

38

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# CONSTITUTION

OF

# NORTH SOLOMONS

PROVINCIAL  
GOVERNMENT

CONSTITUTION

of

NORTH SOLOMONS.

ARRANGEMENT OF SECTIONS

Preamble

Adoption of the Constitution

Adoption of National Goals and

Directive Principles.

Declaration of Basic Rights and Basic

Social Obligations.

Declaration on Leadership.

Statement of Principles of Complementarity.

General Principles.

Application of Principles

of Complementarity within

Papua New Guinea.

Statement on Community and Local-Level Government

PART 1 - INTRODUCTORY.

Division 1. - The North Solomons

1. The Province.
2. The Provincial Government.
3. The jurisdiction of the Provincial Government.
4. Provincial symbols.
5. Provincial Capital.
6. The Provincial Declaration of Loyalty to North Solomons.

Division 2. - Interpretation, etc.

7. Special status of the Preamble.
8. Construction of provincial laws.
9. Interpretation of the Constitution generally.

PART II. - THE CONSTITUTION

10. Supremacy of the Provincial Constitutional Laws.
11. Amendments to the Constitution.
12. Urgent amendments.
13. Interpretative jurisdiction in relation to  
the Constitution.
14. Enforcement, etc., of the Constitution.

PART III. - THE PROVINCIAL GOVERNMENT.

15. Structure of Government.

PART IV. - THE PROVINCIAL ASSEMBLY.

Division 1. - The Legislative Power

16. Exercise of the legislative power.

Division 2. - Composition, etc., of the Provincial  
Assembly.

17. Membership of the Provincial Assembly.
18. Qualifications for and disqualifications from election.
19. Appointment of nominated members.
20. Assumption of office.
21. Vacation of office.
22. Suspension and dismissal for certain offences.
23. Effect of convictions.

Division 3. - The Speaker and the Deputy Speaker.

24. Offices of Speaker and Deputy Speaker.
25. Non-member as Speaker.

(iii)

26. Vacation of office of Speaker and Deputy Speaker.
27. Duties of Speaker and Deputy Speaker.
28. Voting by the Speaker.

Division 4. - General law-making  
Powers of the Provincial Assembly.

29. General law-making powers.
30. Certification as to making of laws.
31. Right to introduce new laws.

Division 5. - Procedures, Privileges, etc., of the  
Provincial Assembly.

32. Meetings of the Assembly.
33. Calling of meetings on request.
34. Quorum at meetings.
35. Voting.
36. Committee.
37. Delegation to Committee, etc.
38. Standing Orders of the Assembly.
39. Rulings by the Speaker.
40. Privileges of the Assembly.
41. Validity of certain acts of the Assembly.
- 41A. Boundaries Authority and Electoral Authority.
- 41B. Constituencies

Division 6. - Provincial Elections.

42. General elections.
43. Filling of casual vacancies.

44. Form of elections.
45. Right to vote.
46. Conduct of elections.

PART V. - THE PROVINCIAL EXECUTIVE

Division 1. - The Executive Power.

47. Exercise of the executive power.

Division 2. - The Provincial Executive Council.

48. Membership of the Provincial Executive Council.
49. Representation of regions.
50. Appointment of other members.
51. Assumption of office by members of the Provincial Executive Council.
52. Responsibilities.
53. Procedures.
54. Delegation by the Provincial Executive Council, etc.

Division 3. - The Provincial Premier

55. Office of Premier.
56. Election of Premier.
57. Special election of Premier.
58. Qualifications for election as Premier.
59. Assumption of office.
60. Membership of Provincial Assembly and Committees.
61. Functions of the Premier.
62. Vacation of office of Premier.
63. Acting Premier.

Division 4. - The Deputy Premier

- 64. Office of Deputy Premier.
- 65. Appointment of Deputy Premier.
- 66. Assumption of office.
- 67. Functions of the Deputy Premier.

Division 5. - Members of the Provincial Executive Council Generally.

- 68. Interpretation of Division 5 -  
"member of the Provincial Executive Council to whom this Division applies"

- 69. Vacation of office of members of the Provincial Executive Council.

- 70. Dismissal and suspension.

Division 6. - Miscellaneous

- 71. Motions of no confidence.
- 72. Validity of certain executive acts.

PART VI. - THE PROVINCIAL SECRETARIAT.

- 73. Establishment of the Provincial Secretariat.

PART VII. - PROVINCIAL FINANCE.

- 74. Financial responsibility of the Provincial Assembly.
- 75. Expenditure.
- 76. Accounts and audit.
- 77. Borrowing powers.
- 78. Conditions of employment of members, employees, etc., of the Provincial Government.
- 79. Provincial Public Accounts Committee.

PART VIII. - COMMUNITY AND LOCAL-LEVEL  
GOVERNMENT.

- 80. System of local-level government.
- 81. Establishment of the system.
- 82. Application of Principles of Complementarity,  
Declaration on Leadership and Declaration on  
Community and Local-Level Government.

PART IX. - STATES OF EMERGENCY.

- 83. Interpretation of Part IX. -  
    "emergency"  
    "state of emergency"
- 84. Application of emergency provisions of  
    National Constitution.
- 85. Declaration of state of emergency.
- 86. Emergency Acts.
- 87. Emergency powers of Premier.
- 88. Emergency powers of Provincial Executive Council.
- 89. Content and duration of emergency powers.

PART X. - MISCELLANEOUS.

- 90. Responsibilities of certain office-holders.
- 91. Peace and Good Order Committee.
- 92. Independent Police Commission.
- 93. Effect of Sections 91 and 92.
- 94. Requirement of Provincial Declaration of Loyalty.

PART XI. - REVIEW OF CONSTITUTIONAL  
ARRANGEMENTS

95. Interpretation of Part XI. -  
"the Constitutional Commission".  
"the Constitutional Commission Act".
96. Constitutional Commission of North Solomons.
97. Composition of the Constitutional Commission.
98. Functions of the Constitutional Commission.
99. Reports by the Constitutional Commission.

PART XII. - IMMEDIATE AND TRANSITIONAL PROVISIONS.

100. Interpretation of Part XII -  
"the former Bougainville Provincial Government".  
"the Preparatory Arrangements Act".
101. Application of Part XII.
102. First Premier.
103. First Provincial Executive Council.
104. First Provincial Assembly, Provincial  
Constituencies, etc.
105. First meeting of Provincial Assembly.
106. Calculation of periods from provincial  
general elections.
107. Transitional provision concerning elections.
108. Transfer of assets and liabilities.
109. Continuance of acts of former Provincial  
Government.



(viii)

110. Validity of actions of former community governments.
111. Laws, etc., for the purposes of Sections 109 and 110.

SCHEDULES. -

SCHEDULE 1. - Declaration of Loyalty to North Solomons.

SCHEDULE 2. - Rules for Shortening and Interpretation of the Constitution.

