



BOUGAINVILLE REFERENDUM COMMISSION CHARTER

I, Grand Chief Sir Bob Dadae, GCL, GCMG, KSt. J, acting with, and in accordance with, the advice of the Papua New Guinea Electoral Commission, given after consultation and agreement between the Papua New Guinea Electoral Commission and the Bougainville Electoral Commissioner issue this charter under Section 58 of the *Organic Law on Peace-building in Bougainville – Autonomous Bougainville Government and Bougainville Referendum*, to take effect according to its terms, to establish the Bougainville Referendum Commission for the purposes of Part IV of that Organic Law.

Date of issue: 30 August 2017

Grand Chief Sir Bob Dadae GCL GCMG
Governor-General
Acting under the authority of Section 82(2) of the
Constitution of the Independent State of Papua New Guinea

BOUGAINVILLE REFERENDUM COMMISSION CHARTER

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BOUGAINVILLE REFERENDUM COMMISSION CHARTER

PREAMBLE

- A Part XIV Division 7 of the *Constitution of the Independent State of Papua New Guinea* provides for a Referendum to be held on the future political status of Bougainville.
- B The Referendum is to be conducted in accordance with the *Organic Law on Peace-building in Bougainville – Autonomous Bougainville Government and Bougainville Referendum* (see especially Schedule 1) on a date agreed after consultation between the Government of the Independent State of Papua New Guinea and the Autonomous Bougainville Government, but not later than 15 June 2020.
- C On 24 January 2017—
- (a) the Governments and the Papua New Guinea Electoral Commission and the Bougainville Electoral Commissioner made an agreement under Section 56(1) of the Organic Law on the administrative requirements for conducting the Referendum; and
 - (b) the electoral authorities entered into an arrangement under Section 57(6) of the Organic Law to implement the agreement.
- D The agreement provides for the electoral authorities to implement the agreement through a body established under Section 58 of the Organic Law.
- E The purpose of this charter is to establish that body.
- F Under Section Sch.1.3 of the Organic Law it is the duty of the Governments to ensure, as far as it is within their respective legal powers, that all arrangements are made, staff, facilities and funding are provided and all steps are taken to enable and facilitate, as far as may reasonably be, the proper and convenient performance of the functions of the body established by this charter.

PART 1 — PRELIMINARY

1 Aim of charter

This charter establishes the Bougainville Referendum Commission as the agency through which the Referendum referred to in the Preamble is to be conducted, as provided by the agreement and arrangement referred to in the Preamble.

2 Commencement

This charter comes into operation on the date of its issue.

3 Interpretation

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

allowance means an allowance for travel, accommodation, meals or other matters arising in the course of the performance of the functions of the Commission;

Autonomous Bougainville Government means the Autonomous Bougainville Government established by the Bougainville Constitution;

Board of Commissioners means the board established under Section 5;

Bougainville Chief Secretary means the person holding or acting in the office of Chief Secretary under Section 11 of the *Bougainville Public Services (Management and Administration) Act 2014*;

Bougainville Constitution means the *Constitution of the Autonomous Region of Bougainville* adopted by the Bougainville Constituent Assembly at Buin on 12 November 2004;

Bougainville Electoral Commissioner means the person holding or acting in the office of the Bougainville Electoral Commissioner established under Section 106(1) of the Bougainville Constitution;

Bougainville Executive Council means the Bougainville Executive Council provided for in Part VI Division 2 of the Bougainville Constitution;

Bougainville Gazette means the official journal of that name of the Autonomous Bougainville Government provided for by Section 226 of the Bougainville Constitution;

Bougainville Parliament means the House of Representatives established by Section 55 of the Bougainville Constitution;

Bougainville Public Service means the Bougainville Public Service established under Section 138(1)(a) of the Bougainville Constitution;

Bougainville Referendum means the Referendum for which provision is made under Part XIV Division 7 of the National Constitution;

Chair means—

(a) for the Board of Commissioners – the Commissioner appointed under Section 5(2)(a) or, if there is a vacancy in the office of that Commissioner, the National Electoral Commissioner and the Bougainville Electoral Commissioner acting jointly as set out in Section 7(5)(a); or

(b) for the Transitional Committee – the National Electoral Commissioner and the Bougainville Electoral Commissioner acting jointly as set out in Section 6(3);

