

BOUGAINVILLE HEALTH PARTNERSHIPS ACT 2017

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AUTONOMOUS REGION OF BOUGAINVILLE

(No 1 of 2017)

BOUGAINVILLE HEALTH PARTNERSHIPS ACT 2017

Being an Act for the administration of the provision of health services, facilities and programs in Bougainville through partnership agreements with churches and other organisations and persons.

MADE by the House of Representatives, to come into operation as set out in Section 2.

PART 1 — PRELIMINARY

1 Short title

This Act is the Bougainville Health Partnerships Act 2017.

2 Commencement

This Act comes into operation on its certification under Section 66 of the Bougainville Constitution.

3 Aim of Act

(1) The aim of this Act is—

- (a) to promote improvements in the provision of health services, facilities and programs in Bougainville; and
- (b) to promote the effective and efficient use of funds provided by the Autonomous Bougainville Government for the provision of health services, facilities and programs.

(2) That aim is to be achieved by—

- (a) improving government administration of the provision of health services, facilities and programs; and
- (b) improving planning and coordination of the provision of health services, facilities and programs; and
- (c) building on the existing harmonious partnerships with the churches in Bougainville, referred to in Section 35(1) of the Bougainville Constitution, as well as other faith-based organisations and non-government organisations, for the future development and provision of health services to all people in Bougainville; and
- (d) ensuring that provision of health services by health partners is undertaken in a manner consistent with the Bougainville Health Plan; and
- (e) working to safeguard the integrity and autonomy of health partners; and

- (f) improving the governance of the provision of health services, facilities or programs by churches and other organisations and persons who receive funding from the Autonomous Bougainville Government; and
- (g) improving accountability for the effective and efficient use of that funding.

4 Interpretation

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

Bougainville Health Plan has the same meaning as in the *Bougainville Health Administration Act 2017*;

health partner means a party to a health partnership agreement with the Autonomous Bougainville Government;

health partnership agreement means an agreement entered into under Part 2;

operational directive means an operational directive issued by the Secretary under Section 12 of the *Bougainville Health Administration Act 2017*;

Public Service officer means an officer or employee of the Bougainville Public Service;

Secretary means the Departmental Head of the Department that is, under the Minister, responsible for the administration of this Act.

- (2) Notes in this Act do not form part of this Act.

PART 2 — HEALTH PARTNERSHIP AGREEMENTS

5 Health partnership agreements

- (1) If a church or other organisation or person is to receive funding from the Autonomous Bougainville Government to provide health services, facilities or programs, the church, organisation or person is to enter a health partnership agreement with the Autonomous Bougainville Government.
- (2) The regulations may prescribe the form and content of a health partnership agreement.
- (3) The Autonomous Bougainville Government may only enter a health partnership agreement with a legal entity and, consequently, before a church or other organisation that is unincorporated can become a health partner it must—
- (a) form an incorporated association under the *Associations Incorporation Act* (Cap.142) of the National Parliament; or
 - (b) register a company under the *Companies Act 1997* of the National Parliament.

Note—The Autonomous Bougainville Government may enter into a health partnership agreement with the incorporated bodies established under the following Acts of the National Parliament: the Roman Catholic Diocese of Bougainville Act (Cap.1016); the United Church in Papua, New Guinea and the Solomon Islands Incorporation Act (Cap.1035); and the Christian Health Services of Papua New Guinea Act 2007.

6 Recovery of funds provided under health partnership agreement

- (1) Subject to the provisions of the health partnership agreement, if a health partner fails to use all or part of the funds provided by the Autonomous Bougainville Government in accordance with the terms of the health partnership agreement, the Autonomous Bougainville Government may demand payment of the amount misapplied from the health partner, and the amount may be recovered by the Autonomous Bougainville Government as a debt due and payable by the health partner.
- (2) Any funds recoverable from a health partner under Subsection (1) may be deducted from any funds subsequently payable by the Autonomous Bougainville Government to the health partner.
- (3) A demand for payment of misapplied funds must be made by written notice to the health partner, detailing the circumstances of the misapplication of the funds.

