

# **AUTONOMOUS REGION OF BOUGAINVILLE**

## ***An ACT***

No.....of 2013

### **Entitled *Bougainville Education Act 2013***

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**AUTONOMOUS REGION OF BOUGAINVILLE.**

AN ACT

No...

*Entitled*

**BOUGAINVILLE EDUCATION ACT 2013**

Being an Act to provide for the establishment and implementation of the Bougainville Education System, and for related purposes.

MADE by the House of Representatives to come into operation in accordance with a notice in the *Bougainville Gazette* by the Minister.

**PART 1 – PRELIMINARY**

**1. OBJECTS OF THIS ACT.**

The objects of this Act are:

- (a) to establish and implement the Bougainville Education System; and
- (b) to give effect to section 32 of the *Bougainville Constitution*; and
- (c) to regulate the administration of education services in Bougainville; and
- (d) to promote integrity and appropriate standards in education.

**2. COMPLIANCE WITH CONSTITUTIONAL REQUIREMENTS.**

In accordance with section section 180 of the *Bougainville Constitution*, this Act, to the extent that it regulates or restricts a right or freedom referred to in Division 2 Part 14 of the *Bougainville Constitution* (Qualifications on the qualified rights), namely:

- (a) the freedom from arbitrary search and entry by paragraph 180(1)(b) of the *Bougainville Constitution*; and
- (b) the right to freedom of conscience, thought and religion conferred by paragraph 180(1)(c) of the *Bougainville Constitution*; and
- (c) the right to freedom of expression conferred by paragraph 180(1)(d) of the *Bougainville Constitution*; and

- (d) the right to freedom of information conferred by paragraph 180(1)(i) of the *Bougainville Constitution*; and

is a law that is made for the purpose of giving effect to the public interest in public welfare.

### 3. INTERPRETATION.

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

“adult education” means literacy and other related programmes conducted for adult persons;

“adult education centre” means an institution, college or centre that provides adult education;

“agency fee” means a fee imposed by an Education Authority under subsection 30(2);

“appointment” in relation to the appointment of teaching staff at a school includes an acting appointment;

“approved curricula” means:

- (a) curricula approved under section 10 of this Act; or
- (b) the curricula determined under section 27 of the *PNG Education Act*;

“Autonomous Bougainville Government agency school” means a school for which the Autonomous Bougainville Government is the Education Agency;

“Board of Governing Council” means the Governing Board for a tertiary institution;

“Board of Governors” means the Governing Board for:

- (a) a secondary school; or
- (b) a technical secondary school; or
- (c) a distance education school; or
- (d) an inclusive education centre; or
- (e) a community college;

“Board of Management” means the Governing Board for:

- (a) a pre-school; or
- (b) a vernacular school; or
- (c) an elementary school; or
- (d) a primary school; or
- (e) a technical school; or
- (f) an adult education centre;

“Bougainvillean” has the same meaning as in the *Interpretation Act 2005*;

“*Bougainville Constitution*” has the same meaning as in the *Interpretation Act 2005*;

“Bougainville Education Board” means the Bougainville Education Board established under section 16;

“Bougainville Education Plan” means the education plan approved under section 13;

“Bougainville Education System” means the Education System in Bougainville established under Part 2;

“Bougainville Executive Council” has the same meaning as in the *Interpretation Act 2005*;

“Bougainville Gazette” means the publication known as the Bougainville Gazette provided for under section 226 of the *Bougainville Constitution*;

“compulsory school age” of a child has the meaning given by subsection (2);

“Department” means the department responsible for education;

“distance education” means providing Grade 7 to Grade 10 education for school leavers;

“distance education school” means a school that provides distance education;

“District Education Office” means a district education office established under section 27;

“District Education Officer” means a district education officer appointed under section 27;

“Education Agency” means the Autonomous Bougainville Government or an organization or person recognised under section 29 as an Education Agency;

“Education Authority” means a person or body specified in section 8;

“education fee” means a fee referred to in subparagraph 19(1)(e)(i) or (ii);

“elementary education” means a three year formal education from elementary prep to elementary 2 during which the medium of instruction is in a local vernacular and the bridging into English takes place in the second half of elementary 2;

“elementary school” means a school that provides elementary education;

“emergency situation” includes a situation arising from:

- (a) natural causes; or
- (b) civil disturbances; or
- (c) criminal activities; or
- (d) health or hygiene;

“Governing Board” means:

- (a) a Board of Management; or
- (b) a Board of Governors; or
- (c) a Board of Governing Council;

“head teacher” of a school or institution means the person who is in charge of the day to day administration of the school or institution, whether referred to as the principal, headmaster, headmistress or any other title;

“identity” in relation to a school or institution means the character of the school or institution as determined by the Education Agency responsible for the school or institution and includes the Agency’s statement of philosophy as published from time to time by the Agency;

“institution” means:

- (a) a tertiary institution; or
- (b) an inclusive education centre or other centre providing special needs education; or
- (c) a community college or other centre providing courses for the community at large; or
- (d) an adult education centre; or
- (e) any other prescribed institution, centre or college;

“institution fee” means all or any of the following fees relating to an institution:

- (a) an agency fee;
- (b) an education fee;
- (c) a project fee;
- (d) any other prescribed fee or charge, whether to cover recurrent costs or capital costs at the institution;

“member school” means a school that is recognised under section 45;

“member institution” means an institution that is recognised under section 45;

“Minister” means the Minister responsible for education;

“parent” of a child includes a guardian or other person who has legal custody of the child;

“Parents’, Citizens’ and Friends’ Association” means an association approved under section 53;



“permitted school” means a school operating in Bougainville that is not a member school;

“permitted institution” means an institution operating in Bougainville that is not a member institution;

“PNG Education Act” means the *Education Act 1983* of Papua New Guinea;

“PNG Teaching Service Act” means the *Teaching Service Act 1988* of Papua New Guinea;

“pre-school” means a school or centre that provides pre-school education;

“pre-school education” means a basic introductory education programme prior to vernacular and elementary education during which the medium of instruction is a local vernacular in rural areas, and Tok pidgin or English in urban areas;

“primary school” means a school that provides primary school education;

“primary school education” means full time primary level education in accordance with the approved curricula for six years from Grade 3 to Grade 8;

“project fee” means a fee relating to a capital cost for a school or institution approved by the Bougainville Education Board under paragraph 19(1)(f);

“religious institution” means:

- (a) an institution in which the instruction is wholly or mainly of a religious or doctrinal nature; or
- (b) an institution conducted by a church for exclusive training of its own personnel;

“reserved teaching position” means a teaching position in a school or institution reserved under section 60;

“school” means:

- (a) a pre-school; or
- (b) a vernacular school; or
- (c) an elementary school; or
- (d) a primary school; or
- (e) a technical school; or
- (f) a secondary school; or
- (g) a distance education school; or
- (h) a technical secondary school; or
- (i) any other prescribed school;

“school fee” means all or any of the following fees relating to a school:

- (a) an agency fee;
- (b) an education fee;
- (c) a project fee;

(d) any other prescribed fee or charge, whether to cover recurrent costs or capital costs at the school;

“school fee subsidy” means the fee component to be paid by the Autonomous Bougainville Government for students attending schools or institutions in Bougainville;

“secondary school” means a school that provides secondary school education;

“secondary school education” means full time secondary level education in accordance with the approved curricula for four years from Grade 9 to Grade 12;

“Secretary” means the Departmental Head of the Department;

“teacher” means a person whose name is for the time being entered or provisionally entered in the prescribed register for teachers;

“Teaching Service” means the Teaching Service provided for by the *PNG Teaching Service Act*;

“Teaching Service Commission” means the Teaching Service Commission established under the *PNG Teaching Service Act*;

“technical education” means technical or vocational training programmes given at a technical school in accordance with the approved curricula;

“technical school” means a school, an institution, a centre or college that is devoted solely or primarily to the provision of technical education;

“technical secondary education” means technical or vocational training programmes conducted at a secondary school level in accordance with the approved curricula;

“technical secondary school” means a secondary school that provides technical secondary education;

“tertiary education” means training programmes and courses conducted at a tertiary institution in accordance with the approved curricula;

“tertiary institution” means:

- (a) a teachers college; or
- (b) a business college; or
- (c) a technical college; and
- (d) any other prescribed institution; including a university or a religious institution;

“this Act” includes the regulations;

“vernacular education” means a one year basic literacy programme whereby the medium of instruction as well as the curricula are chosen by the community;

“vernacular school or (Tokples/Self-help School)” means a school that provides vernacular education;

“vocational training” means training courses for employment purposes conducted at a school, an institution, a centre or college.

