) Everyone has the right to have any dispute that can be resolved by application of law decided within a reasonable time in a fair public hearing before a court or, if appropriate, another independent and impartial tribunal.
- (2) In any civil, criminal or other matter before a court, everyone has the right to justice that is timely and not excessively expensive or distant.
- (3) The Republic, through legislation and other measures, must provide for legal aid for those who cannot afford to pursue justice on the strength of their own resources, if injustice would otherwise result.
- (4) If any fee is required to access a court or tribunal, it must be reasonable and must not impede access to justice.
- (5) In any proceedings, evidence obtained in a way that infringes any right in this chapter, or any other law, must be excluded unless the interests of justice require it to be admitted.

39 Rights of arrested and detained persons, and prisoners

- (1) An arrested person has the right—
 - (a) to be informed promptly, in language the person understands, of—
 - (i) the reason for the arrest; and
 - (ii) the right to remain silent, and the right to consult a lawyer; and
 - (iii) the consequences of not remaining silent; and
 - (b) to remain silent; and
 - (c) to communicate with a lawyer, and with other persons whose assistance is necessary; and
 - (d) not to be compelled to make any confession or admission that could be used in evidence against the person; and
 - (e) to be held separately from persons who are serving a sentence; and
 - (f) to be brought before a court as soon as reasonably practicable, but in any case—
 - (i) not later than 48 hours after being arrested; or
 - (ii) not later than the end of the next court day immediately following the arrest, if the 48 hours would end outside ordinary court hours, or on a day that is not an ordinary court day; and
 - (g) at the first court appearance, to be charged or informed of the reasons for the detention to continue, or to be released; and
 - (h) to be released on reasonable terms and conditions, pending a charge or trial, unless there are compelling reasons for the person not to be released.
- (2) Every prisoner, and any person detained for any other reason, has the right—
 - (a) to be informed promptly of the reason for being detained; and
 - (b) to choose, and to consult, a lawyer, and to be informed promptly of this right; and

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- (c) to have a lawyer assigned by the Republic and at state expense, if injustice would otherwise result, and to be informed promptly of this right; and
 - (d) to challenge the lawfulness of the detention in person before a court and, if the detention is unlawful, to be released; and
 - (e) to conditions of detention that are consistent with human dignity, including at least the opportunity to exercise regularly and the provision, at state expense, of adequate accommodation, nutrition, reading material and medical treatment; and
 - (f) to communicate with, and be visited by, the person's—
 - (i) spouse, partner or next of kin; and
 - (ii) chosen religious counsellor; and
 - (iii) chosen representative; and
 - (iv) chosen medical practitioner.
- (3) Whenever this section requires information to be given to a person, the information must be given simply and clearly in a language the person understands.
- (4) A person who is deprived of liberty by being detained, held in custody or imprisoned under any law retains all the rights and freedoms set out in this chapter, except to the extent that any particular right or freedom is clearly incompatible with the fact of their deprivation of liberty.
- (5) In this section—
- religious counsellor***, of a prisoner or detainee, means a person that can offer religious guidance or counsel to the prisoner or detainee, regardless of the person's title or qualifications.
- representative***, of a prisoner or detainee, includes, for example, a lawyer or another person who can represent the interests of the prisoner or detainee.

40 Rights of accused persons to a fair trial

- (1) No person may be tried for—

- (a) an act or omission that was not an offence under either national or international law at the time it was committed or omitted; or
 - (b) an offence in respect of an act or omission for which the person has previously been either acquitted or convicted.
- (2) Every person charged with an offence has a right to a fair trial, which includes the right—
- (a) to be informed of the charge with sufficient detail to answer it; and
 - (b) to have adequate time and facilities to prepare a defence; and
 - (c) to choose, and to be represented by, a lawyer, and to be informed promptly of this right; and
 - (d) to have a lawyer assigned by the Republic and at state expense, if injustice would otherwise result, and to be informed promptly of this right; and
 - (e) to be informed in advance of the evidence on which the prosecution intends to rely, and to have reasonable access to that evidence; and
 - (f) to a public trial before an ordinary court; and
 - (g) to have the trial begin and conclude without unreasonable delay; and
 - (h) to be present when being tried, unless—
 - (i) the court is satisfied the person has been served with a summons or similar process requiring attendance at the trial, and has chosen not to attend; or
 - (ii) the conduct of the person makes it impracticable to conduct the trial; and
 - (i) to be tried in a language the person understands or, if that is not practicable, to have the proceedings interpreted in such a language without cost to the person; and
 - (j) to be presumed innocent, to remain silent, not to testify during the proceedings, and not to be compelled to give self-incriminating evidence, and to have no adverse inference drawn from the exercise of any of these rights; and

- (k) to call witnesses and present evidence, and to challenge evidence presented against the person; and
 - (l) to a copy of the record of proceedings within a reasonable period and on payment of a reasonable prescribed fee; and
 - (m) to the benefit of the least severe of the prescribed punishments if the prescribed punishment for the offence has been changed between the time the offence was committed and the time of sentencing; and
 - (n) of appeal to, or review by, a higher court.
- (3) Whenever this section requires information to be given to a person, the information must be given as simply and clearly as practicable, in a language the person understands.

Part 3—Social, economic and cultural rights

41 Progressive realisation

The Republic must take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of the rights recognised in this part.

42 Education

- (1) Everyone has the right to—
 - (a) traditional cultural learning; and
 - (b) early childhood education; and
 - (c) free primary and secondary education; and
 - (d) technical and further education.
- (2) Any standards of education prescribed by the Republic must be informed by the guiding principles and directed, to the extent relevant, towards achievement of the social and economic objectives.

43 Economic participation

- (1) Everyone has the right to full and free participation in the economic life of the nation, which includes the right to choose their own work, trade, occupation, profession or other means of livelihood.

- (2) Everyone has the right, as producer, supplier or consumer, to reasonable access to all markets, including markets for capital, labour, goods and services.

44 Right to an adequate standard of living

- (1) Everyone has the right to an adequate standard of living, which includes the right—
 - (a) to work, and to a just minimum wage; and
 - (b) to have reasonable access to transportation or other means of conveying the produce of their labour to marketplaces; and
 - (c) to accessible and adequate housing and sanitation; and
 - (d) to be free from hunger, and to have adequate food of acceptable quality; and
 - (e) to clean and safe water in adequate quantities; and
 - (f) to social security schemes, whether private or public, for their support in times of need, including the right to such support from public resources if they are unable to support themselves and their dependants.
- (2) Everyone has the right to health, and to the conditions and facilities necessary to good health, and to health care services, including reproductive health care.

45 Employment relations

- (1) Everyone has the right to fair employment practices and working conditions.
- (2) Every worker has the right to form and join a trade union, and participate in its activities and programs, and to strike.
- (3) Every employer has the right to form and join an employers' organisation, and to participate in its activities and programs.
- (4) Workers and employers have the right to bargain collectively.

46 Freedom from arbitrary expropriation

- (1) Everyone has the right not to have any interest in any property expropriated other than in accordance with legislation contemplated in

subsection (2), and no law may permit arbitrary expropriation of any interest in any property.

- (2) Legislation may authorise compulsory expropriation of property—
- (a) only as a last resort when necessary for a public purpose; and
 - (b) on the basis that the owner will be promptly paid agreed compensation for the property, or failing agreement, just and equitable compensation as determined by a court, after considering all relevant factors, including—
 - (i) the public purpose for which the property is being acquired; and
 - (ii) the history of its acquisition by the owner; and
 - (iii) the interests of any person affected by the acquisition; and
 - (iv) any hardship to the owner.
- (3) Action taken in accordance with law to remedy the purported alienation or transfer of land from customary owners in a way not recognised by law is not arbitrary expropriation.

47 Environmental rights

Everyone has the right to a clean and healthy environment, which includes the right to have the natural world protected for the benefit of present and future generations through legislative and other measures.

Part 4—Rights and freedoms of particular groups

48 Elaboration of rights in relation to particular groups

Sections 49 to 51—

- (a) elaborate certain rights and freedoms to ensure greater certainty as to their application to particular groups of persons; and
- (b) are not to be construed as—
 - (i) limiting or qualifying any right or freedom; or
 - (ii) limiting the application to other groups of any rights or freedoms recognised in this chapter.

49 Persons with disabilities

- (1) A person with a disability has the right—
 - (a) to be treated with dignity and respect, and to be addressed and referred to in a way that is not demeaning; and
 - (b) to be free from abuse and violence, and from treatment without their informed consent; and
 - (c) to be educated, to live, to work and to engage in recreation and sporting activities, as part of the general community; and
 - (d) to reasonable access to all places, public transport and information; and
 - (e) to use sign language, Braille or other appropriate means of communication; and
 - (f) of access to necessary materials, substances and devices relating to the person’s disability.
- (2) Persons with disability have the right to reasonable adaptation of buildings, infrastructure, vehicles, working arrangements, rules, practices or procedures to enable their full participation in society and the effective realisation of their rights.
- (3) The Republic must take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of the rights recognised in subsections (1)(f) and (2).

50 Equality among the sexes and of relationships

- (1) All persons have the right to equal treatment, regardless of sex, including the right—
 - (a) to equal opportunities in political, economic, educational, social, cultural and sporting spheres; and
 - (b) to equal pay for work of equal value; and
 - (c) to appropriate paid parental leave; and
 - (d) not to be dismissed from work during or because of paid parental leave; and
 - (e) to be free from any law, culture, custom or tradition that undermines their dignity, health, welfare, interest or status.

- (2) Marriage is based on the full and free consent of each party to the marriage.
- (3) Each party to a marriage has equality of status, rights and responsibilities before, during and at the dissolution of marriage.
- (4) The parties to a de facto relationship that is recognised by custom have the same rights, responsibilities and status as the parties to a marriage.

51 Elderly

- (1) The elderly have the right—
 - (a) to participate fully in society; and
 - (b) to pursue their personal development; and
 - (c) to be free from all forms of discrimination and abuse; and
 - (d) to be treated with dignity and respect, and to be addressed and referred to in a way that is not demeaning; and
 - (e) to live independent, active and full lives, making their own choices free from coercion or undue influence.
- (2) The elderly continue to have all of their rights including, in particular, the right to an adequate standard of living recognised in section 44.
- (3) The Republic, and any other supplier of any goods or services, may—
 - (a) provide preferential attention or service to the elderly; and
 - (b) offer or provide goods or services at a discounted price to the elderly generally.

Part 5—Limitation and application of rights and freedoms

52 Limitation of rights under law

- (1) A right or freedom recognised in this chapter must not be limited except by law, made in accordance with this section, and then only to the extent that the limitation is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom, taking into account all relevant factors, including—
 - (a) the nature of the right or freedom; and
 - (b) the importance of the purpose of the limitation; and

- (c) the nature and extent of the limitation; and
 - (d) the relation between the limitation and its purpose and whether there are less restrictive means to achieve the purpose.
- (2) A proposed law that would limit a right or freedom recognised in this chapter must—
- (a) specify the right or freedom that it limits; and
 - (b) state the purpose of the limitation; and
 - (c) be accompanied by a statement that addresses, in relation to the proposed law, the factors mentioned in subsection (1); and
 - (d) be passed, and certified by the Speaker to have been passed, by an absolute majority of the House of Representatives.
- (3) The burden of showing that a law that limits a right or freedom recognised by this chapter was validly made in accordance with this section is on the party relying on its validity.

53 Limitation of rights under states of emergency

- (1) An emergency law may limit a right or freedom recognised in this chapter only to the extent that—
- (a) the limitation is strictly required by the emergency, and is justifiable under section 52; and
 - (b) the law is consistent with the Republic’s obligations under international law applicable to a state of emergency; and
 - (c) it takes effect only when it has been published.
- (2) However, an emergency law may not limit any of the following rights—
- (a) the right to life;
 - (b) freedom from inhuman treatment;
 - (c) freedom of conscience, thought and religion.
- (3) A person detained under an emergency law retains all the rights recognised in this chapter, subject only to the limitations referred to in subsection (1).
- (4) An emergency law—

- (a) must not authorise or permit the detention of a person for more than 7 days before being brought before a court as required by section 39(1)(f); and
- (b) must require that every detainee be given reasonable opportunity to communicate with, and to be visited by—
 - (i) the detainee’s spouse, life partner or next of kin; and
 - (ii) a political representative; and
 - (iii) a religious counsellor or social worker; and
 - (iv) a lawyer chosen by the detainee.

54 Application and enforcement of rights

- (1) This chapter applies to all law and binds the House of Representatives, the National Executive Council, the judiciary and all state bodies.
- (2) A provision of this chapter binds a natural or legal person, taking into account—
 - (a) the nature of the right or freedom recognised in that provision; and
 - (b) the nature of any restraint or duty imposed by that provision.
- (3) When deciding any matter according to the underlying law, a court must apply and, where necessary, develop the underlying law in a way that respects the rights and freedoms recognised in this chapter.
- (4) A legal person has the rights and freedoms recognised in this chapter, to the extent required by the nature of the right or freedom, and the nature of the particular legal person.
- (5) In applying any right under section 41, if the Republic claims that it does not have the resources to implement the right, it is the responsibility of the Republic to show that the resources are not available.
- (6) Any person has standing to bring an action in the Supreme Court in relation to an alleged infringement of a right or freedom recognised in this chapter and the Supreme Court may grant any remedy it considers appropriate.

