

BOUGAINVILLE HEALTH ADMINISTRATION ACT 2017

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AUTONOMOUS REGION OF BOUGAINVILLE

(No 2 of 2017)

BOUGAINVILLE HEALTH ADMINISTRATION ACT 2017

Being an Act for the administration by the Autonomous Bougainville Government of the provision of health services, facilities and programs in Bougainville.

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 Administration Act 2017*.

2 Commencement

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

3 Objectives of Act

The objectives of this Act are—

- (a) to make provision for and in respect of a health system for Bougainville; and
- (b) to provide for devolution of health functions to community government and other communities, as contemplated by Section 14(3) of the Bougainville Constitution.

4 Interpretation

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

Bougainville Health Plan means the plan approved by the Bougainville Executive Council under Section 6, as in force from time to time;

community health facility includes what are commonly known as health facilities, health sub-centres and aid posts;

health care provider means a church, faith-based or other non-government organisation providing health services in Bougainville, and includes a private body; and

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

health partnership agreement means an agreement entered into with the Autonomous Bougainville Government for the provision of health services in Bougainville;

National Departmental Head means the Departmental Head of the National Department responsible for health;

National Health Standards has the same meaning as in the *National Health Administration Act 1997* of the National Parliament;

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 — BOUGAINVILLE HEALTH SYSTEM

5 Bougainville Health System

- (1) The Bougainville Health System includes the persons and organisations providing health care and related services in Bougainville, including—
- (a) health facilities, services and programmes provided—
 - (i) by the Autonomous Bougainville Government; and
 - (ii) in Bougainville by the National Government; and
 - (b) provision of public hospital services in Bougainville; and
 - (c) health partners and other health care providers; and
 - (d) health professionals legally registered to practise in Bougainville.
- (2) The Department should aim to ensure the provision of basic medical services to the people of Bougainville by taking all practical measures—
- (a) to promote primary health care; and
 - (b) to pursue universal health care of the highest standard; and
 - (c) to acknowledge the application and utility of herbal medicines and other traditional remedies; and
 - (d) to undertake other actions and activities as prescribed to give effect to the objects of this Act.
- (3) In discharging its duties and performing its functions, the Department may work in partnership with churches and other faith-based organisations, non-government organisations, individuals, and government agencies or organisations.

6 Bougainville Health Plan

- (1) The Minister must, on the advice of the Secretary, submit a Bougainville Health Plan to the Bougainville Executive Council for approval.
- (2) The Bougainville Health Plan—
- (a) must make provision for the establishment, maintenance and development of health facilities, services and programs in Bougainville; and

- (b) may include other measures for the achievement of improved health in Bougainville.
- (3) The Bougainville Executive Council may approve a Bougainville Health Plan with or without modification.
- (4) The Bougainville Executive Council may, in a similar manner, extend, amend or replace the Bougainville Health Plan.

7 Publication of Plan

- (1) The Minister must cause an approved Bougainville Health Plan to be published on a website of the Autonomous Bougainville Government.
- (2) The Minister must cause a copy of an approved Bougainville Health Plan to be provided to the National Government.

PART 3 — ADMINISTRATION

8 Functions of Minister

- (1) The Minister has the following functions—
 - (a) to advance the objects of this Act by taking action to preserve, protect and promote a strong health system within Bougainville;
 - (b) to take political responsibility for the effective provision of health services, facilities and programs to the people of Bougainville by the Autonomous Bougainville Government and its health partners;
 - (c) to ensure—
 - (i) where policies or activities are under consideration that have a potential impact on the Bougainville Health System – that the Minister and Department are provided with adequate opportunity for consultation; and
 - (ii) that attention is drawn to the impact on the Bougainville Health System of policies of the Autonomous Bougainville Government or the National Government; and
 - (iii) that measures are adopted to manage or minimise such impact;
 - (d) to promote improvements in the provision of health services, facilities and programs to the people of Bougainville.
- (2) In performing those functions, the Minister should aim—
 - (a) to ensure that health services, facilities and programs are provided with a high level of efficiency and effectiveness; and
 - (b) to foster and support the provision of health services, facilities and programs by health partners; and

- (c) to seek ongoing collaboration with the National Government and community governments in the planning and delivery of health services, facilities and programs; and
- (d) to ensure that resources are managed effectively, prudently and in a fully accountable manner.

Note—Under Section 18(4) of the Bougainville Public Services (Management and Administration) Act 2014, the Minister is to act through the Secretary and deal with other officers of the Department through the Secretary.

- (3) The Minister may delegate to the Secretary or a Public Service officer a function or power under this Act (other than a function or power excluded from delegation by the regulations).
- (4) A function or power delegated by the Minister may not be further delegated unless that is expressly allowed by the Minister.

Note—Part II Division 10 of the Interpretation Act 2005 contains provisions relevant to delegations under Bougainville law.