(2) A child is of compulsory school age if the child is at least 6 years of age and not more than 14 years of age.

#### **4. COMPULSORY ENROLMENT.**

(1) Each parent of a child who is of compulsory school age must ensure that the child is enrolled at a school, unless the parent has a reasonable excuse:

Penalty: In the case of:

- (a) a first offence of K100; or
- (b) a subsequent offence of K50, whether or not relating to the same child of the parent.

(2) Without limiting subsection (1), it is a reasonable excuse for a parent (the relevant parent) that:

- (a) the child lives with another parent and the relevant parent believes, on reasonable grounds, that the other parent is complying with subsection (1); or
- (b) in all the circumstances, the relevant parent is not reasonably able to control the child's behaviour to the extent necessary to comply with subsection (1).

(3) Proceedings for an offence against subsection (1) shall be brought against a parent only with the Secretary's written approval.

(4) Subsection (1) does not apply to a parent of:

- (a) a child approved by the Secretary for home education; or
- (b) a child in respect of whom an exemption has been granted by the Secretary.

(5) The Secretary may, on application in writing by the parent of a child, approve the child for home education if the Secretary is satisfied that the proposed home education of the child meets the prescribed criteria.

(6) The Secretary may, on application in writing by the parent of a child, issue a certificate of exemption in respect of the child if the Secretary is satisfied that the exemption:

- (a) is necessary or desirable, having regard to an educational, vocational training or employment opportunity offered to the child; or
  - (b) is otherwise in the child's best interests, having regard to the care, health, development or education of the child.
- (7) The Secretary may issue the certificate of exemption subject to written conditions.
- (8) The Secretary may cancel a certificate of exemption if:
- (a) the certificate was issued in error; or
  - (b) the reason for which the certificate was issued ceases to apply.
- (9) To avoid doubt, if:
- (a) a child turns 6 years of age on or before 1 June in a particular year, the child must be enrolled to commence school at the start of that year; and
  - (b) a child turns 6 years of age after 1 June in a particular year, the child must be enrolled to commence school at the start of the following year.

## **5. COMPULSORY ATTENDANCE.**

(1) Each parent of a child who is of compulsory school age must ensure that the child attends a school during the whole of each school day, unless the parent has a reasonable excuse:

Penalty: In the case of:

- (a) a first offence of K100; or
  - (b) a subsequent offence of K50, whether or not relating to the same child of the parent.
- (2) Without limiting subsection (1), it is a reasonable excuse for a parent (the relevant parent) that:
- (a) the child lives with another parent and the relevant parent believes, on reasonable grounds, that the other parent is complying with subsection (1); or
  - (b) in all the circumstances, the relevant parent is not reasonably able to control the child's behaviour to the extent necessary to comply with subsection (1).
- (3) Subsection (1) does not apply to the parent of a child if:
- (a) the child is suspended or has been expelled from the school; or
  - (b) the child has been granted an exemption under section 4; or

- (c) the head teacher of the school has ordered that the child is not to attend school because the child is suffering from a disease that may be infectious, contagious or harmful to the health of other persons at the school; or
- (d) the child is prevented from attending school because the child is sick; or
- (e) the school is temporarily closed or teaching at the school has been suspended; or
- (f) a parent of the child gives the head teacher of the school, orally or in writing, a reason acceptable to the head teacher for the absence of the child.

(4) Proceedings for an offence against subsection (1) may be brought against a parent only with the Secretary's written approval.

## **PART 2 – AUTONOMOUS REGION OF BOUGAINVILLE EDUCATION SYSTEM.**

### **6. BOUGAINVILLE EDUCATION SYSTEM.**

(1) The Bougainville Education System is established.

(2) The Bougainville Education System consists of the following schools, colleges, centres and institutions that are conducted within the Autonomous Region of Bougainville by Education Agencies:

- (a) pre-schools;
- (b) vernacular schools;
- (c) elementary schools;
- (d) primary schools;
- (e) technical schools;
- (f) secondary schools;
- (g) distance education schools;
- (h) technical secondary schools;
- (i) inclusive education centres;
- (j) community colleges;
- (k) adult education centres;

(l) tertiary institutions.

(3) The Bougainville Education System is to be administered in accordance with, and for the objects and purposes expressed in, the *Bougainville Constitution* and this Act.

## **7. OBJECTS OF THE BOUGAINVILLE EDUCATION SYSTEM.**

(1) The objects of the Bougainville Educational System are:

- (a) to strive to achieve universal primary, secondary and adult education; and
- (b) to provide, from elementary and primary levels, the widest possible range of technical education relevant to the needs of Bougainville; and
- (c) to provide for appropriate levels of tertiary education; and
- (d) to ensure that all children, throughout the primary and secondary levels of education, are taught to read and write in their vernacular and are taught about their own culture; and
- (e) to provide the highest possible standard of education to enable all students to participate fully in the lives of the Bougainville communities to which they belong; and
- (f) to ensure that all Education Authorities work in partnership.

(2) The Minister must consult regularly with the Councils of Elders, traditional chiefs, other traditional leaders and other community leaders about the development and effectiveness of the curriculum in all levels and kinds of education within the Bougainville Education System.

## **8. ADMINISTRATION OF THE BOUGAINVILLE EDUCATION SYSTEM.**

The following Education Authorities are responsible for the administration of the Bougainville Education System in the manner and to the extent set out in this Act and any other law relating to education matters:

- (a) the Bougainville Executive Council;
- (b) the Minister;
- (c) the Secretary;
- (d) the Teaching Service Commission;
- (e) the Bougainville Education Board;
- (f) the Education Agencies;
- (g) the District Education Officers;

- (h) the Governing Boards of schools and institutions.

## **9. FUNCTIONS OF THE BOUGAINVILLE EXECUTIVE COUNCIL.**

- (1) The functions of the Bougainville Executive Council in relation to education matters are:

- (a) to give directions to, and receive recommendations from, the Bougainville Education Board on any matter relating to the Bougainville Education System; and
- (b) to recognize Education Agencies; and
- (c) to recognize schools and institutions as members of the Bougainville Education System; and
- (d) to perform such other functions as are conferred on the Council by or under this Act or any other law.

- (2) The Bougainville Executive Council may, by written instrument, delegate all or any of its powers or functions under this Act, other than this power of delegation, to the Minister.

## **10. RESPONSIBILITIES OF THE MINISTER.**

- (1) The responsibilities of the Minister are:

- (a) to keep the Bougainville Executive Council informed about the functioning and progress of the Bougainville Education System; and
- (b) to ensure effective channels of communication operate between the various Education Authorities; and
- (c) to ensure that Education Authorities exercise their powers and functions in accordance with this Act and any other law relating to education matters; and
- (d) to provide advice to the Bougainville Executive Council on the implementation of the Bougainville Education Plan; and
- (e) on the recommendation of the Bougainville Education Board, to approve for each subject or class of subjects offered by a school or institution:
  - (i) the curriculum content; and
  - (ii) the curriculum standards and examinations; and
  - (iii) the number of hours of instruction; and
  - (iv) the language of instruction; and

- (v) such other matters as are prescribed; and
  - (f) to appoint members of the Bougainville Education Board under subsection 16(3); and
  - (g) to perform such other functions as are conferred on the Minister by or under this Act or any other law.
- (2) The Minister may, by written instrument, delegate all or any of his or her powers or functions under this Act, other than this power of delegation, to the Secretary.

## **11. RESPONSIBILITIES OF THE SECRETARY.**

- (1) The Secretary is responsible for:
- (a) the efficient administration and operation of the Bougainville Education System; and
  - (b) the implementation of the Bougainville Education Plan; and
  - (c) the Education Agency functions of the Autonomous Bougainville Government.
- (2) Without limiting subsection (1), the Secretary:
- (a) must ensure that the Bougainville Education Board remains properly constituted and performs its functions; and
  - (b) must ensure that the principle of partnership of Education Agencies within the Bougainville Education System is upheld in practice; and
  - (c) must ensure that school fees and institution fees are used accountably and transparently by Governing Boards and any other person; and
  - (d) must budget annually for recruitment and professional development incentives for teachers in Bougainville; and
  - (e) is responsible for:
    - (i) the disbursement in accordance with the law of money lawfully available for the purposes of this Act and any other law relating to education matters; and
    - (ii) the supervision of expenditure of such money; and
  - (f) is responsible for the certification and registration of teachers; and



- (g) must ensure that investigations are conducted in relation to the discipline of teachers as provided for under the *PNG Teaching Service Act*; and
  - (h) may make a written determination that teaching at a school or institution is to be suspended in an emergency situation for such period as is specified in the determination; and
  - (i) must perform such other functions as are conferred on the Secretary by or under this Act or any other law.
- (3) The Secretary may, by written instrument, delegate all or any of his or her powers or functions under this Act, other than this power of delegation, to an officer of the Department.

