

**No.4 of 2009.**

***Office of the Clerk Act 2009.***

**Certified on: 18 December 2009.**

# AUTONOMOUS BOUGAINVILLE GOVERNMENT

No. 4 of 2009

Entitled

*Office of the Clerk Act 2009.*

## EXPLANATORY NOTE.

### **Background.**

The Bougainville Constitution provides for a structure of Government for the Autonomous Region of Bougainville. It envisages the three separate arms of government namely, the legislature, the executive and the Judiciary. It also provides for a number of institutions to support the three different arms of government. For instance, Part V of the Constitution provides for the Bougainville legislature, its powers and functions, its composition, meetings, and procedures. It also makes provision for the office of the Clerk and other officers of the House (in section 78) to provide the House with support and other services to enable the House to function properly and efficiently.

The purpose of this Bill is to give effect to section 78 of the Constitution which provide for the office of the Clerk and other office s of the House. The Clerk is the most senior public servant in the Parliamentary Service.

### **Provisions of the Act.**

Clause 1 provides for the commencement of the Act.

Clause 2 provides for the interpretations of certain terms used in the Act.

Clause 3 establishes the Office of the Clerk.

Clause 4 provides -

- (a) for the appointment of the Clerk by the Bougainville Senior Appointments Committee;
- (b) for the Clerk to be the head of the Office;
- (c) declares the Clerk to be a Bougainville Constitutional Office Holder.

Clause 5 sets out the functions of the Clerk which includes the responsibility for the daily administration of the House.

Clause 6 provides the qualification criteria for the Office of the Clerk.

Clause 7 provides for the term of Office of the Clerk. The Clerk holds office for a term of six years and may be reappointed.

Clause 8 makes provision for the delegation of the powers and functions of the Clerk.

Clause 9 establishes the office of the Deputy Clerk.

Clause 10 provides for the appointment of the Deputy Clerk. It further provides for the performance of duties and responsibilities assigned to him by the Clerk.

Clause 11 provides for the term of office of the Deputy Clerk. An appointment is for six years and may be reappointed.

Clause 12 sets out the grounds under which the Parliamentary Service Commission may remove the Deputy Clerk from office.

Clause 13 provides for the appointment of other officers and staff of the Office of the Clerk.

Clause 14 provides for all appointments made under the Act to be made on merit following a fair and transparent selection process.

Clause 15 is a transitional provision. It saves the offices in the Office of the Clerk prior to the commencement of this Act.

Clause 16 empowers the Executive Council to make regulations for the carrying out or giving effect to the Act.

**AUTONOMOUS BOUGAINVILLE GOVERNMENT**

**No.4 of 2009**

**Entitled**

*Office of the Clerk Act 2009.*

**ARRANGEMENT OF SECTIONS.**

**PART 1. – PRELIMINARY.**

1. COMMENCEMENT.
2. INTERPRETATION.

**PART 2. – CLERK.**

3. ESTABLISHMENT.
4. APPOINTMENT OF CLERK.
5. FUNCTIONS OF CLERK.
6. QUALIFICATION OF CLERK.
7. TERM OF OFFICE AND EMPLOYMENT.
8. DELEGATION OF FUNCTIONS AND POWERS.

**PART 3. - DEPUTY CLERK AND OTHER OFFICERS.**

9. ESTABLISHMENT OF OFFICE.
10. APPOINTMENT OF DEPUTY CLERK.
11. TERM OF OFFICE.
12. VACATION OF OFFICE.
13. APPOINTMENT OF STAFF.

**PART 4. – MISCELLANEOUS.**

14. APPOINTMENT ON MERIT.
15. TRANSITIONAL PROVISIONS.
16. REGULATIONS.

**AUTONOMOUS BOUGAINVILLE GOVERNMENT**

**No.4 of 2009**

**AN ACT**

**Entitled**

*Office of the Clerk Act 2009.*

Being an Act to implement section 78 of the Constitution of the Autonomous Region of Bougainville to provide for an office of the Clerk of the House of Representatives and for related purposes.

MADE by the House of Representatives.

**PART 1. - PRELIMINARY.**

**1. COMMENCEMENT.**

This Act shall come into operation on a date appointed by the Minister and published in the Gazette.

**2. INTERPRETATIONS.**

In this Act, unless the context otherwise requires -

“Clerk” means the Clerk of the House of Representatives appointed under subsection 4 (1);

“House” means the House of Representatives;

“Office” means the office of the Clerk;

“Speaker” means the Speaker of the House of Representatives.

**PART 2. - CLERK.**

**3. ESTABLISHMENT OF OFFICE.**

There is established an Office of the Clerk of the House of Representatives.

**4. APPOINTMENT OF CLERK.**

(1) The Clerk is to be appointed by the Bougainville Senior Appointments Committee.

(2) The Clerk is the head of the Office.

(3) The Clerk is hereby declared to be a Bougainville Constitutional Office Holder in accordance with subsection 189 (1) of the *Bougainville Constitution*.

**5. FUNCTIONS OF CLERK.**

The Clerk has the following functions -

- (a) to be responsible to the Speaker for the efficient, effective, and economic management of the Office of the Clerk and the Deputy Clerk;

- (b) to be responsible for the day to day administration of the House in accordance with the provisions of this Act;
- (c) to be responsible for keeping all records, Gazettes, books, Bills and any other documents laid before the House which are to be open for inspection by members of the House at all reasonable times;
- (d) to supervise the general administration of the House including allocating work to the Deputy Clerk and other staff of the House; and
- (e) such other functions as are conferred on the Clerk by the Standing Orders of the House of Representatives or under this Act.