Sch.2.1. - Application of Schedule 2.

Sch.2.2. - Application of National laws, etc.

Sch.2.3. - Meaning of certain expressions -

"absolute majority vote"

"Act of the Provincial Assembly"

"the Bougainville Agreement"

"the Central Government";

"the Charter of North Solomons"

"Commencement"

"elected member of the Provincial Assembly"

"Executive Member"

"the Executive Member"

"fiscal year"

"the Legal Adviser to the Provincial Government"

"the National Constitution"

"National Constitutional Law"

"the North Solomons Gazette"

"the Provincial Constitutional Laws"

"the Provincial Electoral Authority"

"the Provincial Government Printer"

"subordinate legislative enactment"

Sch.2.4. - Absolute majority votes.

Sch.2.5. - Form of the Constitution.

Sch.2.6. - Constitution speaks from time to time.

Sch.2.7. - Fair meaning to be given to language used.

Sch.2.8. - "Reasonably justifiable in a democratic  
society", etc.

Sch.2.9. - "Non-justiciable".

Sch.2.10.- Gender and number.

Sch.2.11.- Provision where no time prescribed.

Sch.2.12.- Exercise and performance of powers and  
duties.

Sch.2.13.- Inability to act.

Sch.2.14.- Attainment of Age.

Sch.2.15.- Residence.

Sch.2.15A.- Residence in particular areas.

Sch.2.16.- Effect of time limits.

Sch.2.16A.- Independence.

Sch.2.17.- Regulation of acts, etc.

CONSTITUTION  
OF  
NORTH SOLOMONS.

PREAMBLE.

Adoption of the Constitution.

WE, THE PEOPLE OF NORTH SOLOMONS, by authority of our inherent rights as an ancient, free and independent People from time immemorial, do hereby -

Acknowledge and Declare that we will uphold, guard and maintain the Unity of the Independent State of Papua New Guinea, and its Constitution:

Understand and Assert that fundamentally that Unity and that Constitution, and the relationship between Provincial and Central Authorities, are founded on principles of complementarity, as more particularly described in the Statement of Principles of Complementarity set out below:

AND in conformity with those Principles, secured as they are by the terms of the Constitutional Laws of the Nation, WE DECLARE AND ACKNOWLEDGE ourselves to be the North Solomons Province of the Independent State of Papua New Guinea, with the name "North Solomons":

SO THEREFORE WE, THE PEOPLE OF THE NORTH SOLOMONS, in conformity with the Declaration and Principles affirmed above, and by and in accordance with the authority of the Constitution of the Independent State of Papua New Guinea

AND ACTING through our Provincial Constituent Assembly on  
11th August 1977.

HEREBY ESTABLISH, ADOPT AND GIVE TO OURSELVES this Constitution.

Adoption of National Goals and Directive Principles.

IN ADOPTING THIS CONSTITUTION, WE ACKNOWLEDGE the National  
Goals and Directive Principles enshrined in the National  
Constitution

DECLARE them to be the Goals and Directive Principles that  
underlie this our Constitution

AND DIRECT that

1. Our leaders be guided by those Goals and  
Directive Principles in their task of developing  
and setting objectives and priorities in the  
development of our home, North Solomons, and  
her peoples.
2. Businesses, both foreign and local, keep those  
Goals and Directive Principles always in front  
of them in all their operations in North Solomons.
3. Churches and other groups be always mindful of  
those Goals and Directive Principles in all their  
activities in North Solomons.

Declaration of Basic Rights and  
Basic Social Obligations.

ALSO, in adopting this Constitution WE ACKNOWLEDGE AND  
ADOPT the Basic Rights and Basic Social Obligations  
acknowledged and declared in the Preamble to the National  
Constitution. DECLARE them to be basic rights and  
obligations under this Constitution  
AND DIRECT that both governmental and private conduct, at  
all levels, be regulated by them.

Declaration on Leadership.

WE DECLARE ALSO THAT in and by the act of giving to  
ourselves this Constitution WE RECOGNIZE and EXPECT  
OUR LEADERS TO RECOGNIZE that North Solomons and its  
political and social nature arise from and depend on  
our Local Communities  
  
AND ACCORDINGLY that while those of our leaders who are

members of our Provincial Assembly and our Provincial Executive Council, and of our Community Governments and other official bodies, have in many ways first places among our leaders they are in truth only first among equals, and the other leaders in our Local Communities are our leaders also:

THEREFORE

1. There should be a continuing process of consultation and communication amongst them, as our leaders and in our interests.
2. It is a duty owed to us by our leaders, especially our leaders in our Provincial Assembly and our Provincial Executive Council but also in our Community Governments and other official bodies, to do their best to be available to and to discuss matters with our other leaders.

Statement of Principles of Complementarity.

GENERAL PRINCIPLES.

1. A whole may be made up of many parts.
2. Each such part is an integral part of the whole; the whole depends in its nature on the parts, and without the whole the parts lose their identities as such.
3. In being a part of a whole, a part does not lose the distinctive and special characteristics that make it an individual part, different from the whole and from other parts of the whole.

4. Therefore, without losing its distinctive and special character each part has its own peculiar and necessary role to play in the well-being of the whole.
5. Therefore, too, a part does not and must not usurp the role of another part, and the whole does not and must not usurp the role of a part - each has its own peculiar and necessary role in the well-being of the whole.
6. In the whole that makes up a Society or a Nation , therefore -
  - each part must recognize and respect the roles of the other parts and of the whole in the well-being of the Society or of the Nation.
  - the whole must recognize and respect the role of each part in the well-being of the Society or of the Nation.

APPLICATION OF PRINCIPLES OF COMPLEMENTARITY WITHIN  
PAPUA NEW GUINEA.

In relation to the political and constitutional organization of Papua New Guinea, the Principles affirmed above mean that -

7. Provinces are parts of the Nation considered as a whole.
8. Provincial Government and the Central Government are necessarily partners in the government of the Nation, and one is not inferior in its nature to the other.

9. The existence and effectiveness both of Provincial Governments and of a Central Government, each with its own peculiar and necessary role and functions, are inherent in and fundamental to the constitutional life of the Independent State of Papua New Guinea as we understand and acknowledge it.

Accordingly, in serving the Peoples of the Nation through the State -

10. The Provincial Governments and the Central Government are and must be complementary and equally necessary to each other, and are not and must not be opposed to each other.
11. For the well-being of the Nation as a whole and of the Peoples of the individual Provinces, it is the duty of those Governments to work in co-operation and with goodwill and understanding towards each other, and not in competition one with another.