## **12. FUNCTIONS OF THE DEPARTMENT OF EDUCATION.**

- (1) The Department through the Secretary is the Executive Office of the Bougainville Education System.
- (2) The Department:
- (a) is the Education Agency for the schools and institutions conducted by the Autonomous Bougainville Government; and
  - (b) is responsible for the carrying out and supervision of the functions and responsibilities of the Autonomous Bougainville Government in the Bougainville Education System; and
  - (c) is to provide teachers, teaching materials, text books, libraries and such other educational resources and services as it considers necessary and desirable to maintain and improve the Bougainville Education System; and
  - (d) is to co-ordinate the operations of all Education Agencies within the Bougainville Education System.

## **13. BOUGAINVILLE EDUCATION PLAN.**

- (1) After consultation with Education Agencies, Councils of Elders, non-government organizations and other education stakeholders, the Bougainville Education Board must recommend to the Bougainville Executive Council a Bougainville Education Plan.
- (2) The Bougainville Education Plan must provide for the establishment, conduct, maintenance and development of schools and institutions and other education facilities and services in Bougainville.
- (3) The Bougainville Executive Council may approve the Bougainville Education Plan, with or without amendments.

(4) The Bougainville Executive Council may approve other plans and policies relating to education in Bougainville recommended by the Bougainville Education Board to support the Bougainville Education Plan.

(5) The Bougainville Education Board must review the Bougainville Education Plan at least every 5 years.

#### **14. COMPLIANCE WITH BOUGAINVILLE EDUCATION PLAN.**

(1) An Education Agency must not:

- (a) establish schools or institutions; or
- (b) conduct schools or institutions; or
- (c) provide other education facilities or services;

unless the schools or institutions, or other education facilities or services, are consistent with the Bougainville Education Plan.

(2) If the Bougainville Executive Council is satisfied that an Education Agency has not complied with subsection (1) in relation to a school or institution, or other education facility or service, the Bougainville Executive Council may do all or any of the following:

- (a) not approve the school or institution, or other education facility or service, to be part of the Bougainville Education System;
- (b) remove the school or institution, or other education facility or service, from the Bougainville Education System;
- (c) withdraw approval for payment of any financial or other benefits accruing in respect of the school or institution, or other education facility or service.

(3) The Bougainville Executive Council may revoke or vary a decision made under subsection (2) if the Council is satisfied that an Education Agency has brought the school or institution, or other education facility or service, into consistency with the Bougainville Education Plan.

### **PART 3 – BOUGAINVILLE EDUCATION BOARD.**

#### **15. INTERPRETATION.**

In this Part:

“chairperson” means the chairperson of the Bougainville Education Board;

“deputy chairperson” means the deputy chairperson of the Bougainville Education Board;

“member” means a member of the Bougainville Education Board and includes his or her alternate appointed under subsection 16(4).

## **16. ESTABLISHMENT AND MEMBERSHIP OF BOUGAINVILLE EDUCATION BOARD.**

- (1) The Bougainville Education Board is established.
- (2) The Bougainville Education Board consists of:
  - (a) the Secretary, as an *ex officio* member; and
  - (b) the Secretary of the Department responsible for planning matters, as an *ex officio* member; and
  - (c) three members appointed from a panel of names nominated by the Councils of Elders to represent the Northern Region, Central Region and Southern Region of Bougainville; and
  - (d) three members appointed from a panel of names nominated by the Bougainville Teachers’ Association to represent the interests of teachers in Bougainville; and
  - (e) three members appointed from a panel of names nominated by churches conducting schools in Bougainville to represent their interests; and
  - (f) three members appointed from a panel of names nominated by the Bougainville Womens’ Federation to represent the interests of women in the Northern Region, Central Region and Southern Region of Bougainville.
- (3) The Minister must, in appointing persons nominated under paragraphs (2)(c), (d), (e) and (f), have regard to the desirability of appointing persons with experience in education matters, and achieving a gender balance in membership.
- (4) An alternate member must be appointed for each member and the appointment, other than for an *ex officio* member, must be made in the same way and subject to the same conditions as the member for whom he or she is the alternate. An *ex officio* member is to appoint his or her alternate member.
- (5) If a member is absent from Bougainville or unable to perform his or her duties and responsibilities as a member, the alternate member may perform the member’s duties and responsibilities.

## **17. INELIGIBILITY.**

- (1) A person is not eligible to be a member of the Bougainville Education Board unless he or she is a Bougainvillean.
- (2) A person is not eligible to be or to continue as a member if he or she:
  - (a) has been or is convicted of an offence punishable under a law by a term of imprisonment; or
  - (b) is or becomes a member of the House of Representatives; or
  - (c) is or becomes a member of the Parliament.

## **18. TENURE OF OFFICE OF MEMBERS.**

- (1) This section applies to a member of the Bougainville Education Board, other than an *ex officio* member.
- (2) Subject to this section, a member holds office for a period of 3 years.
- (3) If a casual vacancy occurs in relation to the office of a member, the person appointed to be the alternate to the member is deemed to be appointed to fill the vacancy and, subject to this section, holds office for the balance of the term of office of the member in whose place he or she was appointed.
  - (4) The Minister may, at any time by written notice, advise a member that the Minister intends to terminate the member's appointment for misbehavior, or physical or mental incapacity.
  - (5) If within 14 days after receiving a notice under subsection (4), a member fails to reply in writing to the satisfaction of the Minister, the member's appointment is by force of this subsection terminated with effect from the date of the notice.
- (6) A person ceases to be a member if:
  - (a) the member becomes ineligible under subsection 17(2) to continue as a member; or
  - (b) the member resigns by notice in writing to the Minister; or
  - (c) the member is absent, except on leave granted by the Bougainville Education Board from three consecutive meetings of the Board; or
  - (d) the member dies.

(7) If the organisation responsible for nominating a member makes a written request to the Minister to terminate the member's appointment, the Minister must by notice in writing to the member terminate the member's appointment.

## **19. FUNCTIONS AND POWERS OF BOUGAINVILLE EDUCATION BOARD.**

(1) The functions of the Bougainville Education Board are:

- (a) in consultation with the Councils of Elders and Education Agencies, to prepare plans for the establishment and development of schools and institutions in Bougainville and to submit them to the Bougainville Executive Council for approval; and
- (b) to advise and make recommendations to the Bougainville Executive Council on matters relating to education in Bougainville, including matters referred to the Board by an Education Agency; and
- (c) to give final approval to the list of entrants to secondary schools, technical secondary schools, distance education schools, tertiary institutions, community colleges, inclusive education centres and adult education centres if the number of applicants exceeds the number of places available; and
- (d) in relation to schools, colleges, institutions and centres referred to in paragraph (c):
  - (i) to determine criteria to be used in selecting students for enrolment; and
  - (ii) to select students according to such criteria; and
  - (iii) to ensure that Governing Boards as far as practicable enroll students so selected, taking into account the preferences of parents in respect of their education choices; and
- (e) if the Board considers in a particular case that it is necessary to do so:
  - (i) to impose education fees on the parents of students attending a member school or member institution and to direct the Governing Board of the school or institution to collect the fees so imposed for payment into the Governing Board's funds for that purpose; and
  - (ii) in relation to a member school or member institution where education fees are not imposed under subparagraph (i), to determine the limits within which and the conditions subject to which education fees may be imposed and charged by the Governing Board of the school or institution; and
- (f) upon written application made by the Governing Board of a school or institution, to approve project fees for the school or institution; and

- (g) to represent the members of the Teaching Service in relation to:
  - (i) their appointments and promotions to positions in schools and institutions; and
  - (ii) their transfers from one school or institution to another within Bougainville; and
  - (iii) any disciplinary matters; and
- (h) to select teachers in Bougainville to attend professional courses that are approved by the Teaching Service Commission; and
- (i) as far as practicable, to ensure the equitable and proportional distribution of money, equipment and other resources allocated by the Department to all Education Agencies; and
- (j) to administer an account in such manner as the Secretary may direct for any funds that may be committed to the Board for a special purpose related to education; and
- (k) to approve the memberships of Governing Boards; and
- (l) to hear and determine appeals in cases where Governing Boards expel students from a school or institution; and
- (m) to approve guidelines to be adopted by Governing Boards for the suspension and expulsion of students; and
- (n) to make decisions on requests from Governing Boards for students to repeat a year of study; and
- (o) to collaborate with other persons in organizing and providing non-formal, inclusive and adult education in Bougainville; and
- (p) to suspend teaching at a school or institution under section 57; and
- (q) such other functions as are conferred on the Board by or under this Act or any other law.

