

No. of 2002.

***Constitutional Amendment No. 23 – Peace-Building in Bougainville – Autonomous  
Bougainville Government and Bougainville Referendum.***

Certified on : 25.6.02

**INDEPENDENT STATE OF PAPUA NEW GUINEA.**

***Constitutional Amendment No.23 - Peace-Building in Bougainville – Autonomous Bougainville Government and Bougainville Referendum.***

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# INDEPENDENT STATE OF PAPUA NEW GUINEA.

## *Constitutional Amendment No. 23 - Peace-Building in Bougainville – Autonomous Bougainville Government and Bougainville Referendum.*

### PREAMBLE.

**WHEREAS** the Government of the Independent State of Papua New Guinea and Leaders representing the people of Bougainville have agreed to resolve the Bougainville conflict and to secure a lasting peace by peaceful means;

**AND WHEREAS** the Government of the Independent State of Papua New Guinea and Leaders representing the people of Bougainville have entered into the Bougainville Peace Agreement which sets out the matters agreed;

**AND WHEREAS** the Bougainville Peace Agreement provides that there shall be a system of autonomous government for Bougainville and a referendum among Bougainvilleans on the future political status of Bougainville;

**AND WHEREAS** it is necessary to amend the *Constitution* so as to make provision in the laws of Papua New Guinea for that system of autonomous government and for that referendum;

**THEREFORE** it is hereby provided as follows:-

Being a Law to alter the *Constitution* to make provision, in accordance with the Bougainville Peace Agreement, for a system of autonomous government for Bougainville and for a referendum among Bougainvilleans on the future political status of Bougainville, and for related purposes,

MADE by the National Parliament to come into operation –

- (a) insofar as relating to Sections 2 and to Section 3 (to the extent necessary to bring into operation Section 344) on certification; and
- (b) insofar as relating to the remainder of this Law-in accordance with a notice published in the National Gazette by the Head of State, acting with, and in accordance with, the advice of the Minister, given after notification to the Minister, in accordance with Section 2, of the date of verification.

### 1. COMPLIANCE WITH CONSTITUTIONAL REQUIREMENTS.

- (1) This Law, to the extent that it –
  - (a) regulates or restricts; or
  - (b) provides for the regulation or restriction by the Bougainville Legislature of,

a right or freedom referred to in Subsection III.3.C (*qualified rights*) of the *Constitution*, namely –

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- (c) the right to freedom from forced labour conferred by Section 43 of the *Constitution*; and
- (d) the right to freedom from arbitrary search and entry conferred by Section 44 of the *Constitution*; and
- (e) the right to freedom of conscience, thought and religion conferred by Section 45 of the *Constitution*; and
- (f) the right to freedom of expression conferred by Section 46 of the *Constitution*; and
- (g) the right to freedom of assembly and association conferred by Section 47 of the *Constitution*; and
- (h) the right to freedom of employment conferred by Section 48 of the *Constitution*; and
- (i) the right to privacy conferred by Section 49 of the *Constitution*; and
- (j) the right to vote and stand for public office conferred by Section 50 of the *Constitution*; and
- (k) the right to freedom of information conferred by Section 51 of the *Constitution*; and
- (l) the right to freedom of movement conferred by Section 52 of the *Constitution*,

is a law that is made -

- (m) for the purpose of giving effect to the public interest in public safety, public order, public welfare, public health (including animal and plant health), the protection of children and persons under disability (whether legal or practical) and the development of under-privileged or less advanced groups or areas; or
- (n) in order to protect the exercise of the rights and freedoms of others.

(2) To the extent that the provisions of this Law, insofar as it gives to the Bougainville Legislature the power to regulate or restrict the qualified rights referred to in Subsection (1), are not envisaged by Section 38 (*general qualifications on qualified rights*) of the *Constitution*, it is hereby declared that Subsection (1) complies with the requirements of Section 38 (2)(a) and (b).

**2. DATE OF VERIFICATION, ETC.,**

(1) The date of verification is the date on which the Director of the United Nations Observer Mission in Bougainville verifies that the weapons in Bougainville to which the weapons disposal agreement applies are in secure, double-locked containers under the supervision of the United Nations Observer Mission on Bougainville in accordance with the weapons disposal plan.

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(2) The Minister responsible for Bougainville matters shall, on receiving notification of the date of verification, forthwith advise the Head of State to bring this Law, other than this section and Section 344, into operation.

**3. NEW PART XIV.**

The *Constitution* is amended by inserting after Part XIII the following new Part:-

**“PART XIV.- BOUGAINVILLE GOVERNMENT AND  
BOUGAINVILLE REFERENDUM.**

*Division 1. – Preliminary.*

**“276. APPLICATION OF THIS PART.**

(1) This Part applies in and in relation to Bougainville only.

“(2) This Part shall apply notwithstanding the provisions of this *Constitution* and where the other provisions of this *Constitution* are inconsistent with the provisions of this Part, the provisions of this Part shall prevail.

**“277. NON-APPLICATION OF PART VIA.**

After the establishment of the Bougainville Government following elections, in accordance with this Part and the Bougainville Constitution, the provisions of Part VIA shall not apply to Bougainville.

**“278. INTERPRETATION.**

(1) In this Part, unless the contrary intention appears –

“Agreement” means the Bougainville Peace Agreement signed at Arawa on 30 August 2001 and published in National Gazette No. G 146 of 16 November 2001;

“Bougainville” means –

- (a) the areas of land within the boundaries of Bougainville Province as described in the Schedule to the *Organic Law on Provincial Boundaries*; and
- (b) the areas of sea extending to three nautical miles from the low water mark of the areas of land referred to in Paragraph (a);

“Bougainville Constituent Assembly” means the Bougainville Constituent Assembly established in accordance with Section 284 (*Bougainville Constituent Assembly*);

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- “Bougainville Constitution” means the Bougainville Constitution endorsed and gazetted in accordance with Section 285 (*Endorsement of Bougainville Constitution*);
- “Bougainville Constitutional Commission” means the Bougainville Constitutional Commission established in accordance with Section 281 (*Bougainville Constitutional Commission*);
- “Bougainville Constitutional Office-holder” means a Bougainville Constitutional Office-holder appointed under or in pursuance of the provisions of Section 321 (*Bougainville Constitutional office-holders*);
- “Bougainville Correctional Service” means Bougainville Correctional Service for which provision is made under Section 310(1)(c) (*Bougainville Government Services*);
- “Bougainville court” means a court established under Section 306(1) (*Establishment of courts in Bougainville*);
- “Bougainville Executive” means the accountable executive body of the Bougainville Government;
- “Bougainville Government” means the autonomous Bougainville Government established in accordance with this Part;
- “Bougainville Interim Provincial Government” means the Bougainville Interim Provincial Government established under the *Organic Law on Provincial Governments and Local-level Governments*;
- “Bougainville law” means a law made in accordance with the Bougainville Constitution and this Part;
- “Bougainville Legislature” means the legislature of the Bougainville Government;
- “Bougainville Police” means the Bougainville Police for which provision is made under Section 310(1)(b) (*Bougainville Government Services*);
- “Bougainville Public Service” means the Bougainville Public Service for which provision is made under Section 310(1)(a) (*Bougainville Government Services*);
- “Bougainville Referendum” mean the Referendum for which provision is made under Division 7 (*Bougainville Referendum*);
- “Bougainville Salaries and Remuneration Commission” means the Bougainville Salaries and Remuneration Commission established in accordance with Section 320 (*Bougainville Salaries and Remuneration Commission*);
- “dispute resolution procedure” means the dispute resolution procedure for which provision is made under Division 6 (*Intergovernmental Relations and Review*);

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“fiscal self-reliance” means the first year in which the revenue from company tax, customs duties and 70% of value added tax collected in Bougainville is equal to the value of the recurrent grant on a sustainable basis;

“National law” means a law made by the National Parliament;

“Referendum” means the Bougainville Referendum;

“review” means a review under Division 6.

“(2) Where this Part or an Organic Law authorized by this Part provides for consultation between the National Government and the Bougainville Government, such consultation shall be conducted on the following basis:-

- (a) views shall be communicated in a timely manner in writing (or, by prior written agreement, by electronic equivalent) to a specified point of contact;
- (b) adequate opportunity shall be given to respond in a similar manner;
- (c) where there are differences, meaningful views shall be exchanged within an adequate time-frame, either agreed or specified in a written document (or, by prior written agreement, by electronic equivalent) with a view to reaching agreement;
- (d) a clear, written record of the outcome of a consultation shall be prepared and made available for all parties.

“(3) The Agreement may be used, so far as it is relevant, as an aid to interpretation where any question relating to the interpretation or application of any provision of this Part or an Organic Law authorized by this Part arises.

“(4) The Agreement shall be interpreted liberally, by reference to its intentions and without undue reference to technical rules of construction.

*Division 2. – Arrangements for the Establishment of  
Bougainville Government.*

**“279. AUTONOMOUS GOVERNMENT FOR BOUGAINVILLE.**

(1) There shall be a system of autonomous government for Bougainville in accordance with this Part.

- “(2) Elections to the Bougainville Legislature may be held only –
- (a) in accordance with an agreement reached in accordance with Paragraph 8(a) of the weapons disposal plan contained in the Agreement; or

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- (b) on verification and certification by the Director of the United Nations Observer Mission in Bougainville, of substantial compliance with, and generally in accordance with Paragraph 8(b) of, the weapons disposal plan according to the Agreement.

“(3) An Organic Law shall make provision for such matters pertaining to the system of autonomous government as are authorized by this Part.