Statement on Community and Local-  
level government

Since the Principles of Complementarity are the proper principles governing the relationship between the Central Government and Provincial governments, it follows that they should apply equally to relationships within North Solomons, between the Provincial Government and local, community and village governments and other local-level governments established in accordance with Section 24 (1) (i) (application of Division 3) and Section 25 (legislative powers of the provinces) of the Organic Law on Provincial Government:

ACCORDINGLY WE DECLARE and DIRECT that in the establishment of a system of local-level governments and in the laws and administrative practices relating to such governments the Principles of Complementarity set out above apply and shall be given full effect, and in the same way the Statement on Leadership shall apply and be given full effect, so that any such system is based firmly on them.

PART 1. - INTRODUCTORY.

Division 1. - The North Solomons.

1. - THE PROVINCE.

For the purposes of this Constitution and of all Provincial laws, and for all official and governmental purposes, the Bougainville Province as established under the National Constitution, by whatever name it may be known for the purposes of the National Constitutional Laws, shall be known as "North Solomons".

2. - THE PROVINCIAL GOVERNMENT.

For the purposes of this Constitution and of all provincial laws, and for all official and governmental purposes, the provincial government established for North Solomons by this Constitution and the Organic Law on Provincial Government shall be known as the "Provincial Government of North Solomons".

3. - THE JURISDICTION OF THE PROVINCIAL GOVERNMENT.

(1) The Provincial Government has, in accordance with the Provincial Constitutional Laws, jurisdiction over North Solomons.

(2) Nothing in this Constitution prevents the addition to the jurisdiction of the Provincial Government, in accordance with the Provincial Constitutional Laws, of additional lands and waters, with the approval of the Provincial Government and with the agreement, as and if appropriate, of other provinces and countries affected.

(3) The question of the need for any agreement referred to in Subsection (2) is non-justiciable.

(4) In particular, and without limiting the operation of Subsections (1) and (2), the Provincial Government has, subject to the Provincial Constitutional Laws, jurisdiction over -

- (a) all land within North Solomons; and
- (b) all internal waters, including lakes, rivers, streams and other waters lying to the landward side of any baseline recognized by law for the purpose; and
- (c) the land underlying waters referred to in Paragraph (b); and
- (d) all natural resources of, in, over and underlying the land and waters referred to in Paragraphs (a), (b) and (c).

4. - PROVINCIAL SYMBOLS.

An Act of the Provincial Assembly may make provision for and in respect of -

- (a) a Provincial Flag; and
- (b) a Provincial Emblem; and
- (c) a Provincial Motto; and
- (d) a Provincial Seal; and
- (e) symbols and awards and provincial holidays or days of celebration, fitting to symbolize North Solomons or to honour persons, places or events relating to North Solomons or the Provincial Government.

5. - THE PROVINCIAL CAPITAL.

(1) There shall be a Provincial Capital for North Solomons.

(2) The Provincial Capital shall be located in or near the town of Arawa, as established under National law immediately before the adoption of this Constitution.

(3) A provincial law may make provision for defining the area of the Provincial Capital, and until such time as any other provision is so made the area of the Provincial Capital is the area of the town of Arawa as designed under National law immediately before the adoption of this Constitution.

(4) The Provincial Assembly shall hold at least one meeting in each year in the Provincial Capital, and other meetings may be held, as appropriate and determined under a provincial law or the Standing Orders of the Provincial Assembly, at other centres in North Solomons.

6. - THE PROVINCIAL DECLARATION OF LOYALTY.

Where a provincial law requires a Declaration of Loyalty to North Solomons to be made, it shall be made in the form in Schedule 1 (Declaration of Loyalty to North Solomons).

Division 2. - Interpretation, etc.

7. - SPECIAL STATUS OF THE PREAMBLE.

(1) The Preamble to this Constitution forms part of this Constitution and, as appropriate -

(a) the other provisions of this Constitution and all other provincial laws shall be read and applied in the light of the Preamble and so as to give effect to it; and

(b) in particular, it is the will of the People of North Solomons, expressed through their Provincial Constituent Assembly, that in the interpretation and application of this Constitution and all other provincial laws the courts shall give full weight to the provisions of the Preamble, and in particular to -

- ( i) the statement "Adoption of the National Goals and Directive Principles"; and
- ( ii) the Declaration of Basic Rights and Basic Social Obligations; and
- (iii) the Declaration on Leadership; and
- ( iv) the Statement of Principles of Complementarity; and
- ( v) the Statement on Community and Local-Level Government,

as statements of the spirit and philosophy behind the words of the provincial laws, and on which those laws are to be based.

(2) Except as provided by this section and any other provincial law, the provisions of the Preamble are non-justiciable.

(3) Notwithstanding Subsection (2), it is the duty of the Provincial Government and of all instrumentalities, agencies, servants and agents of the Provincial Government, in their capacities as such, and of all other governmental and semi-governmental bodies of North Solomons, to apply and give effect to the Preamble, and in particular to the statements and declarations specified in Subsection (1) (b) (i), (ii), (iv), and (v), as far as lies within their respective powers.

(4) It is also the duty of all authorities and persons referred to in Subsection (3) to encourage compliance with the provisions of the Preamble as far as lies within their respective powers.

(5) Where any law, or any power conferred or duty imposed by any law (whether the power or duty is of a legislative, judicial, executive or administrative, or any other kind), can reasonably be understood, applied, exercised, complied with or enforced, without failing to give effect to the intention of the Provincial Assembly or to the Provincial Constitutional Laws, in such a way as to enforce or encourage compliance with the provisions of the Preamble, or at the least not to derogate them, it is to be understood, applied, exercised, complied with or enforced in that way.

8. - CONSTRUCTION OF PROVINCIAL LAWS.

It is hereby declared that -

- (a) this Constitution shall be read and construed subject to -
  - ( i) the National Constitution; and
  - (ii) the National Organic Laws; and
- (b) the Acts of the Provincial Assembly shall be read and construed subject to the Provincial Constitutional Laws, and so as not to exceed the authority to make them properly given, to the intent that where any such law would, but for this section, have been in excess of the authority so given it is nevertheless a valid law to the extent to which it is not in excess of that authority.

9.- INTERPRETATION OF THE CONSTITUTION GENERALLY.

Subject to Section 8 (construction of provincial laws), for the purposes of the interpretation of this Constitution Schedule 2 (Rules for Shortening and Interpretation of the Constitution) applies.

PART II. - THE CONSTITUTION.

10.- SUPREMACY OF THE PROVINCIAL CONSTITUTIONAL LAWS.

(1) Subject to the National Constitution and to the National Organic Laws, this Constitution is the Supreme Law of North Solomons, and subject to Section 8 (construction of provincial laws) all provincial laws and all acts (whether legislative, executive or judicial) that are inconsistent with it are, to the extent of the inconsistency, invalid and ineffective.

(2) The provisions of this Constitution are self-executing as far as their respective natures and subject-matters allow.

11.- AMENDMENTS TO THE CONSTITUTION.

(1) This Constitution may be altered by the Provincial Assembly, but only in accordance with this section or with this section as affected by Section 12 (urgent amendments).