(2) In performing its functions, the Bougainville Education Board must, as appropriate, consult and co-operate with, and provide advice to:

- (a) the Bougainville Executive Council; and
- (b) the Education Agencies; and
- (c) the Teaching Service Commission; and
- (d) the Governing Boards; and

(e) the Councils of Elders.

(3) The Bougainville Education Board has power to do all things that are necessary or convenient to be done for or in connection with the performance of its functions.

## **20. ANNUAL REPORT.**

(1) The Bougainville Education Board must for each year prepare a report on the Bougainville Education System.

(2) Without limiting the contents of the report, it must recommend any change in legislation or administration that seems necessary or desirable for improving the operation or achieving the objects of the Bougainville Education System.

(3) The Bougainville Education Board must provide the report to the Minister as soon as practicable after the end of the year for which the report has been prepared.

(4) The Minister must table the report at the next House of Representatives meeting following receipt of the report.

## **21. EXECUTIVE OFFICER.**

(1) The Chairperson in consultation with the Secretary shall appoint an officer of the Department to be the Executive Officer to the Bougainville Education Board.

(2) The Executive Officer has and must perform such functions and duties as are directed by the Board.

## **22. CHAIRPERSON AND DEPUTY CHAIRPERSON.**

(1) The members of the Board must elect one of their members to be the Chairman of the Bougainville Education Board for a period of three (3) years.

(2) The members of the Board must elect one of their members to be the deputy chairperson for such period as is specified by the Board.

(3) If the Secretary is absent from Bougainville or is unable to perform the duties and responsibilities of the chairperson, the deputy chairperson has and may exercise the duties and responsibilities of the chairperson.

(4) If the chairperson and the deputy chairperson are absent from a meeting of the Board, the members present may elect a member to preside at the meeting.

## **23. MEETINGS.**



- (1) The Bougainville Education Board must meet at least 4 times in each calendar year.
- (2) In addition to the meetings referred to in subsection (1):
  - (a) the Bougainville Executive Council may direct the chairperson to convene a meeting of the Board; and
  - (b) at least 4 members of the Board may request the chairperson to convene a meeting of the Board.
- (3) The chairperson must convene a meeting referred to in subsection (1) or (2) by written notice to the other members of the Board and the meeting is to be held at the time and place specified in the notice.

#### **24. PROCEDURE AT MEETINGS.**

- (1) The chairperson must preside at all meetings of the Bougainville Education Board at which he or she is present.
- (2) If the chairperson is absent from a meeting, the deputy chairperson must preside.
- (3) The quorum at a meeting of the Board is 7 members.
- (4) All the questions at a meeting of the Board are to be decided by a majority of votes of the members present and voting.
- (5) The person presiding at a meeting of the Board has a deliberative vote, and, in the event of an equality of votes, also a casting vote.
  - (6) The Board is to otherwise determine the procedures for its meetings.
- (7) The Board must cause minutes of its meetings to be kept and must forward copies of the minutes to such persons as the Board determines.

#### **25. COMMITTEES.**

- (1) The Bougainville Education Board may form:
  - (a) an appeal committee to hear and determine appeals from Governing Boards; and
  - (b) such other committees as the Board considers necessary to assist the Board in the performance of its functions.
- (2) A committee consists of a member or members of the Board and such other person or persons as the Board determines.



- (3) The Board must appoint a chairperson and determine the procedures of each committee.

**26. DELEGATION.**

(1) The Bougainville Education Board may, by written instrument, delegate all or any of its powers or functions under this Act, other than this power of delegation to:

- (a) a committee of the Board; or
- (b) a District Education Officer; or
- (c) an Education Agency; or
- (d) a Governing Board.

(2) An instrument of delegation is to be in the form determined by the Secretary.

**PART 4 – DISTRICT EDUCATION OFFICES AND OFFICERS.**

**27. DISTRICT EDUCATION OFFICES AND OFFICERS.**

- (1) The Secretary must for each district establish a District Education Office and appoint an officer of the Department to be the District Education Officer.
- (2) A District Education Officer must report to the Secretary on the performance of his or her duties and responsibilities.

**28. FUNCTIONS OF A DISTRICT EDUCATION OFFICER.**

The District Education Officer for a district is responsible for:

- (a) the carrying out and supervision of the functions and the responsibilities of the Department within the district; and
- (b) the monitoring and evaluation of the implementation of the Bougainville Education Plan in the district; and
- (c) performing such other function as are conferred on him or her by the Secretary.

## **PART 5 – EDUCATION AGENCIES AND GOVERNING BOARDS.**

### *Division 1 – Education Agencies*

#### **29. RECOGNITION OF EDUCATION AGENCIES.**

(1) After receiving the advice of the Bougainville Education Board, the Bougainville Executive Council may recognize an organisation or person as an Education Agency for the purposes of the Bougainville Education System and this Act if the Council is satisfied that the organization or person:

- (a) intends and has adequate resources to establish and conduct a school or institution; and
- (b) will accept responsibility for the establishment and conduct of the school or institution and will ensure the maintenance of the school or institution and of facilities associated with it; and
- (c) is the owner or has possession of a property suitable for use as a school or institution, or that such property is otherwise under his or her or its control or is held by another person on his or her or its behalf; and
- (d) in the case of an organization, has a written constitution that is appropriate for the purpose of conducting a school or institution; and
- (e) will operate within the framework of this Act and will comply with this Act and any other relevant law; and
- (f) has objectives that will serve the people of the area in which the Education Agency will operate; and
- (g) satisfies any other prescribed criteria.

(2) Subject to subsection (3), the Bougainville Executive Council may cancel the recognition of an organisation or person as an Education Agency if the Council is satisfied that the organization or person no longer complies with any of the requirements under subsection (1).

(3) Before cancelling the recognition of an Education Agency, the Bougainville Executive Council must give the Education Agency full opportunity of making representations and of being heard on the matter.

(4) The Bougainville Executive Council must give a person or organization, or an Education Agency, as the case requires, written notice of any decision that the Council makes under this section.

(5) The Bougainville Executive Council may withdraw the recognition of an Education Agency upon request in writing by the Agency.

(6) Two or more Education Agencies may join in the establishment, conduct and maintenance of schools and institutions within the Bougainville Education System, on such terms and conditions as are approved by the Bougainville Executive Council on the recommendation of the Bougainville Education Board.

(7) The Education Agencies referred to in subsection (6) are jointly and severally liable for ensuring, in relation to the schools and institutions that they conduct, compliance with this Act and any other law relating to education matters.

### **30. FUNCTIONS AND POWERS OF EDUCATION AGENCIES.**

(1) An Education Agency may establish and conduct schools or institutions within the Bougainville Education System.

(2) An Education Agency may, with the approval of the Bougainville Education Board, impose an agency fee on the parents of students attending its schools or institution to cover the liabilities of the Agency in respect of the operation of its schools and institutions, including for the payment of teachers and ancillary staff, and liabilities for the general maintenance of buildings, equipment and other facilities.

(3) An Education Agency may:

- (a) prepare its own syllabus for religious instruction; and
- (b) implement and supervise a related programme of religious instruction in its schools or institutions; and
- (c) engage administrative staff and teachers who are professionally qualified and willing to organize and teach such a programme of religious instruction; and
- (d) accredit and appoint teachers of religious education who are not members of the Teaching Service; and
- (e) advertise the philosophy and identity statement of the Agency and the appropriate religious codes with any vacancies.

(4) An Education Agency may, in consultation with the Department and the Bougainville Education Board, provide professional development programs for teachers and conduct in-service teacher training.

(5) An Education Agency may, by written notice to the Bougainville Education Board, reserve teaching positions.

(6) An Education Agency has power to do all things that are necessary or convenient to be done for or in connection with the performance of its functions.