**“280. BOUGAINVILLE CONSTITUTION.**

There shall be a Bougainville Constitution made and endorsed in accordance with this Part, which shall make provision for the organization and structures of the government for Bougainville under the autonomy arrangements in a manner consistent with this Part and with the Agreement.

**“281. BOUGAINVILLE CONSTITUTIONAL COMMISSION.**

(1) The Bougainville Interim Provincial Government, after consultation in accordance with the Agreement, shall establish a Bougainville Constitutional Commission which shall be broadly representative of the people of Bougainville.

- “(2) The Bougainville Constitutional Commission shall –
  - (a) consult widely with the people of Bougainville to obtain their views on a Bougainville Constitution; and
  - (b) prepare a draft Bougainville Constitution.

“(3) Where, prior to the coming into operation of this Part, the Bougainville Interim Provincial Government has established a body, after consultation in accordance with the requirements of the Agreement in relation to the Bougainville Constitutional Commission, with functions equivalent to those given to the Bougainville Constitutional Commission by Subsection (2) -

- (a) such body may be adopted by the Bougainville Interim Provincial Government as the Bougainville Constitutional Commission; and
- (b) any consultation by, and reports, findings and drafts prepared by such body may be adopted by the Bougainville Interim Provincial Government as consultation by, and reports, findings and drafts of the Bougainville Constitutional Commission.

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**“282. STRUCTURES OF BOUGAINVILLE GOVERNMENT  
TO BE CONTAINED IN BOUGAINVILLE  
CONSTITUTION.**

(1) The Bougainville Constitution shall make provision for the Bougainville Government generally and in particular shall provide, subject to this Part and to any Organic Law authorized by this Part –

- (a) that the Bougainville Government shall include a mainly elective (either directly or indirectly) legislature, but which may include persons appointed, elected or nominated to represent community, youth or other interests; and
- (b) that the Bougainville Government shall include an accountable executive body; and
- (c) for a head of the executive body and for his title, the method of his appointment and his powers and functions; and
- (d) for the establishment of an independent and impartial judiciary for Bougainville in accordance with this Part; and
- (e) for the powers, functions and procedures of the legislature, executive and judiciary, in accordance with the terms of the Agreement; and
- (f) for the establishment of such institutions as are necessary or desirable to enable the Bougainville Government to carry out its powers effectively; and
- (g) for the accountability of all institutions established by or under the Bougainville Constitution; and
- (h) for Bougainville Constitutional Office-holders and for their powers and functions; and
- (i) for the manner in which the Bougainville Constitution will come into operation after its endorsement by the Head of State, acting on advice; and
- (j) for the naming of Bougainville, the Bougainville Government and institutions of the Bougainville Constitution or Bougainville Government; and
- (k) for any other matters required by this Part.

“(2) The structures and procedures of the Bougainville Government shall meet internationally accepted standards of good

governance, as they are applicable and implemented in the circumstance of Bougainville and Papua New Guinea as a whole, including democracy, the opportunity for participation by Bougainvilleans, transparency, accountability, and respect for human rights and the rule of law, including this Constitution.

**“283. CONSULTATION WITH NATIONAL EXECUTIVE COUNCIL.**

The Bougainville Constitutional Commission shall –

- (a) keep the National Executive Council informed as proposals for the Bougainville Constitution are developed; and
- (b) allow the National Executive Council adequate opportunity to make its views known as proposals for the Bougainville Constitution are developed.

**“284. BOUGAINVILLE CONSTITUENT ASSEMBLY.**

(1) The Bougainville Interim Provincial Government, after consultation in accordance with the Agreement, shall establish a Bougainville Constituent Assembly which shall be broadly representative of the people of Bougainville.

“(2) The Bougainville Constituent Assembly –

- (a) shall consider and debate the draft Bougainville Constitution; and
- (b) may amend the draft Bougainville Constitution; and
- (c) shall submit the draft Bougainville Constitution to the National Executive Council and consult with the National Executive Council on its contents; and
- (d) may adopt the Bougainville Constitution; and
- (e) following adoption by it of the Bougainville Constitution, send a copy of that Bougainville Constitution to the Minister responsible for Bougainville matters.

“(3) The Bougainville Government and the National Government shall co-operate in facilitating the establishment of the Constituent Assembly.

**“285. ENDORSEMENT OF BOUGAINVILLE CONSTITUTION.**

(1) The Minister responsible for Bougainville matters shall submit that Bougainville Constitution to the National Executive Council at the first practicable opportunity.

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“(2) The National Executive Council shall consider the Bougainville Constitution within 14 days of its being submitted under Subsection (1) and, where it meets the requirements of this Part and any Organic Law authorized by this Part, shall advise the Head of State to endorse the Bougainville Constitution.

“(3) The Head of State, acting on advice in accordance with Subsection (2), shall endorse the Bougainville Constitution.

“(4) After the Bougainville Constitution has been endorsed under Subsection (3), the National Executive Council shall cause it to be published promptly in the National Gazette.

“(5) Following publication in the National Gazette, the Bougainville Constitution shall come into operation in accordance with the manner provided in the Bougainville Constitution.

#### **“286. LEGAL STATUS OF BOUGAINVILLE CONSTITUTION.**

(1) Subject to this Constitution, the Bougainville Constitution shall be the supreme law as regards matters that fall within the jurisdiction of the Bougainville Government in accordance with this Part and the Agreement, and Bougainville laws and institutions shall be consistent with the Bougainville Constitution.

“(2) The Bougainville Constitution shall be enforceable –  
(a) in the Supreme Court; and  
(b) in the Bougainville Court established under Section 306 (4)(a) (**establishment of courts in Bougainville**), to the extent provided by the Bougainville Constitution.

#### **“287. AMENDMENT OF BOUGAINVILLE CONSTITUTION.**

(1) The Bougainville Constitution shall provide that the Bougainville Constitution may be amended and shall provide for the manner in which it may be amended so as to comply with this section.

“(2) Where any amendment to the Bougainville Constitution is proposed, the Bougainville Executive shall give notification of it to the Minister responsible for Bougainville matters.

“(3) The National Government may consult with the Bougainville Government in relation to any proposed amendment of the Bougainville Constitution.

*Division 3 – Division of Functions and Powers between National Government and Bougainville Government and transfer of functions and powers to Bougainville Government.*

**“288. DIVISION OF FUNCTIONS AND POWERS OF GOVERNMENT.**

The functions and powers of government relating to Bougainville shall be divided between the National Government and the Bougainville Government in accordance with this Part and the Agreement.

**“289. FUNCTIONS AND POWERS OF THE NATIONAL GOVERNMENT.**

(1) Subject to this Part and to the Agreement, the functions and powers of the National Government in and in relation to Bougainville are as specified in this section.

“(2) The functions and powers of the National Government in and in relation to Bougainville are the following:-

- (a) central banking;
- (b) currency;
- (c) customs (imposition, administration and collection);
- (d) defence;
- (e) foreign relations (including foreign aid);
- (f) highly migratory and straddling fish stocks;
- (g) industrial relations;
- (h) international civil aviation;
- (i) international shipping;
- (j) international trade;
- (k) legislation specifically required to implement this Constitution;
- (l) legislation required to amend this Constitution;
- (m) migration in and out of the country;
- (n) quarantine;
- (o) posts;
- (p) telecommunications;
- (q) such other powers and functions for which, in accordance with this Part and the Agreement, the National Government is responsible.

“(3) The National Government is responsible in and in relation to Bougainville for the operation of the functions and powers of a Constitutional office or State Service to the extent necessary –

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- (a) where an equivalent Bougainville Constitutional office or Bougainville Government Service has not been established or is not fully operational; or
- (b) as otherwise provided for or required by this Part or the Agreement.

“(4) The National Government shall have the function and power relating to firearms control.

“(5) The National Government shall have the function and power relating to foreign investment to the extent permitted by Section 290(4) (*functions and powers available to the Bougainville Government*).

“(6) The National Government shall have the functions and powers necessary to develop the infrastructure relative to its functions and powers under this section.

“(7) The –

- (a) Bougainville Government shall not obstruct the National Government in the exercise of its functions and powers under this section; and
- (b) exercise by the National Government of its functions and powers under this section shall respect the Bougainville laws.

**“290. FUNCTIONS AND POWERS AVAILABLE TO THE BOUGAINVILLE GOVERNMENT.**

(1) Subject to this Part and the Agreement, the functions and powers available to the Bougainville Government in and in relation to Bougainville are as specified in this section.

“(2) The functions and powers available to the Bougainville Government in and in relation to Bougainville are the following:-

- (a) agriculture;
- (b) arts;
- (c) building regulation;
- (d) cemeteries;
- (e) censorship;
- (f) children;
- (g) churches and religion;
- (h) civil registration;
- (i) communications and information services within Bougainville;
- (j) community development;
- (k) corporation law;

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- (l) culture;
- (m) education;
- (n) energy (including electricity and power generation and distribution);
- (o) environment;
- (p) family law;
- (q) fire service;
- (r) fisheries (other than highly migratory or straddling stocks);
- (s) forestry and agro-forestry;
- (t) gambling, lotteries and games of chance;
- (u) harbours and marine;
- (v) health;
- (w) heritage;
- (x) home affairs, including youth and social welfare;
- (y) housing (but not State-owned housing);
- (z) information technology;
- (za) insurance;
- (zb) intellectual property;
- (zc) labour and employment (other than industrial relations);
- (zd) land and natural resources;
- (ze) land, sea and air transport;
- (zf) language;
- (zg) libraries and measures;
- (zh) licensing of public entertainment;
- (zi) liquor;
- (zj) livestock;
- (zk) local-level government;
- (zl) manufacturing;
- (zm) mining;
- (zn) non-banking financial institutions;
- (zo) oil and gas;
- (zp) parks and reserves;
- (zq) physical planning;
- (zr) professions;
- (zs) public holidays;
- (zt) public works;
- (zu) science and technology;
- (zv) sports and recreations;
- (zw) statistics (other than National Census);
- (zx) symbols of the Bougainville Government;
- (zy) time zones;
- (zz) tourism;
- (zza) trade, commerce and industry;

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- (zzb) waste management;
- (zzc) water and sewerage;
- (zzd) water resources;
- (zze) wild life preservation;
- (zzf) wills and succession;
- (zzg) such other functions and powers for which, in accordance with this Part and the Agreement, the Bougainville Government may be responsible.