Chief Referendum Officer means the person holding or acting in the office of Chief Referendum Officer under Section 14;

Commission means the Bougainville Referendum Commission established by Section 4;

Commissioner means—

- (a) a member of the Board of Commissioners (including the National Chief Secretary or the Bougainville Chief Secretary acting as a Commissioner under Section 7(5)(b) or (c) and an officer acting as a Commissioner under Section 10(1) or (2)); or
- (b) a member of the Transitional Committee (including an officer acting as a Commissioner under Section 10(1) or (2));

constitutional office-holder means—

- (a) a constitutional office-holder within the meaning of Section 221 of the National Constitution; or
- (b) a person who is a Bougainville constitutional office-holder under Section 189 of the Bougainville Constitution;

governing body means—

- (a) the Board of Commissioners; or
- (b) the Transitional Committee;

Joint Supervisory Body means the Joint Supervisory Body established by Section 332 of the National Constitution;

last petition date means the last date for the filing of a petition disputing the result of the Bougainville Referendum;

Note for definition of last petition date—See Section Sch.1.157(4) of the Organic Law on Peace-Building in Bougainville – Autonomous Bougainville Government and Bougainville Referendum.

National Chief Secretary means the person holding or acting in the office of Chief Secretary to Government established under Section 19 of the *Prime Minister and National Executive Council Act 2002* of the National Parliament;

National Constitution means the *Constitution of the Independent State of Papua New Guinea*;

National Electoral Commission means the Electoral Commission continued in establishment under Section 5 of the *Organic Law on National and Local-level Government Elections*;

National Electoral Commissioner means the person holding or acting in the office of Electoral Commissioner established under Section 5 of the *Organic Law on National and Local-level Government Elections*;

National Executive Council means the National Executive Council established by Section 149 of the National Constitution;

National Gazette means the official journal of that name of the National Government provided for by Section 252 of the National Constitution;

National Government means the Government of the Independent State of Papua New Guinea;

National Parliament means the National Parliament established by Section 99 of the National Constitution;

National Public Service means the National Public Service established by Section 188(1)(a) of the National Constitution;

Secretariat of the Commission means the staff assigned to or employed by the Commission under Section 14 and includes the Chief Referendum Officer;

Transitional Committee means the Committee established under Section 6.

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

PART 2 — BOUGAINVILLE REFERENDUM COMMISSION

4 Establishment

- (1) The Bougainville Referendum Commission is established.
- (2) The Commission—
- (a) is a body corporate; and
 - (b) has perpetual succession and a common seal; and
 - (c) may sue and be sued in its corporate name; and
 - (d) has all the powers of a natural person that are capable of being exercised by a body corporate.
- (3) However, the Commission is not entitled to establish a body corporate subsidiary.
- (4) If a document appears to bear the common seal of the Commission, it will be presumed, in the absence of proof to the contrary, that the document was duly executed by the Commission.

PART 3 — GOVERNING BODY

Note for Part 3—Until a person is first appointed as the Chair of the Board of Commissioners, the Transitional Committee is the governing body of the Commission. After the Chair is appointed, the Board of Commissioners is the governing body of the Commission until 3 months after the last petition date. After that, the Transitional Committee is again the governing body of the Commission until the Commission is wound up.

The Commission acts through its governing body (either the Board of Commissioners or the Transitional Committee) and a decision of the Board of Commissioners or the Transitional Committee is a decision of the Commission.

5 Board of Commissioners

- (1) A Board of Commissioners is to be established to govern the Commission.

- (2) The Board of Commissioners is to consist of the following members—
- (a) a person appointed by the Joint Supervisory Body by notice in both the National Gazette and the Bougainville Gazette (who will be the Chair of the Board of Commissioners and executive head of the Commission);
 - (b) the National Electoral Commissioner;
 - (c) the Bougainville Electoral Commissioner;
 - (d) 2 persons appointed by the National Executive Council by notice in the National Gazette;
 - (e) 2 persons appointed by the Bougainville Executive Council by notice in the Bougainville Gazette.
- (3) A person is not eligible to be appointed under Subsection (2)(a), (d) or (e) if—
- (a) the person is a member of, or a candidate for election to, the National Parliament or the Bougainville Parliament; or
 - (b) the person is a constitutional office-holder; or
 - (c) the person is an officer of the National Public Service or the Bougainville Public Service; or
 - (d) the person has been sentenced to imprisonment and is, or could on the happening of some contingency become, liable to serve the sentence or the remainder of the sentence.
- (4) At least 1 of the persons appointed under Subsection (2)(d), and 1 of the persons appointed under Subsection (2)(e), must be a woman.