9 Functions of Secretary and Departmental officers

- (1) The Secretary and Public Service officers of the Department are responsible, under the Minister, for the administration of this Act.
- (2) The Secretary is the principal adviser to the Minister in respect of the functions for which the Minister is responsible.
- (3) In particular, the Secretary and Public Service officers of the Department are to assist the Minister by—
 - (a) preparing and reviewing the Bougainville Health Plan; and
 - (b) preparing health partnership agreements.
- (4) The Secretary is responsible for the day-to-day administration of the Department.
- (5) The Secretary is responsible under this Act for—
 - (a) assigning staff to hospitals and community health facilities operated by the Autonomous Bougainville Government; and
 - (b) taking such action as is necessary to implement the Bougainville Health Plan; and
 - (c) issuing operational directives; and
 - (d) monitoring compliance with health partnership agreements and operational directives.

Note—The Secretary has additional functions under Section 20 of the Bougainville Public Services (Management and Administration) Act 2014.

- (6) The Secretary may delegate to a Public Service officer a function or power under this Act (other than a function or power excluded from delegation by the regulations).
- (7) A function or power delegated by the Secretary may not be further delegated unless that is expressly allowed by the Secretary.

Note—Part II Division 10 of the Interpretation Act 2005 contains provisions relevant to delegations under Bougainville law.

10 Responsibility for a function

In this Part, responsibility for a function includes—

- (a) securing sufficient funding for the carrying out the function; and
- (b) directing and supervising staff carrying out the function; and
- (c) ensuring that applicable health standards are met; and
- (d) providing and maintaining facilities and equipment to carry out the function.

PART 4 — HEALTH SERVICES

Division 1 — Health standards

11 Amendment of National Health Standards

- (1) The Bougainville Executive Council may, by notice in the Bougainville Gazette, amend the National Health Standards as they apply in Bougainville.
- (2) Before the Bougainville Executive Council takes action under Subsection (1), the Secretary must consult with the National Departmental Head on the proposed amendment.
- (3) The Bougainville Executive Council may only take action under Subsection (1) if it is satisfied that the amendment will not result in setting a standard that is lower than the corresponding standard under the National Health Standards.

Division 2 — Operational directives

12 Operational directives

- (1) The Secretary may issue operational directives to a Public Service officer of the Department or to a health care provider—
 - (a) specifying administrative measures that are, in the opinion of the Secretary, necessary or convenient for the implementation of the Bougainville Health Plan or the achievement of the aim of this Act; or
 - (b) about any other matter specified in the regulations.

- (2) If operational directives issued to a person by the Secretary are inconsistent with operational directives lawfully issued to the person by the National Departmental Head under Section 7 of the *National Health Administration Act 1997* of the National Parliament, the operational directives issued by the National Departmental Head prevail to the extent of the inconsistency.

Division 3 — Fees

13 Notice fixing maximum fees

- (1) The Secretary may, by notice in the Bougainville Gazette made with the approval of the Minister—
- (a) fix the maximum fees that may be charged for health services, use of a health facility, or participation in a health program, where the services, facility or program is provided by the Autonomous Bougainville Government; or
 - (b) specify how those fees are to be calculated; or
 - (c) specify circumstances in which no fee may be charged for health services, use of a health facility, or participation in a health program provided by the Autonomous Bougainville Government.
- (2) A notice under Subsection (1) may—
- (a) be of general application to all hospitals and community health centres operated by the Autonomous Bougainville Government or be of limited application; or
 - (b) provide for differential fees that vary according to any specified factor.
- (3) A notice under Subsection (1) binds the persons to whom it is directed.
- (4) A copy of the latest notice under Subsection (1) or the relevant information about fees included in that notice—
- (a) must be prominently displayed on a public notice board at each hospital or community health facility to which the notice applies; or
 - (b) if Paragraph (a) is not applicable—must be prominently displayed so as to ensure that information about fees is readily accessible by potential patients or other users of the health services, facilities or programs to which the notice applies.

14 Recovery of fees for health services

- (1) Fees payable to the Autonomous Bougainville Government for health services provided by the Government or to a health partner for health services provided under a health partnership agreement may be recovered from—
- (a) the person to whom the services were provided; or
 - (b) the spouse or *de facto* spouse of that person; or

- (c) if the services were provided to a person under the age of 18 years – the parents or guardians of that person.
- (2) If fees are recovered from a person under this section, that person may recover as a debt from any other person who is jointly liable for the payment of the fees a contribution fixed by the court in which proceedings for recovery of the contribution are taken.

PART 5 — MISCELLANEOUS

15 Duty to maintain confidentiality

- (1) Subject to Subsection (2), a person commits an offence if—
 - (a) the person—
 - (i) is a Public Service officer; or
 - (ii) is employed or engaged by a health partner; and
 - (b) the person divulges personal information relating to a patient obtained in the course of employment, except to the extent that the person is authorised or required to divulge that information—
 - (i) by law; or
 - (ii) by the Secretary.

Penalty: K10,000.
- (2) This section does not prevent a person from divulging statistical or other information that could not reasonably be expected to lead to identification of patients to whom it relates.

16 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 of employment; and
 - (ii) right to privacy; and
 - (iii) 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.

17 Act binds Autonomous Bougainville Government


This Act binds the Autonomous Bougainville Government.

18 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 Administration Act 2017*, passed by the House of Representatives on 21 June 2017 and now presented to the Speaker for his certificate under Section 66(1) of the *Bougainville Constitution*.


Dated 21 June 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 Administration Act 2017* was made by the House of Representatives on 21 June 2017.

Dated 21 June 2017



Honourable Simon Pentanu
Speaker of the House of
Representatives