- “(3) The Bougainville Government is responsible for –
- (a) administration of justice including dispute resolution; and
  - (b) the operation and the functions and powers of Bougainville Constitutional Office-holders; and
  - (c) the operation of and the powers and functions of Bougainville Government Services,

in accordance with the Agreement and this Part.

“(4) Where the function and power relating to foreign investment applications has been transferred to the Bougainville Government, it shall be exercised in the following manner:-

- (a) each application for foreign investment relating to Bougainville shall be lodged in duplicate, one for the National Government and one for the Bougainville Government;
- (b) each application must satisfy the National Government’s reasonable foreign investment requirements for Papua New Guinea as a whole; the Bougainville Government, through the Bougainville Public Service or by an authority established by the Bougainville Government for the purpose, shall be responsible for considering each application and for determining whether the requirements referred to in Paragraph (b) are met;
- (d) where satisfied that an application meets the requirements referred to in Paragraph (b), the Bougainville Government through the Bougainville Public Service or by an authority established by the Bougainville Government for the purpose may, accept the application, or without limit to its discretion, may refuse it or accept it subject to conditions;

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- (e) the Bougainville Government, through the Bougainville Public Service or by an authority established by the Bougainville Government for the purpose of processing foreign investment applications, and the National Government, and any authority established by the National Government for the purpose of foreign investment applications, shall consult and co-operate at all stages of the consideration of an application;
- (f) there shall be joint and ongoing review and development of foreign investment policy by the two Governments and the authorities referred to in Paragraph (e) to promote restoration and development in Bougainville;
- (g) a dispute as to whether an application does or does not comply with the requirements referred to in Paragraph (b) shall be resolved through the dispute resolution procedure.

“(5) The Bougainville Government shall have the functions and powers necessary to develop the infrastructure relative to its powers and functions under this section.

**“291. FUNCTIONS AND POWERS OF THE NATIONAL GOVERNMENT AND OF THE BOUGAINVILLE GOVERNMENT IN RELATION TO CRIMINAL LAW.**

(1) The provisions of Sections 295 (*process for transfer of functions and powers*), 296 (*relationships of National and Bougainville laws*) and 298 (*National Government assets and land*) do not apply to this section.

“(2) The Bougainville Government shall have power, subject to Subsection (4) –

- (a) to adopt the *Criminal Code*; and
- (b) to create and set penalties for offences incidental to the exercise of its agreed powers and functions; and
- (c) to amend National laws relating to summary offences and other laws relating to criminal law as they apply in Bougainville; and
- (d) to make laws relating to criminal law, other than a law equivalent to the *Criminal Code*.

“(3) The *Criminal Code* shall apply in and to Bougainville until adopted under Subsection (2)(a).

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“(4) Where the Bougainville Government has adopted the *Criminal Code* under Subsection (2)(a), it may amend the *Criminal Code* as adopted –

- (a) with the consent of the National Government; or
- (b) in accordance with the following:-
  - (i) the principles contained in the Agreement being: -
    - (A) changes to the principles of the criminal law shall be evolutionary;
    - (B) there shall be no large scale changes to the coverage of subjects by the criminal law;
  - (ii) the procedures contained in the Agreement being:-
    - (A) the Bougainville Government will cause to be published in the National Gazette amendments to the *Criminal Code* as adopted proposed by the Bougainville Government and such amendments shall not come into operation without the agreement of the National Government;
    - (B) in the event that the National Government does not accept any amendments proposed by the Bougainville Government, it may require further consultation with the Bougainville Government and in the event of failure to agree, the dispute resolution procedure shall apply.

**“292. SUBJECTS NOT SPECIFIED IN SECTIONS 289, 290 AND 291.**

(1) Subject to Subsection (2), the function and power in relation to any subject –

- (a) not specified in Section 289 (*powers and functions of the National Government*), Section 290 (*powers and functions available to the Bougainville Government*) and Section 291 (*functions and powers of the National Government and of the Bougainville Government in relation to criminal law*); and

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(b) not coming within the category of any subject specified in Section 289 (*powers and functions of the National Government*), Section 290 (*powers and functions available to the Bougainville Government*) and Section 291 (*functions and powers of the National Government and of the Bougainville Government in relation to criminal law*), shall be a power and function of the National Government, until otherwise determined in accordance with this section.

“(2) Where the National Government or the Bougainville Government proposes to legislate on a subject to which Subsection (1) applies, it shall notify the other Government of its proposals and consult with the other Government with a view to reaching agreement on which Government should be responsible for the subject, and where agreement is not reached, it shall not legislate.

“(3) Where either the National Parliament or the Bougainville Legislature passes a law on a subject to which Subsection (1) applies, the other Government may invoke the dispute resolution procedure, and -

- (a) pending final determination of the dispute the law shall not take effect, unless both Governments agree that it should take effect; and
- (b) on the determination of the dispute resolution procedure, the law shall or shall not take effect in accordance with that determination.

“(4) Any dispute between the National Government and the Bougainville Government over which Government is responsible for a function or power shall be resolved by applying the principles governing the division of powers as specified in the Agreement.

**“293. INTERNATIONAL OBLIGATIONS, ETC., OF THE STATE IN RESPECT OF THE POWERS AND FUNCTIONS OF THE BOUGAINVILLE GOVERNMENT.**

(1) In this section, “international obligations” includes treaties and other written international agreements to which the State is or becomes a party.

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“(2) The powers and functions available to the Bougainville Government specified in Section 290 (***powers and functions available to the Bougainville Government***) will not be exercised in a manner inconsistent with Papua New Guinea’s international obligations and human rights regime –

- (a) in existence on the date of the coming into operation of this Part; and
- (b) entered into after the date of coming into operation of this Part, in accordance with this section.

“(3) The National Government –

- (a) shall consult with the Bougainville Government on –
  - (i) any proposed new international obligations likely to affect the exercise by the Bougainville Government of the functions and powers available to it under this Part; or
  - (ii) any proposed future border agreement (other than one concerning defence or national security) affecting the jurisdiction of the Bougainville Government; and
- (b) shall not enter into a border agreement (other than one concerning defence or national security) affecting the jurisdiction of the Bougainville Government without the agreement of the Bougainville Government.

“(4) For the purposes of Section 117 (3) (***treaties***), the consent of Papua New Guinea to be bound as a party to a treaty which -

- (a) has a purpose of altering the autonomy arrangements contained in the Agreement; or
  - (b) being a border agreement (other than one concerning defence or national security) affects the jurisdiction of the Bougainville Government,
- shall not be given unless –
- (c) the National Government and the Bougainville Government have agreed on the contents of the treaty; and
  - (d) the provisions of Section 117 (3)(a) or (b) (***treaties***) have been complied with.

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“(5) Any disagreement between the National Government and the Bougainville Government as to whether any treaty has a purpose of altering the autonomy arrangement contained in the Agreement shall be resolved in accordance with the dispute resolution procedure.

“(6) Any differences between the National Government and the Bougainville Government arising from generally accepted rules of international law shall be resolved in accordance with the dispute resolution procedure.

“(7) The Bougainville Government may, through an agreed mechanism, request the assistance or concurrence of the National Government

- (a) to participate in the negotiation of international agreements of particular relevance to Bougainville; or
- (b) to negotiate international agreements on its own account.

**“294. FUNCTIONS AND POWERS OF THE BOUGAINVILLE GOVERNMENT ON ESTABLISHMENT AND WITHIN 12 MONTHS THEREAFTER.**

(1) Prior to the establishment of the Bougainville Government the Bougainville Interim Provincial Government may give to the National Government reasonable notice of –

- (a) functions or powers available to the Bougainville Government to be transferred; and
- (b) institutions expected to be established under the Bougainville Constitution,

within the period of 12 months commencing on the date of the establishment of the Bougainville Government.

“(2) The Bougainville Government shall, on its establishment, have the same functions and powers as the Bougainville Interim Provincial Government, together with such other functions and powers transferred under Subsection (1).

**“295. PROCESS FOR TRANSFER OF FUNCTIONS AND POWERS.**

Where the Bougainville Government wishes a function or power available to it to be transferred to it, it shall –

- (a) take full account of its needs and capacity in relation to the function or power; and

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- (b) initiate the transfer by giving to the National Government 12 months' notice of its intention to seek the transfer of the function or power; and
- (c) consult with the National Government concerning the transfer,

unless both Governments otherwise agree.

**“296. RELATIONSHIP OF NATIONAL AND BOUGAINVILLE LAWS.**

(1) National laws relating to the functions and powers available to the Bougainville Government shall continue to apply until replaced by Bougainville laws.