(2) A proposed law to alter this Constitution -

(a) must be clearly expressed to be a law to alter this Constitution; and

(b) must be certified by the Speaker, in his certificate under Section 30

(certification as to making of laws),

to have been made in accordance with this section.

(3) Subject to Section 12 (urgent amendments), at least three weeks before its introduction into the Provincial Assembly a proposed law to alter this Constitution must be presented, in accordance with any applicable Standing Orders of the Provincial Assembly, to the Speaker.

(4) Subject to Section 12 (urgent amendments), at least three weeks before any vote of the Provincial Assembly is taken on the proposed law copies of it must be circulated, in accordance with the Standing Orders of the Provincial Assembly, to the members of the Assembly.

(5) The proposed law must be supported, on a division in accordance with the Standing Orders of the Provincial Assembly, by a two-thirds absolute majority vote expressed on at least two occasions after opportunity for debate on the merits.

(6) Subject to Section 12 (urgent amendments), the opportunities for debate referred to in Subsection (5) must be during different meetings of the Provincial Assembly, and those meetings must be separated by at least two weeks.

(7) After the first vote referred to in Subsection (5), no amendments to the proposed law may be moved unless the Speaker is satisfied that they do not alter the substance of the proposed law to an extent that is material having regard to its purpose, and so certifies to the Provincial Assembly.

12.- URGENT AMENDMENTS.

(1) Subject to Subsection (4), the requirements of Section 11 (3), (4) and (6) (amendments to the Constitution) may be waived by the Provincial Assembly, on a division in accordance with the Standing Orders of the Assembly, by a two-thirds absolute majority vote.

(2) The requirements of the provisions referred to in Subsection (1) shall not be waived under that subsection unless-

(a) at least four days' notice, in accordance with the Standing Orders of the Provincial Assembly, of the intention to invoke Subsection (1) has been given; and

(b) the proposed law has been -

(i) circulated, in accordance with the Standing Orders of the Provincial Assembly, to all members of the

Assembly; and

(ii) published in full in the North Solomons Gazette,

at least four days before the motion to invoke Subsection (1) is moved; and

(c) the opportunities for debate referred to in Section 11 (5) (amendments to the Constitution) have been separated in time by at least seven days (but not necessarily during different meetings of the Provincial Assembly).

(3) Amendments to a proposed law to which this section applies shall not be moved unless they have been circulated, in accordance with the Standing Orders of the Provincial Assembly, to members of the Assembly before the end of the first debate on the matter.

(4) This section does not apply to proposed laws to alter -

(a) this section; or

(b) Section 11 (amendments to the Constitution);  
or

(c) the Preamble; or

(d) Section 7 (special status of the Preamble),  
and any other provision of this Constitution  
so far as it relates to the enforcement  
or application of the Preamble; or

(e) Section 16 (exercise of the legislative power);  
or

(f) Section 17 (membership of the Provincial  
Assembly); or

- (g) Section 42 (general elections); or
- (h) Section 47 (exercise of the executive power);  
or
- (i) Section 55 (office of Premier); or
- (j) Section 56 (election of Premier); or
- (k) Section 57 (special election of Premier); or
- (l) Section 71 (motions of no confidence).

13.- INTERPRETATIVE JURISDICTION IN RELATION TO THE  
CONSTITUTION.

(1) The provisions of this section apply to the  
extent that this Constitution -

(a) can validly confer jurisdiction on the  
Supreme Court; or

(b) can make such jurisdiction exclusive,

or both, and otherwise apply, with the necessary modifications,  
as far as may be.

(2) The Supreme Court has original jurisdiction,  
to the exclusion of other courts, as to any question relating  
to the interpretation of any provision of this Constitution.

(3) The Supreme Court shall, on application by an  
authority referred to in Subsection (6), give its opinion  
on any question relating to the interpretation of this  
Constitution, or any question as to the validity of a  
provincial law or a proposed provincial law.

(4) For the purposes of Subsection (3), a  
proposed law is a proposal for a law that has been  
formally placed before the relevant law-making body.

(5) An opinion given under Subsection (3) has the same binding effect, in relation to North Solomons, as any other decision of the Supreme Court.

(6) The following authorities only are entitled to make application under Subsection (3):-

- (a) the Premier; and
- (b) the Speaker; and
- (c) the Legal Adviser to the Provincial Government.

(7) The following documents may be used, so far as they are relevant, as aids to the interpretation of this Constitution:-

- (a) the Bougainville Agreement; and
- (b) any official records of debates and of votes and proceedings in the Provincial Constituent Assembly.

(8) An Act of the Provincial Assembly may make provision for the authentication of any document referred to in Subection (7)

#### 14.- ENFORCEMENT, ETC., OF THE CONSTITUTION

(1) The provisions of this Constitution shall not be left without effect because of the lack of supporting machinery or procedural laws, but the lack shall, as far as practicable, be supplied in the light of the Preamble and the other provisions of the Provincial Constitutional Laws, and by way of analogy from other laws (both provincial and National). general principles of justice and generally accepted doctrine.

(2) An Act of the Provincial Assembly may make provision for the enforcement of any provision of this Constitution, and for establishing procedures and penalties for its enforcement.

(3) The National Court may, if it thinks it proper to do so, make any order that it thinks proper for preventing or remedying a breach of any prohibition, restriction or duty imposed by this Constitution.

### PART III. - THE PROVINCIAL GOVERNMENT.

#### 15.- STRUCTURE OF GOVERNMENT.

(1) In accordance with, and subject to, this Constitution, the power, authority and jurisdiction of the People of North Solomons shall be exercised, on behalf of the People, by the Provincial Government of North Solomons,

(2) The Provincial Government consists of three principal arms, namely:-

(a) the Provincial Assembly, which is the provincial legislature provided for by Section 15 (a) (general structure) of the Organic Law on Provincial Government;

and

(b) the Provincial Executive Council, which is the provincial executive provided for by Section 15 (b) (general structure) of the Organic Law on Provincial Government;

and

(c) the Provincial Secretariat.

Division 2. - Composition, etc, of the  
Provincial Assembly.

17.- MEMBERSHIP OF THE PROVINCIAL ASSEMBLY.

(1) Subject to this Section, the Provincial Assembly is a single-chamber legislature, consisting of -

- (a) the Premier; and
- (b) subject to subsection (1A) 21 other members being -
  - (i) 18 elected members; and
  - (ii) three nominated members; and
- (c) the Speaker (if any) appointed under Section 25: (non-member as Speaker).

(1A) Subject to Section 41B (1) (Constituencies), an Act of the Provincial Assembly may provide for the number of elected members of Provincial Assembly, but not so as to reduce it below 18.

(2) Elected members of the National Parliament representing electorates in North Solomons are entitled to attend meetings of the Provincial Assembly and to take part in debate and proceedings in the same way as the members of the Assembly, but -

- (a) may not introduce motions; and
- (b) may not vote on any matter; and
- (b) shall not be counted towards a quorum.