55 Interpretation of this chapter

- (1) In addition to applying sections 54(3) and 141, when interpreting and applying this chapter, a court, tribunal or other authority—
 - (a) must promote the values that underlie an open and democratic society based on human dignity, equality and freedom; and
 - (b) must consider international law relevant to the protection of the rights and freedoms in this chapter; and
 - (c) may consider foreign law from other open and democratic societies.
- (2) This chapter does not limit, deny, or prevent recognition of, any other right or freedom recognised or conferred by underlying law, customary law, or legislation, except to the extent that it is inconsistent with this chapter.

56 Bougainville Human Rights Commission

- (1) The Bougainville Human Rights Commission is established as an independent public office.
- (2) The Bougainville Human Rights Commission consists of—
 - (a) the Human Rights Commissioner; and
 - (b) any additional commissioners provided by law; and
 - (c) the staff of the Commission.
- (3) The Human Rights Commissioner must be qualified to be a judge of the Supreme Court.
- (4) The Bougainville Human Rights Commission is responsible for—
 - (a) promoting the protection and observance of, and respect for, human rights in public and private institutions, and developing a culture of human rights in Bougainville; and
 - (b) education about the rights and freedoms recognised in this chapter as well as other internationally recognised rights and freedoms; and
 - (c) monitoring, investigating and reporting on the observance of human rights in all spheres of life; and

- (d) making recommendations to any state body concerning the matters affecting the rights and freedoms recognised in this chapter, including recommendations concerning existing or proposed laws; and
 - (e) receiving and investigating complaints about alleged abuses of human rights and taking steps to secure appropriate redress if human rights have been violated; and
 - (f) investigating or researching, on its own initiative or on the basis of a complaint, any matter in respect of human rights, and making recommendations to improve the functioning of public or private entities; and
 - (g) monitoring compliance by the Republic and state bodies with obligations under treaties and conventions relating to human rights; and
 - (h) performing any other functions conferred on the Commission by law.
- (5) A person has the right to complain to the Bougainville Human Rights Commission, alleging that a right or freedom recognised in this chapter has been denied, violated or infringed, or is threatened.
- (6) The Bougainville Human Rights Commission has other general powers set out in section 113 including the authority to enforce compliance with rights by issuing a notice under section 113(2)(c).

CHAPTER 5 – SYSTEM OF GOVERNMENT, AND ELECTIONS

57 Form of government

- (1) This Constitution establishes the 3 arms of national government, separated by mutual checks and balances, namely—
- (a) the legislature, provided for in chapter 6, which is responsible to the people; and
 - (b) the executive, provided for in chapter 7, which is responsible to the legislature; and
 - (c) the judiciary, provided for in chapter 8, which is responsible for interpreting and enforcing this Constitution and has the power

to ensure the legislature and the executive do not exceed the limits of their power.

- (2) This Constitution also contemplates, in section 63, the establishment by law of other levels of formal government below the national government.

58 Constituencies

- (1) The Boundaries Commissioner is responsible for recommending to the House of Representatives—
 - (a) the number of single-member constituencies; and
 - (b) the boundaries of the single-member constituencies; and
 - (c) the boundaries of the regional constituencies.
- (2) In recommending the number and boundaries of single-member constituencies, the Boundaries Commissioner must have regard to each of the following factors—
 - (a) population distribution, and the principle of one vote one value;
 - (b) language groupings;
 - (c) cultural groupings and cultural diversity;
 - (d) geographical features, including patterns of trade and communications that are shaped by geographical features;
 - (e) the interests of minority groups;
 - (f) the financial resources of the Republic;
 - (g) any other considerations prescribed by law.
- (3) In recommending the boundaries of regional constituencies, the Boundaries Commissioner must have regard to each of the following—
 - (a) the principle of regional representation;
 - (b) the factors mentioned in subsection (2)(b) to (g), so far as they are relevant;
 - (c) other electoral and administrative boundaries.
- (4) The House of Representatives—
 - (a) may accept or reject, but may not amend, a recommendation from the Boundaries Commissioner; and

- (b) may not reject a recommendation that, following previous rejection, has been modified by the Boundaries Commissioner to take account of the grounds for rejection; and
- (c) must give effect to recommendations that it accepts by prescribing the accepted boundaries by law; and
- (d) must provide for the procedures to be followed by the Boundaries Commissioner and the House of Representatives under this section.

59 Electoral system and elections generally

- (1) The Electoral Commissioner is responsible, in the way prescribed by law, for the conduct of general elections, special elections, by-elections and elections to other levels of formal government prescribed by law.
- (2) The House of Representatives must provide for—
 - (a) the electoral system; and
 - (b) the procedures to be followed by the Electoral Commissioner in conducting elections; and
 - (c) procedures to safeguard the integrity of elections; and
 - (d) appeals to the Supreme Court on election matters.

60 General elections

- (1) A general election of the President and the House of Representatives must be held under this section after the House is dissolved under section 66(4).
- (2) The Speaker, acting on the advice of the Electoral Commissioner, must fix—
 - (a) the first and last days of the period during which polling is to take place at a general election; and
 - (b) the day by which the writs for the election must be returned (the **return day**).
- (3) In advising the Speaker under subsection (2) and in conducting the election, the Electoral Commissioner must strive to ensure the return day is—
 - (a) as soon as practicable; and

- (b) no later than the 5th anniversary of the return day for the previous election.

61 By-elections

- (1) If the seat of member of the House of Representatives becomes vacant otherwise than by dissolution of the House, a by-election must be held to fill the vacancy.
- (2) However, a vacant seat is to remain vacant until the next general election if the vacancy occurs less than 12 months before the 5th anniversary of the previous return day.
- (3) If the Speaker declares a seat vacant under section 69(3), the Electoral Commissioner may issue a writ for a by-election only—
 - (a) if, 7 days after the declaration, the member the subject of the declaration has not referred the question of the vacancy to the Supreme Court under section 105(2); or
 - (b) if, on a question referred by the member the subject of the declaration, the Supreme Court determines that the member's seat is vacated.

62 Right to vote

- (1) A person who is a citizen and is at least 18 years of age and is registered to vote is qualified to vote in an election.
- (2) In this section, ***election*** includes—
 - (a) a general election; and
 - (b) a by-election; and
 - (c) a special election; and
 - (d) an election of representatives to any other formal level of government conducted by the Electoral Commissioner as prescribed by law.

63 Levels of government

- (1) The levels of government in Bougainville are—
 - (a) the national level of government, comprising the legislature (the House of Representatives), executive (National Executive

- Council), and the judicature (Supreme Court) established by this Constitution; and
- (b) any sub-national level of government that may be established by law for each of the four regions of Bougainville; and
 - (c) any traditional, or local, level or levels of government that may be established by law (including the Bougainville Chiefs Congress).
- (2) Without otherwise limiting the power of the House of Representatives to provide for any form of local or community government, the House of Representatives must provide for the recognition of the roles of chiefs and other traditional leaders in the community, including a law mentioned in section 64.
- (3) In this Constitution, the levels of government mentioned in subsection (1)(b) and (c) and prescribed by law are referred to as ***other formal levels of government***.

64 Bougainville Chiefs Congress

- (1) The House of Representatives must, when it considers it appropriate, enact a law to provide for the establishment of the Bougainville Chiefs Congress.
- (2) The functions of the Bougainville Chiefs Congress include—
 - (a) advising the House of Representatives, the National Executive Council and state bodies on matters relating to custom and to the role of chiefs and other traditional leaders; and
 - (b) other functions conferred on it by this Constitution and provided by law.

CHAPTER 6 – THE LEGISLATURE

Part 1—Legislative power

65 Legislative power

- (1) The legislative power of the Republic of Bougainville is vested in the House of Representatives.
- (2) The House of Representatives—
 - (a) has plenary power to legislate on any subject; and

- (b) may delegate legislative power; and
- (c) may disallow delegated legislation.

Part 2—House of Representatives

66 House of Representatives

- (1) The House of Representatives is made up of the following members—
 - (a) the President;
 - (b) 4 elected women’s representatives (one from each regional constituency);
 - (c) 4 elected veterans’ representatives (one from each regional constituency);
 - (d) the other elected representatives (one from each of the single-member constituencies prescribed by law);
 - (e) the Speaker.
- (2) The House of Representatives is elected by electors at a general election held at intervals of not more than 5 years under section 60.
- (3) The term of the House of Representatives starts on the return day and ends when the House is dissolved on whichever of the following first occurs within the term—
 - (a) the day that is 3 months before the 5th anniversary of the previous return day;
 - (b) the office of President becomes vacant after the 4th anniversary of the previous return day;
 - (c) a motion to dissolve the House of Representatives is passed by a three-quarters absolute majority of the House of Representatives.
- (4) On the dissolution of the House of Representatives the Speaker must give the Electoral Commissioner, and publish, notice of the dissolution.
- (5) The seats of members mentioned in subsection (1)(b) and (c) are known as ***reserved seats***.

67 Qualifications for election

A person is qualified as a candidate for election to the House of Representatives if the person—

- (a) is at least 25 years of age; and
- (b) is qualified to vote in an election; and
- (c) is a member of a clan that owns land in the constituency for which the person proposes to nominate as a candidate; and
- (d) has resided in the constituency for which the person proposes to nominate as a candidate for at least 5 years immediately before nomination; and
- (e) in the case of a candidate for a reserved seat for women’s representatives—is a woman; and
- (f) in the case of a candidate for a reserved seat for veterans—is a former combatant whose nomination is supported in the way prescribed by law; and
- (g) is not disqualified under section 68.

68 Disqualifications for election or membership

A person is disqualified as a candidate for election to the House of Representatives, and from being or remaining a member of the House of Representatives, if the person—

- (a) is under sentence or subject to be sentenced for an offence punishable by imprisonment for 6 months or longer; or
- (b) is subject to a current disqualification order; or
- (c) is bankrupt.

69 Vacation of seat by member of the House of Representatives

- (1) A member of the House of Representatives (other than the Speaker) vacates their seat on the dissolution of the House of Representatives.
- (2) Also, a member of the House of Representatives vacates their seat if the member—
 - (a) resigns in writing given to the Speaker; or
 - (b) becomes disqualified under section 68; or
 - (c) is recalled under section 81; or

- (d) is removed for incapacity or misconduct in accordance with schedule 6; or
 - (e) dies.
- (3) If the Speaker reasonably believes that a member of the House of Representatives has vacated their seat by reason of becoming disqualified under section 68, the Speaker must declare the member's seat vacant.
- (4) Within 7 days of a declaration by the Speaker under subsection (3), the member the subject of the declaration may refer to the Supreme Court under section 105(2) the question of whether the member's seat is vacated.

70 Oath of member of the House of Representatives

A member of the House of Representatives must, before transacting any parliamentary business other than voting on the appointment of a Speaker, take the oath or affirmation of office set out in schedule 7, administered by the Speaker.

71 Speaker

- (1) The Speaker is appointed by a vote of the House of Representatives from among persons, nominated by the regional committees of the House of Representatives, who are—
- (a) at least 40 years of age; and
 - (b) not a member of the House of Representatives; and
 - (c) qualified to nominate for election to the House of Representatives.
- (2) The Speaker assumes office by taking the oath or affirmation of office set out in schedule 7, administered by the Chief Justice.
- (3) The Speaker vacates the office of Speaker—
- (a) on the formation of a new House of Representatives following a general election; or
 - (b) if the House of Representatives votes, by a three-quarters absolute majority, to remove the Speaker; or
 - (c) if the Speaker—
 - (i) ceases to be qualified under subsection (1); or

- (ii) resigns in writing given to the President; or
 - (iii) is removed for incapacity or misconduct in accordance with schedule 6; or
 - (iv) dies.
- (4) The Speaker—
 - (a) presides over meetings of the House of Representatives; and
 - (b) calls meetings of the House of Representatives; and
 - (c) administers the affairs and controls the precincts of the House of Representatives; and
 - (d) is not generally entitled to cast a vote in the House of Representatives, but may cast a vote if the Speaker considers it necessary—
 - (i) to break a tie if there is an equality of votes on any matter; or
 - (ii) if one vote is needed to constitute a special majority required by this Constitution, another law or the standing orders; and
 - (e) has other powers and functions conferred by this Constitution, another law or the standing orders.

72 Deputy Speaker

- (1) The Deputy Speaker is a member of the House of Representatives who is elected, and may be removed, by a vote of the House of Representatives.
- (2) The Deputy Speaker assumes office by taking the oath or affirmation of office set out in schedule 7.
- (3) The Deputy Speaker exercises the powers and performs the functions of the Speaker whenever the Speaker is absent from the House of Representatives or the office of Speaker is vacant.

73 Meetings

- (1) The first meeting of the House of Representatives following a general election must occur no later than 7 days after the return day.
- (2) The House of Representatives must meet at least once in every period of 3 months.

74 Quorum

The quorum of a meeting of the House of Representatives is one-half of the total number of members.

75 Voting

Except as otherwise provided under this Constitution, a question before the House of Representatives is to be decided by a majority of the votes of its members present and voting.

76 Committees

- (1) In the House of Representatives there are the following committees—
 - (a) a Public Accounts Committee;
 - (b) a regional committee for each of the four regions, consisting of—
 - (i) the members elected for single-member constituencies within the region; and
 - (ii) the representatives elected to reserved seats for that region;
 - (c) any other committee established by law or the standing orders.
- (2) A member of the National Executive Council is not eligible to be a member of the Public Accounts Committee.

77 Powers and privileges

Subject to this Constitution, the powers, privileges and immunities of the House of Representatives and of its members and committees are determined by the House of Representatives.

78 Standing orders and procedures

- (1) The House of Representatives may make standing orders and other rules and orders relating to the conduct of its business and the proceedings of its committees.
- (2) The standing orders may make provision for priority to be given to government business at certain times or in certain circumstances.