7 User fees

A health partner in receipt of funding under a health partnership agreement for the provision of health services must not charge fees to persons using the services, unless the charging of fees is expressly permitted under the health partnership agreement.

8 Compliance and funding

Without limitation, whether funding is provided by the Autonomous Bougainville Government to a health partner, and the level of that funding, may depend on compliance by the health partner with its health partnership agreement and operational directives issued by the Secretary.

PART 3 — MISCELLANEOUS

9 Service of notices and other documents

A notice or other document required or authorised to be served on or given to a person by the Secretary under this Act may be served or given—

- (a) personally; or
- (b) by leaving it with a person apparently over the age of 16 years at, or posting it to, the last residential or business address of the person known to the Secretary (including, in the case of a body corporate, the registered address of the body corporate); or
- (c) by a means (such as email) indicated by the person as being an available means of service (in which case, the notice or other document is to be taken to be served or given when it would be received by that means in usual circumstances); or
- (d) by any means provided for service of the document by another Bougainville law.

10 Human rights

For Section 180(3) of the Bougainville Constitution, in the opinion of the House of Representatives—

- (a) this is a law restricting human rights in a manner that is reasonably justifiable for the purpose in a democratic society that has a proper regard for the rights and dignity of mankind; and
- (b) the human rights that are restricted are—
 - (i) freedom from arbitrary search and entry; and
 - (ii) freedom of employment; and
 - (iii) right to privacy; and
 - (iv) freedom of information; and
- (c) the restriction is necessary for the purpose of giving effect to the public interest in public safety, public order and public welfare, as referred to in Section 180(2)(a) of the Bougainville Constitution.

11 Act binds Autonomous Bougainville Government

This Act binds the Autonomous Bougainville Government.

12 Regulations

- (1) The Bougainville Executive Council may make such regulations as are contemplated by, or as are necessary or expedient for, this Act.
- (2) Without limitation, the regulations may impose a penalty of a fine not exceeding K2000 or imprisonment not exceeding 6 months, or both, for an offence against the regulations.
- (3) The regulations may make provisions of a saving or transitional nature consequent on the making of this Act or an Act that amends this Act.
- (4) A provision of regulations made under Subsection (3) may, if the regulations so provide, take effect from the date of certification of the Act concerned under Section 66 of the Bougainville Constitution or a later date.
- (5) To the extent that a provision takes effect under Subsection (4) from a date earlier than the date of notification of the regulations in the Bougainville Gazette under Section 68 of the *Interpretation Act 2005*, the provision does not operate to the disadvantage of a person by decreasing the person's rights or imposing liabilities on the person.

I certify that the above is a fair copy of the Bill for an Act entitled *Bougainville Health Partnerships Act 2017*, passed by the House of Representatives on 19 April 2017 and now presented to the Speaker for his certificate under Section 66(1) of the *Bougainville Constitution*.

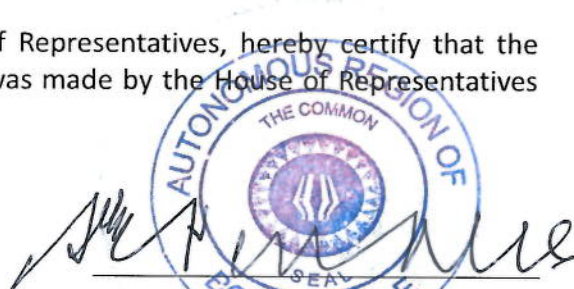
Dated 21 April 2017



Robert Tapi
Acting Clerk of the
House of Representatives

I, Simon Pentanu, Speaker of the House of Representatives, hereby certify that the *Bougainville Health Partnerships Act 2017* was made by the House of Representatives on 19 April 2017.

Dated 21 April 2017



Honourable Simon Pentanu
Speaker of the House of
Representatives