“(2) The –

- (a) National Government may legislate on subjects specified in Section 290 (*functions and powers available to the Bougainville Government*) but not so as to be inconsistent with Bougainville laws on such subjects; and
- (b) the Bougainville Government may legislate on subjects specified in Section 289 (*functions and powers available to the National Government*) but not so as to be inconsistent with National laws on such subjects.

**“297. MANNER OF IMPLEMENTATION OF TRANSFER OF FUNCTIONS AND POWERS.**

An Organic Law shall make provision for –

- (a) the transfer together of closely linked functions and powers; and
- (b) the manner of overcoming difficulties of capacity or economic circumstances preventing the effective exercise of a function or power; and
- (c) the resolution of issues in dispute in the event of failure to overcome difficulties referred to in Paragraph (b); and
- (d) the resolution of difficulties in dividing the personnel, assets or funding of an institution or service organized on a regional or National basis; and
- (e) the making of arrangements to share access to or use of an institution or service organised on a regional or National basis to include cost-sharing; and

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- (f) the plans prepared and agreed by the National Government and the Bougainville Government for co-operating in implementing the transfer of functions for which the Bougainville Government will become responsible.

**“298. NATIONAL GOVERNMENT ASSETS AND LAND.**

(1) Subject to Subsection (2), the National Government shall transfer to the Bougainville Government, at the same time as the transfer of a function or power, such assets and land as are associated with the function or power.

“(2) Where the National Government has a continuing responsibility in respect of a function or power transferred to the Bougainville Government, it may retain assets and land associated with that function or power to the extent necessary to carry out its continuing responsibility.

**“299. TRANSFER OR DELEGATION OF FUNCTIONS AND POWERS.**

The National Government or the Bougainville Government may, by agreement, transfer or delegate any function or power (including a financial function or power) to the other Government.

***Division 4. – Powers and Functions of the Bougainville Government and Matters relative thereto affecting other Provisions of this Constitution.***

**Subdivision A. – Preliminary.**

**“300. BOUGAINVILLE CONSTITUTION AND BOUGAINVILLE LAWS TO FORM PART OF THE LAWS OF PAPUA NEW GUINEA.**

The Bougainville Constitution and laws made by the Bougainville Legislature in accordance with the Bougainville Constitution form part of the laws of Papua New Guinea as specified in Section 9 (*The Laws*).

**“301. SPECIAL REFERENCES TO THE SUPREME COURT.**

The –

- (a) Bougainville Legislature; and  
(b) Bougainville Executive,

are authorities entitled to make application to the Supreme Court, in accordance with Section 19 (*Special references to the Supreme Court*), for an opinion on any question relating to the interpretation or application of any provision of a Constitutional Law including (but without limiting the generality of that expression) any question as to the validity of a law or proposed law.

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**Subdivision B. – Code of Conduct, etc., and  
Leadership Code.**

**“302. CODE OF CONDUCT, ETC., AND LEADERSHIP CODE.**

(1) The Bougainville Constitution may make provision for a code of conduct or rules of conduct, similar to and requiring standards of conduct not less than those required by, the Leadership Code for which provision is made in Division III.2 (*Leadership Code*), to apply to and in relation to the holders of public offices –

- (a) established under the Bougainville Constitution; and
- (b) specified in the Bougainville Constitution as offices to which the code of conduct or rules of conduct applies or apply.

“(2) A person to whom the code of conduct or rules of conduct referred to in Subsection (1) applies or apply shall not be subject to Division III.2 (*Leadership Code*) in respect of –

- (a) the office held by him under the Bougainville Constitution to which the code of conduct or rules of conduct referred to in Subsection (1) applies or apply; and
- (b) matters to which the code of conduct or rules of conduct referred to in Subsection (1) applies or apply.

“(3) The Bougainville Constitution –

- (a) may provide for penalties to be imposed for breaches of the code of conduct or rules of conduct referred to in Subsection (1) by persons to whom the code of conduct or rules of conduct apply; and
- (b) where the code of conduct or rules of conduct have been breached by a person to whom, but for Subsection (2), Division III.2 (*Leadership Code*) would have applied, shall provide for penalties the same as those imposed by or under Division III.2 (*Leadership Code*) for an equivalent breach.

“(4) Until such time as a code of conduct or rules of conduct referred to in Subsection (1) have been provided for and applied, the following public offices shall be offices to which Division III.2 (*Leadership Code*) applies:-

- (a) members of the Bougainville Legislature;
- (b) Bougainville Constitutional Office-holders;
- (c) the heads of the Bougainville Government Services.

**Subdivision C. – Rights and Freedoms.**

**“303. QUALIFICATIONS ON QUALIFIED RIGHTS.**

(1) The Bougainville Constitution may make provision for the regulation or restriction by a Bougainville law which complies with the requirement of this section, of a right or freedom referred to in Subdivision III.3.C (*qualified rights*) where the law –

- (a) regulates or restricts the right or freedom to the extent that the regulation or restriction is necessary –
  - (i) taking account of the National Goals and Directive Principles and the Basic Social Obligations, for the purpose of giving effect to the public interest in –
    - (A) public safety; or
    - (B) public order; or
    - (C) public welfare; or
    - (D) public health (including plant and animal health); or
    - (E) the protection of children and persons under disability (whether legal or practical); or
    - (F) the development of under-privileged or less advanced groups or areas; or
  - (ii) in order to protect the exercise of the rights and freedoms of others; or
- (b) makes reasonable provision for cases where the exercise of one such right may conflict with the exercise of another,

to the extent that the law is reasonably justifiable in a democratic society having a proper regard for the rights and dignity of mankind.

- “(2) A Bougainville law referred to in Subsection (1) shall –
- (a) be expressed to be a law regulating or restricting a right or freedom referred to in Subdivision III.3.C (*qualified rights*); and
  - (b) specify the right or freedom that it regulates or restricts; and

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- (c) specify the purpose for which the regulation or restriction is necessary; and
- (d) be made and certified in the manner provided in the Bougainville Constitution.

“(3) The burden of showing that a Bougainville law is a law that complies with the requirements of this Section is on the party relying on its validity.

**“304. GUARANTEED RIGHTS AND FREEDOMS.**

(1) Subject to Subsection (3), the Bougainville Constitution may make provision for guarantees in Bougainville of basic and qualified rights in addition to those otherwise guaranteed in this Constitution.

“(2) Subject to Subsection (3), the Bougainville Constitution may make provision for the establishment of procedures, institutions or courts to ensure the enforcement of guaranteed rights and freedoms.

“(3) Guarantees provided for under Subsection (1) and procedures established under Subsection (2) shall not abrogate the guaranteed rights and freedoms or procedures to ensure their enforcement provided for in this Constitution.

**Subdivision D. – Administration of Justice.**

**“305. OPERATION OF NATIONAL JUDICIAL SYSTEM IN BOUGAINVILLE.**

The National Judicial System shall continue to carry out its responsibilities in Bougainville, in accordance with this Part.

**“306. ESTABLISHMENT OF COURTS IN BOUGAINVILLE.**

(1) The Bougainville Constitution may make provision for the establishment under Bougainville law of courts and tribunals in Bougainville in accordance with this Part and the Agreement, and may authorize Bougainville laws to make further provisions in respect of such courts and tribunals.

“(2) Bougainville may operate –

- (a) wholly under courts and tribunals established under Subsection (1); or
- (b) partly under courts and tribunals established under Subsection (1) and partly under other courts within the National Judicial System and tribunals established under National Laws.

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“(3) . A court established under Subsection (1) (other than a court with a jurisdiction similar to that of a Village Court) shall be within the National Judicial System.

“(4) The courts which may be established under Subsection (1) may range from –

- (a) a court with jurisdiction equivalent to that of the National Court; to
- (b) a court with jurisdiction similar to that of a Village Court,

such jurisdiction to be limited to and in relation to Bougainville.

“(5) National laws and Bougainville laws shall be enforceable in all courts in the National Judicial System.

“(6) The name “National Court” shall not be used in any form for any court established under Subsection (1).

**“307. ESTABLISHMENT OF TRIBUNALS IN OUGAINVILLE.**

The Bougainville Constitution may make provision for the establishment within Bougainville by or in accordance with a Bougainville law, or by consent of the parties concerned, of arbitral or conciliatory tribunals, whether *ad hoc* or other, outside the National Judicial System and such tribunals shall be subject to Section 159 (*tribunals, etc., outside the National Judicial System*).

**“308. JURISDICTION OF BOUGAINVILLE COURTS.**

(1) The Bougainville Constitution may provide that the powers of a Bougainville court with jurisdiction similar to that of the National Court may include power to -

- (a) make orders in the nature of prerogative writs and such other orders as are necessary to do justice in the circumstances of a particular case; and
- (b) exercise jurisdiction under the *Criminal Code*; and
- (c) subject to Subsection (2), review the exercise of judicial authority by Bougainville courts and by Bougainville tribunals; and
- (d) determine questions of interpretation of the Bougainville Constitution; and
- (e) protect and enforce human rights.

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“(2) The Bougainville Constitution shall provide that, where a person has a right of appeal from a Bougainville court to a Bougainville court established under Section 306 (4)(a) (*Establishment of courts in Bougainville*), he has an alternative (but not an additional) right of appeal to the National Court.

“(3) A resident of Bougainville may commence an action for the enforcement of human rights in the National Court or in a Bougainville court or institution with competent jurisdiction.

- “(4) The National Court shall have the power –
- (a) to review the exercise of judicial authority by Bougainville courts (other than a Bougainville court established under Section 306(4)(a) (*Establishment of courts in Bougainville*) and by Bougainville tribunals; and
  - (b) equal to the power of a Bougainville court established under Section 306(4)(a) (*Establishment of courts in Bougainville*), to hear appeals from Bougainville courts, but such power shall be exercised only as an alternative appeal and not as an appeal additional to that which by law may be made to the Bougainville court established under Section 306(4)(a) (*Establishment of courts in Bougainville*).