(3) No member of the Provincial Assembly may represent two or more constituencies at the same time.

(3) In principle -

- (a) the respective powers and functions of the Provincial Assembly and the Provincial Executive Council shall be kept separate from each other; and
- (b) judicial powers shall not be vested in either.

(4) Subsection (3) is descriptive only, and is non-justiciable.

PART IV. - THE PROVINCIAL ASSEMBLY.

Division 1. - The Legislative Power.

16. - EXERCISE OF THE LEGISLATIVE POWER.

(1) Subject to the Provincial Constitutional Laws, the legislative power of the People is vested in the Provincial Assembly.

(2) Subsection (1) does not prevent a provincial law from conferring on an authority other than the Provincial Assembly legislative powers or functions (including, if the law so provides, a further power or further powers of delegation and subdelegation).

(3) Nothing in this Constitution enables the Provincial Assembly to transfer permanently, or divest itself of, legislative power.



Division 2. - Composition, etc, of the  
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(2) Elected members of the National Parliament representing electorates in North Solomons are entitled to attend meetings of the Provincial Assembly and to take part in debate and proceedings in the same way as the members of the Assembly, but -

- (a) may not introduce motions; and
- (b) may not vote on any matter; and
- (b) shall not be counted towards a quorum.

(3) No member of the Provincial Assembly may represent two or more constituencies at the same time.

18.- QUALIFICATIONS FOR AND DISQUALIFICATIONS FROM ELECTION.

(1) A person is not qualified to stand for election to the Provincial Assembly if -

- (a) he is not qualified in accordance with Section 45 (right to vote) to vote in an election to the Provincial Assembly; or
- (b) Subject to Section 23 (effect of convictions), he is under sentence of death or of imprisonment for a period of more than nine months; or
- (c) he is otherwise disqualified under any Provincial Constitutional Law.

(2) A person who is -

- (a) the Premier, unless an election of a new Premier, in which the existing Premier is not a candidate, is to be held at the same time; or
- (b) a candidate for election as the Premier, or
- (c) in the case of a by-election - a member of the Provincial Assembly; or
- (d) a member of, or a candidate for election or appointment to, the National Parliament or another Provincial Government,

S.18(2)(a)  
Amd. by  
Const. Amd.  
No.2.S.1.

is not qualified to stand for election to the Provincial Assembly.

(3) A candidate for election in a constituency must -

- (a) have been born in the constituency; or
- (b) have resided -

S.18(3)  
Amd. by  
Const. Amd.  
No.1.S.3.

- (i) in North Solomons for at least 10 consecutive years at any time; and
  - (ii) in the area of the constituency for at least five years immediately before the date of his nomination.
- (4) A person who is a candidate for election in one constituency is not qualified to stand for election in another constituency.
- (5) Nothing in the preceding provisions of this section derogates any right conferred by Section 50 (right to vote and stand for public office) of the National Constitution, but it is the considered opinion of the People of North Solomons, expressed through their Provincial Constituent Assembly, that any restrictions imposed by those provisions are reasonable and are reasonably justifiable in a democratic society having a proper regard for the rights and dignity of mankind.

19. - APPOINTMENT OF NOMINATED MEMBERS.

On the nomination of the Premier, the Provincial Assembly may, by an absolute majority vote, appoint a person (other than the Premier or a member of the Assembly) to be a nominated member referred to in Section 17 (1) (b) (ii) (membership of the Provincial Assembly).

20. - ASSUMPTION OF OFFICE

(1) Subject to Section 94 (requirement of Provincial Declaration of Loyalty), an elected member of the Provincial Assembly takes office -

- (a) in the case of a member elected at a provincial general election-on the day after the day on which the result of the election is declared; and
- (b) in the case of a member elected to fill a casual vacancy -
  - (i) if he was elected at a by-election, on the day after the result of the by-election was announced; or
  - (ii) if he was elected by the Provincial Assembly under Section 43 (4) filling of casual vacancies), on his election by the Provincial Assembly.

(2) Subject to Section 94 (requirement of Provincial Declaration of Loyalty), a nominated member of the Provincial Assembly takes office on the day after his appointment by the Provincial Assembly.

21.- VACATION OF OFFICE.

(1) The office of a member of the Provincial Assembly other than the office of the Premier (to whom Section 62 (vacation of office of Premier) applies), becomes vacant -

- (a) at the end of the day on which the result of the next provincial general election after he last became a member is declared; or
- (b) if he resigns his seat by written notice to the Speaker, or in the case of the Speaker to the Clerk of the Provincial Assembly; or

- (c) if he is dismissed from office in accordance with a provincial law; or
- (d) if he is absent, without leave of the Assembly, during the whole of three consecutive meetings of the Assembly, unless the Assembly decides to waive this rule; or
- (e) if, except as authorized by a provincial law, he directly or indirectly takes or agrees to take any payment in respect of his services in the Assembly; or
- (f) if he becomes a member of or a candidate for election or appointment to the National Parliament or another provincial government; or
- (g) if he becomes a person who is disqualified under Section 18 (qualifications for and disqualifications from election) from election to the Assembly; or
- (h) if he is dismissed from office under Section 22 (suspension and dismissal for certain offences); or
- (i) if he is dismissed from office as a member of the Provincial Assembly under -
  - ( i) an Act of the Provincial Assembly made for the purpose of Section 90 (4) (responsibilities of certain office-holders); or

(ii) A National Organic Law made for the purposes of Section 28 (further provisions) of the National Constitution; or

(j) on his death.

22.- SUSPENSION AND DISMISSAL FOR CERTAIN OFFENCES.

A provincial law may provide for the suspension or dismissal, by order of the National Court made on a reference to it by the Provincial Assembly, of a member of the Provincial Assembly (other than the Premier) for an offence committed in connexion with an election, or for any other offence specified for the purpose by a provincial law.

23.- EFFECT OF CONVICTIONS.

(1) In this section -

"appeal" includes any form of judicial appeal or review;

"statutory period allowed for appeals" means a definite period allowed by law for appeals, whether or not it is capable of extension, but does not include an extension of such a definite period granted, or that may be granted, unless it is granted within that definite period.

(2) Where a person is convicted of an offence, the operation of Section 18 (1) (b) (qualifications for and disqualifications from election) is suspended until -

(a) the end of any statutory period allowed for appeals against the conviction or sentence; or

(b) if an appeal is made within the period referred to in Paragraph (a) - the appeal is determined.

(3) If -

(a) a free pardon is granted; or

(b) a conviction is quashed; or

(c) a sentence is changed to a sentence of imprisonment for nine months or less; or

(d) some other form of penalty (other than imprisonment or death is imposed,

any disqualification under Section 18 (1) (b) ceases, and if at the time of the pardon, quashing, change of sentence or substitution of penalty the writ for any by-election consequent on the conviction has not been issued the member concerned is restored to his seat.