6 Transitional Committee

- (1) A Transitional Committee is to govern the Commission—
- (a) from the commencement of this charter until the date on which a person first becomes the Chair of the Board of Commissioners under Section 5(2)(a); and
 - (b) from 3 months after the last petition date until the winding up of the Commission under Section 25.
- (2) The Transitional Committee consists of the following members—
- (a) the National Electoral Commissioner;
 - (b) the Bougainville Electoral Commissioner;
 - (c) the National Chief Secretary;
 - (d) the Bougainville Chief Secretary.
- (3) The National Electoral Commissioner and the Bougainville Electoral Commissioner are to jointly act as Chair of the Transitional Committee and, while the Transitional Committee governs the Commission, the executive head of the Commission.

7 Vacancies in office

- (1) This section applies while the Board of Commissioners is governing the Commission.
- (2) The office of a Commissioner appointed under Section 5(2)(a), (d) or (e) becomes vacant if the Commissioner—
 - (a) dies; or
 - (b) resigns by written notice to the Chair or, in the case of the Chair, to the Prime Minister of the Independent State of Papua New Guinea and the President of the Autonomous Region of Bougainville; or
 - (c) becomes a member of, or a candidate for election to, the National Parliament or the Bougainville Parliament; or
 - (d) becomes a constitutional office-holder; or
 - (e) becomes an officer of the National Public Service or the Bougainville Public Service; or
 - (f) is sentenced to imprisonment and is, or could on the happening of some contingency become, liable to serve the sentence or the remainder of the sentence; or
 - (g) is removed from office by the Joint Supervisory Body for serious misconduct, serious neglect of duty, or physical or mental incapacity, after having been given a reasonable opportunity to show cause as to why the Commissioner should not be so removed from office.
- (3) A Commissioner appointed under Section 5(2)(a), (d) or (e) cannot be removed from office except in accordance with Subsection (2)(g).
- (4) Notice of a vacancy in the office of a Commissioner under Subsection (2) must be published in the National Gazette and the Bougainville Gazette.
- (5) The following rules apply—
 - (a) for any period for which there is a vacancy in the office of the Commissioner referred to in Section 5(2)(a), the National Electoral Commissioner and the Bougainville Electoral Commissioner are to jointly act as Chair of the Board of Commissioners and executive head of the Commission;
 - (b) for any period for which there is a vacancy in the office of either or both of the Commissioners referred to in Section 5(2)(d), the National Chief Secretary is to act as a Commissioner;
 - (c) for any period for which there is a vacancy in the office of either or both of the Commissioners referred to in Section 5(2)(e), the Bougainville Chief Secretary is to act as a Commissioner.

- (6) For Subsection (5)—
- (a) there is a vacancy in the office of a Commissioner if no person has been appointed to the office in accordance with Section 5 or no appointment has been made in accordance with that section to fill a vacancy in the office; and
 - (b) the vacancy continues only until an appointment is made in accordance with that section.

8 Validity of acts or proceedings

No act or proceeding of the Commission is invalid by reason of—

- (a) a vacancy in the office of a Commissioner; or
- (b) a defect in the appointment of a Commissioner.

9 Procedures

- (1) Subject to this section, the governing body is to determine its own procedures.
- (2) The Chair is to fix the date, time and place for a meeting of the governing body.
- (3) The Chair must arrange a meeting of the governing body if requested to do so by another Commissioner.
- (4) A quorum of the governing body consists of 4 Commissioners and no business may be transacted at a meeting unless a quorum is present.
- (5) A meeting of the governing body is to be presided over by—
 - (a) the Chair; or
 - (b) if the Chair is absent from the meeting – a Commissioner chosen by those present.
- (6) The governing body may hold a meeting by electronic communication, without the Commissioners being present in 1 place, but the Commissioners must be able to speak to, and hear, each other contemporaneously.
- (7) At a meeting of the governing body—
 - (a) a question arising for decision is to be decided by consensus if possible; and
 - (b) if consensus cannot be reached – the question is to be decided by a majority of votes cast by the Commissioners present, with the Commissioner presiding at the meeting having a casting vote as well as a deliberative vote.
- (8) If the National Electoral Commissioner and the Bougainville Electoral Commissioner are jointly presiding at a meeting of the governing body and cannot agree on how to exercise a casting vote, the casting vote may not be exercised.