“(5) The Supreme Court shall be the final court of appeal for Bougainville including appeals on determinations made under Subsection (1)(d).

“(6) An Organic Law may make further provision for the relationship between Bougainville courts and other courts in the National Judicial System and for the manner in which the responsibilities of other courts in Bougainville in the National Judicial System shall be transferred to Bougainville courts of equivalent jurisdiction.

#### **“309. APPOINTMENT OF JUDGES, ETC.,**

(1) The Bougainville Constitution may make provision for an independent appointments body to appoint judges to a Bougainville court established under Section 306 (4)(a) (*Establishment of courts in Bougainville*).

“(2) The appointments body referred to in Subsection (1) shall include two members of the Judicial and Legal Services Commission, appointed by that Commission.

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“(3) The Bougainville Constitution shall otherwise provide for the appointment, terms and conditions of employment, seniority and removal from office of judges of a Bougainville court.

- “(4) A –
- (a) Judge of the National Court may hold an appointment as a Bougainville judge concurrently with his tenure of appointment as a Judge of the National Court; and
  - (b) Bougainville judge may hold an appointment as a Judge of the National Court concurrently with his tenure of appointment as a Bougainville judge.

**Subdivision E. – Bougainville Government Services.**

**“310. BOUGAINVILLE GOVERNMENT SERVICES.**

(1) The Bougainville Constitution may make provision for Bougainville Government Services being -

- (a) a Bougainville Public Service; and
- (b) Bougainville Police; and
- (c) a Bougainville Correctional Service; and
- (d) such other Bougainville Government Services as may be necessary,

in accordance with this Part, and may provide for Bougainville laws to make further provision in respect of Bougainville Government Services.

“(2) The Bougainville Constitution shall make provision for a head of a Bougainville Government Service to be responsible to the Bougainville Executive, and for the manner in which he is to be so responsible.

“(3) Members of a Bougainville Government Service shall take an Oath of Allegiance or make an Affirmation of Allegiance in accordance with Section 7 (*Oath of Allegiance*), Section 250 (*Making of Declaration of Loyalty, etc.*) and Section 251 (*taking certain oaths, etc., by non-citizens*).

“(4) Any official marking on the uniforms, vehicles, premises and stationery of Bougainville Police and Bougainville Correctional Service shall include the National Emblem or Name.

“(5) An Organic Law may make provision for co-operative and transitional arrangements between National State Services and Bougainville Government Services.

**Subdivision F – Bougainville Public Service.**

**“311. BOUGAINVILLE PUBLIC SERVICE.**

(1) The Bougainville Constitution may make provision for a Bougainville Public Service under Bougainville law to be responsible for the administration of the powers and functions of the Bougainville Government.

“(2) Where the Bougainville Constitution makes provision for a Bougainville Public Service, it shall provide for –

- (a) Bougainville laws for and in respect of –
  - (i) standards for management and control of the Bougainville Public Service; and
  - (ii) work value and standard for pay for the Bougainville Public Service; and
  - (iii) classification and grade structures in the Bougainville Public Service, compatible with those of the National Public Service; and
- (b) an independent body (which may be the Public Services Commission) which will be responsible for reviewing decisions on personnel matters connected with the Bougainville Public Service.

“(3) For the purposes of Subsection (2)(b), “personnel matters” means decisions and other service matters concerning an individual whether in relation to his appointment, promotion, demotion, transfer, suspension, disciplining or cessation or termination of employment (except cessation or termination at the end of his normal period of employment as determined in accordance with law) or otherwise.

“(4) An Organic Law shall make provision for –

- (a) the Bougainville Government to consult with the National Government before making laws relating to the Bougainville Public Service; and
- (b) arrangements for implementation of the Bougainville Public Service; and
- (c) transitional arrangements between the National Public Service and Bougainville Public Service.

**“312. NATIONAL PUBLIC SERVICE IN BOUGAINVILLE.**

The National Public Service shall continue to operate in Bougainville –

- (a) to carry out the functions and powers of the National Government as specified in Section 289 (*powers and functions of the National Government*); and

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- (b) to carry out the functions and powers available to the Bougainville Government as specified in Section 290 (*powers and functions available to the Bougainville Government*) until such time as the Bougainville Public Service has been established and the function or power has been transferred to the Bougainville Government.

**Subdivision G. – Bougainville Police.**

**“313 BOUGAINVILLE POLICE.**

(1) The Bougainville Constitution may make provision under Bougainville law for the Bougainville Police which will be responsible in Bougainville for preserving peace and good order and for maintaining and as necessary enforcing National laws and Bougainville laws in an impartial and objective manner, with full regard for human rights.

“(2) Where the Bougainville Constitution makes provision for the Bougainville Police, it shall provide for –

- (a) Bougainville laws for and in respect of –
- (i) the structures and organization of the Bougainville Police; and
  - (ii) the terms and conditions of service of the Bougainville Police; and
  - (iii) the core training and personnel development arrangements of the Bougainville Police,
- consistent with those of the Police Force established by Section 188(1)(b) (*Establishment of the State Services*); and
- (b) an independent body, which shall include the Commissioner of Police or his representative and one other representative of the National Government appointed by the National Government, to be responsible for the appointment and removal for just cause of the head of the Bougainville Police; and
- (c) the head of the Bougainville Police to have a title other than Commissioner and to hold a rank below that of the Commissioner of Police.

“(3) Insofar as it is a function of the Bougainville Police to lay, prosecute or withdraw charges in respect of offences, the members of the Bougainville Police are not subject to direction or control by –

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- (a) any person outside the Bougainville Police; or
- (b) where acting under any agency arrangement with the Police Force established by Section 188 (1)(b) (*Establishment of the State Services*), by any person outside that Police Force.

**“314. FUNDING OF THE BOUGAINVILLE POLICE.**

- (1) The National Government shall provide the Bougainville Government with funding by way of -
- (a) guaranteed annual conditional grants for the specific purpose of meeting the recurrent costs of policing in Bougainville; and
  - (b) guaranteed conditional grants for the purpose of restoring and further developing civilian peacetime policing in Bougainville.

“(2) An Organic Law may make provision for and in respect of all matters relating to the grants referred to in Subsection (1).

**“315. POLICE FORCE ETC., IN BOUGAINVILLE.**

(1) The Police Force established by Section 188(1)(b) (*Establishment of the State Services*) shall continue to operate and the Act of Parliament under which it operates shall continue to apply in Bougainville to enable the Police Force established by Section 188(1)(b) (*Establishment of the State Services*) -

- (a) to carry out its functions in Bougainville; and
- (b) to enforce National laws and Bougainville laws prior to the establishment of the Bougainville Police; and.
- (c) to fulfil the co-operative arrangements with the Bougainville Police as specified in the Agreement.

“(2) An Organic Law shall make provision for -

- (a) the transitional arrangements to apply until the Bougainville Police are established and operational; and
- (b) co-operative arrangements between the Police Force established under Section 188(1)(b) (*Establishment of the State Services*) and the Bougainville Police.

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**Subdivision H. – Bougainville Correctional Service.**

**“316. BOUGAINVILLE CORRECTIONAL SERVICE.**

(1) The Bougainville Constitution may make provision for the Bougainville Correctional Service under Bougainville law which will be responsible for the supervision and administration of correctional institutions in Bougainville.

“(2) Where the Bougainville Constitution makes provision for the Bougainville Correctional Service it shall provide for -

- (a) Bougainville laws for and in respect of -
  - (i) the structures and organizations of the Bougainville Correctional Service; and
  - (ii) the terms and conditions of service of the Bougainville Correctional Service; and
  - (iii) the core training and personnel development arrangements of the Bougainville Correctional Service, consistent with those of the Correctional Service of the National Government; and
- (b) an independent body, which shall include the Commissioner of the Correctional Service or his representative and one other representative of the National Government appointed by the National Government to be responsible for the appointment and removal for just cause of the head of the Bougainville Correctional Service; and
- (c) the head of the Bougainville Correctional Service to have a title other than Commissioner and to hold a rank below that of the Commissioner of the Correctional Service of the National Government; and
- (d) co-operation with the Correctional Service of the National Government in the provision and management of correctional institutions and services.

**“317. FUNDING OF THE BOUGAINVILLE CORRECTIONAL SERVICE.**

An Organic Law shall make provision for and in respect of the funding of the Bougainville Correctional Service.

**“318. CORRECTIONAL SERVICE OF THE NATIONAL GOVERNMENT IN BOUGAINVILLE.**

(1) The Correctional Service of the National Government shall continue to operate and the Act of the Parliament under which it operates shall continue to apply in Bougainville in accordance with the Agreement until the Bougainville Correctional Service has been established and is operational and an appropriate Bougainville law has been made.

- “(2) An Organic Law shall make provision for –
- (a) the transitional arrangements to apply until the Bougainville Correctional Service are established and operational; and
  - (b) co-operative arrangements between the National Correctional Service and the Bougainville Correctional Service.

**Subdivision I. – Bougainville Salaries and Remuneration Commission.**

**“319. BOUGAINVILLE SALARIES AND REMUNERATION COMMISSION.**

(1) The Bougainville Constitution may establish a Bougainville Salaries and Remuneration Commission.