**31. DELEGATION BY EDUCATION AGENCIES.**

- (1) An Education Agency conducting a school or institution may, by written instrument, delegate to a Governing Board of the school or institution or a committee of the Governing Board all or any of its powers and functions, other than this power of delegation.
- (2) An instrument of delegation is to be in the form determined by the Secretary.

**32. EDUCATION AGENCY SECRETARY.**

- (1) An Education Agency (other than the Autonomous Bougainville Government) must appoint an Education Agency Secretary.
- (2) The Education Agency Secretary is to represent the Education Agency in its dealings with other Education Authorities, including in relation to the following matters that concern the Education Agency:
  - (a) education policies;
  - (b) financial and other operational matters;
  - (c) the planning and development of education within the Bougainville Education System in order to encourage the most advantageous use of resources;
  - (d) any acting appointments for teachers in schools and institutions operated by the Education Agency.
- (3) The Education Agency Secretary may:
  - (a) enter and inspect at all reasonable times; or
  - (b) authorize another person to enter and inspect at all reasonable times;

a school or institution conducted by the Education Agency for a purpose related to the conduct, maintenance, identity or good order of the school or institution.

- (4) One person may be the Education Agency Secretary for more than one Education Agency.
- (5) The Bougainville Education Board is to encourage the grouping of Education Agencies in order to minimize the number of Education Agency Secretaries.
- (6) In exercising his or her duties and responsibilities under this Act, an Education Agency Secretary must uphold the principle of partnership of Education Authorities within the Bougainville Education System.

## ***Division 2 – Governing Boards.***

### **33. ESTABLISHMENT OF GOVERNING BOARDS.**

- (1) In consultation with the Bougainville Education Board, an Education Agency must establish Governing Boards as set out below:
  - (a) a Board of Management for each pre-school, vernacular school, elementary school, primary school, adult education centre and technical school conducted by the Education Agency within the Bougainville Education System; and
  - (b) a Board of Governors for each secondary school, community college, distance education school, inclusive education centre and technical secondary school conducted by the Education Agency within the Bougainville Education System; and
  - (c) a Board of Governing Council for each tertiary institution conducted by the Education Agency within the Bougainville Education System.
- (2) A Governing Board of a school or institution is responsible to the Education Agency conducting the school or institution for ensuring that the requirements of this Act and any other law relating to education matters are complied with in respect of the school or institution.
- (3) An Education Agency conducting a school or institution may, with the consent of the Bougainville Education Board, constitute itself as the Governing Board of the school or institution.
- (4) Subject to the approval of the Bougainville Education Board, an Education Agency may establish:
  - (a) a single Governing Board for two or more schools or institutions; or
  - (b) an association of Governing Boards within that Education Agency or with other Education Agencies.

### **34. MEMBERSHIP OF GOVERNING BOARDS.**

- (1) A Governing Board of a school or institution consists of:
  - (a) the head teacher of the school or institution, as an *ex officio* member; and
  - (b) not more than 2 teachers at the school or institution nominated by the teachers at the school or institution; and
  - (c) not more than 2 persons nominated by the Parents', Citizens' and Friends' Association of the school or institution; and

- (d) not more than 2 persons nominated by the parents of students attending the school or institution; and
- (e) not more than 2 persons nominated by the Education Agency conducting the school or institution; and
- (f) not more than 2 other persons nominated by the Education Agency conducting the school or institution, being persons with special knowledge and experience of education or with a special interest in the education and cultural life of the area principally served by the school or institution.

(2) In addition to the members referred to in subsection (1), a Board of Governors and a Board of Governing Council may have the following members:

- (a) in the case of a school other than an Autonomous Bougainville Government agency school or institution other than an institution conducted by the Autonomous Bougainville Government, 2 persons nominated by the Bougainville Education Board; and
- (b) in the case of an Autonomous Bougainville Government agency school or an institution conducted by the Autonomous Bougainville Government, 2 persons nominated jointly by such Education Agencies (other than the Autonomous Bougainville Government) as in the opinion of the Bougainville Education Board have an interest in the school or institution; and
- (c) a male and female student representative of the school or institution concerned.

(3) So far as practicable there must be a gender balance in the membership of a Governing Board.

(4) A failure to make a nomination under subsection (1) or (2) does not affect the validity of any actions of a Governing Board.

(5) An Education Agency must for any school or institution that it conducts in a district provide in writing to the District Education Officer the names of the members of the Governing Board of the school or institution, including any changes to the membership.

(6) An alternate member may be nominated for each member of a Governing Board and the nomination, other than for an *ex officio* member, must be made in the same way and subject to the same conditions as the member for whom he or she is the alternate. An *ex officio* member is to nominate his or her alternate member.

(7) If a member of a Governing Board is absent from Bougainville or unable to perform his or her duties and responsibilities as a member, the alternate member has and may exercise his or her duties and responsibilities.

(8) This section does not apply if an Education Agency constitutes itself as the Governing Board of a school or institution.

### **35. ELIGIBILITY FOR MEMBERSHIP.**

- (1) A person is not eligible to be a member of a Governing Board unless he or she is a Bougainvillean.
- (2) A person is not eligible to be or to continue to be a member of a Governing Board if he or she:
  - (a) has been or is convicted of an offence punishable under a law by a term of imprisonment; or
  - (b) is or becomes a member of the House of Representatives; or
  - (c) is or becomes a member of the Parliament.

### **36. TENURE OF MEMBERS.**

- (1) A member of a Governing Board holds office for a period of 3 years, unless a shorter period is prescribed.
- (2) A member of a Governing Board is deemed to have vacated his or her office if:
  - (a) the member becomes ineligible under subsection 35(2); or
  - (b) the member resigns in writing; or
  - (c) the member is absent from three consecutive meetings without the approval of the Governing Board; or
  - (d) the member dies.
- (3) The Bougainville Education Board may, at any time by written notice, advise a member of a Governing Board that the Bougainville Education Board intends to terminate the member's appointment for misbehavior, or physical or mental incapacity.
- (4) If within 14 days after receiving a notice under subsection (3), a member fails to reply in writing to the satisfaction of the Bougainville Education Board, the member's appointment is by force of this subsection terminated with effect from the date of the notice.
- (5) The Bougainville Education Board may terminate the appointment of a member of a Governing Board if the organisation whom the member represents requests the Bougainville Education Board to terminate the member's appointment.

### **37. FUNCTIONS AND POWERS OF GOVERNING BOARDS.**

- (1) The Governing Board of a school or institution is responsible within the limits of funds and other resources available to it for the following:



- (a) the planning for buildings of the school or institution, teachers' houses and ancillary facilities, and the provision and maintenance of those buildings, houses and ancillary facilities;
- (b) subject to any direction by the Secretary of the Department responsible for financial matters:
  - (i) accounting for money made available to the Governing Board; and
  - (ii) managing the expenditure of such money;
- (c) the enrolment of students in consultation with the Bougainville Education Board;
- (d) within the general framework of policy established under this Act, and the philosophy of the Education Agency conducting the school or institution, determining the aims and goals of the school or institution and for supervising the implementation of those aims and goals;
- (e) implementing the policies of the Bougainville Education Board relating to the discipline of students including any suspension, expulsion or the provision of work or services;
- (f) making requests to the Bougainville Education Board for one or more students to repeat a year of study;
- (g) collecting and expending school fees and institution fees as follows:
  - (i) agency fees in accordance with the requirements of the Education Agency conducting the school or institution;
  - (ii) education fees in accordance with section 40;
  - (iii) project fees in accordance with the approval of the Bougainville Education Board;
  - (iv) any other school fees or institution fees in accordance with prescribed requirements;
- (h) submitting a financial report to the Education Agency conducting the school or institution and the Bougainville Education Board as soon as practicable after the end of every quarter;
- (i) the engagement and control of locally employed ancillary staff;
- (j) determining the procedures of any committee appointed under section 41;
- (k) such other functions as are prescribed.

(2) A Governing Board conducting a school or institution has power to do all things that are necessary or convenient to be done for or in connection with the performance of its functions.

(3) Without limiting subsection (2), a Governing Board may:

- (a) appoint committees to assist the Governing Board; and
- (b) suspend or expel students for a breach of the rules of a school or institution, other than a pre-school or primary school; and
- (c) suspend teaching at the school or institution in an emergency situation; and
- (d) recommend teachers for appointment; and
- (e) recover unpaid fees from parents.