10 Absence of Chief Secretary from meeting

- (1) If the National Chief Secretary is, or is acting as, a Commissioner, the National Chief Secretary may appoint an officer of the National Public Service (including an officer for the time being performing particular duties or holding or acting in a particular position) to act as a Commissioner and attend a meeting or meetings of the governing body in the absence of the National Chief Secretary from the meeting or meetings.
- (2) If the Bougainville Chief Secretary is, or is acting as, a Commissioner, the Bougainville Chief Secretary may appoint an officer of the Bougainville Public Service (including an officer for the time being performing particular duties or holding or acting in a particular position) to act as a Commissioner and attend a meeting or meetings of the governing body in the absence of the Bougainville Chief Secretary from the meeting or meetings.
- (3) An appointment under this section—
 - (a) must be by instrument in writing; and
 - (b) must specify a period for which it is to remain in force or the meeting or meetings to which it relates; and
 - (c) is revocable at will.

11 Disclosure of interests

- (1) If a Commissioner has a personal interest in a matter being considered, or about to be considered, by the governing body, the Commissioner must disclose to the other Commissioners, as soon as practicable after the relevant facts come to the Commissioner's knowledge—
 - (a) the nature and extent of the interest; and
 - (b) how the interest relates to the matter being considered, or about to be considered.
- (2) A Commissioner will be taken to have a personal interest in a matter if the Commissioner—
 - (a) has a direct or indirect financial interest in the matter; or
 - (b) has a personal, professional, commercial or other relationship with a person and the nature of the relationship is likely to, or may reasonably be regarded as likely to, inhibit or prevent the Commissioner from exercising independent judgment about the matter.
- (3) In addition, if the Commissioner is an officer appointed under Section 10(1) or (2), the Commissioner will be taken to have a personal interest in a matter if the National Chief Secretary or Bougainville Chief Secretary (as the case requires)—
 - (a) has a direct or indirect financial interest in the matter; or

- (b) has a personal, professional, commercial or other relationship with a person and the nature of the relationship is likely to, or may reasonably be regarded as likely to, inhibit or prevent the National Chief Secretary or Bougainville Chief Secretary (as the case requires) from exercising independent judgment about the matter.
- (4) The Commissioner need not give notice of an interest if the interest is an interest shared with the public generally or a substantial section of the public.
- (5) The disclosure must be recorded in the record of the meeting at which, or before which, the disclosure is made.
- (6) A Commissioner who is required to disclose an interest in a matter—
 - (a) must not take part in any deliberation or decision of the governing body about the matter; and
 - (b) must be absent from the meeting room, or excluded from the electronic communication by which the meeting is being held, when any deliberation or voting on the matter is taking place.
- (7) However, a failure by a Commissioner to disclose an interest in a matter does not, on its own, invalidate any decision of the governing body about the matter.

12 Committees

- (1) Subject to this section, the governing body may establish committees to provide advice to the governing body relevant to the functions of the Commission.
- (2) The membership of a committee is to be determined by the governing body and may include persons who are not Commissioners.
- (3) The governing body must appoint a person as the presiding member of a committee, or make provision for the appointment of a presiding member by the committee.
- (4) The governing body may remove a member from a committee, alter the membership of a committee, or remove a person as the presiding member of a committee, as it considers appropriate.
- (5) A committee may, subject to any directions of the governing body, determine its own procedures.