“(2) The Bougainville Salaries and Remuneration Commission shall be responsible for recommending to the Bougainville Legislature the salaries, allowances and benefits, financial or otherwise (including pensions or retirement benefits if they are not otherwise provided for by law) of all -

- (a) persons holding elective office under the Bougainville Constitution; and
- (b) Bougainville Constitutional Office-holders (including Bougainville judges); and
- (c) the heads of Bougainville Government Services; and
- (d) such other persons as are specified in the Bougainville Constitution.

“(3) In making recommendations under Subsection (2), the Bougainville Salaries and Remuneration Commission shall take into account advice from the Salaries and Remuneration Commission established by Section 216A (*The Salaries and Remuneration Commission*) on the maintenance of relativities of salaries and conditions of employment with those applicable to similar offices elsewhere in Papua New Guinea and at the National level.

- “(4) The Bougainville Legislature –
- (a) shall determine the salaries, allowances and benefits, financial or otherwise (including pensions or retirement benefits if they are not otherwise provided for by law) of persons referred to in Subsection (2) in accordance with a recommendation of the Bougainville Salaries and Remuneration Commission; and
  - (b) may accept or reject, but may not amend, any recommendation from the Bougainville Salaries and Remuneration Commission.

**“320. SALARIES AND REMUNERATION COMMISSION.**

(1) Subject to Subsection (2), until the establishment of the Bougainville Salaries and Remuneration Commission, the Salaries and Remuneration Commission established by Section 216A (*Salaries and Remuneration Commission*) shall be responsible for recommending to the Bougainville Legislature the salaries, allowances and benefits, financial or otherwise (including pensions or retirement benefits if they are not otherwise provided for by law) of all persons referred to in Section 319 (2) (*Bougainville Salaries and Remuneration Commission*).

“(2) In carrying out its functions under Subsection (1), the Salaries and Remuneration Commission shall include two persons nominated by the Bougainville Executive in accordance with a Bougainville Law.

- “(3) The Bougainville Legislature -
- (a) shall determine the salaries, allowances and benefits, financial or otherwise (including pensions and retirement benefits if they are not otherwise provided for by law) of persons referred to in Section 319 (2) (*Bougainville Salaries and Remuneration Commission*) in accordance with a recommendation of the Salaries and Remuneration Commission under this section; and
  - (b) may accept or reject, but may not amend, any recommendation from the Salaries and Remuneration Commission under this Section.

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“(4) Where the Bougainville Salaries and Remuneration Commission has been established, the Salaries and Remuneration Commission established by Section 216A (*Salaries and Remuneration Commission*) shall not be responsible for the salaries, allowances and benefits, financial or otherwise (including pensions and retirement benefits if they are not otherwise provided for by law) of persons referred to in Section 319(2) (*Bougainville Salaries and Remuneration Commission*).

**Subdivision J. – Powers Relating to Constitutional Office-Holders.**

**“321. BOUGAINVILLE CONSTITUTIONAL OFFICE-HOLDERS.**

(1) The Bougainville Constitution may make provision for Bougainville Constitutional Office-holders with powers and functions in Bougainville equivalent to the powers and functions of a Constitutional Office-holder, referred to in Section 221 (*Definitions*).

“(2) The Bougainville Constitution may make provision for any other office established under the Bougainville Constitution or a Bougainville law to be declared a Bougainville Constitutional Office and for the holder of such office to be declared a Bougainville Constitutional Office-holder.

“(3) The Bougainville Constitution shall make provision for and in respect of the qualifications, appointment and terms and conditions of employment of Bougainville Constitutional Office-holders and shall –

- (a) subject to any express provisions in this Part, provide that any body established by or under the Bougainville Constitution to appoint a Bougainville Constitutional Office-holder shall include two persons appointed by the body responsible for the appointment of the equivalent Constitutional office-holder under Section 221 (*definitions*) or where there is no such equivalent, by the National Executive Council; and
- (b) guarantee the rights and independence of Bougainville Constitutional Office-holders similar to the protections of office of Constitutional Office-holders under Section 221 (*Definitions*).

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“(4) A Constitutional Office-holder-referred to in Section 221 (*Definitions*) may enter into co-operative or agency arrangements with the equivalent Bougainville Constitutional Office-holder to avoid gaps and duplication and to encourage common standards.

“(5) Subject to this Part, a Constitutional Office-holder under Section 221 (*Definitions*) shall, in Bougainville, where an equivalent Bougainville Constitutional Office -

- (a) has not been established - carry out his responsibilities in respect of powers and functions specified in Section 289 (*powers and functions of the National Government*) and Section 290 (*powers and functions available to the Bougainville Government*); and
- (b) has been established - carry out his responsibilities in respect of—
  - (i) the powers and functions specified in Section 289 (*powers and functions of the National Government*); and
  - (ii) such powers and functions specified in Section 290 (*powers and functions available to the Bougainville Government*) as have not been transferred to the Bougainville Government.

“(6) The Bougainville Government will meet the costs of the establishment and maintenance of Bougainville Constitutional Office-holders.

**Subdivision K. - Emergency Powers.**

**“322. BOUGAINVILLE CONSTITUTION MAY PROVIDE FOR EMERGENCIES.**

The Bougainville Constitution may make provision for procedures to be followed by the Bougainville Government to deal with an emergency as defined in Section 226 (*Definitions*).

**“323. DECLARATION OF NATIONAL EMERGENCY IN BOUGAINVILLE.**

(1) Subject to Subsection (2), where circumstances arise in Bougainville which make it necessary that the existence of a national emergency be declared under Section 228 (*declaration of national emergency*) in relation to Bougainville or part of Bougainville, the following provisions shall apply:-

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- (a) the Bougainville Constitution shall make provision for a procedure whereby the Bougainville Government may request the National Executive Council to advise the Head of State to declare the existence of a national emergency in relation to Bougainville or part of Bougainville;
- (b) where the National Executive Council agrees to a request under Paragraph (a), it shall advise the Head of State to declare the existence of a national emergency in relation to Bougainville or part of Bougainville;
- (c) where no request under Paragraph (a) has been received within a period reasonable in the circumstances, the National Executive Council through a Minister shall endeavour to consult with the Bougainville Government;
- (d) other than where the existence of a national emergency is declared under Paragraph (b), the only circumstance in which the National Executive Council may advise the Head of State to declare the existence of a national emergency is where no request under Paragraph (a) has been received and, due to the urgency of the circumstances, consultation under Paragraph (c) has not been possible and is not practicable.

“(2) Subsection (1) does not apply where the existence of a state of emergency is to be declared in respect of the whole of the country or in respect of Bougainville and substantial areas of the country other than Bougainville.

“(3) Where a declaration of national emergency under Section 228 (*declaration of national emergency*) is in force in relation to Bougainville, the National Government and the Bougainville Government shall co-operate in the management of the emergency insofar as relating to Bougainville.

*Division 5. – Fiscal Arrangements.*

**“324. BASIC PRINCIPLES OF FISCAL ARRANGEMENTS.**

The basic principles of the fiscal arrangements between the National Government and the Bougainville Government are as follows:-

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- (a) that the Bougainville Government shall have sufficient revenue raising powers to enable it to reach fiscal self-reliance, and the National Government shall support the Bougainville Government in reaching fiscal self-reliance;
- (b) that Bougainville shall continue to make a contribution, in accordance with this Part and the Agreement, to the National Government –
  - (i) prior to fiscal self-reliance-through the collection and application of company tax, value added tax and customs duties in Bougainville remaining with the National Government; and
  - (ii) after fiscal self-reliance, through an agreed revenue-sharing formula which may be determined through the review process;
- (c) except as otherwise provided in this Part or the Agreement, the costs involved in establishing and maintaining the Bougainville Government additional to those of the functions and powers covered by recurrent grants under Section 326 (1)(a)(i) (grants) shall be shared between the National Government and the Bougainville Government.

**“325. REVENUE RAISING, ETC., ARRANGEMENTS.**

Subject to the Agreement, an Organic Law shall make provision for -

- (a) the method of sharing, between the National Government and the Bougainville Government, of taxes collected in Bougainville and the manner in which such taxes shall be dealt with both before and after fiscal self-reliance; and
- (b) the Bougainville Government to have power to adjust the rate of -
  - (i) personal income tax collected from Bougainville; and
  - (ii) after fiscal self-reliance – company tax collected in Bougainville; and
- (c) the arrangements between the National Government and the Bougainville Government relating to the collection of taxes; and

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- (d) the Bougainville Government to have power to establish its own tax regime for all taxes (excluding customs duties, company tax and value added tax); and
- (e) existing tax incentives in Bougainville to continue and for the Bougainville Government to be empowered –
  - (i) to recommend persons as eligible for tax incentives; and
  - (ii) to request new tax incentives; and
- (f) the audit, by or on behalf of the National Government and by or on behalf of the Bougainville Government of all taxes collected; and
- (g) the manner of sharing revenues from activities in areas of sea and seabed beyond the guaranteed three mile limit and within the Exclusive Economic Zone and the continental shelf associated with Bougainville.

**“326. GRANTS.**

(1) The National Government shall provide grants to the Bougainville Government as follows:-

- (a) recurrent unconditional grants; and
- (b) restoration and development grants; and
- (c) conditional grants for specific purposes; and
- (d) a Police grant; and
- (e) an establishment grant.

“(2) Subject to the Agreement, an Organic Law shall make provision for –

- (a) the manner of calculation, adjustment (including the effects of progress towards fiscal self-reliance), timing, payment and management of such grants; and
- (b) methods of consultation between the National Government and the Bougainville Government in relation to such grants.

“(3) Grants provided to the Bougainville Government under Subsection (1) shall be subject to audit by the Auditor-General.