### **38. CHAIRPERSON AND DEPUTY CHAIRPERSON OF A GOVERNING BOARD.**

- (1) An Education Agency conducting a school or institution must appoint the chairperson of a Governing Board of the school or institution to be approved by the Bougainville Education Board.
- (2) The members of a Governing Board must elect a member to be the deputy chairperson of the Governing Board for such period as is determined by the Board.
- (3) If the chairperson is absent from Bougainville or unable to perform the duties and responsibilities of the chairperson, the deputy chairperson has and may perform the duties and responsibilities of the chairperson.
- (4) If the chairperson and the deputy chairperson are absent from a meeting of a Governing Board, the members present may elect a member to preside at the meeting.

### **39. PROCEDURES OF GOVERNING BOARDS.**

- (1) A Governing Board must meet at least four times in a calendar year, and more often if convened by the chairperson of the Governing Board by written notice to the members.
- (2) The chairperson of a Governing Board must, within one month after receiving a request from not less than three members of the Governing Board, convene a meeting of the Governing Board.
- (3) A quorum at a meeting of a Governing Board is one half of its members, including the member presiding at the meeting.

- (4) All matters raised at a meeting of a Governing Board must be decided by a majority of the votes of the members present and voting.
- (5) The chairperson of a Governing Board has a deliberative vote, and, in the event of an equality of votes on a matter, also a casting vote.
- (6) The chairperson of a Governing Board must appoint a secretary to the Governing Board, and the secretary must keep minutes of the Governing Board's proceedings and forward copies of the minutes to such persons as the Governing Board determines.
- (7) Subject to this section, an Education Agency conducting a school or institution is to determine the procedures of the Governing Board of the school or institution.

#### **40. IMPOSITIONS AND COLLECTION OF EDUCATION FEES BY GOVERNING BOARDS.**

- (1) In accordance with subparagraph 19(1)(e)(i) or (ii), the Governing Board of a school or institution must impose education fees on students attending the school or institution, and collect the education fees so imposed from the parents of those students.
- (2) Education fees collected by a Governing Board conducting a school or institution are the property of the Governing Board and must be used to meet its liabilities in relation to:
  - (a) the operation of the school or institution including payment of ancillary staff; and
  - (b) the provision and general maintenance of resources, buildings, equipment and other facilities at the school or institution.

#### **41. COMMITTEES OF GOVERNING BOARDS.**

- (1) A Governing Board may appoint committees consisting of a member or members of the Governing Board and such other person or persons as the Governing Board determines.
- (2) The Governing Board must appoint a chairperson and determine the procedures of each committee.

#### **42. DELEGATION BY A GOVERNING BOARD.**

- (1) A Governing Board conducting a school or institution may, by written instrument, delegate:
  - (a) the Board's power to suspend teaching at the school or institution in an emergency situation to a head teacher of the school or institution; and

(b) all or any of its other powers or functions under this Act to a committee of the Governing Board or any other person, other than this power of delegation.

(2) An instrument of delegation is to be in the form determined by the Secretary.

**43. BOUGAINVILLE EDUCATION BOARD MAY DIRECT INCORPORATION OF GOVERNING BOARDS.**

(1) The Bougainville Education Board may direct that a Governing Board incorporate if it is of the opinion that the financial obligations of the Governing Board in relation to the collection and disbursement of school fees or institution fees are such that it is in the public interest for the Governing Board to incorporate.

(2) The Bougainville Education Board must approve the constitution proposed for a Governing Board that is to be incorporated and may issue model constitutions for the guidance of Governing Boards.

**44. SUSPENSION OF GOVERNING BOARDS.**

(1) The Bougainville Education Board may, by written notice to an Education Agency conducting a school or institution, suspend the Governing Board of the school or institution for such period as is specified in the notice if the Bougainville Education Board is satisfied that:

(a) the affairs of the school or institution are being mismanaged by the Governing Board; or

(b) the Governing Board has failed to comply with this Act or any other law relating to education matters.

(2) The Bougainville Education Board may act under subsection (1) on its own initiative or at the written request of the Education Agency concerned.

(3) If a Governing Board is suspended, the membership of the suspended Governing Board is deemed to have been terminated, other than any *ex officio* members, and the Education Agency concerned must as soon as practicable arrange for a new Governing Board to be constituted to the satisfaction of the Bougainville Education Board.

(4) The Bougainville Education Board may appoint a person to manage the affairs of the suspended Governing Board until such time as a new Governing Board is constituted in accordance with subsection (3).

(5) This section does not apply in relation to an Education Agency if it has constituted itself as the Governing Board of a school or institution.

## **PART 6 – MEMBER AND PERMITTED SCHOOLS AND INSTITUTIONS.**

### **45. MEMBER SCHOOLS AND INSTITUTIONS.**

(1) The Bougainville Executive Council may, on the recommendation of the Bougainville Education Board, recognise a school or institution as a member school or member institution of the Bougainville Education System if the Council is satisfied that:

- (a) the school or institution will admit students irrespective of religious or doctrinal affiliations and that it will generally be conducted in accordance with the objects of the Bougainville Education System and this Act; and
- (b) only suitably qualified teachers will be engaged in teaching the approved curricula at the school or institution, other than pre-schools and vernacular schools; and
- (c) teaching at the school or institution will conform to the approved curricula, and appropriate arrangements and undertakings have been made accordingly.

(2) The Bougainville Executive Council may, on the recommendation of the Bougainville Education Board, cancel the recognition of a member school or member institution if the Council is satisfied that:

- (a) the school or institution has ceased to comply with a recognition requirement under subsection (1); or
- (b) the arrangements and undertakings required for recognition of the school or institution have not been continued in force or complied with.

(3) Before deciding whether or not to cancel the recognition of a member school or member institution under subsection (2), the Bougainville Executive Council must give the Education Agency conducting the school or institution full opportunity of making representations and of being heard in the matter.

(4) On the written request of the Education Agency conducting a member school or member institution, the Bougainville Executive Council may cancel recognition of the school or institution.

(5) The Bougainville Executive Council must give the Education Agency concerned written notice of any decision it makes under this section.

### **46. PERMITTED SCHOOLS AND INSTITUTIONS.**

(1) A permitted school or permitted institution is not within the Bougainville Education System.

(2) A person or organization must not conduct a permitted school or permitted institution unless the school or institution is registered.

*Penalty: A fine not exceeding K10, 000.00*

(3) A person or organization wishing to conduct a permitted school or permitted institution must apply in the prescribed form to the Secretary for registration of the school or institution.

(4) On receipt of an application for registration, the Secretary must consider the application and may, having regard to the advice of the Bougainville Education Board, grant or refuse to grant a certificate of registration.

(5) Regulations may provide for matters concerning the registration of permitted schools and permitted institutions.

(6) If a permitted school or institution refuses or fails to comply with any of the regulations made under subsection (5), the Bougainville Executive Council may cancel the registration of the school or institution.

(7) Before deciding whether or not to cancel the registration of a permitted school or institution under subsection (6), the Bougainville Executive Council must give the person or organization conducting the school or institution full opportunity of making representations and of being heard in the matter.

(8) On the written request of the person or organization conducting a permitted school or institution, the Bougainville Executive Council may cancel registration of the school or institution.

(9) The Bougainville Executive Council must give the person or organization wishing to conduct, or conducting, a permitted school or institution written notice of any decision it makes under this section.

#### **47. REGISTER OF MEMBER AND PERMITTED SCHOOLS AND INSTITUTIONS.**

(1) The Department must establish and maintain a register of:

- (a) member schools and member institutions; and
- (b) permitted schools and permitted institutions.

(2) The register is to contain such information and be in such form as the Secretary determines.

#### **48. AWARDS AT PERMITTED SCHOOLS AND INSTITUTIONS.**

The Secretary may, on the recommendation of the Bougainville Education Board, make a written determination that:

- (a) a permitted school or permitted institution is one whose students may be awarded qualifications, certificates or diplomas obtainable at member schools or member institutions; or
- (b) a qualification, certificate or diploma obtained by a person from a permitted school or permitted institution is to be regarded as the equivalent of a qualification, certificate or diploma obtained from a member school or member institution.



## PART 7 – ADMINISTRATION GENERALLY.

### 49. CLOSURE OF SCHOOLS AND INSTITUTIONS.

- (1) The Bougainville Executive Council may, on the recommendation of the Bougainville Education Board, order the closure of a school or institution if it is satisfied that:
  - (a) the standard or type of education, or curriculum or training (other than religious or doctrinal education or training) at the school or institution is not meeting the prescribed standards; or
  - (b) following the suspension of teaching at the school or institution under section 57, the closure of the school or institution is necessary having regard to the existing circumstances.