79 Certification of and commencement of laws

- (1) A proposed law passed by a vote of the House of Representatives becomes law (is **enacted**) when it is certified by the Speaker as having been passed in accordance with the requirements of this Constitution.
- (2) The Clerk must notify in the Gazette each law that is enacted.
- (3) A law enacted under this section commences on—
 - (a) the day or time stated in, or fixed under, the law; or
 - (b) if no day or time is stated in, or to be fixed under, the law, on enactment.

80 Clerk and parliamentary service

- (1) The parliamentary service is established.
- (2) The Clerk of the House of Representatives is appointed by the Senior Appointments Committee and is the administrative head of the parliamentary service.
- (3) The Clerk reports to the Speaker.

81 Recall of member

- (1) A member of the House of Representatives, other than the Speaker, may be recalled under this section.
- (2) Recall of a member may be initiated by the presentation to the Electoral Commissioner of a full petition of recall only if—
 - (a) at least 18 months have passed since the member was last elected; and
 - (b) more than 15 months remain until the end of the term of the House of Representatives; and
 - (c) a petition for the recall of the member has not already been presented during the current term of the House of Representatives; and
 - (d) the Electoral Commissioner has accepted the veracity of a preliminary petition of recall.
- (3) A preliminary petition of recall must—

- (a) be signed by at least 250 electors for the constituency the member represents; and
 - (b) include evidence that the signatures mentioned in paragraph (a) have been verified by a local level of government in that constituency; and
 - (c) state the reasons the petitioners believe the member should be recalled.
- (4) If the Electoral Commissioner accepts the veracity of a preliminary petition of recall that satisfies the requirements of subsection (3), the petitioners may—
- (a) proceed to seek the number of signatures required for the full petition of recall; and
 - (b) present the full petition of recall to the Electoral Commissioner when it has been signed by at least two-thirds of the electors for the constituency.
- (5) If the Electoral Commissioner is satisfied the full petition of recall is validly brought under this section, the Commissioner must conduct in the constituency simultaneously—
- (a) a poll as to whether the member should be recalled (a **recall poll**); and
 - (b) a by-election.
- (6) The Electoral Commissioner must first determine the result of the recall poll, and—
- (a) if the votes cast in favour of recalling the member number fewer than one-half of the electors for the constituency—
 - (i) determine that the member is not recalled; and
 - (ii) not determine the result of the by-election; or
 - (b) if the votes cast in favour of recalling the member number one-half or more of the electors for the constituency—
 - (i) determine that the member is recalled; and
 - (ii) determine the result of the by-election and declare the candidate with the greatest number of votes as the member for the constituency.

(7) The member the subject of the recall poll is not qualified to nominate for election in the by-election.

(8) In this section—

constituency means a single-member constituency or a regional constituency.

end of the term of the House of Representatives means the day that is 3 months before the 5th anniversary of the return day for the previous election.

full petition of recall, in relation to the recall of a member for a constituency, means a petition of recall signed by at least two-thirds of the electors for the constituency.

preliminary petition of recall means a petition that satisfies the requirements of subsection (3).

82 Leader of the Opposition

(1) If there are at least 5 members of the House of Representatives who do not support the President and the National Executive Council, those members may elect a person from among themselves to be the Leader of the Opposition.

(2) In conducting the election the members may determine their own procedure.

(3) If a Leader of the Opposition is elected, the members who conducted the election must notify the Speaker of the outcome of the election, and the Speaker must announce the result at the next meeting of the House of Representatives.

(4) Within 90 days after a Leader of the Opposition is elected, the House of Representatives must provide for the Leader of the Opposition to be supported with—

(a) an office in the precincts of the House of Representatives; and

(b) at least 1 appropriately qualified staff member; and

(c) other resources reasonably required to fulfil the role of Leader of the Opposition.

83 Right to initiate parliamentary business

- (1) Subject to section 131 and to any reasonable restriction in the standing orders, any member of the House of Representatives other than the Speaker is entitled to initiate an item of parliamentary business in the House of Representatives.
- (2) In this section, item of parliamentary business includes a bill, petition, question or motion.

84 House authority over international agreements

- (1) An international agreement binds the Republic only after it has been approved by the House of Representatives, unless it is an agreement mentioned in subsection (2).
- (2) An international agreement that is purely technical or administrative in nature, entered into by the National Executive Council—
 - (a) may bind the Republic without approval by the House; and
 - (b) must be tabled in in the House.

85 Petitions, public access and participation

- (1) Every citizen has the right to petition the House of Representatives, requesting it to consider any matter within its authority or to enact, amend or repeal any law.
- (2) The House of Representatives must—
 - (a) conduct its business openly and hold its sittings and those of its committees in public; and
 - (b) facilitate petitions and public participation in the business of the House and its committees.
- (3) The House of Representatives and its committees may not exclude the public, including the media, from any sitting unless, in exceptional circumstances, the Speaker orders the exclusion of the public on grounds that are reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom.

CHAPTER 7 – THE EXECUTIVE

Part 1—Executive power

86 Executive power

- (1) The executive power of the Republic of Bougainville is vested in the National Executive Council.
- (2) The National Executive Council consists of the President and the members appointed by the President under sections 87 and 88.
- (3) The National Executive Council is collectively responsible to the House of Representatives.
- (4) During any period following the return day for a general election, before appointments to the National Executive Council (other than Vice-President) are made, the executive power of the Republic is vested in a caretaker National Executive Council consisting of—
 - (a) the President; and
 - (b) the Vice President; and
 - (c) a female member of the House of Representatives selected by the President.

Part 2—National Executive Council

87 Appointment of members of National Executive Council

- (1) The National Executive Council consists of—
 - (a) the President; and
 - (b) the Vice President; and
 - (c) a female member of the House of Representatives, nominated by the female members of the House and appointed by the President; and
 - (d) 7 members appointed under section 88; and
 - (e) 8 other members appointed by the President.
- (2) All members of the National Executive Council must be members of the House of Representatives.

- (3) A member of the National Executive Council assumes office by taking the oath or affirmation of office set out in schedule 7, administered by the President.

88 Representation of regions in National Executive Council

- (1) Each regional committee, other than the Nissan/Atolls regional committee, must no later than 10 days after the return day give the President a list of 5 nominees, from among the members of the House of Representatives elected from its region, for appointment to the National Executive Council.
- (2) The regional committee for the Nissan/Atolls region must nominate 1 member from its region for appointment to the National Executive Council.
- (3) The President must appoint as members of the National Executive Council—
 - (a) 2 of the 5 nominated members from each list of nominees given by a regional committee under subsection (1); and
 - (b) the member nominated by the Nissan/Atolls regional committee.
- (4) The President must make the appointments mentioned in subsection (3) as soon as practicable after receiving the lists, and no later than 14 days after the return day.

89 Functions and powers of National Executive Council

- (1) The National Executive Council, and the members of the Council, have the functions and powers conferred by this Constitution and provided by law.
- (2) Members of the National Executive Council (other than the President and the Vice President) are called Ministers.
- (3) Members of the National Executive Council have the titles, portfolios and responsibilities assigned by the President.

90 Procedures

- (1) Subject to this Constitution, the National Executive Council may determine its own procedures.

- (2) Subject to any law, a question about whether the procedures prescribed or determined for the National Executive Council have been complied with is non-justiciable.

91 Vacation of office

- (1) A member of the National Executive Council, other than the President, vacates their office on the assumption of office by the President following a general election or a special election.
- (2) Also, a member of the National Executive Council, other than the President, vacates their office if the member—
 - (a) ceases to be a member of the House of Representatives other than by reason of the dissolution of the House; or
 - (b) resigns in writing given to the President; or
 - (c) is dismissed from office by the President under section 92; or
 - (d) is removed from office for incapacity or misconduct in accordance with schedule 6; or
 - (e) dies.

92 Dismissal of members of the National Executive Council

- (1) The President may dismiss a member of the National Executive Council from office.
- (2) The dismissal must be in writing given to the member.
- (3) If the dismissal is of the member appointed under section 87(1)(c), the President must fill the vacancy by appointing a new member under that section.
- (4) If the dismissal is of a member appointed under section 88, the President must fill the vacancy by—
 - (a) in the case of the Nissan/Atolls region, appointing the other member from that region; or
 - (b) in the case of any other region—
 - (i) asking the regional committee for the dismissed member's region for a list of 3 nominees, from among the members of the House of Representatives elected from

its region, for appointment to the National Executive Council; and

- (ii) appointing one of the nominated members.

Part 3—The President

93 Qualifications and disqualifications

- (1) A person is qualified as a candidate for election as President if the person—
 - (a) is qualified as a candidate for election to the House of Representatives; and
 - (b) is at least 50 years, and no more than 70 years, of age; and
 - (c) is a citizen of Bougainville by birth; and
 - (d) has extensive public or private sector experience; and
 - (e) has no criminal record; and
 - (f) is medically fit; and
 - (g) has high moral, Christian and customary values; and
 - (h) is not disqualified under subsection (2).
- (2) A person is disqualified from being a candidate for election as President if the person—
 - (a) does not meet each of the qualification requirements under subsection (1); or
 - (b) is a candidate for election to the House of Representatives; or
 - (c) has already served 2 full terms as President of the Republic.
- (3) A person is disqualified from being or remaining President if the person ceases to be qualified as a candidate for election to the House of Representatives.

94 Election of President

- (1) The President is directly elected by the electors of Bougainville in a general election or a special election.

- (2) For the election of a President, the whole of the Republic of Bougainville is a single constituency.
- (3) The President assumes office on taking the oath of office set out in schedule 7, administered by the Chief Justice.

95 Special election of President

- (1) If the office of President becomes vacant under section 97(2) before the 4th anniversary of the previous return day, a special election must be held to fill the office of President.
- (2) Section 60(2) and (3) apply, with necessary modifications, to the special election.
- (3) If the office of President becomes vacant under section 97(2) on or after the 4th anniversary of the previous return day, the Vice President assumes the office of President.

96 Functions and powers of President

- (1) The President is the Head of State and the Head of Government.
- (2) The President presides at meetings of the National Executive Council at which the President is present.
- (3) The President represents the Republic of Bougainville in international relations and on ceremonial occasions.

97 Vacation of office

- (1) The President ceases to hold office on the assumption of office by a new President following a general election or a special election.
- (2) Also, the office of President becomes vacant if the President—
 - (a) resigns in writing given to the Speaker; or
 - (b) becomes disqualified under section 93(3); or
 - (c) is recalled under section 81; or
 - (d) is removed from office for incapacity or misconduct in accordance with schedule 6; or
 - (e) dies.

Part 4—The Vice President

98 Appointment of Vice President

- (1) The President must appoint a Vice President from among the members of the House of Representatives from a region other than the President's region.
- (2) The Vice President assumes office on taking the oath of office set out in schedule 7, administered by the President.
- (3) The President may dismiss the Vice President from office at any time and on dismissal the person ceases to be a member of the National Executive Council.

99 Functions of Vice President

The Vice President—

- (a) acts in the role of President whenever the President is absent or unable to act in the office; and
- (b) assumes the office of President in the circumstances mentioned in section 95(3); and
- (c) performs other functions prescribed by law.

CHAPTER 8 – THE COURTS, JUSTICE AND THE RULE OF LAW

Part 1—The judiciary

100 Judicial power

- (1) The judicial power of the Republic of Bougainville is vested in—
 - (a) the Supreme Court; and
 - (b) subordinate courts established by law.
- (2) The courts and the judicial officers constituting the courts are known collectively as *the judiciary*.

101 Qualifications and appointment of judges

- (1) A person is qualified for appointment as a judge of the Supreme Court or a subordinate court if the person—

- (a) has demonstrated competence and integrity; and
 - (b) has been entitled to practise as a lawyer in Bougainville or another jurisdiction prescribed by law for at least 5 years.
- (2) Each judge is appointed by the Judicial and Legal Appointments Commission.

102 Assumption and vacation of judicial office

- (1) A person appointed as a judge assumes office when they take the oath or affirmation of office set out in schedule 7, administered by—
- (a) in the case of the Chief Justice—a member of the Judicial and Legal Appointments Commission; or
 - (b) in the case of any other judge—the Chief Justice.
- (2) A judge vacates their judicial office if the judge—
- (a) resigns in writing—
 - (i) in the case of the Chief Justice—given to the Judicial and Legal Appointments Commission; or
 - (ii) the case of any other judge—given to the Chief Justice; or
 - (b) reaches the age of 70 years or an older age prescribed by law; or
 - (c) is removed from office for incapacity or misconduct in accordance with schedule 6; or
 - (d) dies.

103 Bougainville Supreme Court

The Bougainville Supreme Court (the *Supreme Court*) consists of—

- (a) the Chief Justice, who is the head of the judiciary; and
- (b) the number of other judges prescribed by law.

104 Jurisdiction of Supreme Court

- (1) The Supreme Court has—
- (a) original and exclusive jurisdiction to determine any question arising under or involving the interpretation or effect of this Constitution; and

- (b) advisory jurisdiction under section 105; and
 - (c) the inherent jurisdiction of a superior court of record; and
 - (d) the other jurisdiction set out in this Constitution and provided by law.
- (2) If a question arising under or involving the interpretation or effect of this Constitution arises in a court or tribunal other than the Supreme Court—
- (a) the court or tribunal must—
 - (i) refer the matter to the Supreme Court (unless the question is trivial, vexatious or irrelevant); and
 - (ii) take whatever other action may be appropriate (including, for example, adjourning proceedings); and
 - (b) the Supreme Court must determine the question and either—
 - (i) dispose of the matter; or
 - (ii) remit it back to the other court or tribunal to be disposed of in accordance with the determination.
- (3) The Supreme Court may, when it is in the interests of justice, give permission to any person to—
- (a) bring a matter directly before it; or
 - (b) appeal directly to it from any court.
- (4) The Supreme Court may, on deciding a matter, grant any remedy and make any order or declaration it considers appropriate, subject to law.
- (5) The Supreme Court is a superior court of record, and decisions of the Supreme Court are binding on all other courts in Bougainville.