**“327. FOREIGN AID.**

- (1) The National Government shall use its best endeavours -
- (a) to obtain foreign aid to support restoration and development in Bougainville; and
  - (b) to facilitate the participation of the Bougainville Government in the management of aid projects.
- “(2) The Bougainville Government -
- (a) may seek and obtain foreign aid; and
  - (b) shall keep the National Government fully informed as to its efforts under Paragraph (a).
- “(3) The National Government shall -
- (a) approve foreign aid obtained by the Bougainville Government, where the aid -
    - (i) does not reduce the value of aid already available to Papua New Guinea; and
    - (ii) does not conflict with overriding foreign policy considerations; and
  - (b) co-operate with the Bougainville Government by negotiating such international agreements as may be required to finalise foreign aid identified by the Bougainville Government.

**“328. OTHER FINANCIAL POWERS AND ACCOUNTABILITY.**

- (1) The Bougainville Constitution or a Bougainville Law, in addition to other powers conferred by this Division -
- (a) may provide for the Bougainville Government after consultation with the National Government -
    - (i) to raise foreign loans, in accordance with required approvals and other requirements of the Bank of Papua New Guinea; and
    - (ii) to raise domestic loans, in accordance with regulation of the banking system by the Bank of Papua New Guinea; and
  - (b) shall provide for the manner of approval and administration of annual budgets (and where appropriate, supplementary budgets) comprising estimates of revenue and expenditure and appropriation of the main functions of the Bougainville Government; and

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- (c) shall provide for the manner of approval of making expenditures; and
- (d) shall provide for the maintenance of proper transparent and accurate accounts, compatible with international accounting standards.

“(2) The Bougainville Constitution -

- (a) shall make provision for regular audits of the accounts of the Bougainville Government in addition to audits carried out by, or on behalf of, the Auditor-General in the exercise of his powers and the performance of his functions under this Constitution; and
- (b) shall make provision, within the Bougainville Legislature, for a public accounts committee which shall receive, consider and make recommendations on reports of audits carried out under Paragraph (a); and
- (c) shall make provision whereby, if at the beginning of a financial year the Bougainville Legislature has not made provision for expenditure for the services of the Bougainville Government for that year, the Bougainville Executive may expend amounts up to a limit specified in the Bougainville Constitution.

**“329. FOLLOW-UP TO AUDIT REPORTS.**

Subject to the Agreement, an Organic Law shall make provision in accordance with the Agreement for circumstances where any audit carried out by the Auditor-General discloses systematic and widespread abuse (or misuse) of funding provided to the Bougainville Government by way of recurrent or conditional grant and in particular shall make provision for-

- (a) the procedures to be followed by the National Government and by the Bougainville Government; and
- (b) the withholding by the National Government in certain circumstances of certain grants; and
- (c) recourse to the dispute resolution procedure, in relation to any such abuse (or misuse).

**Division 6. – Intergovernmental Relations and Review.**

**“330. INTERPRETATION.**

In this Division unless the contrary intention appears –

“dispute” means any disagreement between the National Government and the Bougainville Government in relation to the autonomy for Bougainville and the referendum for Bougainville;

“dispute resolution procedure” means the dispute resolution procedure set out in Section 333 (*Joint Supervisory Body*);

“intergovernmental relations” means relations between the National Government and the Bougainville Government;

“Joint Supervisory Body” means the Joint Supervisory Body established by Section 332 (*Joint Supervisory Body*);

“review” means review under Section 337 (*reviews*).

**“331. PRINCIPLES OF INTERGOVERNMENTAL RELATIONS.**

The general principles of intergovernmental relations between the National Government and the Bougainville Government are as follows:-

- (a) that the autonomy arrangements, having been reached through consultation and co-operation, should be implemented in like manner;
- (b) that there be a procedure to avoid, minimize and resolve disputes;
- (c) that the National Government has no power to withdraw powers from the Bougainville Government or to suspend it.

**“332. JOINT SUPERVISORY BODY.**

(1) There is established a Joint Supervisory Body consisting of –

- (a) not less than two members appointed by the National Executive Council; and
- (b) not less than two members appointed by the Bougainville Executive.

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“(2) There shall be an equal number of members appointed under Subsection (1)(a) and (b).

- “(3) The functions of the Joint Supervisory Body are –
- (a) to oversee implementation of the Agreement and of this Part in accordance with the Agreement; and
  - (b) to provide a consultative forum at which consultation between the National Government and the Bougainville Government and their agencies can take place.

“(4) The Joint Supervisory Body shall have such powers as are necessary to enable it to perform its functions under this Part and the Agreement.

- “(5) The Joint Supervisory Body –
- (a) subject to Paragraph (b), shall, at its first meeting, develop its own procedures and fix the frequency of its meeting (which shall be at least once in each year); and
  - (b) provide that any of its members may put matters on an agenda of a meeting; and
  - (c) at its first meeting elect one of the members under Subsection (1)(a) to be the Chairman and at its second meeting elect one of the members under Subsection (1)(b) to be the Chairman and thereafter elect a Chairman from Subsection (1)(a) and (b) in rotation.

**“333. DISPUTE RESOLUTION PROCEDURE.**

The dispute resolution procedure is as follows:-

- (a) subject to express provisions relating to consultation in this Part and the Agreement, the National Government and the Bougainville Government shall try to resolve a dispute by consultation -
  - (i) where appropriate, between the relevant agencies of each Government; or
  - (ii) where consultation under Subparagraph (i) is not practicable or successful, through the Joint Supervisory Body;

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- (b) where a dispute cannot be resolved by consultation under Paragraph (a), it shall be referred for mediation and arbitration under Section 334 (*mediation and arbitration*), unless otherwise agreed by the National Government and the Bougainville Government;
- (c) where a dispute cannot be resolved under Paragraph (a) or (b), or where the parties otherwise agree it may be submitted to the jurisdiction of the courts;
- (d) where a dispute involves a point of law, that point of law may be submitted to the jurisdiction of the courts without application of Paragraph (a) or (b).

### **“334. MEDIATION AND ARBITRATION.**

(1) Where a dispute proceeds to mediation or arbitration, the National Government and the Bougainville Government shall agree on the Mediator or Arbitrator.

“(2) The Mediator or Arbitrator shall determine procedures to be followed in the initial consideration of a dispute referred to him and shall determine whether a dispute is or is not suitable for mediation or arbitration.

“(3) Where the Mediator or Arbitrator determines that a dispute is not suitable for arbitration or mediation, he shall issue to each of the parties to the dispute a certificate to that effect.

“(4) Where the mediation or arbitration proceeds, the Mediator or Arbitrator shall determine the procedures to be followed.

### **“335. DISPUTE RESOLUTION IN THE COURTS.**

The Courts shall have jurisdiction in a dispute -

- (a) in accordance with Section 333 (d) (*dispute resolution procedure*), where a dispute involves a point of law; and
- (b) where the parties so agree; and
- (c) where the mediation or arbitration procedure fails to resolve the dispute and one or other party wishes to take the matter to Court; and
- (d) prescribed as a dispute in relation to which the Courts have jurisdiction.

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**“336. PANEL OF PERSONS WITH APPROPRIATE EXPERTISE.**

(1) Subject to Subsection (2), at any stage in the dispute resolution procedure, the parties may agree to appoint a panel of persons with expertise appropriate to the matter in dispute.

“(2) Where a Mediator or Arbitrator has been appointed in respect of a dispute, his consent to the appointment of a panel under Subsection (1) shall be sought.

**“337. REVIEWS.**

(1) The National Government and the Bougainville Government –

- (a) shall meet as close as is practicable to the fifth anniversary of the establishment of the Bougainville Government and every five years thereafter, jointly to review the autonomy arrangements; and
- (b) may agree to additional reviews of the autonomy arrangements at any time; and
- (c) shall present a report of each review under Paragraph (a) or (b) to the National Parliament and to the Bougainville Legislature.

“(2) A review under Subsection (1) of the autonomy arrangements shall follow and consider separate reviews by independent experts of particular aspects, including -

- (a) the financial arrangements – grants, taxes and progress towards fiscal self-reliance; and
- (b) the Bougainville Government Services and other aspects of public sector administration in Bougainville – including size, efficiency, effectiveness, and related matters; and
- (c) technical and legal aspects, including issues arising from judicial interpretation, and the distribution of powers and functions; and
- (d) such other areas as the Bougainville Government and the National Government may agree.

“(3) The terms of reference for a review shall specify that, unless otherwise agreed, they are intended to improve, clarify and strengthen the autonomy arrangements consistently with the objectives and principles in the Agreement.

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“(4) The National Government and the Bougainville Government may, by agreement, defer the specialist reviews or incorporate the issues with which they deal in the general review.

“(5) The reports of the specialist reviews will include drafts or drafting instructions for any legislative amendments they recommend.

“(6) In the event that either the National Parliament or the Bougainville Legislature passes any amendments proposed under Subsection (5) according to its own constitutional procedures and the other does not, the Bougainville Government on behalf of the Bougainville Legislature and the National Government on behalf of the National Parliament shall follow the dispute resolution procedure up to the level of mediation or arbitration.

“(7) Any point of law arising from the application of Subsection (6) shall be referred to the Supreme Court.

“(8) A Mediator or Arbitrator may not give directions to the National Parliament or the Bougainville Legislature but may order the National Government and the Bougainville Government to present a report in the National Parliament and the Bougainville Legislature recording the views of both Governments and containing their own recommendations on differences between them.