(4) Subsection (3) (c) and (d) do not affect the operation of Section 22 (suspension and dismissal for certain offences).

Division 3. - The Speaker and the Deputy Speaker.

24.- OFFICES OF SPEAKER AND DEPUTY SPEAKER

(1) Offices of Speaker and Deputy Speaker of the Provincial Assembly are hereby created.

(2) Subject to Section 25 (non-member as Speaker) and to Section 26 (2) (vacation of office of Speaker and Deputy Speaker), the Speaker and the Deputy Speaker must be members of the Provincial Assembly, and shall be elected by the Provincial Assembly in accordance with the Standing Orders of the Assembly.

(3) Subject to Section 26 (vacation of office of Speaker and Deputy Speaker), the Speaker and the Deputy Speaker hold office in accordance with the Standing Orders of the Provincial Assembly.

(4) No member of the Provincial Executive Council may be the Speaker or the Deputy Speaker, and if the Speaker or Deputy Speaker becomes a member of the Provincial Executive Council he vacates his office as Speaker or Deputy Speaker, as the case may be.

#### 25.- NON-MEMBER AS SPEAKER

(1) On the nomination of the Premier the Provincial Assembly may, by an absolute majority vote, appoint a person who -

- (a) is not a member of the Assembly; and
- (b) is otherwise qualified for election to the Assembly, to be the Speaker of the Assembly.

(2) A Speaker appointed under this section shall, while he is the Speaker, be deemed to be a member of the Provincial Assembly (as provided for by Section 17 (1) (c) (membership of the Provincial Assembly)).

#### 26.- VACATION OF OFFICE OF SPEAKER AND DEPUTY SPEAKER

The office of the Speaker or Deputy Speaker, as the case may be, becomes vacant -

- (a) on the appointment of a new Speaker during the first meeting of the Provincial Assembly after a general provincial election of members; or



- (b) if, other than following a provincial general election of members (when Paragraph (a) applies), he ceases to be, or be qualified to be, a member of the Provincial Assembly; or
- (c) if he resigns by written notice to the Clerk of the Provincial Assembly; or
- (d) if the Provincial Assembly resolves, by a three quarter absolute majority vote that he be removed from office; or
- (e) if he is dismissed from office under -
  - (i) an Act of the Provincial Assembly made for the purposes of Section 90 (responsibilities of certain office-holders); or
  - (ii) a National Organic Law made for the purposes of a Section 28 (further provisions) of the National Constitution; or
- (f) on his death.

27.- DUTIES OF SPEAKER AND DEPUTY SPEAKER.

(1) Subject to the Provincial Constitutional Laws, any other provincial law and the Standing Orders of the Provincial Assembly, the Speaker is responsible for upholding the dignity of the Provincial Assembly and for -

- (a) regulating the proceedings of the Assembly; and
- (b) maintaining order in the Assembly; and
- (c) administering the affairs of the Assembly; and
- (d) controlling the precincts of the Assembly as defined in a provincial law.

(2) In particular, the Speaker -

S.27(2)  
Amd. by Const.  
Amd. No.2.S.3.

(a) shall call a meeting of the Provincial  
Assembly -

( i) at the time and place fixed by the  
Provincial Executive Council under  
Section 32 (2) (meetings of the  
Assembly); or

( ii) as required by Section 33 (calling  
of meetings on request); or

(iii) if the Provincial Executive Council  
has failed to fix a time for a  
meeting as required by Section 32 (1)  
(meetings of the Assembly); and

(b) may call a meeting of the Provincial Assembly  
at any time whenever he is satisfied that a  
meeting should be called to consider or deal  
with any urgent matter affecting North  
Solomons.

(3) The Deputy Speaker has and shall exercise and  
perform all the rights, privileges, powers, functions, duties  
and responsibilities of the speaker -

(a) during any vacancy in the office of the  
Speaker; and

(b) during any absence or inability to act of  
the Speaker,

and accordingly any reference in this Constitution, or in  
any other provincial law or the Standing Orders of the

Provincial Assembly, to the Speaker shall be read as including a reference to the Deputy Speaker acting under this Subsection.

(4) The question, whether the occasion for the exercise or performance of a right, privilege, power, function, duty or responsibility by the Deputy Speaker under Subsection (3) has arisen or has ceased is non-justiciable.

(5) An Act of the Provincial Assembly, or the Standing Orders of the Provincial Assembly, may provide for other rights, privileges, powers, functions, duties and responsibilities of the Speaker and the Deputy Speaker.

#### 28.- VOTING BY THE SPEAKER

The Speaker shall not vote in the Provincial Assembly or, except as provided by a provincial law or the Standing Order of the Provincial Assembly, in a Committee of the Provincial Assembly except, in his discretion -

- (a) to break a tie; or
- (b) where one vote is needed to constitute a majority other than a simple majority required by this Constitution or any other provincial law, or the Standing Orders of the Provincial Assembly.

Division 4. - General Law-making Powers of the Provincial Assembly.

29.- GENERAL LAW-MAKING POWERS

(1) Subject to this Constitution and to the National Constitutional Laws, the Provincial Assembly may make laws for the peace, order and good government of North Solomons, as provided for by the Organic Law on Provincial Government.

(2) The laws that may be made under Subsection (1) include laws, not inconsistent with Section 52 (right to freedom of movement) of the National Constitution, prohibiting or restricting the right of entry into or residence in North Solomons.

30.- CERTIFICATION AS TO MAKING OF LAWS.

(1) The Speaker shall certify under the Provincial Seal any law that has been made by the Provincial Assembly.

(2) Subject to Subsection (3), a law made by the Provincial Assembly comes into operation on the date of the certificate under Subsection (1).

(3) Nothing in Subsection (2) prevents a law -

- (a) being expressed to come, or to be deemed to have come, into operation at a time specified by, or fixed in accordance with, a provincial law; or
- (b) being retrospective or retroactive.

31.- RIGHT TO INTRODUCE NEW LAWS.

(1) Subject to Section 74 (7) and (8) (financial responsibility of the Provincial Assembly), any member of the Provincial Assembly is entitled to introduce into the Assembly, in accordance with, and subject to any reasonable restrictions contained in, the Standing Orders of the Provincial Assembly, a petition, question, bill, resolution, motion or other matter.

(2) The petition, question, bill, resolution, motion or matter shall be dealt with as provided by the Standing Orders of the Provincial Assembly.

Division 5. - Procedures, Privileges, etc. of the Provincial Assembly.

32.- MEETINGS OF THE ASSEMBLY

(1) The Provincial Assembly shall meet at least once in every period of three months.

(2) Subject to Section 27 (2) (duties of Speaker and Deputy Speaker) and Section 33 (calling of meetings on request), and to Section 5 (4) (the Provincial Capital), meetings of the Provincial Assembly shall be held at such times and places as are fixed by the Provincial Executive Council.