**6. QUALIFICATION OF CLERK.**

- (1) A person is not to be appointed to the position of Clerk unless he or she –
  - (a) has a law degree from a recognized institution; and
  - (b) has 5 years experience in administration; or
  - (c) has such other sufficient experience and ability to fulfill the duties of the Clerk.
- (2) A person is disqualified for appointment as Clerk if the person is -
  - (a) a member of the House or a candidate for election to the House; or
  - (b) a person who has been removed from office under section 190 of the *Bougainville Constitution*; or
  - (c) a person who exercises a position of responsibility in a political party.

**7. TERM OF OFFICE AND EMPLOYMENT.**

- (1) The Clerk is appointed for a period of six (6) years and may be reappointed.
- (2) The Clerk may resign in writing at any time by giving the Bougainville Senior Appointments Committee three months' notice of his or her intention to resign.
- (3) The Clerk may only be removed from office by the Bougainville Senior Appointments Committee on any of the grounds set out in section 190 (1) of the *Bougainville Constitution*.
- (4) Subject to the provisions of any other enactment, the terms and conditions of employment of the Clerk shall be determined by the Bougainville Senior Appointments Committee, on the advice of the Chief Administrator.

**8. DELEGATIONS OF FUNCTIONS OR POWERS.**

- (1) The Clerk may from time to time delegate to the Deputy Clerk or to another officer in the Office any of the functions or powers of the Clerk.
- (2) Any delegation under subsection (1) does not –
  - (a) affect or prevent the exercise of any function or power by the Clerk; or
  - (b) affect the responsibility of the Clerk for the actions of any person acting under the delegation.

**PART 3. – DEPUTY CLERK AND OTHER OFFICERS.**

**9. ESTABLISHMENT OF OFFICE OF THE DEPUTY CLERK.**

There is established an office of the Deputy Clerk of the House of Representatives.

**10. APPOINTMENT OF DEPUTY CLERK.**

(1) The Deputy Clerk is to be appointed by the Parliamentary Service Commission.

(2) The Deputy Clerk has such duties and responsibilities as are assigned to him or her by the Clerk.

(3) Any function authorized or required by this Act or the Standing Orders of the House to be performed by the Clerk may be discharged by the Deputy Clerk if –

- (a) the Office of the Clerk is vacant; or
- (b) the Clerk is unable to act owing to absence or illness; or
- (c) the Clerk authorizes the Deputy Clerk to act in any particular case.

(4) The Deputy Clerk is appointed as an officer of the House and as a member of the staff of the Office of the Clerk.

**11. TERM OF OFFICE.**

(1) The Deputy Clerk is to be appointed for a period of six (6) years and may be reappointed.

(2) Subject to the provisions of any other enactment, the terms and conditions of employment of the Deputy Clerk shall be determined by the Parliamentary Service Commission, on the advice of the Chief Administrator.

**12. VACATION OF OFFICE.**

(1) The Parliamentary Service Commission may suspend or remove the Deputy Clerk -

- (a) for misbehaviour; or
- (b) for inability (whether arising from physical or mental infirmity or otherwise) to perform the functions and duties of his or her office efficiently; or
- (c) for a breach or contravention of a condition of employment; or
- (d) for neglect of duty.

(2) The Deputy Clerk may resign in writing at any time by giving the Parliamentary Service Commission three months' notice of his or her intention to resign.

**13. APPOINTMENT OF STAFF.**

(1) The Clerk may from time to time, after consultation with the Chief Administrator, appoint, as officers of the House and as members of staff of the Office of the Clerk, such employees, including acting or temporary or casual employees, as the Clerk thinks necessary for the efficient exercise of the functions of the House.

(2) The appointment of staff under subsection (1) must comply with the recruitment process under the Public Service (Management) Act 1995.

**PART 4. – MISCELLANEOUS.**

**14. APPOINTMENT ON MERIT.**

(1) Subject to subsection (3), all appointments under this Act must be made on merit following a fair and transparent selection process.

(2) All vacancies must be advertised in such a way that informs and seeks applications from people throughout Bougainville.

(3) In making an appointment, the Bougainville Senior Appointments Committee or the Parliamentary Service Commission or the Clerk must have regard to the person's qualifications, experience and suitability for the position concerned.

**15. TRANSITIONAL PROVISIONS.**

(1) The person holding office as the Clerk immediately before the commencement of this Act will, after the commencement of this Act, continue in office as if appointed under and subject to the provisions of this Act.

(2) Any person who, immediately before the commencement of this Act, was employed in the Office of the Clerk will, after the commencement of this Act continue in office as if appointed under and subject to the provisions of this Act.

**16. REGULATIONS.**

(1) The Bougainville Executive Council may, on the advice of the Clerk, make regulations, not inconsistent with this Act, prescribing all matters required or permitted to be prescribed, or that are necessary to be prescribed for the carrying out or giving effect to this Act.

(2) Without limiting the generality of subsection (1), the Bougainville Executive Council in such regulations may provide for –

- (a) terms and conditions of appointments to the Office;
- (b) subsistence, posting and travelling allowances;
- (c) general conduct and discipline;
- (d) leave and medical entitlements;
- (e) training and courses;
- (f) cessation of service;
- (g) employment of contract employees.

I hereby certify that the foregoing is a fair copy of the *Office of the Clerk Act 2009* which has been made by the House of Representatives.

Acting Clerk of the House of Representatives.



I, HONOURABLE ANDREW MIRIKI, Speaker of the House of Representatives, hereby certify that the *Office of the Clerk Act 2009* was made by the House of Representatives on 16 December 2009, by an absolute majority vote in accordance with the *Bougainville Constitution*.

Speaker of the House of Representatives.