“(9) In addition to the reviews under Subsection (1), the National Government and the Bougainville Government shall hold annual, wide-ranging consultations on the general operation of the autonomy arrangements.

“(10) Unless the National Government and the Bougainville Government agree to some other method, the consultation under Subsection (9) shall be held through the Joint Supervisory Body.

*Division 7.- Bougainville Referendum.*

**“338. REFERENDUM TO BE HELD.**

(1) Subject to this section, a Referendum on the future political status of Bougainville shall be held in accordance with this Division.

“(2) Subject to Subsection (7), the Referendum shall be held on a date agreed after consultation by the Bougainville Government with the National Government, which date shall be not earlier than 10 years and, notwithstanding any other provision, not more than 15 years after the election of the first Bougainville Government.

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“(3) The date referred to in Subsection (2) shall be determined after considering whether -

- (a) weapons have been disposed of in accordance with the Agreement; and
- (b) in accordance with Subsection (4), it has been determined that the Bougainville Government has been and is being conducted in accordance with internationally accepted standards of good governance.

“(4) The question whether the Bougainville Government has been and is being conducted in accordance with internationally accepted standards of good governance shall be determined in accordance with the review and the dispute resolution procedure.

“(5) For the purposes of Subsection (4), the internationally accepted standards of good governance, as they are applicable and implemented in the circumstances of Bougainville and Papua New Guinea as a whole, include democracy, the opportunity for participation by Bougainvilleans, transparency, accountability, and respect for human rights and the rule of law, including this Constitution.

“(6) The National Government and the Bougainville Government shall co-operate in ensuring progress towards achieving and maintaining the standards referred to in Subsection (5).

“(7) The Referendum shall not be held where the Bougainville Government decides, in accordance with the Bougainville Constitution, after consultation with the National Government, that the Referendum shall not be held.

**“339. THE QUESTION OR QUESTIONS TO BE PUT.**

The question or questions to be put at the Referendum -

- (a) shall be agreed to by the National Government and the Bougainville Government; and
- (b) shall be formulated to avoid a disputed or unclear result; and
- (c) shall include a choice of separate independence for Bougainville.

**“340. MANNER OF CONDUCTING REFERENDUM.**

(1) An Organic Law shall make provision for the manner in which the Referendum is to be conducted and in particular shall make provision for and in relation to -

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- (a) the authorities to be jointly responsible for preparing for and conducting the Referendum and for the arrangements whereby they shall exercise joint authority; and
- (b) electorates and polling places; and
- (c) electoral rolls, enrolment, objections to enrolment and appeals relating to enrolment; and
- (d) postal voting; and
- (e) polling and scrutiny; and
- (f) interpreters; and
- (g) offences; and
- (h) polling and scrutiny; and
- (i) communicating the results of the Referendum to the National Government and to the Bougainville Government; and
- (j) the invitation of international observers to observe the conduct of the Referendum; and
- (k) such other matters as may be required effectively to conduct the Referendum.

“(2) The Referendum may be held in conjunction with an election.

**“341. REFERENDUM TO BE FREE AND FAIR.**

The National Government and the Bougainville Government shall co-operate to ensure that the Referendum is free and fair.

**“342. REFERENDUM RESULTS AND IMPLEMENTATION.**

(1) The National Government and the Bougainville Government shall consult over the results of the Referendum.

“(2) Subject to the consultation referred to in Subsection (1), the Minister responsible for the Bougainville Referendum shall table the results of the Referendum in the National Parliament and the Speaker of the National Parliament shall furnish to the Bougainville Executive a copy of the minutes of the relevant proceedings and of any decision made in the National Parliament regarding the Referendum.

**“343. RESOLUTION OF DIFFERENCES ON REFERENDUM.**

Any differences between the National Government and the Bougainville Government in relation to the Referendum shall be resolved in accordance with the dispute resolution procedure.

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*Division 8. - Immunity from Prosecution.*

**“344. IMMUNITY FROM PROSECUTION.**

(1) The purpose of this section is to assist in the reconciliation process in Bougainville, and it is the intention of the Parliament that the provisions of this section be so applied as to assist in achieving this purpose.

“(2) There shall be immunity from prosecution in accordance with this section in respect of certain offences arising from crisis-related activities in relation to the Bougainville conflict.

“(3) The Head of State, acting with, and in accordance with, the advice of the National Executive Council, may by declaration published in the National Gazette, declare -

- (a) subject to Paragraph (b), the class or classes of offences to which the immunity is to apply or not apply; and
- (b) the nature of crisis-related activities which shall qualify the offences for the immunity; and
- (c) the period of time to which the immunity shall apply; and
- (d) such other matters as are necessary to ensure that the immunity can be effected.

“(4) Where a declaration has been made under Subsection (3), no charge shall be laid and no prosecution -

- (a) shall be initiated; or
  - (b) if initiated, shall be pursued,
- in respect of an offence -
- (c) included in the offences described pursuant to Subsection (3)(a); and
  - (d) of a nature described in Subsection (3)(b); and
  - (e) committed during the period specified in Subsection (3)(c).

“(5) The provisions of this section -

- (a) may be applied generally in respect of classes of offences and classes of circumstances without the need to identify alleged offenders; and
- (b) shall apply to offences whether or not a charge has been laid in respect of them.

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*Division 9. – Miscellaneous.*

**“345. REQUIREMENT FOR AMENDMENT OF THIS PART, ETC.,**

(1) The provisions of this section are in addition to and are not in derogation of the provision of Section 14 (*making of alterations to the Constitution and Organic Laws*).

“(2) Where the National Government or the Bougainville Government seeks to present or have presented in the Parliament an amendment to this Part or to an Organic Law authorized by this Part, it shall –

- (a) consult with the other Government concerning the proposed amendments; or
- (b) submit the proposed amendment to a review, before presenting it or having it presented in the Parliament.

“(3) Where an amendment to this Part or to an Organic Law authorized by this Part is proposed to be presented in the Parliament, the Minister responsible for Constitutional Law matters in relation to Bougainville shall, as soon as practicable after the proposed amendment is published in the National Gazette (or earlier if the Minister has notification of the proposed amendment) send a copy of the proposed amendment to the Bougainville Government and the two Governments shall consult with each other concerning the proposed amendment.

“(4) An amendment referred to in Subsection (2) or (3) cannot become law unless –

- (a) it is passed by the National Parliament in accordance with Section 14 (*making of alterations to the Constitution and Organic Laws*); and
- (b) before the second vote in the National Parliament on the amendment in accordance with Section 14 (*making of alterations to the Constitution and Organic Laws*), on a motion in the Bougainville Legislature for approval of the amendment as presented to the Parliament, there is –
  - (i) in the case of an amendment to Division 7 or to this Subsection – a two-thirds absolute majority vote of members of the Bougainville Legislature in favour of the amendment; and

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- (ii) in the case of an amendment to this Part, other than to Division 7 or to this Subsection – a simple majority vote of the members of the Bougainville Legislature in favour of the amendment.

“(5) The person presiding over the Bougainville legislature on the occasion of a vote taken under Subsection (4)(b)(i) or (ii) shall, as soon as practicable after the vote has been taken, send to the Speaker of the National Parliament details of the result of the vote.

**“346. PRESCRIBED MAJORITY OF VOTES REQUIRED FOR THIS PART, ETC.,**

(1) For the purposes of Section 14 (*making of alterations to the Constitution and Organic Laws*), the prescribed majority of votes for this Part is a two-thirds absolute majority vote.

“(2) For the purposes of Section 14 (5)(b)(i) (*making of alterations to the Constitution and Organic Laws*) the prescribed majority of votes for an Organic Law authorized by this Part is a two-thirds absolute majority.

**“347. ORGANIC LAWS.**

Where this Part authorizes an Organic Law to make provision for any matter, the Organic Law may make full provision for all aspects of that matter, notwithstanding that all such aspects have not been expressly referred to in the provision authorizing the Organic Law.

**“348. TRANSITIONAL PROVISIONS.**

An Organic Law may make provision for all matters relating to the transition of Bougainville from the system of Government immediately before the coming into operation of this Part to the system of Government for which provision is made in this Part.

**“349. CONSTITUTIONAL REGULATIONS.**

(1) The Head of State, acting with, and in accordance with, the advice of the National Executive Council, may make Constitutional Regulations not inconsistent with this Part prescribing all matters that by this Part are required or permitted to be prescribed or that are necessary or convenient to be prescribed for carrying out and giving effect to this Part.

(2) The Constitutional Regulations under Subsection (1) shall not be made, amended or repealed except with the approval of the Bougainville Executive in accordance with the Bougainville Constitution and the Agreement.

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I hereby certify that the above is a fair print of the *Constitutional Amendment No. 23 – Peace-Building in Bougainville – Autonomous Bougainville Government and Bougainville Referendum* which has been made by the National Parliament.

Clerk of the National Parliament.

*Constitution.*

**CERTIFICATE UNDER SECTION 14.**

I, **BERNARD NAROKOBI**, Speaker of the National Parliament, hereby certify that the requirements of Section 14(1), (2) and (3) of the *Constitution* were complied with in respect of the *Constitutional Amendment No. 23 - Peace-Building in Bougainville – Autonomous Bougainville Government and Bougainville Referendum* and that the law was made by the National Parliament as follows:-

- (a) the first vote was taken on 23 January 2002 when the number of seats in the National Parliament were 109 and those voting for the proposal were 86 and none voted against the proposal; and
- (b) the second vote was taken on 27 March 2002 when the number of seats in the National Parliament were 109 and those voting for the proposal were 85 and none voted against the proposal.

Speaker of the National Parliament.