- (2) Without limiting subsection (1), the Bougainville Executive Council may:
  - (a) in the case of a member school or member institution, order the closure of the school or institution if the recognition of the school or institution is cancelled under section 45; or
  - (b) in the case of a permitted school or permitted institution, order the closure of the school or institution if the registration of the school or institution is cancelled under section 46.

(3) Before deciding whether to order the closure of a school or institution, the Bougainville Executive Council must give the Education Agency or person conducting the school or institution full opportunity of making representations and of being heard in the matter.

(4) A person who conducts or is associated with the conducting of a school or institution that has been closed is guilty of an offence.

*Penalty:* *A fine not exceeding K10, 000.00*

(5) A person who teaches at a school or institution that has been closed is guilty of an offence.

*Penalty:* *A fine not exceeding K5,000.00*

- (6) If the Bougainville Executive Council orders the closure of a school or institution:
  - (a) the teaching positions at the school or institution are deemed to be abolished, and the persons occupying those positions are deemed to be appointed to non-institutional positions created under the *PNG Teaching Service Act*; and
  - (b) the chairperson of the Education Authority of the school or institution must within 14 days provide to the Teaching Service Commission a written report setting out the reasons for the order.



(7) The Bougainville Executive Council must give the Education Agency concerned, or the person or organization conducting the permitted school or permitted institution concerned, written notice of any decision the Council makes under this section.

(8) To avoid doubt, this section applies to member schools, member institutions, permitted schools and permitted institutions.

#### **50. LIMITATION OF FUNCTIONS IN RELATION TO TEACHERS.**

(1) Except as is specifically provided for by or under this Act or any other law relating to education matters, an Education Authority, other than the Teaching Service Commission, does not have any powers in relation to the appointment, promotion, transfer, discipline, suspension, dismissal or conditions of service of teachers generally or of individual teachers in the Teaching Service.

(2) Nothing in subsection (1) prevents an Education Agency or Governing Board:

(a) from making out of its own resources:

(i) payments of any kind to additional teachers appointed by the Governing Board; or

(ii) with the approval of the Teaching Service Commission, payments to all or any members of the Teaching Service of additional benefits including overseas and attraction allowances; or

(b) from reporting in writing to the Bougainville Education Board any matter relating to the appointment and discipline of members of the Teaching Service; or

(c) otherwise making provision for all or any members of the Teaching Service or additional teachers at a school or institution.

#### **51. FEES AND ALLOWANCES.**

(1) Subject to subsection (2), the members and alternate members of the Bougainville Education Board or a Governing Board are to be paid such fees, allowances and expenses as are prescribed.

(2) Members or alternate members of the Bougainville Education Board or a Governing Board who are officers or employees of the Autonomous Bougainville Government or members of the Teaching Service are not to be paid any fees, allowances or expenses.

#### **52. INSPECTIONS.**

(1) A person authorized by the Secretary or the Bougainville Education Board may:

- (a) at all reasonable times, enter and inspect a school or institution for the purpose of this Act or any law relating to education matters; and
  - (b) bring charges before the Teaching Service Commission.
- (2) Nothing in subsection (1) authorises the inspection of teachers.

**53. PARENTS', CITIZENS', AND FRIENDS' ASSOCIATIONS.**

- (1) An Education Agency conducting a school or institution may approve an association to be the Parents', Citizens' and Friends' Association for the school or institution.
- (2) The Parents', Citizens' and Friends' Association for a school or institution:
  - (a) is to represent parents and friends of students, and other persons interested in the education and welfare of students, attending the school or institution; and
  - (b) must have a constitution approved by the Education Agency conducting the school or institution.
- (3) The Parents', Citizens' and Friends' Association for a school or institution may, by arrangement with the Governing Board of the school or institution, use the buildings, grounds and facilities of the school or institution for holding fetes and other activities for the benefit of the school or institution.
- (4) A Parents', Citizens' and Friends Association must ensure that:
  - (a) fetes and other activities held by it do not disrupt or interfere with teaching at the school or institution; and
  - (b) any money raised for the benefit of the school or institution is properly accounted for to the satisfaction of the Education Agency conducting the school or institution.
- (5) The activities not permitted as part of the fund raising are:
  - (a) the sale of alcoholic refreshments, or other illicit items on school or institution premises; and
  - (b) gambling, lotteries, raffles or other games of chance other than those licensed or permitted by law; and
  - (c) the provision of students as laborers to the general public.

(6) A Parents', Citizens' and Friends' Association must keep proper accounts of any funds that are raised.

(7) The Bougainville Education Board or an Education Agency conducting a school or institution may direct audit inspections to be carried out on the accounts kept by the Parents', Citizens' and Friends' Association of the school or institution for the Association's fund raising activities.

#### **54. GOVERNING BOARDS MAY RAISE AND EXPEND MONEY.**

(1) Subject to the approval of the Education Agency conducting a school or institution, the Governing Board of the school or institution may engage in commercial activities for the purpose of raising funds, and may expend any money so raised for the benefit of the school or institution.

(2) Subsections 53(4) and (5) apply to any commercial activities undertaken by a Governing Board.

(3) The Governing Board must keep proper accounts of any funds that are raised.

(4) The Bougainville Education Board or an Education Agency conducting a school or institution, may direct audit inspections to be carried out on the accounts kept by the Governing Board of the school or institution for its commercial activities.

#### **55. GRANTS OF FINANCIAL ASSISTANCE.**

(1) This section applies to grants of financial assistance to a school or institution by the Department responsible for education of the Government of Papua New Guinea.

(2) The Secretary is to approve and monitor the expenditure of such grants by schools and institutions.

(3) Without limiting subsection (2), the Secretary:

(a) must ensure that grants are expended on purposes consistent with the Bougainville Education Plan; and

(b) may refuse to approve expenditure by a school or institution if the Secretary regards it as discretionary.

(4) The Governing Board of a school or institution must:

(a) keep proper accounts and records relating to the receipt and expenditure of grants of financial assistance; and

(b) submit copies of such accounts and records to the Department as directed by the Secretary.

(5) Regulations may prescribe matters relating to the approval and monitoring of the expenditure of grants of financial assistance.

#### **56. SCHOOL FEE SUBSIDY.**

(1) The Bougainville Executive Council may, out of money lawfully available for the purpose, pay a school fee subsidy for each student attending member schools or member institutions or permitted schools or permitted institutions.

(2) The school fee subsidy must be taken from the National Government Grants to the Autonomous Bougainville Government and specified for that purpose and must be paid to the schools or institutions as soon as practicable.

#### **57. SUSPENSION OF TEACHING.**

(1) After consultation with an Education Agency conducting a school or institution, the Bougainville Education Board may, by written notice to the Education Agency, and the Governing Board of the school or institution, order the suspension of teaching at the school or institution if:

- (a) there is a lack of community support for the school or institution; or
- (b) there is a threat to the safety of staff or students of the school or institution due to an emergency situation; or
- (c) the head teacher of the school or institution has failed to comply with a lawful direction given by an Education Authority.

(2) The Bougainville Education Board must, within 14 days after making an order under subsection (1), provide a written report to the Bougainville Executive Council setting out the reasons for and the period of the suspension.

(3) After consideration of the report referred to in subsection (2), the Bougainville Executive Council may:

- (a) lift the suspension; or
- (b) confirm the suspension; or
- (c) extend the period of the suspension; or
- (d) make an order under paragraph 49(1)(b); or
- (e) take such other action as the Council considers appropriate in the circumstances.

**58. DECLARATION OF OFFICE.**

(1) A person appointed to be a member or alternate member of the Bougainville Education Board must, before entering on the duties of his or her office, make before the Minister or a person authorized for that purpose by the Minister, a Declaration of Office in the form determined by the Secretary.

(2) A person appointed to be a member or alternate member of a Governing Board must, before entering on the duties of his or her office, make before a Commissioner for Oaths a Declaration of Office in the form determined by the Secretary.