13 Remuneration, allowances and reimbursement of expenses

- (1) The Joint Supervisory Body is to determine the amount of any remuneration and allowances payable to Commissioners and the basis on which Commissioners are entitled to allowances or to be reimbursed expenses, taking into account—
 - (a) the entitlements of constitutional office-holders; and

- (b) the requirements for Commissioners to participate in meetings of the governing body and the extent to which Commissioners are likely to be required to undertake duties as Commissioners outside of those meetings.
- (2) However, the following persons, while entitled to allowances or to be reimbursed expenses in accordance with Subsection (1), are not entitled to any other form of remuneration for performing duties as a Commissioner—
 - (a) the National Electoral Commissioner;
 - (b) the Bougainville Electoral Commissioner;
 - (c) the National Chief Secretary;
 - (d) the Bougainville Chief Secretary;
 - (e) an officer appointed under Section 10(1) or (2) to act as a Commissioner.
- (3) Subsection (2) does not prevent the person receiving the remuneration ordinarily payable for the office held by the person.
- (4) The Commission is to determine the amount of any allowance payable to a member of a committee of the Commission who is not a Commissioner and the basis on which such a member is entitled to an allowance or reimbursement of expenses.

PART 4 — SECRETARIAT OF THE COMMISSION

14 Secretariat

- (1) The governing body is to be provided administrative support by a Secretariat.
- (2) In accordance with Section Sch.1.3(2) of the *Organic Law on Peace-building in Bougainville – Autonomous Bougainville Government and Bougainville Referendum*, officers of the National Electoral Commission, the office of the Bougainville Electoral Commissioner, the National Public Service and the Bougainville Public Service are to be assigned to the Secretariat of the Commission as staff of the Commission.
- (3) An officer assigned to the Secretariat of the Commission remains an officer of the National Electoral Commission, the office of the Bougainville Electoral Commissioner, the National Public Service or the Bougainville Public Service (as the case requires), but while assigned to the Secretariat, lawful directions given to the officer by or on behalf of the Commission prevail over any other directions given to the officer, to the extent of any inconsistency.
- (4) The National Government or Autonomous Bougainville Government remains responsible for the remuneration of an officer assigned to the Secretariat of the Commission, but any reimbursement of expenses or payment of allowances is a matter for the Commission.

- (5) The Commission may employ other staff (who are not officers of the National Electoral Commission, the office of the Bougainville Electoral Commissioner, National Public Service or Bougainville Public Service) in the Secretariat on terms and conditions determined by the Commission.
- (6) The Commission is responsible for all remuneration, allowances and reimbursement of expenses for staff employed by the Commission.

15 Chief Referendum Officer

- (1) The Commission is to appoint a person assigned to or employed in the Secretariat as the Chief Referendum Officer.
- (2) The Chief Referendum Officer is the chief executive of the Commission.
- (3) All staff assigned to or employed in the Secretariat are responsible to the Chief Referendum Officer.
- (4) The power to appoint under Subsection (1) includes power—
 - (a) to remove or suspend a person so appointed; and
 - (b) to appoint a person assigned to or employed in the Secretariat to act in the office of the Chief Referendum Officer during a vacancy in the office or an absence of the Chief Referendum Officer.

Note for Subsection (4)—While removed or suspended from office as the Chief Referendum Officer, the person would remain assigned to or employed in the Secretariat, subject to action being taken under Section 17.

- (5) The Chief Referendum Officer must attend each meeting of the governing body (but is not entitled to cast a vote on any question arising for decision), subject to the governing body or the Chair granting leave of absence.
- (6) The Chief Referendum Officer must ensure that accurate records are kept of the meetings and decisions of the governing body.

16 Relationship between governing body and Secretariat

An individual Commissioner has no direct authority over a person assigned to or employed in the Secretariat with respect to the way in which the person performs official functions.

Note for Section 16—However, the Chief Referendum Officer is responsible to the governing body for the performance of the Chief Referendum Officer's functions and the other staff are responsible, through the Chief Referendum Officer, to the governing body for the performance of their functions.

17 Termination of assignment to or employment in Secretariat

The Commission may, on the recommendation of the Chief Referendum Officer—

- (a) terminate the assignment of an officer to the Secretariat; or
- (b) terminate the employment of a person employed under Section 14(5) in accordance with the person's terms and conditions of employment.