33.- CALLING OF MEETINGS ON REQUEST.

A meeting of the Provincial Assembly shall be called by the Speaker within three weeks of receipt of a written request by -

- (a) at least 10 members of the Provincial Assembly; or
  - (b) the Premier,
- setting out the reason for the request.

34. - QUORUM AT MEETINGS.

The quorum at a meeting of the Provincial Assembly is two-thirds of the number of the members of the Assembly (exclusive of the Speaker or other member acting as the chairman of the meeting).

35. - VOTING.

Except as is otherwise provided by a provincial law or the Standing Orders of the Provincial Assembly, and subject to Section 28 (voting by the Speaker), all questions before a meeting of the Provincial Assembly shall be determined in accordance with the majority of the votes of the members of the Assembly present and voting.

36. - COMMITTEES.

(1) The Provincial Assembly may, by resolution, establish Committees of the Assembly to assist it in the performance of its functions.

(2) Subject to the approval of the Provincial Executive Council, a Committee may include persons who are not members of the Provincial Assembly, but the number of such persons on a Committee shall not exceed 50% of the membership of the Committee.

(3) The preceding provisions of this section do not prevent a Committee being established in accordance with an Act of the Provincial Assembly.

37.- DELEGATION TO COMMITTEES, ETC.

The Provincial Assembly may, by resolution, delegate to -

- (a) a Committee of the Assembly; or
  - (b) the Provincial Executive Council,
- all or any of its powers or functions (except legislative powers or functions and this power of delegation).

38. - STANDING ORDERS OF THE ASSEMBLY.

(1) The Provincial Assembly may make Standing Orders and other rules and orders in respect of the order and conduct of its business and proceedings and the business and proceedings of Committees of the Assembly, and of such other matters as by law are required or permitted to be prescribed or provided for by the Standing Orders of the Assembly.

(2) The Standing Orders of the Provincial Assembly may make provision for priority to be given, at certain times or in certain circumstances, to the business of the Provincial Executive Council.

39.- RULINGS BY THE SPEAKER.

(1) Subject to Subsection (2), (3) and (4), a ruling by the Speaker on any matter within his jurisdiction under Section 27 (1) (a) or (b) (duties of Speaker and Deputy Speaker) is final.

(2) Subsection (1) does not prevent any matter being regulated or dealt with by a provincial law or the Standing Orders of the Provincial Assembly.

(3) If the Provincial Assembly resolves that it disagrees with a ruling by the Speaker that involves a question of the interpretation of this Constitution, the Speaker shall immediately refer the matter to the Supreme Court under Section 13 (interpretative jurisdiction in relation to the Constitution).



(4) If the Provincial Assembly resolves that it disagrees with a ruling by the Speaker that involves a question of the interpretation of a National Constitutional Law, the Assembly or the Provincial Executive Council may refer the matter to the Supreme Court in accordance with Section 19 (special references to the Supreme Court) of the National Constitution.

(5) In a case to which Subsection (3) or (4) applies, the ruling of the Speaker stands, subject to any order made by the Supreme Court in accordance with this section.

(6) The preceding provisions of this section do not derogate the powers or jurisdiction of any court under any other law.

#### 40.- PRIVILEGES OF THE ASSEMBLY

(1) For the purposes of this section, if an Act of the Provincial Assembly or the Standing Orders of the Provincial Assembly provides for a person other than a member of the Provincial Assembly or of a Committee of the Assembly to take part in all or any proceedings of the Assembly or of the Committee, he shall be deemed, in relation to those proceedings, to be a member of the Provincial Assembly or of a Committee of the Assembly.

(2) Subject to the Provincial Constitutional Laws the powers (other than legislative powers), privileges and immunities of the Provincial Assembly and of its members and Committees are as prescribed by or under this section and any other provision of the Provincial Constitutional Laws.

(3) There shall be freedom of speech, of debate and of proceedings in the Provincial Assembly, and the exercise of those freedoms shall not be questioned in any court or in any proceedings (otherwise than in proceedings in the Provincial Assembly or before a Committee of the Assembly).

(4) No member of the Provincial Assembly is subject to the jurisdiction of any court in respect of the exercise of his powers or the performance of his functions, duties or responsibilities as such, but this subsection does not affect the operation of any Act of the Provincial Assembly referred to in Section 90 (responsibilities of certain office-holders).

(5) No member of the Provincial Assembly is liable to civil or criminal proceedings, arrest, imprisonment, fine, damages or compensation by reason of any matter or thing that he has brought by petition, question, bill, resolution or motion, or otherwise, or has said or submitted, to or before the Assembly or a Committee of the Assembly.

(6) The powers and privileges that may be conferred by or under this section do not include the power to impose or provide for the imposition of a fine, imprisonment, forfeiture of property or other penalty of a criminal nature, but this subsection does not prevent the creation of offences for the purposes of this section that are triable in the ordinary way by the ordinary courts.

41.- VALIDITY OF CERTAIN ACTS OF THE ASSEMBLY.

Where a person who has purported to sit or vote as a member of the Provincial Assembly at a meeting of the Assembly or of a Committee of the Assembly -

(a) was not qualified to be a member of the Assembly; or

(b) was no longer a member of the Assembly, all things done or purporting to have been done by the Assembly or by the Committee, as the case may be, shall be deemed to have been as validly done as if the person had, when so sitting or voting, been -

(c) qualified to be a member of the Assembly; or

(d) a member of the Assembly,

as the case requires .

Division 6. - Constituencies and Elections

41A.- BOUNDARIES AUTHORITY AND ELECTORAL AUTHORITY.

An Act of the Provincial Assembly shall make provision -

(a) in accordance with Section 41B (7) (Constituencies) for a North Solomons Boundaries Authority; and

(b) in accordance with Section 46 (2) (conduct of elections) - for a North Solomons Electoral Authority).

Ins. by  
Const.  
Amd. No.1.  
S.3.

41B.-> CONSTITUENCIES.

(1) A proposal for an alteration under Section 17 (1A) (membership of the Provincial Assembly) in the number of elected members of the Provincial Assembly shall not be adopted as an Act of the Provincial Assembly until-

(a) the Provincial Assembly or the Provincial Executive Council has called for a report on the proposal from the North Solomons Boundaries Authority; and

(b) Subject to any Act of the Provincial Assembly making provision in respect of the consequences of a failure by Authority to make the report in the prescribed time and manner - the Assembly has considered the report.

(2) Subsection (1) does not prevent any proposal being amended by the Provincial Assembly.

(3) The boundaries of constituencies for the election of elected members to the Provincial Assembly shall be determined by the Provincial Assembly, in accordance with recommendations from time to time of the Boundaries Authority, at intervals (not being greater than 10 years) determined by or under an Act of the Provincial Assembly and, in addition, on the occasion of any alteration in the number of elected members.