## **PART 8 – MISCELLANEOUS.**

### **59. APPEALS.**

- (1) A person or body aggrieved by a decision of the Bougainville Education Board may appeal to the Minister within 28 days after the decision is made.
- (2) If a student is expelled from a school or institution by the Governing Board of the school or institution, the student or a person on his or her behalf may appeal to the Bougainville Education Board within 28 days after the expulsion decision is made.
- (3) The Minister or the Bougainville Education Board, as the case requires:
  - (a) may confirm, vary or revoke the decision appealed against; and
  - (b) must give the appellant written notice of his or her or its decision within 7 days after making the decision.
- (4) The decision of the Minister or the Bougainville Education Board, as the case requires, is final.
- (5) The regulations may prescribe matters relating to appeals.

### **60. RESERVED TEACHING POSITIONS.**

- (1) An Education Agency conducting a member school or member institution may apply in writing to the Bougainville Education Board to reserve a head teacher's or teacher's position in the school or institution:
  - (a) for a category of persons of a particular religious denomination or of a particular religious teaching order; or
  - (b) that is defined by reference to criteria that are not commonly used in a secular education system, but are acceptable to the Bougainville Education Board.
- (2) If a reserved teaching position remains vacant for twelve months, the reservation of the position lapses, unless the Bougainville Education Board decides otherwise, and the position becomes a non-reserved position.
- (3) An Education Agency that applies under subsection (1) must forward to the Teaching Service Commission a copy of the application.

### **61. OBSTRUCTIONS, ETC.**

- (1) A person who hinders or obstructs an Education Authority or any other person in the exercise or performance of its or his or her powers, functions, duties or responsibilities under this Act is guilty of an offence.

*Penalty: A fine not exceeding K5,000.00*

(2) If a person attempts by force or threats to any other person or organization, or by fraud, misrepresentation or undue influence, to prejudice the free and effective exercise of a power or performance of a function under this Act, the first mentioned person is guilty of an offence.

*Penalty: A fine not exceeding K5,000.00*

## **62. EDUCATION AGENCIES AND GOVERNING BOARDS TO KEEP PROPER ACCOUNTS.**

- (1) All Education Agencies and Governing Boards must:
- (a) keep proper accounts and records of their transactions and of all funds; and
  - (b) do all things necessary to ensure that all payments out of their monies are correctly made and properly authorised and that adequate control is maintained over their assets and the incurring of liabilities.
- (2) The accounts and records kept for the purposes of subsection (1) must be available for inspection:
- (a) in the case of accounts and records kept by an Education Agency, by the Bougainville Education Board; and
  - (b) in the case of accounts and records kept by a Governing Board of a school or institution, by the Education Agency conducting the school or institution, and the Bougainville Education Board.

## **63. HOLIDAYS FOR SCHOOLS AND INSTITUTIONS.**

- (1) All days that are holidays in the Public Service are holidays for schools or institutions.
- (2) After giving notice to the Bougainville Education Board, an Education Agency may declare a day or part of a day to be a holiday in all or any of the schools or institutions conducted by the Agency, but such holidays must not exceed a total of three days in any one calendar year.
- (3) For the purposes of subsection (2), a half day-holiday (whether in the morning or in the afternoon) is to be counted as half a day.
- (4) All other holidays for schools or institutions are as prescribed.

## **64. REGULATIONS.**

- (1) The Bougainville Executive Council may make regulations, not inconsistent with this Act:

- (a) prescribing all matters that by this Act are required or permitted to be prescribed; or
- (b) that are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) Regulations may prescribe penalties or fines not exceeding K2,000.00 for breaches or contravention of the regulations.

(3) Without limiting subsection (1), the regulations may prescribe matters relating to permitted schools or permitted institutions, including governing bodies and Parents', Citizens' and Friends' Association for such schools or institutions.



## **PART 9 – TRANSITIONAL AND APPLICATION.**

### **65. RECOGNITION OF MEMBERSHIP OF EDUCATION BOARDS, ETC.**

(1) This section applies to a person if the person, immediately before the commencement of this Act, was a member or alternate member appointed under the *PNG Education Act* of:

- (a) the Bougainville Education Board; or
- (b) a governing body; or
- (c) a committee of a governing body.

(2) On the commencement of this Act, the person is deemed to have been appointed under this Act as a member or alternate member of the Bougainville Education Board, the corresponding Governing Board or committee, as the case requires, for the balance of the period of his or her appointment and on the same terms and conditions.

### **66. RECOGNITION OF EDUCATION AGENCY.**

(1) This section applies to an Education Agency if, immediately before the commencement of this Act, the Education Agency was conducting a school within the meaning of the *PNG Education Act* in Bougainville.

(2) On the commencement of this Act, the Education Agency is deemed to have been recognized under this Act as an Education Agency for the purposes of the Bougainville Education System and this Act.

### **67. RECOGNITION AS MEMBER SCHOOL, ETC.**

(1) This section applies to a school if, immediately before the commencement of this Act, the school was in Bougainville and recognized as a member school within the meaning of the *PNG Education Act*.

(2) On the commencement of this Act, the school is deemed to have been recognized as a member school or member institution, as the case requires, for the purposes of the Bougainville Education System and this Act.

### **68. AUTONOMOUS BOUGAINVILLE GOVERNMENT AS EDUCATION AGENCY.**

For the purposes of this Act and any other law relating to education matters, the Autonomous Bougainville Government on the date of commencement of this Act becomes the Education Agency for all of the schools and institutions conducted by the Autonomous Bougainville Government within the Bougainville Education System.

**69. BOUGAINVILLE EDUCATION PLAN.**

The Bougainville Education Plan that was in force immediately before the commencement of this Act continues in force on and after that commencement as if it were the Bougainville Education Plan approved under this Act.

**70. NON-APPLICATION OF *PNG EDUCATION ACT*.**

(1) Subject to this Act, the *PNG Education Act* ceases to apply in Bougainville on the date of commencement of this Act.

(2) Despite subsection (1), any subordinate instrument made under the *PNG Education Act* that was in force immediately before the commencement of this Act relating to:

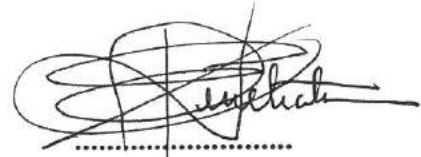
- (a) national examinations; or
- (b) curriculum development; or
- (c) teacher training; or
- (d) the registration of schools and institutions; or
- (e) any other prescribed matter;

continues to apply in Bougainville on and after that commencement until a subordinate instrument is made under this Act in substitution for it.

(3) The powers and functions relating to education matters under the *PNG Education Act* that were delegated before the commencement of this Act to the Education Authorities in Bougainville cease to apply on the commencement of this Act.

I, **EDWIN KENAHATA**, Acting Clerk of the House of Representatives, hereby certify that the foregoing is a fair copy of the *Bougainville Education Act 2013* which has been made by the House of Representatives.

DATED this 18<sup>th</sup> day of November 2013.



.....  
**EDWIN KENAHATA,**  
Acting Clerk of the House of Representatives.

I, **ANDREW MIRIKI**, Speaker of the House of Representatives, hereby certify that the *Bougainville Education Act 2013* was made by the House of Representatives on 14<sup>th</sup> November 2013 by an absolute majority of votes in accordance with the *Bougainville Constitution*.

DATED this 18<sup>th</sup> day of November 2013.



.....  
**ANDREW MIRIKI,**  
Speaker of the House of Representatives.

I, **EDWIN KENAHATA**, Acting Clerk of the House of Representatives, hereby certify that the foregoing is a fair copy of the *Bougainville Education Act 2013* which has been made by the House of Representatives.

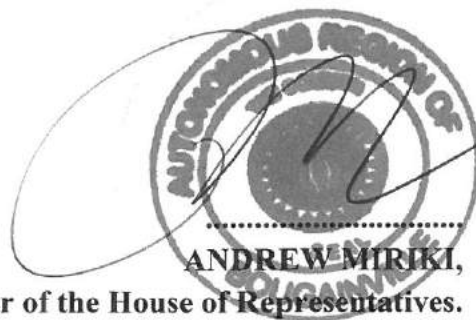
**DATED this 18<sup>th</sup> day of November 2013.**



**EDWIN KENAHATA,**  
Acting Clerk of the House of Representatives.

I, **ANDREW MIRIKI**, Speaker of the House of Representatives, hereby certify that the *Bougainville Education Act 2013* was made by the House of Representatives on 14<sup>th</sup> November 2013 by an absolute majority of votes in accordance with the *Bougainville Constitution*.

**DATED this 18<sup>th</sup> day of November 2013.**



**ANDREW MIRIKI,**  
Speaker of the House of Representatives.