

BOUGAINVILLE SENIOR APPOINTMENTS (AMENDMENT) ACT 2018

Arrangement of Sections

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SCHEDULE 1

AUTONOMOUS REGION OF BOUGAINVILLE

(No 4 of 2018)

BOUGAINVILLE SENIOR APPOINTMENTS (AMENDMENT) ACT 2018

Being an Act to amend the *Bougainville Senior Appointments Act 2014*

MADE by the House of Representatives, to commence in accordance with Section 2

1 Short title

This Act is the *Bougainville Senior Appointments (Amendment) Act 2018*.

2 Commencement

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

3 Amendment of the Bougainville Senior Appointments Act

Schedule 1 amends the *Bougainville Senior Appointments Act 2014*.

Schedule 1 Amendment of *Bougainville Senior Appointments Act 2014*

Section 3

[1] Amendment of Section 14

1.1 Section 14(2)

delete, substitute

(2) In this section—

National Government nominee means a Member appointed under—

- (a) Section 78(1) of the *Bougainville Constitution*; or
- (b) Section 102(1)(f) of the *Bougainville Constitution*; or
- (c) Section 149(2) of the *Bougainville Constitution*; or
- (d) Section 152(2) of the *Bougainville Constitution*.

1.2 Section 14, Note

delete, substitute

Note for Section 14—Under the Bougainville Constitution, the Committee is comprised of 7 Members when considering—

- (a) *the appointment, suspension or removal of—*
 - (i) *a Bougainville Constitutional Office-holder (Section 102(1)(f)); and*
 - (ii) *the Chief of Bougainville Police (Section 149(2)); and*
 - (iii) *the Chief of the Bougainville Correctional Service (Section 152(2)); and*
- (b) *the appointment of the Clerk of the House of Representatives (Section 78(1)).*

[2] Substitution of Section 24

2.1 Section 24

delete, substitute

24 Temporary appointment

(1) In this section—

temporary appointment means the appointment of a person to act in the office of a Bougainville Constitutional Office-holder to whom this Part applies.

(2) A temporary appointment may be made only during—

- (a) the illness, suspension or other absence of the substantive holder of the office; or
- (b) a vacancy in the office.

- (3) A temporary appointment may be made by—
 - (a) the Committee; or
 - (b) the Bougainville Executive Council.
- (4) The period of a temporary appointment must not exceed—
 - (a) if the appointment is made by the Committee – 5 years; or
 - (b) if the appointment is made by the Bougainville Executive Council – 6 months.
- (5) The Committee must not make a temporary appointment unless all of the following circumstances exist—
 - (a) the Committee is unable to form a quorum to make a substantive appointment to the office because no Member has been appointed as required by Section 102(1)(f) of the *Bougainville Constitution*;
 - (b) the Chair has written to the chair of the body responsible for making the appointments to the Committee, to request that the appointments be made;
 - (c) at least 6 months have passed since the request was made and the matter remains unresolved;
 - (d) there has been substantial compliance with the procedures for selection and appointment to the office set out in Schedule 1.
- (6) The Bougainville Executive Council must not make a temporary appointment if it would result in the person acting in the office for a total period of more than 10 months in any 12-month period, unless the Committee, on consideration of a request from the Bougainville Executive Council—
 - (a) is satisfied that exceptional circumstances exist; and
 - (b) has, by notice in the Bougainville Gazette, authorised the appointment.
- (7) A temporary appointment must not be made unless the person appointed is qualified for appointment to the office in which the person has been appointed to act.
- (8) Notice of a temporary appointment must be published in the Bougainville Gazette.
- (9) While acting in the office of a Constitutional Office-holder, a person so appointed has and may exercise all the functions of that office.
- (10) The making of a temporary appointment, or any act done by a person acting in the office of a Constitutional Office-holder, may not be questioned in any proceedings on the ground that the justification for the appointment had not arisen or had ceased.

[3] Substitution of Section 27

3.1 Section 27

delete, substitute

27 Term of office

- (1) A senior office-holder holds office for 5 years from the date of appointment, or until the office-holder—
 - (a) dies; or
 - (b) resigns under Section 40; or
 - (c) reaches the age of 65 years or, if the Committee has extended the office-holder's retiring age under Subsection (2), 70 years; or
 - (d) ceases to be qualified to be a senior office-holder; or
 - (e) is removed from office under Section 37.
- (2) The Committee may, in its deliberate judgement, in a particular case, extend the retiring age of a senior office-holder to, but not beyond, 70 years.

[4] Substitution of Section 30

4.1 Section 30

delete, substitute

30 Temporary appointment

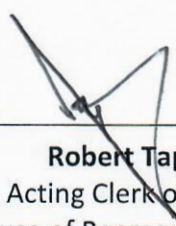
- (1) In this section—

temporary appointment means the appointment of a person to act in the office of a senior office-holder.
- (2) A temporary appointment may be made only during—
 - (a) the illness, suspension or other absence of the substantive holder of the office; or
 - (b) a vacancy in the office.
- (3) A temporary appointment may be made by—
 - (a) the Bougainville Executive Council; or
 - (b) the Head of the Bougainville Public Service.
- (4) The period of a temporary appointment must not exceed—
 - (a) if the appointment is made by the Bougainville Executive Council – 6 months; or
 - (b) if the appointment is made by the Head of the Bougainville Public Service – 1 month.

- (5) A temporary appointment must not be made if it would result in the person acting in the office for a total period of more than 10 months in any 12-month period, unless the Committee, on consideration of a request from the Bougainville Executive Council—
 - (a) is satisfied that exceptional circumstances exist; and
 - (b) has, by notice in the Bougainville Gazette, authorised the appointment.
- (6) A temporary appointment must not be made unless the person appointed is qualified for appointment to the office in which the person has been appointed to act.
- (7) Notice of a temporary appointment must be published in the Bougainville Gazette.
- (8) While acting in the office of a senior office-holder, a person so appointed has and may exercise all the functions of that office.
- (9) The making of a temporary appointment, or any act done by a person acting in the office of a senior office-holder, may not be questioned in any proceedings on the ground that the justification for the appointment had not arisen or had ceased.

I certify that the above is a fair copy of the Bill for an Act entitled *Bougainville Senior Appointments (Amendment) Act 2018*, passed by the House of Representatives on 13 June 2018 and now presented to the Speaker for his certificate under Section 66(1) of the *Bougainville Constitution*.


Dated 14 June 2018



Robert Tapi
Acting Clerk of the
House of Representatives

I, Simon Pentanu, Speaker of the House of Representatives, hereby certify that the *Bougainville Senior Appointments (Amendment) Act 2018* was made by the House of Representatives on 13 June 2018.

Dated 14 June 2018



Honourable Simon Pentanu
Speaker of the House of
Representatives