PART 5 — FUNCTIONS AND POWERS OF COMMISSION

18 Functions and guiding principles

- (1) The Commission has the functions assigned to it under the *Organic Law on Peace-building in Bougainville – Autonomous Bougainville Government and Bougainville Referendum* or any applicable law within the meaning of Section 63 of that Organic Law.
- (2) In the performance of its functions, the Commission is to be guided by the following principles—
 - (a) *Neutrality*: The Commission should make its decisions free from undue influence or partisan control, including from political interest groups, observers, the National Government, the Autonomous Bougainville Government and any other person.
 - (b) *Impartiality*: The Commission should be impartial in all its work and, in particular, in its dealings with voters and interest groups and should treat all persons equally, fairly and justly according to formally established rules and procedures.
 - (c) *Transparency*: The Commission should communicate matters relevant to its operational and financial decisions in a regular, concise and timely manner so as to ensure that persons are fully informed about matters relevant to their interests and to promote effective consultation, with a view to furthering the integrity of the referendum process.
 - (d) *Professionalism*: The Commission should conduct its operations in an accurate, competent, efficient and cost effective manner through competent Commissioners and staff so as to maintain trust and confidence in the referendum process.
 - (e) *Inclusivity*: The Commission should seek to consult interested persons and address concerns and questions as effectively as possible to guarantee inclusive participation.

19 Financial management

Under Section 56(2)(b) of the *Organic Law on Peace-building in Bougainville – Autonomous Bougainville Government and Bougainville Referendum* and the agreement referred to in the Preamble, the Commission must manage its own finances in accordance with Part VIII of the *Public Finances (Management) Act 1995* of the National Parliament.

Note for Section 19—It is intended that a Trust Account will be established under Section 15 of the Public Finances (Management) Act 1995 of the National Parliament for the purposes of the Commission.

20 Independence

Under Section 59 of the *Organic Law on Peace-building in Bougainville – Autonomous Bougainville Government and Bougainville Referendum*, except as expressly provided in that Organic Law, the Commission is not subject to direction by any person, including the National Government and the Autonomous Bougainville Government.

21 Prohibition on political activity

Under Section 60 of the *Organic Law on Peace-building in Bougainville – Autonomous Bougainville Government and Bougainville Referendum*—

- (a) the Commission must carry out its duties in an impartial manner without regard to the outcome of the Bougainville Referendum; and
- (b) in particular, the Commission must not engage in promoting any particular outcome of the Bougainville Referendum, or support any person or group promoting a particular outcome of the Bougainville Referendum.

Note for Section 21—Also see Section Sch.1.8 of the Organic Law, which imposes similar obligations on Referendum personnel.

Under Sections Sch.1.9 and Sch.1.10 of the Organic Law, the Commission’s functions include:

- *the promotion of informed debate on each side of the question or questions to be put at the Bougainville Referendum; and*
- *encouraging wider public interest and involvement in ensuring that the Bougainville Referendum is conducted in a free and fair manner; and*
- *the recognition of interest groups for purposes including polling and scrutiny.*

22 Commission offices

The Commission may establish offices as reasonably required for the performance of its functions, but its principal office is to be in Bougainville.

23 Annual and other reports

- (1) The Commission must, on or before 31 March in each year, provide the Joint Supervisory Body with a written report of its operations during the previous calendar year.
- (2) The Commission must, in accordance with a request of the Joint Supervisory Body, provide a written report at any other time relating to its operations.
- (3) The Speaker of the National Parliament must arrange for each report provided to the Speaker by the Commission to be tabled, within 2 sitting days of receipt of the report, in the National Parliament.
- (4) The Speaker of the Bougainville Parliament must arrange for each report provided to the Speaker by the Commission to be tabled, within 2 sitting days of receipt of the report, in the Bougainville Parliament.

- (5) The sitting days do not need to be in the same session or term of the National Parliament or Bougainville Parliament.

PART 6 — WINDING UP OF COMMISSION

24 Winding up report

- (1) The Commission must, within 3 months after the completion date of the Bougainville Referendum, provide the Joint Supervisory Body, the Speaker of the National Parliament and the Speaker of the Bougainville Parliament with a written report—
- (a) of the operations of the Commission since the end of the period covered by the most recent annual report; and
 - (b) setting out details of the consultation and any agreement between the National Electoral Commission and the Bougainville Electoral Commissioner for the winding up of the Commission, including details of—
 - (i) the assets of the Commission and how it is proposed to dispose of those assets; and
 - (ii) the liabilities of the Commission and how it is proposed to discharge or transfer those liabilities; and
 - (iii) any arrangements relating to staff employed in the Secretariat immediately before the winding up of the Commission.
- (2) The Speaker of the National Parliament must arrange for the report to be tabled, within 2 sitting days of receipt of the report, in the National Parliament.
- (3) The Speaker of the Bougainville Parliament must arrange for the report to be tabled, within 2 sitting days of receipt of the report, in the Bougainville Parliament.
- (4) The sitting days do not need to be in the same session or term of the National Parliament or Bougainville Parliament.
- (5) In this section—