105 Advisory jurisdiction—special references to Supreme Court

- (1) The Supreme Court has jurisdiction, on a special reference made under this section, to give its opinion on any question involving the interpretation or effect of this Constitution, including any question about the validity of a law or proposed law.
- (2) A special reference—

- (a) may be made only by any of the following state bodies or public officers—
 - (i) the House of Representatives;
 - (ii) the National Executive Council;
 - (iii) the Speaker;
 - (iv) a legislative or executive body of a sub-national or local government;
 - (v) the Ombudsman and Integrity Commission;
 - (vi) the Peace, Truth and Reconciliation Commission;
 - (vii) the Director of Public Prosecutions;
 - (viii) the Public Solicitor;
 - (ix) on a question about whether a member of the House of Representatives has vacated their seat under section 68 following a declaration by the Speaker under section 69(3)—the member the subject of the declaration; and
 - (b) must state the constitutional question on which the court’s opinion is sought.
- (3) An opinion given by the Supreme Court on a special reference has the same binding effect as any other decision of the Supreme Court.
- (4) Subject to any law, the rules of court of the Supreme Court may provide for matters relating to the court’s advisory jurisdiction under this section, including the following—
- (a) the form in which constitutional questions are to be stated in a special reference;
 - (b) giving notice and rights of appearance to persons or bodies with an interest in a special reference;
 - (c) the provision of adequate counsel to the body or officer making the special reference, or interested person being heard on a special reference, to enable full argument on the constitutional question before the court;
 - (d) circumstances in which the court may decline to give an opinion.

106 Judicial independence and authority

- (1) The judiciary is independent and subject only to the Constitution and the law, which it must apply without fear, favour or prejudice.
- (2) No person or state body may interfere with the courts' exercise of judicial power or unreasonably interfere with the administrative operation of the courts.
- (3) The remuneration and benefits payable to a judge—
 - (a) are determined by the Judicial and Legal Appointments Commission in consultation with the Salaries and Benefits Commission; and
 - (b) must not be reduced or varied to the disadvantage of the judge while they hold office; and
 - (c) are a charge on the consolidated fund.
- (4) The National Executive Council has a duty to ensure that the judiciary has sufficient financial and other resources to properly perform its functions.
- (5) The National Executive Council and each government service has a duty to ensure that the judiciary is properly supported in the independent performance of its functions and not subject to any purported direction or control.
- (6) The judiciary—
 - (a) has control of its own budget and finances, as approved by the House of Representatives; and
 - (b) may make its own rules of court, subject to this Constitution and to law.
- (7) An order or decision made by a court binds all persons to whom, and state bodies to which, it applies.
- (8) A member of the judiciary is protected from civil or criminal action for anything said or done, or omitted to be done, in the performance of a judicial function.

Part 2—Justice and the rule of law

107 Rule of law

- (1) The rule of law assures that the authority entrusted to state bodies and public officers is not exercised arbitrarily.
- (2) Justice under the rule of law dictates that laws must—
 - (a) be coherent and understandable; and
 - (b) be easy to access; and
 - (c) apply to all persons equally; and
 - (d) be sufficiently certain, so that people can predict how the law applies to their conduct; and
 - (e) be reasonable and capable of compliance; and
 - (f) respect liberty and fundamental rights.
- (3) In applying the rule of law—
 - (a) officers of the court must act fairly and with integrity; and
 - (b) prosecutorial discretion must be exercised fairly and reasonably; and
 - (c) justice must not be hindered or delayed by undue regard to procedural technicalities; and
 - (d) access to the courts must not be frustrated by geographic, procedural or financial impediments; and
 - (e) alternative forms of dispute resolution may be applied in appropriate cases as provided by law or custom.
- (4) In this section, an ***officer of the court*** is any person who has an official role in the administration of justice, including a judge, lawyer, clerk, bailiff or justice of the peace.

108 The legal profession

- (1) The independence and integrity of the judiciary requires an independent legal profession, whose members fearlessly protect the rule of law while serving the court and the interest of their clients, including in the bringing, presenting and arguing matters before the courts.

- (2) The House of Representatives may provide for the regulation of the practice of law, but state bodies must not—
 - (a) harass or intimidate lawyers or their clients, or interfere in their relationship or infringe on lawyer-client privilege; or
 - (b) undermine the independent governance of the legal profession.

109 The Public Solicitor

- (1) The Public Solicitor is established as an independent public office.
- (2) A person is eligible for appointment as the Public Solicitor if the person has been entitled to practise as a lawyer in Bougainville or another jurisdiction prescribed by law for at least 5 years.
- (3) The core functions of the Public Solicitor are to provide legal aid, advice and assistance to persons in need of the Public Solicitor's help, as provided by law.

110 The Director of Public Prosecutions

- (1) The Director of Public Prosecutions is established as an independent public office.
- (2) A person is eligible for appointment as the Director of Public Prosecutions if the person has been entitled to practise as a lawyer in Bougainville or another jurisdiction prescribed by law for at least 5 years.
- (3) The core functions of the Director of Public Prosecutions are—
 - (a) to exercise independent prosecutorial discretion about which alleged offences to prosecute; and
 - (b) to institute and conduct criminal proceedings on behalf of the Republic.
- (4) The Director of Public Prosecutions may—
 - (a) take over criminal proceedings started by another person or authority, either with the consent of the person or body or with the approval of the court; and
 - (b) discontinue proceedings with the approval of the court; and

- (c) bring or decline to bring proceedings for criminal misconduct on referral from the Ombudsman and Integrity Commission under section 20; and
 - (d) delegate functions or powers to a suitably qualified person employed in the Director’s office.
- (5) In performing the functions given to the Director of Public Prosecutions under this Constitution or by law, the Director must have regard to and act in accordance with—
- (a) the public interest; and
 - (b) the interests of the administration of justice; and
 - (c) the need to prevent and avoid abuse of the legal process.

CHAPTER 9 – INDEPENDENT PUBLIC OFFICES AND OTHER PUBLIC OFFICES

Part 1—Independent public offices generally

111 Establishment and objects of independent public offices

- (1) This Constitution establishes the following independent public offices as an essential feature of constitutional democracy in the Republic of Bougainville—
- (a) Auditor General;
 - (b) Boundaries Commissioner;
 - (c) Director of Public Prosecutions;
 - (d) Electoral Commissioner;
 - (e) Bougainville Human Rights Commission;
 - (f) Ombudsman and Integrity Commission;
 - (g) Peace, Truth and Reconciliation Commission;
 - (h) Public Solicitor;
 - (i) Public Sector Commission;
 - (j) Teaching Service Commission.

- (2) The establishment and independence of each of the independent public offices serves to—
 - (a) protect the sovereignty of the people and the public interest; and
 - (b) uphold the rule of law.

112 Independence of independent public offices

- (1) Each independent public office—
 - (a) is a legal person that is independent and subject only to this Constitution and to law; and
 - (b) must perform the functions of the office impartially.
- (2) The National Executive Council has a duty to ensure that each independent public office has sufficient financial and other resources to properly perform its functions.
- (3) The National Executive Council and each government service has a duty to ensure that each independent public office is properly supported in the independent performance of its functions and not subject to any purported direction or control.
- (4) Each independent public office—
 - (a) has independent authority to control its own budget and finances and direct its own activities; and
 - (b) is not subject to the direction or control of any other person or body.
- (5) In performing the functions of an independent public office, a person has no civil, criminal or administrative liability for any act or omission done in good faith.
- (6) The salary and benefits of a person who holds or is a member of an independent public office—
 - (a) are determined under a framework decided by the Salaries and Benefits Commission under section 124; and
 - (b) must not be reduced while the person is in office; and
 - (c) are a charge on the consolidated fund.

- (7) A person who holds or is a member of an independent public office may be removed from the office only in accordance with section 115(5) and schedule 6.

113 Authority of independent public offices

- (1) Each independent public office has, in addition to the functions given to it by this Constitution, any other functions given to it by law.
- (2) If an independent public office has the authority to receive and investigate complaints, it also has the authority to do any of the following—
 - (a) dismiss a complaint it reasonably regards as frivolous, vexatious or without merit;
 - (b) facilitate the resolution of a complaint by mediation or conciliation;
 - (c) issue a notice, following an investigation, requiring a state body or person to take a particular action or stop a particular action or practice;
 - (d) apply to the Supreme Court to have a notice issued under paragraph (c) endorsed as an order of the court if it has not been complied with within a reasonable time;
 - (e) refer a matter to the Director of Public Prosecutions if it appears to involve an offence under any law.
- (3) The Auditor General, the Ombudsman and Integrity Commission, the Bougainville Human Rights Commission and the Peace, Truth and Reconciliation Commission each has the same powers as a superior court in relation to—
 - (a) the attendance and examination of witnesses; and
 - (b) the administration of general oaths or affirmations; and
 - (c) the production of documents.
- (4) Each independent public office has the authority to—
 - (a) accept from a member of the public any complaint, application or submission that should properly be directed to another independent public office; and

- (b) with proper written notice to the member of the public, redirect the complaint, application or submission to the appropriate independent public office.

114 Accountability of independent public offices

- (1) Each independent public office must observe the following principles—
 - (a) accessibility and approachability;
 - (b) simplicity and clarity in all procedures and documentation;
 - (c) speed, efficiency and responsiveness.
- (2) Each independent public office—
 - (a) is accountable to the people through the House of Representatives; and
 - (b) must, within 3 months after the end of each year, deliver to the Speaker for tabling in the House of Representatives an annual report about its activities and the performance of its functions; and
 - (c) may produce other reports, each of which must be—
 - (i) given to the Speaker for tabling in the House of Representatives; and
 - (ii) publicised and made available to the public.

115 Appointment and vacation of office

- (1) Each holder or member of an independent public office is (unless otherwise provided by this Constitution) appointed by the Senior Appointments Committee, except the Director of Public Prosecutions and the Public Solicitor, who are appointed by the Judicial and Legal Appointments Commission.
- (2) A person is eligible for appointment as the holder or a member of an independent public office only if the person—
 - (a) has the knowledge, experience and personal qualities appropriate for the office; and
 - (b) meets any requirements for the particular office stated elsewhere in this Constitution; and

- (c) is not disqualified under subsection (3).
- (3) A person is disqualified if the person is—
 - (a) a member of the House of Representatives or an elected member of any other formal level of government; or
 - (b) a candidate for election to the House of Representatives or to any other formal level of government; or
 - (c) an office-bearer in a political party; or
 - (d) disqualified from election to or membership of the House of Representatives under section 68.
- (4) A person appointed to an independent public office assumes office when they take the oath or affirmation of office set out in schedule 7, administered by the Chief Justice.
- (5) A holder or member of an independent public office vacates office if the person—
 - (a) resigns in writing given to the body that appointed them; or
 - (b) becomes disqualified under subsection (3); or
 - (c) is removed from office for incapacity or misconduct in accordance with schedule 6; or
 - (d) dies.

Part 2—Establishment of particular independent public offices

116 Ombudsman and Integrity Commission

- (1) The Ombudsman and Integrity Commission is established as an independent public office.
- (2) The core functions of the Ombudsman and Integrity Commission are set out in section 18.
- (3) The Ombudsman and Integrity Commission consists of—
 - (a) the Ombudsman and Integrity Commissioner; and
 - (b) any assistant commissioners provided by law; and
 - (c) the staff of the Commission.

117 Boundaries Commissioner

- (1) The Boundaries Commissioner is established as an independent public office.
- (2) The core functions of the Boundaries Commissioner are set out in section 58.
- (3) To be eligible for appointment to the office of Boundaries Commissioner, a person must have—
 - (a) at least 5 years' relevant experience; or
 - (b) a demonstrated understanding of the matters mentioned in section 58(2) and (3).

118 Electoral Commissioner

- (1) The Electoral Commissioner is established as an independent public office.
- (2) The core functions of the Electoral Commissioner are issuing writs for, and conducting, elections and referendums.
- (3) To be eligible for appointment to the office of Electoral Commissioner, a person must have—
 - (a) experience in administering elections; or
 - (b) qualifications in law or public administration.

119 Peace, Truth and Reconciliation Commission

- (1) The Peace, Truth and Reconciliation Commission is established as an independent public office.
- (2) The Commission consists of a chairperson and any other members provided by law.
- (3) The core functions of the Commission are—
 - (a) promoting peace; and
 - (b) investigating truth, in relation to historical events in and related to Bougainville, including, in particular, the Bougainville conflict; and
 - (c) facilitating conflict resolution, reconciliation and social cohesion; and

- (d) recommending measures to prevent the recurrence of human rights abuses, injustices and conflicts in the future.

120 Public Sector Commission

- (1) The Public Sector Commission is established as an independent public office.
- (2) The Public Sector Commission consists of the Public Sector Commissioner and the staff of the Commission.
- (3) The core functions of the Public Sector Commission are—
 - (a) the review of personnel matters relating to the public service and other government services; and
 - (b) continuous review of the government services (other than the teaching service) and other state bodies, and advising the National Executive Council and the heads of the government services on organisational matters.
- (4) The Public Sector Commission—
 - (a) must take into account the policy of the government when advising the National Executive Council and performing its other functions; and
 - (b) does not have power to direct or control a government service or a state body.

121 Teaching Service Commission

- (1) The Teaching Service Commission is established as an independent public office.
- (2) The Teaching Service Commission consists of the Teaching Service Commissioner and the staff of the Commission.
- (3) The core functions of the Commission are—
 - (a) the review of personnel matters relating to the teaching service, including, for example, whether the training, recruitment and performance of the teaching service is sufficient for the proper fulfilment of the service's functions; and
 - (b) registration and recognition of personnel engaged in the teaching service; and

- (c) continuous review of the teaching service, and advising the Minister responsible for education on organisational matters relating to the teaching service.
- (4) The Teaching Service Commission—
 - (a) must take into account the policy of the government when advising the Minister and performing its other functions; and
 - (b) does not have power to direct or control the Minister, the secretary of the department responsible for education, or (other than for registration purposes) any personnel engaged in the teaching service.

Part 3—Other public offices

122 Judicial and Legal Appointments Commission

- (1) The Judicial and Legal Appointments Commission is established as a public office.
- (2) The Commission consists of—
 - (a) the Chief Justice, who is the chairperson; and
 - (b) the President, or a Minister nominated by the President; and
 - (c) the Leader of the Opposition, if any, or a member of the House of Representatives nominated by the Leader of the Opposition; and
 - (d) a person who is a lawyer entitled to practise in Bougainville, appointed by the Senior Appointments Committee; and
 - (e) a chief or other traditional leader appointed by the Bougainville Chiefs Congress.
- (3) The core functions of the Judicial and Legal Appointments Commission are—
 - (a) the appointment of judges under section 101(2); and
 - (b) the appointment of the Director of Public Prosecutions and the Public Solicitor under section 115(1); and
 - (c) the removal of those public officers for incapacity or misconduct in accordance with schedule 6.

- (4) If the Judicial and Legal Appointments Commission is exercising a function in relation to the selection and appointment of the Chief Justice or the removal of the Chief Justice for incapacity or misconduct under schedule 6, the chairperson of the Commission is the President.

123 Senior Appointments Committee

- (1) The Senior Appointments Committee is established as a public office.
- (2) The Senior Appointments Committee consists of the following members—
 - (a) the President;
 - (b) the Speaker;
 - (c) the Leader of the Opposition, if any;
 - (d) a person appointed to represent the women of Bougainville;
 - (e) a person appointed to represent the churches of Bougainville;
 - (f) a practising lawyer nominated by a professional body that represents lawyers.
- (3) The President is the chair of the Senior Appointments Committee, and if the President is unavailable, the Speaker is to act as the chair.
- (4) The core functions of the Senior Appointments Committee are—
 - (a) the appointment of public officers other than judges; and
 - (b) the removal of public officers other than judges for incapacity or misconduct in accordance with schedule 6.

124 Salaries and Benefits Commission

- (1) The Salaries and Benefits Commission is established as a public office.
- (2) The Salaries and Benefits Commission consists of the following members—
 - (a) the Speaker, who is the chairperson; and
 - (b) the Chief Justice or a nominee of the Chief Justice who must be a judge or a lawyer;
 - (c) the Minister responsible for finance;
 - (d) the Chief Secretary;

- (e) 2 other members, at least one of whom must be a woman.
- (3) To be eligible for appointment under subsection (2)(e) a person must have—
 - (a) significant experience in public finance, public administration or human resource management; or
 - (b) qualifications in law, accounting or business administration.
- (4) The core functions of the Salaries and Benefits Commission are—
 - (a) to decide on a framework for the determination of the salaries and benefits of public officers; and
 - (b) to recommend to the House of Representatives a proposed law that provides for the salaries and benefits of public officers.
- (5) The framework must be—
 - (a) reviewed at least once every 2 years; and
 - (b) publicly available.
- (6) The House of Representatives may accept or reject, but may not amend, the provisions of a proposed law recommended under subsection (4).

CHAPTER 10 – PUBLIC FINANCE

125 Principles of public finance

The following principles apply to public finance in Bougainville—

- (a) state bodies must promote public participation, transparency and accountability in public financial decision making and reporting;
- (b) the public finance system must promote a just society, and in particular—
 - (i) the burden of taxation must be shared fairly; and
 - (ii) expenditure must promote the fair and balanced development of the nation; and
 - (iii) the burdens and benefits of the use of resources and public borrowing must be shared equitably between present and future generations;

- (c) public money must be managed in a prudent and responsible way, and fiscal reporting must be clear.

126 Annual presentation of the budget

- (1) Each year, no later than 30 November, the Minister responsible for finance must present to the House of Representatives a budget for the next financial year.
- (2) Each budget must contain, for the financial year to which it relates—
 - (a) estimates of revenue and expenditure for the Republic and each state body; and
 - (b) a statement setting out the ways in which, and extent to which, the budget—
 - (i) reflects the public finance principles; and
 - (ii) is directed towards achieving the social and economic objectives; and
 - (iii) fulfils the duty under section 106(4) to ensure that the judiciary has sufficient financial and other resources to properly perform its functions; and
 - (iv) fulfils the duty under section 112(2) to ensure that each independent public office has sufficient financial and other resources to properly perform its functions; and
 - (c) proposals for financing any anticipated annual budget deficit or using any annual budget surplus; and
 - (d) an indication of proposed borrowing and other anticipated public debt; and
 - (e) multi-year projections or objectives for total revenue and expenditure, budget balance, borrowing and debt.
- (3) The House of Representatives must provide by law for the way annual estimates for each state body are to be prepared, including appropriate mechanisms for preparing the estimates of independent public offices in a way that promotes their independence.

127 Expenditure before budget is passed

- (1) If the Appropriation Act for a financial year has not been enacted by the start of the financial year, the Minister responsible for finance may authorise the withdrawal of money from the consolidated fund for the services of the government for which funds were appropriated in the previous financial year.
- (2) The withdrawal—
 - (a) for each month must not exceed 1/12 of the total annual appropriations authorised for the previous financial year; and
 - (b) is subject to any other limits or conditions prescribed by law.
- (3) The Minister must not authorise the withdrawal of money under this section for any period that extends more than 4 months beyond the start of the financial year.

128 Consolidated fund

- (1) All taxes, duties, fees, charges and other revenues of the Republic are to form 1 consolidated fund to be appropriated in the way, and subject to the charges, provided in this Constitution and otherwise prescribed by law.
- (2) The consolidated fund is permanently charged with the costs, charges and expenses relating to the collection and management of the consolidated fund.
- (3) An amount may be paid or withdrawn from the consolidated fund only if—
 - (a) the amount relates to a standing charge on the consolidated fund; or
 - (b) the payment is authorised under an Act stating the purpose of the payment.
- (4) In this section, ***standing charge***, on the consolidated fund, means a charge on the consolidated fund that is mentioned in this Constitution.

129 Sovereign wealth fund

- (1) The House of Representatives must provide for—
 - (a) the establishment of a sovereign wealth fund; and

- (b) the regular payment into that fund of amounts, appropriated from the consolidated fund, that represent a prescribed portion of revenue derived from the extraction and development of natural resources.
- (2) The law contemplated in subsection (1) must provide for—
 - (a) the prudent investment and responsible management of the sovereign wealth fund; and
 - (b) the growth and preservation of the capital of the fund.
- (3) Amounts paid into the sovereign wealth fund constitute the capital of the fund.
- (4) Interest earned on the investment of the sovereign wealth fund is revenue of the Republic, and may be appropriated by law in accordance with this chapter.
- (5) The capital of the sovereign wealth fund may be appropriated only by a law passed by a three-quarters absolute majority of the House of Representatives.

130 Requirement to pay tax, duty, fee or other charge

A requirement to pay a tax, duty, fee or other charge of the Republic must be authorised under an Act.

131 Financial initiative of executive

- (1) A proposed law to impose a requirement to pay a tax, duty, fee or other charge of the Republic may not be initiated or enacted except on the recommendation of the National Executive Council.
- (2) A proposed law for the appropriation of an amount from the consolidated fund or the sovereign wealth fund may not be initiated or enacted except on the recommendation of the National Executive Council.

132 Public Accounts Committee

The core function of the Public Accounts Committee established under section 76(1)(a) is to hold state bodies and public officers to account for the lawfulness, efficiency and effectiveness of their use of public money, including by—

- (a) examining the public accounts of the Republic, including reports prepared by the Auditor General; and
- (b) reporting to the House of Representatives on its examinations and findings.

133 Auditor General

- (1) The Auditor General is established as an independent public office.
- (2) To be eligible for appointment to the office of Auditor General a person must have—
 - (a) significant experience in the examination of public accounts; or
 - (b) a tertiary qualification in accounting, actuarial studies, finance, law or another relevant discipline.
- (3) The core functions of the Auditor General are to inspect and audit, and to report to the House of Representatives at least once in each financial year on—
 - (a) the consolidated fund; and
 - (b) the sovereign wealth fund; and
 - (c) the accounts of each state body and public office.

134 Internal Revenue Commission

- (1) The Internal Revenue Commission is established as a government agency.
- (2) The Internal Revenue Commission consists of—
 - (a) the Commissioner of Taxation; and
 - (b) the staff of the Commission.
- (3) The core functions of the Internal Revenue Commission are tax administration and revenue collection.
- (4) The House of Representatives—
 - (a) must provide for a transparent system of tax administration that is consistent with the public finance principles; and
 - (b) may provide for the way the Commission is to perform its core functions and any other functions prescribed by law.

135 Central bank

- (1) The House of Representatives may provide by law for the establishment of a central bank.
- (2) A central bank established by a law contemplated in subsection (1)—
 - (a) is an independent public office; and
 - (b) is to have the following core functions—
 - (i) overseeing the monetary system of the Republic;
 - (ii) regulating the Republic’s money supply;
 - (iii) setting interest rates.

CHAPTER 11 – GOVERNMENT SERVICES

136 Government services

- (1) The House of Representatives must provide for the following **government services** to be established by law—
 - (a) the public service, headed by the Chief Secretary;
 - (b) the police force, headed by the Police Commissioner;
 - (c) the corrective service, headed by the Corrective Services Commissioner;
 - (d) the teaching service, headed by the secretary of the department responsible for education.
- (2) The head of each government service is to be responsible to the National Executive Council, through the Minister responsible for the relevant service, for—
 - (a) the exercise of the functions of the head of the service; and
 - (b) the efficient operation and performance of the service.

137 Bougainville Services Training College

- (1) The House of Representatives must, when it considers it convenient, provide by law for the establishment of a Bougainville Services Training College, which is to be a state body.

- (2) The core function of the College is to be the provision of professional and practical training for officers and employees of government services and other state bodies.

138 Defence force

- (1) The House of Representatives may provide by law for the establishment of a defence force.
- (2) A person is eligible to be appointed to or employed in a defence force established by a law contemplated in subsection (1) only if the person is a citizen who has reached age 18.
- (3) A defence force established by law—
 - (a) is not to have an office of commander-in-chief; and
 - (b) is to be subject to the supervision, direction and control of the National Executive Council; and
 - (c) is to be subject to law in the same way as other bodies and persons.

CHAPTER 12 – THIS CONSTITUTION

Part 1—General

139 Commencement

This Constitution commences on the day determined by the Bougainville Constituent Assembly to be independence day.

140 Definitions

The dictionary in schedule 8 defines particular words used in this Constitution.

141 Interpretation

- (1) This Constitution is to be read and construed in accordance with its text, context and purpose.
- (2) Despite any circumstance in which a provision of this Constitution may not yet have been fully implemented or realised, the Supreme Court must give effect to the provision to the greatest extent practicable having regard to each of the following—

- (a) the preamble;
 - (b) the core values;
 - (c) the guiding principles;
 - (d) the social and economic objectives;
 - (e) other laws applying in Bougainville (including the underlying law);
 - (f) general principles of justice.
- (3) The preamble and the schedules to this Constitution form part of the Constitution.
- (4) The following materials may be used as aids to interpretation (so far as they are relevant) if a question arises about the interpretation of this Constitution—
- (a) the official record of the proceedings and debates of the Bougainville Constitution Planning Commission;
 - (b) the official record of the proceedings and debates of the Bougainville Constituent Assembly;
 - (c) any other papers used or tabled for the purpose of, or in connection with, the debates and proceedings mentioned in paragraphs (a) and (b).
- (5) The House of Representatives must provide for—
- (a) the identification of the papers mentioned in subsection (4)(c);
and
 - (b) the manner of proof of the records and papers mentioned in subsection (4).

142 Enforcement of the Constitution

- (1) In exercising its jurisdiction under section 104(1)(a), the Supreme Court may make any order it considers appropriate to remedy a breach of this Constitution.
- (2) To avoid doubt, in this section, breach of this Constitution includes any of the following—
- (a) failure to follow a procedure or fulfil a requirement prescribed by the Constitution;

- (b) failure to fulfil a duty imposed by the Constitution;
- (c) acting without or beyond authority governed by the Constitution.