completion date of the Bougainville Referendum means—

- (a) the last petition date; or
- (b) if a petition is filed disputing the result of the Bougainville Referendum – the date on which the proceedings are finally determined, dismissed or withdrawn (provided that is later than the last petition date).

Note for Section 24—Under Section 6, the governing body of the Commission reverts to being the Transitional Committee 3 months after the last petition date.

25 Winding up

- (1) The Head of State of the Independent State of Papua New Guinea may, by notice in the National Gazette and the Bougainville Gazette, wind up the Commission.

- (2) A notice may only be made under Subsection (1) if—
 - (a) the Head of State acts with, and in accordance with, the advice of the National Electoral Commission; and
 - (b) that advice is given after consultation and agreement between the National Electoral Commission and the Bougainville Electoral Commissioner; and
 - (c) the Joint Supervisory Body has agreed to the making of the notice.
- (3) A notice under Subsection (1) may contain—
 - (a) provisions for the disposal of assets of the Commission; and
 - (b) provisions for the discharge or transfer of the liabilities of the Commission; and
 - (c) arrangements relating to staff employed in the Secretariat immediately before the winding up of the Commission; and
 - (d) any other provisions reasonably required for the winding up of the Commission.
- (4) A notice under Subsection (1) takes effect according to its terms.
- (5) Notice of the winding up of the Commission must also be published in each available newspaper as defined in Section 53 of the *Organic Law on Peace-building in Bougainville – Autonomous Bougainville Government and Bougainville Referendum*.
- (6) A notice under Subsection (1) or (5) must describe the effect of Section 26.
- (7) It is the duty of the National Government and the Autonomous Bougainville Government to give effect to a notice under Subsection (1).
- (8) On the winding up of the Commission, the governing body and Secretariat cease to exist.

26 Civil proceedings involving Commission after winding up

- (1) For the purposes of civil proceedings commenced before the winding up of the Commission and to which the Commission was a party immediately before its winding up, on the winding up of the Commission, Papua New Guinea and the Autonomous Bougainville Government are substituted for the Commission as parties to the proceedings.
- (2) For the purposes of civil proceedings not commenced before the winding up of the Commission and that could have, but for the winding up of the Commission, been brought against the Commission, the proceedings may instead be brought against Papua New Guinea and the Autonomous Bougainville Government.

PART 7 — MISCELLANEOUS

27 Protection from liability

- (1) Subject to this section, no civil liability attaches to a Commissioner, member of the Secretariat or member of a committee established by the governing body for an act or omission in the exercise or purported exercise of official functions or powers.
- (2) An action that would, but for Subsection (1), lie against a person lies instead against the Commission.
- (3) This clause does not prejudice rights of action of the Commission in respect of an act or omission of a person not in good faith.

28 Confidentiality

A Commissioner, member of the Secretariat or member of a committee established by the governing body must not divulge personal information (including information about how a person voted or intends to vote in the Bougainville Referendum) obtained in the performance of the functions of the Commission except—

- (a) in the course of the performance of those functions; or
- (b) in legal proceedings under the *Organic Law on Peace-building in Bougainville – Autonomous Bougainville Government and Bougainville Referendum*; or
- (c) as authorised by law; or
- (d) with the consent of the person to whom the information relates.

29 Amendment of charter

- (1) The Head of State of the Independent State of Papua New Guinea may, by notice in the National Gazette and the Bougainville Gazette, amend this charter.
- (2) A notice may only be made under Subsection (1) if—
 - (a) the Head of State acts with, and in accordance with, the advice of the National Electoral Commission; and
 - (b) that advice is given after consultation and agreement between the National Electoral Commission and the Bougainville Electoral Commissioner (as required by Section 58(3) of the *Organic Law on Peace-building in Bougainville – Autonomous Bougainville Government and Bougainville Referendum*); and
 - (c) the Commission has agreed to the making of the notice.