143 Progressive implementation

- (1) It is the intention of the people of Bougainville that this Constitution will be implemented and realised over time, and will evolve accordingly, having regard to available resources and to the needs and priorities of the Republic.
- (2) In particular, it is recognised that the creation of the bodies mentioned in the following provisions may not occur on independence day, but will be progressively implemented—
 - (a) section 116 (Ombudsman and Integrity Commission);
 - (b) section 117 (Boundaries Commissioner);
 - (c) section 118 (Electoral Commissioner);
 - (d) section 119 (Peace, Truth and Reconciliation Commission);
 - (e) section 120 (Public Sector Commission);
 - (f) section 121 (Teaching Service Commission);
 - (g) section 122 (Judicial and Legal Appointments Commission);
 - (h) section 123 (Senior Appointments Committee);
 - (i) section 124 (Salaries and Benefits Commission);
 - (j) section 133 (Auditor General);
 - (k) section 134 (Internal Revenue Commission).
- (3) However, nothing in this section limits or otherwise alters the effect of any of the following—
 - (a) chapters 1 to 3;
 - (b) chapter 4 other than part 3 and section 56;
 - (c) chapters 5 to 8, and any provision relating to the three arms of national government;
 - (d) chapter 9, part 1, in its application to any independent public office that has been implemented;

- (e) chapter 10;
- (f) chapters 12–14.

144 Accessibility of the Constitution

- (1) The National Executive Council must strive to ensure that this Constitution is accessible to the people of Bougainville.
- (2) Without limiting the duty under subsection (1), the National Executive Council must—
 - (a) arrange for this Constitution to be translated into Tok Pisin and as many tok ples as practicable; and
 - (b) arrange for the preparation and wide circulation of explanatory material about the Constitution in English, Tok Pisin and as many tok ples as practicable.

Part 2—Alterations to this Constitution

145 Procedure for altering the Constitution

- (1) This Constitution may be altered only by law enacted in accordance with this part.
- (2) A proposed law to alter the Constitution may not be passed by the House of Representatives unless—
 - (a) the consultation requirements in section 146(1) have been met before the proposed law is introduced; and
 - (b) it is approved by the special majority stated in subsection (3) in 2 votes of the House of Representatives separated by at least 60 days; and
 - (c) before the second vote, the consultation requirements in section 146(3) have been met.
- (3) The special majority required in a vote to approve a proposed law to alter the Constitution is—
 - (a) for an alteration to a specially entrenched provision—a three-quarters absolute majority; or
 - (b) for an alteration to any other provision of the Constitution, a two-thirds absolute majority.

- (4) In addition to the special majority mentioned in subsection (3)(a), a proposed law for an alteration to a specially entrenched provision must not be submitted for the certificate of the Speaker unless, after it has been passed by the House of Representatives, it has been approved by at least two-thirds of the votes validly cast in a referendum.
- (5) The Speaker's certificate for a law to alter the Constitution must certify—
 - (a) that the requirements of subsections (2) and (3) were complied with; and
 - (b) the date on which the 2 votes to pass the law were taken; and
 - (c) the number of seats in the House of Representatives at the times the votes were taken and the respective numbers of members voting for and against the proposed law on each occasion; and
 - (d) for a law to alter a specially entrenched provision—that the Speaker has received a certificate from the Electoral Commissioner certifying that the proposed law has been approved by at least two-thirds of the votes validly cast in a referendum.
- (6) However, unless the House of Representatives decides otherwise in a particular case, subsections (2) to (5) and section 146 do not apply if the Speaker, after consultation with the Chief Justice, certifies that the proposed law alters the Constitution only—
 - (a) in a way that does not affect the substance of the provision to be altered; or
 - (b) to correct an obvious and minor error or omission; or
 - (c) in a way that is incidental to or consequential on some other alteration of the Constitution.
- (7) A person is qualified to vote at a referendum only if, at the time the referendum is held, the person is qualified to vote in an election.
- (8) The House of Representatives must provide for the way in which a referendum on a proposed law to alter a specially entrenched provision is to be conducted.
- (9) In this section—

alteration or **alter** includes repeal.

especially entrenched provision means any of the following—

- (a) a provision of chapter 4;
- (b) a provision of chapter 9, part 1;
- (c) a provision that establishes an independent public office;
- (d) section 129;
- (e) this section or section 146.

146 Consultation requirements

- (1) Before a proposed law to alter the Constitution is introduced to the House of Representatives, the National Executive Council or the member who initiated the proposed law must consult, in the way prescribed by law, with—
 - (a) the head of each sub-national and local government; and
 - (b) the Bougainville Chiefs Congress; and
 - (c) representatives of the churches in Bougainville.
- (2) The National Executive Council or the initiating member must—
 - (a) prepare a report summarising the views gathered in the consultation process; and
 - (b) table the report in the House of Representatives before the proposed law is introduced.
- (3) Before the second vote on a proposed law to alter the Constitution is taken in the House of Representatives, the National Executive Council or the initiating member must conduct public consultation by doing both of the following in the way prescribed by law—
 - (a) holding at least one open public meeting in each of the four regions of Bougainville to discuss the proposed law;
 - (b) inviting written submissions from members of the public in relation to the proposed law.

Part 3—Periodic review of this Constitution

147 Review of the Constitution

- (1) The National Executive Council must ensure the operation of this Constitution is reviewed at intervals of not more than 15 years.
- (2) The House of Representatives must provide for—
 - (a) the process for appointment of an independent and appropriately qualified person or body to conduct a review under this section; and
 - (b) the way a review under this section is to be conducted.
- (3) The person or body conducting a review under this section must give the President a report on their findings, and the President must table the report in the House of Representatives within 3 sitting days after receiving the report.
- (4) Nothing in this section limits or affects the power of the House of Representatives to consider and pass a law for the amendment of the Constitution at any time in accordance with part 2 of this chapter.

CHAPTER 13 – EMERGENCY POWERS

148 Declaration of emergency

- (1) The National Executive Council may declare a state of emergency if it is satisfied an emergency exists that threatens public safety or the security or economy of Bougainville.

Examples—

Natural or man-made disaster, war or imminent threat of war, threat to supplies or services essential to life.

- (2) The declaration must—
 - (a) state the nature of the emergency; and
 - (b) be notified in the Gazette; and
 - (c) be published and conveyed as widely as practicable.
- (3) A state of emergency—
 - (a) starts when the emergency declaration is notified; and

- (b) ends when the emergency declaration expires or is revoked.
- (4) An emergency declaration expires—
 - (a) 21 days after it is notified; or
 - (b) if, within 21 days of being notified, it is approved by an absolute majority resolution of the House of Representatives—6 months after the declaration is notified, or an earlier day stated in the resolution.
- (5) An emergency declaration may be revoked at any time by the President or the House of Representatives.

149 Emergency laws

- (1) An **emergency law** is an emergency order made under subsection (3) or a law enacted by the House of Representatives during, and in response to, a state of emergency.
- (2) The scope of an emergency law is limited by section 53.
- (3) During a state of emergency the National Executive Council may make any emergency orders it considers are reasonably required to—
 - (a) secure public safety; or
 - (b) maintain public order; or
 - (c) safeguard the interests or maintain the welfare of the people of Bougainville.
- (4) The House of Representatives may revoke an emergency order.
- (5) An emergency law—
 - (a) is not invalid by reason only that it provides for a matter that is provided for under another law or because of inconsistency with any law; and
 - (b) expires when the state of emergency ends.

150 House of Representatives control

- (1) During a state of emergency the House of Representatives must meet at intervals of not more than 2 months.

- (2) At each meeting of the House of Representatives during a state of emergency the President must present to the House a statement setting out—
 - (a) a report on the reasons for the emergency declaration and the current state of the circumstances giving rise to the emergency; and
 - (b) a report on the conduct of the emergency and the operation of any emergency law.

CHAPTER 14 – TRANSITIONAL PROVISIONS

Note: *the transitional provisions in this draft indicate the types of things that will need to be addressed in the transition from autonomous regional government to independence. However, the nature and scope of the transitional provisions in the final draft will depend on the outcome of the post-referendum decision-making process.*

151 Constitution Implementation Commission

- (1) The Constitution Implementation Commission is established.
- (2) The Constitution Implementation Commission consists of a chairperson and any other members provided by law, appointed by the Senior Appointments Committee.
- (3) To be eligible for appointment to the Constitution Implementation Commission a person must have significant experience in at least one of the following areas—
 - (a) public administration;
 - (b) constitutional law;
 - (c) human rights;
 - (d) legislation;
 - (e) project management.
- (4) The functions of the Constitution Implementation Commission are—
 - (a) to facilitate, monitor and oversee the development of legislation and administrative procedures required to implement this Constitution, while taking into account section 143; and

- (b) to work constructively with the National Executive Council and the public service in performing the function in paragraph (a); and
 - (c) to report regularly to the Constitutional Implementation Oversight Committee on—
 - (i) progress in the implementation of this Constitution; and
 - (ii) any impediments to the implementation of this Constitution and proposals for overcoming the impediments.
- (5) The Constitution Implementation Commission expires—
- (a) on the 5th anniversary of independence day; or
 - (b) if the House of Representatives resolves, before the 5th anniversary of independence day, that the Constitution Implementation Commission should continue beyond that day, on the later day that the House of Representatives resolves.

152 Constitutional Implementation Oversight Committee

- (1) The Constitutional Implementation Oversight Committee is established as a committee of the House of Representatives.
- (2) The Committee is responsible for overseeing the implementation of this Constitution, including by—
 - (a) receiving regular reports from the Constitution Implementation Commission about the matters mentioned in section 151(4)(c); and
 - (b) coordinating with Constitution Implementation Commission, the National Executive Council and the public service to ensure the timely introduction and passage of the laws required by this Constitution; and
 - (c) taking appropriate action on the reports, including addressing any impediments to the implementation of this Constitution.
- (3) The Constitutional Implementation Oversight Committee expires—
 - (a) on the 5th anniversary of independence day; or
 - (b) if the House of Representatives resolves, before the 5th anniversary of independence day, that the Committee should

continue beyond that day, on the later day that the House of Representatives resolves.

- (4) Nothing in this section limits or otherwise affects the power of the House of Representatives to establish, after the expiry of the Constitutional Implementation Oversight Committee, another committee with functions relating to implementation of the Constitution.

153 Existing laws

- (1) A law in force in Bougainville immediately before independence day, including a law of Papua New Guinea, continues in force, subject to this Constitution and to any amendment of that law made by the House of Representatives under this Constitution, until it is repealed.
- (2) However, subsection (1) does not apply to the following laws—
- (a) the Constitution of the Independent State of Papua New Guinea (1975);
 - (b) the Constitution of the Autonomous Region of Bougainville (2004).
- (3) If a matter that, under this Constitution, is to be prescribed or provided for by law is prescribed or provided for under a law continued in force under subsection (1), that matter has effect as if it had also been prescribed or provided for by a law enacted under this Constitution.
- (4) A reference in a law continued in force to an entity mentioned in column 1 of the following table is, unless the context otherwise requires, taken to be a reference to the entity established under this Constitution mentioned opposite in column 2—

Column 1	Column 2
Supreme Court of Papua New Guinea	Bougainville Supreme Court
National Court of Papua New Guinea	Bougainville Supreme Court
National Parliament of Papua New Guinea	House of Representatives
House of Representatives	House of Representatives
Bougainville Executive Council	National Executive Council
President of the Autonomous Region of Bougainville	President

Column 1	Column 2
Clerk of the House of Representatives	Clerk of the House of Representatives
Chief Secretary	Chief Secretary
Head of the Public Service	Chief secretary

- (5) All laws continued in force under this section are subject to this Constitution and must be read—
- (a) as if a reference to an office equivalent to a public office established under this Constitution were a reference to the equivalent public office established under or contemplated in this Constitution; and
 - (b) with all the other adaptations, qualifications and exceptions necessary to conform with this Constitution.

154 Existing underlying law

- (1) From independence day, subject to any provisional law and to this section, the underlying law of Papua New Guinea is the underlying law of the Republic of Bougainville.
- (2) Bougainville custom is part of the underlying law.
- (3) The common law of Papua New Guinea is part of the underlying law, except to the extent that it is—
 - (a) inconsistent with the applicable custom in any particular case; or
 - (b) inapplicable or inappropriate to the circumstances of the Republic.
- (4) The House of Representatives may—
 - (a) declare what constitutes, or is part of, the underlying law of the Republic; and
 - (b) provide for the development of the underlying law of the Republic.

155 Provisional laws

- (1) A provisional law made by the Bougainville Constituent Assembly before independence day takes effect on independence day as if it were a law enacted under this Constitution.

- (2) Also, despite any other provision of this Constitution, a provisional law for first appointments may take effect before independence day to the extent necessary to establish a provisional appointments body to make the first appointment to any of the following public offices (which appointments take effect on independence day)—
- (a) the first Chief Justice;
 - (b) the first Police Commissioner;
 - (c) the first Corrective Services Commissioner;
 - (d) the first Director of Public Prosecutions;
 - (e) the first Public Solicitor.

156 The first House of Representatives

- (1) The House of Representatives elected under the previous constitution at the last general election before independence day (the ***previous House of Representatives***) is the first House of Representatives under this Constitution.
- (2) The first House of Representatives continues until it is dissolved under section 66(3).
- (3) The Speaker and the Deputy Speaker of the previous House of Representatives are the Speaker and the Deputy Speaker of the first House of Representatives under this Constitution.
- (4) The standing orders of the previous House of Representatives are, until the House otherwise provides, the standing orders of the first House of Representatives.
- (5) For the dissolution of the first House, a reference in section 66(3) to the previous return day is taken to be a reference to the day fixed for the return of the writs for the last general election under the previous constitution.

157 The first executive

- (1) The President elected at the last general election under the previous constitution is the first President under this Constitution.
- (2) The Vice President in office under the previous constitution immediately before independence day is the first Vice President.

- (3) The Bougainville Executive Council appointed under the previous constitution and in existence immediately before independence day is the first National Executive Council.
- (4) Each member of the Bougainville Executive Council in office immediately before independence day is a member of the first National Executive Council.

158 Existing community government

- (1) A community government in existence under a Bougainville law immediately before independence day continues, subject to this section and in accordance with that law, until the House of Representatives otherwise provides.
- (2) A community government continued under this section is taken to be a local level of government mentioned in section 63(1)(c).

159 Oaths, etc.

- (1) Each of the following public officers, whether they are continuing in office or newly appointed, must, on independence day, take and subscribe the oath or affirmation for their office set out in schedule 7—
 - (a) the first President;
 - (b) the first Vice President;
 - (c) the members of the first National Executive Council;
 - (d) the members of the first House of Representatives;
 - (e) the first Speaker;
 - (f) the first Deputy Speaker;
 - (g) the first Chief Justice;
 - (h) the first Clerk of the House of Representatives;
 - (i) the first Chief Secretary;
 - (j) the first Police Commissioner;
 - (k) the first Corrective Services Commissioner;
 - (l) the first Director of Public Prosecutions;
 - (m) the first Public Solicitor.

- (2) However, if for a public officer mentioned in subsection (1) it is not practicable to take and subscribe their oath or affirmation of office on independence day, the officer must take and subscribe the oath or affirmation of office as soon as practicable after independence day.

160 The first general election

For the avoidance of doubt, it is declared that the first general election must be held in accordance with section 60 following the dissolution of the first House of Representatives.

161 Existing courts

- (1) A court in existence under a Bougainville law immediately before independence day continues, subject to this section and in accordance with that law, until the House of Representatives otherwise provides.
- (2) A court continued under this section is—
 - (a) taken to be a court established by law under this Constitution; and
 - (b) subordinate to the Supreme Court.

162 The first Supreme Court

The first Supreme Court is constituted by the first Chief Justice, who is appointed under the provisional law providing for first appointments and takes office on independence day.

163 Existing public officers

A person who, immediately before independence day, is a public officer other than a public officer mentioned in section 159, remains a public officer in the corresponding office established under this Constitution until they vacate their office.

164 Existing Chief Secretary and public service

- (1) The first Chief Secretary is the person who, immediately before independence day, was the Chief Secretary and Head of the Public Service under the *Bougainville Public Services (Management and Administration) Act 2014*.

- (2) A person who, immediately before independence day, is employed in the public service of the Autonomous Bougainville Government, continues to be employed in the public service under this Constitution until they vacate their employment.

165 Existing Clerk of the House of Representatives and parliamentary service

- (1) The first Clerk of the House of Representatives is the person who, immediately before independence day, was the Clerk of the House of Representatives under the previous constitution.
- (2) A person who, immediately before independence day, is employed in the parliamentary service of the House of Representatives under the previous constitution, continues to be employed in the parliamentary service under this Constitution until they vacate their employment.

166 Interim financial provisions

- (1) On independence day, the Consolidated Revenue Fund mentioned in section 157(1) of the previous constitution becomes the consolidated fund established under section 128 of this Constitution.
- (2) Until 1 July next following independence day, no funds may be withdrawn from the consolidated fund except in accordance with—
 - (a) the appropriations authorised under a provisional law for supply; or
 - (b) the appropriations authorised under a law made, before independence day, in accordance with part 11, division 3 of the previous constitution and continued under section 153; or
 - (c) a law enacted in accordance with section 128(3)(b) and 131(2).

167 Interim audit of public accounts

- (1) Until the Auditor General is first appointed, the National Executive Council must arrange for the public accounts of the Republic to be audited at least annually.
- (2) The Minister responsible for finance must table in the House of Representatives a report on the results of each audit as soon as practicable after the completion of the audit.

168 Existing legal proceedings

- (1) Any legal proceedings started, but not finished, in a court of the Autonomous Region of Bougainville before independence day, may continue and be determined by the same court.
- (2) Any judgment or order of a court given or made before independence day, to the extent it has not been fully executed or enforced immediately before independence day, may be executed or enforced on or after independence day.

169 Vesting of property, legal succession, etc.

- (1) All property and assets that, immediately before independence day, were vested in the Autonomous Bougainville Government, vest in the Republic.
- (2) All rights, liabilities and obligations of the Autonomous Bougainville Government, whether arising out of contract or otherwise, are rights, liabilities and obligations of the Republic.
- (3) An office or state body established under this Constitution is the legal successor of the corresponding office or body, if any, existing immediately before independence day, whether known by the same name or a new name.
- (4) *[Provision is to be made for the transfer of certain assets and land from the National Government of PNG to the Republic of Bougainville, but the details of that provision remain to be determined].*

170 Status under previous constitution not entitlement to citizenship

A person who, immediately before independence day, was a Bougainvillean under section 7 of the previous constitution (other than a person who, on independence day, is a citizen of Bougainville by birth under section 6(1))—

- (a) does not become a citizen of Bougainville automatically on independence day; and
- (b) may apply for citizenship in the way prescribed by law.

171 Ownership of natural resources—land purportedly alienated or transferred

To remove any doubt, it is declared that—

- (a) the House of Representatives may provide for the restoration of ownership of land that, before independence day, was purportedly

alienated or transferred from the customary land owner or owners in a way that was, at that time, not recognised by law; and

- (b) a law contemplated in paragraph (a), and any restoration effected under that law, is not arbitrary expropriation of property; and
- (c) natural resources on or under land mentioned in paragraph (a) belong to the customary landowner or landowners, and are taken to have always belonged to those owners despite any purported alienation or transfer of the title to the land or the rights to the natural resources that occurred before independence day.

SCHEDULE 1 – LAND AND SEA BOUNDARIES

Section 3

The boundaries of the Independent Republic of Bougainville are to be detailed in this schedule and will comprise:

- *In relation to land: the existing boundaries of Bougainville; and*
- *In relation to sea: limits of territorial sea, exclusive economic zone and archipelagic waters determined in accordance with international law.*

SCHEDULE 2 – CITIZENSHIP

Sections 6, 32

1 Legislation concerning the grant of citizenship

- (1) The House of Representatives must provide for the grant, on application, of citizenship to persons who are not citizens by birth and who—
 - (a) are of good character; and
 - (b) have a genuine and demonstrated connection to Bougainville; and
 - (c) meet any other reasonable criteria prescribed by law.
- (2) A law contemplated in subsection (1) may provide for—
 - (a) the information required to demonstrate that an applicant meets the requirements for the grant of citizenship; and
 - (b) the imposition of reasonable application fees; and
 - (c) any other matter necessary or convenient for the administration of the citizenship application and grant processes.

2 Renunciation and revocation of citizenship

- (1) The House of Representatives must provide for—
 - (a) the renunciation by a person of their Bougainville citizenship; and
 - (b) the renunciation by a person of their child’s Bougainville citizenship.
- (2) However—
 - (a) the law may provide for the renunciation of citizenship only by or of a person who has, or will soon have, the citizenship of another country; and
 - (b) the renunciation of the citizenship of a child may be recognised and provided for by law only on the grounds that the child would otherwise lose their entitlement to the citizenship of another country of which at least one of their parents is a citizen.

- (3) The House of Representatives may provide for the revocation of citizenship of a citizen (other than a citizen by birth) only—
 - (a) if the revocation of citizenship would not render the person stateless; and
 - (b) on the grounds that citizenship was obtained by fraud, misrepresentation or concealment of a material fact.

3 Passports and travel documents

- (1) A citizen is entitled, on application in accordance with law, to be issued with a Bougainville passport.
- (2) The House of Representatives must provide for the issue and administration of Bougainville passports, to be used as evidence of identity and citizenship by Bougainville citizens who are travelling internationally.
- (3) A law contemplated in subsection (2) may include provision for the following matters—
 - (a) the issue of travel documents other than passports (for example, emergency travel documents);
 - (b) the imposition of reasonable application fees;
 - (c) the circumstances in which a passport or travel document may be cancelled;
 - (d) any other matter necessary or convenient for the issue and administration of Bougainville passports and travel documents.

SCHEDULE 3 – FLAG OF THE REPUBLIC OF BOUGAINVILLE

Section 7(1)



SCHEDULE 4 – EMBLEM OF THE REPUBLIC OF BOUGAINVILLE

Section 7(2)

- Armiger: The Independent Republic of Bougainville
Crest: Upe head dress
Torse: Drum sticks
Shield: Garamut drum [and Biruko]
Motto: Independent Republic of Bougainville

[Also to prescribe IMAGE: the existing emblem of Bougainville with the addition of the biruko]

SCHEDULE 5 – LEADERSHIP CODE OF CONDUCT

Section 15

Part A—Conduct of public officers

1 General duties

- (1) A public officer must uphold, respect and obey the laws of Bougainville.
- (2) Also, a public officer must—
 - (a) treat Bougainville citizens and each other person with whom they interact in an official capacity in a way that is honest and respectful; and
 - (b) treat Bougainville citizens in a way that is fair and impartial.

2 Elected officers

- (1) An elected officer must—
 - (a) make themselves readily available to hear their constituents' questions and views on matters of public interest; and
 - (b) respond reasonably promptly to contacts and queries from constituents; and
 - (c) represent their constituents in a way that is fair and recognises the diverse needs of constituents; and
 - (d) be diligent in representing their constituents and make all reasonable efforts to attend each meeting of the body to which the officer is elected and any committee of that body to which the officer is assigned.
- (2) If a constituent consults an elected officer in the officer's official capacity, the officer must—
 - (a) try to direct the constituent to the state body best able to respond to the constituent, if appropriate in the context; and
 - (b) avoid giving advice beyond the officer's knowledge, or making a commitment the officer may not be able to fulfil; and
 - (c) avoid making a commitment that exceeds the officer's authority.

3 Confidentiality and discretion

- (1) If a public officer, in the course of official duties, acquires confidential information about a person, the officer must not use or disclose that information except as permitted or required by law.
- (2) If, during a meeting, a body holds a closed discussion of a matter, a public officer present at the discussion must not disclose the details of the discussion except—
 - (a) to the extent reasonably necessary to take action arising from the discussion, in accordance with a resolution or decision of the body; or
 - (b) as specifically authorised by a resolution or decision of the body or by law.
- (3) A public officer who receives a document that is confidential must comply with any prescribed requirements for handling or destruction of the document.

4 Public property, benefits and debts

- (1) A public officer must not knowingly claim any payment or financial benefit to which the officer is not entitled.
- (2) A public officer must promptly pay any amount the officer owes to the Republic.
- (3) A public officer who has any public property in their possession must—
 - (a) safeguard the property against loss or damage; and
 - (b) use the property only for purposes related to the officer's official duties or for any reasonable personal purpose; and
 - (c) not allow any other person to use the property, except for purposes mentioned in paragraph (b); and
 - (d) return the property to the relevant state body on demand.

5 Gifts

- (1) A public officer who receives a gift as a representative of, or on behalf of, the Republic or any state body, must deliver the gift to the relevant state body.

- (2) A public officer who, when acting in an official capacity, receives a personal gift with an apparent value exceeding a prescribed amount, must—
 - (a) disclose the gift under section 8 of this schedule; or
 - (b) if required by law, deliver the gift to the relevant state body.

Part B—Abuse of office

6 Corrupt practices

- (1) A public officer must not, directly or indirectly, engage in a corrupt practice.
- (2) Without limiting subsection (1), each of the following practices, by a public officer, is a corrupt practice—
 - (a) accepting, demanding or requesting from another person a private reward for the officer or any other person, in exchange for—
 - (i) using the officer’s office to make, influence or attempt to influence a decision on a matter; or
 - (ii) influencing or attempting to influence a vote or decision of another public officer; or
 - (iii) influencing a public officer administering a service or program provided by the Republic or a state body;
 - (b) directly or indirectly making use of inside information for private reward;
 - (c) revealing inside information to another person if the information could be used for private reward;
 - (d) using the officer’s office to make, or to attempt to make, or to influence or attempt to influence, a decision on a matter in relation to which the officer has a conflict of interest.

7 Declaration of conflict

- (1) If a public officer considers that they may have a conflict of interest in relation to a matter to be discussed or voted on at a meeting, the officer—

- (a) must declare the conflict of interest and its general nature at the meeting; and
 - (b) must immediately leave the meeting or that part of the meeting during which the matter is to be discussed or voted on; and
 - (c) must not take part in the discussion or vote on the matter or attempt to influence the discussion or vote before, during or after the meeting; and
 - (d) must not execute any document in relation to the matter unless specifically directed to do so by the state body concerned.
- (2) On request of a person at a meeting or on the presiding officer's own initiative, the presiding officer may invite a public officer, or all public officers present at the meeting, to consider whether they have a conflict of interest in relation to a matter to be discussed or voted on at the meeting.
- (3) The person responsible for recording the proceedings of a meeting must record any declaration of a conflict of interest by an officer, and the time and period when the officer was absent from the meeting.

Part C—General disclosure requirements

8 Disclosure of financial interests

- (1) A public officer must complete and file with the Ombudsman and Integrity Commission a disclosure of financial interests—
- (a) within 30 days of being elected or appointed to office; and
 - (b) at prescribed intervals of at least 12 months and not more than 3 years after election or appointment; and
 - (c) within 30 days of any change in the information most recently disclosed.
- (2) The disclosure must be in the prescribed form.
- (3) The prescribed form must require the disclosure of at least the following information in relation to the officer and the officer's spouse or partner—
- (a) employment currently held and income from the employment;
 - (b) interests in land or in a business or company;

- (c) investments and other financial interests;
- (d) gifts received during the officer’s term of office;
- (e) any loan or other debt, or loan guarantee, above the prescribed minimum, including the identity of the person to whom the money is owed or by whom the guarantee was given.

Part D—Interpretation

9 Definitions for schedule

In this schedule—

elected officer means a public officer who is a member of the House of Representatives other than the Speaker, or an elected member of any other formal level of government.

inside information means information that a public officer receives or discovers in the course of their work and that is not generally available to the public.

private reward means a personal financial or economic reward, benefit or advantage.

relevant state body means—

- (a) in relation to public property in the possession of a public officer—
 - (i) the state body that issued the property to the officer; or
 - (ii) the department responsible for finance; or
- (b) in relation to a gift received by a public officer—
 - (i) the state body that the officer was representing when the gift was received; or
 - (ii) the department responsible for finance.

SCHEDULE 6 – STANDARDS AND PROCEDURES FOR REMOVAL FROM OFFICE

Section 21

Part A—General provisions

1 Application

The provisions of this schedule are in addition to—

- (a) any other provision of this Constitution governing vacancies that occur automatically on the happening of specific events; and
- (b) any authority provided in this Constitution for a person to dismiss a public officer.

2 Natural justice

- (1) A person who is the subject of proceedings under this schedule has the right—
 - (a) to appear and be represented before the investigating or adjudicating body considering removal; and
 - (b) to adduce evidence, cross-examine witnesses and make submissions.
- (2) However, the person must not participate in any vote on a motion or other decision about initiating the proceedings or about removal or other sanction.

Part B—Removal for incapacity

3 Removal of President on grounds of incapacity

- (1) The House of Representatives may initiate the procedure to remove the President on grounds of incapacity by passing a resolution supported by at least two-thirds of the total number of members.
- (2) If the House adopts a resolution contemplated in subsection (1)—
 - (a) the Speaker must appoint a tribunal to investigate the matter, consisting of 3 appropriately qualified medical practitioners selected as follows—

- (i) one selected by the President, or the President’s next of kin;
 - (ii) one selected by the secretary of the department responsible for health;
 - (iii) one selected jointly by the other 2 members of the tribunal; and
- (b) until the final resolution of the matter under this section—
- (i) the President is suspended from office; and
 - (ii) the Vice President acts in the office of President under section 99(a).
- (3) A tribunal appointed under this section must inquire into the matter and—
- (a) decide (by agreement of at least 2 of the members of the tribunal) that the President is—
 - (i) able to perform the functions of President; or
 - (ii) unable to perform the functions of President, but more likely than not to recover that capability within 4 months; or
 - (iii) unable to perform the functions of President, and unlikely to recover that capability within 4 months; and
 - (b) give a report on its decision to the Speaker.
- (4) The consequences of a decision mentioned in column 2 of the following table—
- (a) are the consequences stated, opposite the decision, in column 3; and
 - (b) take effect when the report on the decision is given to the Speaker.

Row	Decision	Consequence
1	President is able to perform the functions of President	President’s suspension ends and President resumes functions of office
2	President is unable to perform the functions of President, but more likely than not to recover that capability within 4 months	President’s suspension continues

Row	Decision	Consequence
3	President is unable to perform the functions of President, and unlikely to recover that capability within 4 months	President is removed from office for incapacity

- (5) In the case of a decision mentioned in row 2 of the table in subsection (4), the President’s suspension ends in one of the following ways—
- (a) earlier than 4 months after the decision, if at least 2 of the 3 members of the tribunal jointly certify that the President has sufficiently recovered the capacity to perform the functions (in which case the President’s suspension ends and the President resumes the functions of office); or
 - (b) 4 months after the decision, the Speaker must request a fresh report from the tribunal, and the provisions of this section apply to that report, but in the case of continued incapacity, the President is removed from office for incapacity, regardless of any prospect for recovery at that time.

4 Removal of other public officers on grounds of incapacity

- (1) The process for removing a public officer other than the President on the grounds of incapacity may be initiated—
- (a) in the case of a judge or judicial officer—by the Judicial and Legal Appointments Commission; or
 - (b) in any other case—by the Senior Appointments Committee.
- (2) The initiating body may act on its own initiative or on a report or submission from any person or state body.
- (3) The provisions of section 3 of this schedule, read with the changes required by the context, apply to proceedings initiated under this section, except that—
- (a) a reference to the President is taken to be a reference to the public officer concerned; and
 - (b) a reference to the Speaker is taken to be a reference to the chair or head of the initiating body; and
 - (c) if the public officer concerned is a member of the House of Representatives or an elected member of any other formal level

of government, the person may continue to exercise the functions of the office during the proceedings; and

- (d) during the time that a public officer's powers are suspended an acting appointment to that office may be made by the body responsible for such appointments.

Part C—Removal or other sanction for misconduct or wrongdoing

5 Automatic removal for commission of serious criminal offence

- (1) If a public officer, other than a member of the House of Representatives, is finally convicted of an offence in Bougainville and sentenced to a term of imprisonment, the public officer automatically loses office.
- (2) If the convicted public officer is a judge or judicial officer, the Judicial and Legal Appointments Commission must declare the public officer removed from office.
- (3) If the convicted public officer is an officer other than a member of the House of Representatives or a judge or judicial officer, the Senior Appointments Committee must declare the public officer removed from office.
- (4) If a member of the House of Representatives is convicted of an offence punishable by imprisonment for 6 months or longer, sections 68(a) and 69(2) and (3) apply.

6 Investigation and removal from office for breach of Leadership Code of Conduct

- (1) In conducting an investigation under section 19(2) about the conduct of a public officer, the Ombudsman and Integrity Commission must—
 - (a) make a preliminary finding about whether the public officer appears to have breached the Leadership Code of Conduct or any other provision of the Constitution; and
 - (b) if the preliminary finding is that the public officer appears to have breached the Leadership Code of Conduct or another provision of this Constitution, initiate proceedings against the officer.

- (2) After considering any evidence adduced and submissions made, the Ombudsman and Integrity Commission must make a conclusive finding about the conduct of the public officer.
- (3) If the conclusive finding is that the public officer has breached the Leadership Code of Conduct or another provision of this Constitution, the Ombudsman and Integrity Commission must impose on the officer one of the following sanctions—
 - (a) an official reprimand;
 - (b) suspension from office for a stated period or until the public officer takes a stated remedial action;
 - (c) removal from office.
- (4) Also, if the conclusive finding is that the public officer has breached the Leadership Code of Conduct or another provision of this Constitution, the Ombudsman and Integrity Commission must—
 - (a) consider whether the breach also constitutes criminal misconduct; and
 - (b) decide whether section 20 applies.
- (5) The Ombudsman and Integrity Commission must give a complainant and the public officer concerned written notice of—
 - (a) the conclusive finding made under subsection (2) and any sanction imposed under subsection (3); and
 - (b) if the Ombudsman and Integrity Commission decides that section 20 applies, the referral of the alleged criminal misconduct to the Director of Public Prosecutions.
- (6) A sanction imposed under subsection (3)(b) or (c) takes effect when the notice mentioned in subsection (4) is given to the public officer.
- (7) However, on application by a public officer sanctioned under subsection (3)(b) or (c) made within 7 days of the notice given under subsection (5), the Supreme Court may stay the effect of the sanction pending full determination of the matter in exercise of its jurisdiction under section 104(1)(a).
- (8) Despite subsection (3), the Ombudsman and Integrity Commission does not have the power to impose a sanction on a judge.

7 Investigation and sanction of former public officer

- (1) An investigation under section 19 about the conduct of a public officer may be conducted or continued even if the public officer no longer holds the office.
- (2) If the Ombudsman and Integrity Commission makes a conclusive finding mentioned in section 6(3) of this schedule in relation to a person who is no longer a public officer, the Ombudsman and Integrity Commission—
 - (a) must decide the sanction it would have imposed if the person were still a public officer; and
 - (b) may issue a direction that the person take a stated remedial action.
- (3) However, subsection (2) does not apply in relation to a conclusive finding about the conduct of a judge.

SCHEDULE 7 – OATHS AND AFFIRMATIONS

Oath or affirmation of President and Vice President

I, A.B....., aware of the responsibilities of the office of [President/Vice President] and the public trust placed in me, [SWEAR/SOLEMNLY AFFIRM] that I will be faithful and bear true allegiance to the Republic of Bougainville, and will obey and uphold the Constitution and the law, and will devote myself to the well-being of Bougainville and its people and serve them faithfully in the office of [President/Vice President].
[So help me, God!]

Oath or affirmation of Minister

I, A.B....., being appointed by the President and aware of the responsibilities of the office of Minister and member of the National Executive Council and the public trust placed in me, [SWEAR/SOLEMNLY AFFIRM] that I will be faithful and bear true allegiance to the Republic of Bougainville, and will obey and uphold the Constitution and the law, and will hold my office with honour, dignity and integrity, and perform the functions of my office conscientiously and to the best of my ability.
[So help me, God!]

Oath or affirmation of Member of the House of Representatives

I, A.B....., aware of the responsibilities of a member of the House of Representatives and the public trust placed in me, [SWEAR/SOLEMNLY AFFIRM] that I will be faithful and bear true allegiance to the Republic of Bougainville, and will obey and uphold the Constitution and the law, and will defend the rule of law and the rights and freedoms of the people of Bougainville, and will act with integrity and diligently fulfil the responsibilities of my office.
[So help me, God!]

Oath or affirmation of judge

I, A.B....., aware of the responsibilities of judicial office and the public trust placed in me, [SWEAR/SOLEMNLY AFFIRM] that I will be faithful and bear true allegiance to the Republic of Bougainville, and will obey and uphold the Constitution and the law, and will defend the rule of law and the rights and freedoms of the people of Bougainville, and will do justice to all persons without fear, favour or prejudice.
[So help me, God!]

Oath or affirmation of Speaker and Deputy Speaker

I, A.B....., aware of the responsibilities of [Speaker/Deputy Speaker] and the public trust placed in me, [SWEAR/SOLEMNLy AFFIRM] that I will be faithful and bear true allegiance to the Republic of Bougainville, and will obey and uphold the Constitution and the law, and will defend the rule of law and the rights and freedoms of the people of Bougainville, maintain the dignity and honour of the House of Representatives to the best of my ability, and act without fear, favour or prejudice in fulfilling the responsibilities of my office.

[So help me, God!]

Oath or affirmation of holder or member of an independent public office

I, A.B....., aware of the responsibilities of my office and the public trust placed in me, [SWEAR/SOLEMNLy AFFIRM] that [as a member of the/holder of the independent public office of], I will be faithful and bear true allegiance to the Republic of Bougainville, and will obey and uphold the Constitution and the law, and will defend the rule of law and the rights and freedoms of the people of Bougainville, and will act with integrity and diligently fulfil the responsibilities of my office without fear, favour or prejudice.

[So help me, God!]

Oath or affirmation of holder or member of other public office

I, A.B....., aware of the responsibilities of my office and the public trust placed in me, [SWEAR/SOLEMNLy AFFIRM] that [as a member of the/holder of the public office of], I will be faithful and bear true allegiance to the Republic of Bougainville, and will obey and uphold the Constitution and the law, and will defend the rule of law and the rights and freedoms of the people of Bougainville, and will act with integrity and diligently fulfil the responsibilities of my office to the best of my ability.

[So help me, God!]

SCHEDULE 8 – DICTIONARY

absolute majority, of the House of Representatives, means—

- (a) a majority of the total number of members of the House; or
- (b) a stated majority of the total number of members of the House.

Bougainville means the Republic of Bougainville established under section 1.

Bougainville Constituent Assembly means the House of Representatives elected under the previous constitution at the last general election before independence day, and any additional members appointed by the Bougainville Executive Council, sitting in its capacity as a constituent assembly to enact provisional laws and to declare Bougainville’s independence.

Bougainville law has the meaning given to that term in schedule 2.2 of the previous constitution.

Clerk means the Clerk of the House of Representatives appointed under section 80(2).

core values means the core values on which the Republic of Bougainville is founded, set out in section 1.

criminal misconduct means conduct that constitutes a criminal offence, prescribed by law for section 16(1), relating to corruption or another form of misconduct in office.

elector means a citizen who is registered to vote.

emergency law, see section 149(1).

financial year means a period of 12 months starting on 1 January.

general election means a scheduled periodic election to elect the President and the members of the House of Representatives.

guiding principles means the principles set out in section 4(2).

independence day means the day determined by the Bougainville Constituent Assembly under section 139.

independent public office means an office mentioned in section 111(1).

judiciary, see section 100(2).

Leadership Code of Conduct means the Leadership Code of Conduct set out in schedule 5.

natural resources, see section 12(5).

office holder means the holder of a public office or a person employed or engaged in a state body.

Ombudsman and Integrity Commission means the Bougainville Ombudsman and Integrity Commission established under section 116(1).

other formal levels of government, see section 63(3).

Police Commissioner means the Commissioner of the Bougainville Police Force.

prescribed by law means prescribed by a law enacted by, or made under the authority of, the House of Representatives.

previous constitution means the *Constitution of the Autonomous Region of Bougainville (2004)*.

proposed law—

- (a) generally, means a draft law that has been formally introduced to the House of Representatives; and
- (b) for section 124, means a draft law recommended to the House of Representatives by the Salaries and Benefits Commission.

public finance principles means the principles of public finance set out in section 125.

public office means an office held by a public officer.

public officer, see section 15(2).

regional committee means a regional committee of the House of Representatives, established under section 76(1)(b).

Republic means the Republic of Bougainville.

reserved seat, see section 66(5).

return day means the day fixed for the return of the writs for a general election.

social and economic objectives means the objectives set out in section 5.

special election, see section 95(1).

state body means a government department or agency or other public office, including an independent public office.