(4) In making reports under Subsection (1), and in making recommendations as to the boundaries of constituencies, the Boundaries Authority shall take into account any considerations laid down in an Act of the Provincial Assembly.

(5) The Provincial Assembly may accept or reject, but may not amend, any recommendations of the Boundaries Authority under Subsection (3).

(6) The Boundaries Authority is not, except as provided by Section Sch.2.16A (Independence), subject to control or direction by any person or authority.

(7) An Act of the Provincial Assembly referred to in Section 41A (a) (Boundaries Authority and Electoral Authority) shall make further provision for and in respect of the appointment, constitution and procedures of the Boundaries Authority and for safeguarding its independence, and in relation to the procedures for formulating and considering its reports and recommendations.

(8) An alteration to the number or the boundaries of Constituencies take effect for the purposes of the next general election to the Provincial Assembly, and of subsequent elections to the Assembly.

#### 42.- GENERAL ELECTIONS.

(1) Subject to Subsection (4), a general election to the Provincial Assembly shall be held -

- (a) within the period of three months before the fourth anniversary of the declaration of the result of the previous provincial general election; or

(b) if after the third anniversary of the declaration of the result of the last provincial general election the office of Premier becomes vacant under Section 62 (2); or

S.42(1)(b)  
Amd.by  
Const. Amd.  
No. 2.S.4.

(c) if the Provincial Assembly, by a three quarters absolute majority vote, so decides.

(2) The Speaker, acting with, and in accordance with, the advice of the Provincial Electoral Authority, shall fix the first and last days of the period during which polling shall take place at a provincial general election, and the date by which the writs for the election shall be returned.

(3) In advising the Speaker under Subsection (2), and in conducting the election, the Provincial Electoral Authority shall do its best to ensure that -

- (a) in a case to which Subsection (1) (b) applies - the date for the return of the writs is fixed as nearly as may reasonably be to the fourth anniversary of the declaration of the result of the previous provincial general election; and
- (b) in a case to which Subsection 1 (b) applies - the date for the return of writs is fixed as soon as may reasonably be after the office of Premier becomes vacant; or

(c) in a case to which Subsection 1 (c) applies the date for the return of the writs is fixed as soon as may reasonably be after the date of the decision of the Provincial Assembly.

S.42(3)(b)  
Amd.by  
Const.Amd.  
No.2.S.4

(4) Where the period allowed or to be allowed for a provincial general election, or a part of that period, would occur after the issue of the writs for a National general election, the holding of a provincial general election may be postponed by the Speaker, acting with, and in accordance with, the advice of the Provincial Electoral Authority, for a period not exceeding 60 days.

#### 43.- FILLING OF CASUAL VACANCIES.

(1) Subject to subsection (2), in the event of a casual vacancy in the office of an elected member of the Provincial Assembly an election shall be held to fill the vacancy.

(2) In a case referred to in Subsection (1), the Provincial Assembly may, by resolution, declare that it is not appropriate or convenient that a by-election be held, and in that case the Premier shall -

(a) nominate to the Assembly the person who, as a candidate in the last election to the vacant seat, had gained the second-largest number of votes, or

(b) nominate to the Assembly, after consultation, in such manner as, subject to any provincial law, the Provincial Executive Council decides, with the Constituency the seat for which is vacant, a person other than the person referred to in paragraph (a).

(3) A person nominated under Subsection (2) must be a person who would be qualified for election to the Provincial Assembly if an election to fill the vacancy were held on the day of his nomination.

(4) The Provincial Assembly may -

- (a) elect, by a simple majority vote, a person nominated under Subsection (2) (a), or
- (b) elect, by an absolute majority vote, a person nominated under Subsection (2) (b),

to be a member of the Assembly.

(5) If within a reasonable period (which may be fixed by an Act of the Provincial Assembly) after the occurrence of a vacancy to which Subsection (2) applies -

- (a) the dates for a provincial general election have not been fixed under Section 42 (general elections), or
- (b) the Premier has not made a nomination under Subsection (2), or
- (c) the Provincial Assembly has not elected a person so nominated,

a by-election shall be held in accordance with Subsection (1).

(6) A person elected by the Provincial Assembly under this section to be a member of the Assembly is for all purposes an elected member of the Assembly.

(7) The provisions of this Constitution relating to provincial general elections, with the necessary modifications, apply to and in relation to a by-election under Subsection (1).



44. - FORM OF ELECTIONS

Elections to the Provincial Assembly shall be by direct election under universal adult suffrage as provided for by this Constitution.

45. - RIGHT TO VOTE

(1) Subject to subsection (2), a person who -

(a) is at least 18 years of age; and

(b) is a citizen of Papua New Guinea; and

(c) was born in North Solomons or has been a

S.45 (1)(c)  
Amd. by Const.  
Amd.No.1.S.4.

a resident of the Province for at least 10 consecutive years; and

(d) is not of unsound mind within the meaning of any law relating to the protection of the persons and property of persons of unsound mind,

is entitled to vote in an election to the Provincial Assembly.

(2) Nothing in Subsection (1) derogates any right conferred by Section 50 (right to vote and stand for public office) of the National Constitution, but it is the considered opinion of the People of North Solomons, expressed through their Provincial Constituent Assembly, that any restrictions imposed by Subsection (1) are reasonable and are reasonably justifiable in a democratic society having a proper regard for the rights and dignity of mankind.

(3) The right to vote in elections to the Provincial Assembly and the right to become and remain a member of the Provincial Assembly may be regulated by an Act of the Provincial Assembly that is reasonably justifiable for the purpose in a democratic society that has a proper regard for the rights and dignity of mankind.

S.45 (3)  
Ins. by  
Const. Amd.  
No.2.S.5.

46. - CONDUCT OF ELECTIONS.

(1) Subject to the preceding provisions of this Division and to Subsection (2), elections to the Provincial Assembly shall be conducted as provided by an Act of the Provincial Assembly.

(2) Subject to the Provincial Constitutional Laws, an Act of the Provincial Assembly referred to in Section 41A (b) shall make provision for and in respect of -

- (a) the appointment, constitution and procedures of a North Solomons Electoral Authority; and
- (b) the safeguarding of the independence of the Authority; and
- (c) the electoral system; and
- (d) the safeguarding of the integrity of elections; and
- (e) appeals to the National Court in electoral matters.

(3) The North Solomons Electoral Authority is not, except as provided by Section Sch.2.16A (Independence), subject to control or direction by any person or authority.

S.46 Amd.  
by Const.  
Amd. No.1.  
S.7.

PART V. - THE PROVINCIAL EXECUTIVE

Division 1. - The Executive Power.

47. - EXERCISE OF THE EXECUTIVE POWER.

(1) Subject to the Provincial Constitutional Laws, the executive power of the People of North Solomons is vested in the Provincial Executive Council.

(2) Subject to the Provincial Constitutional Laws, and to any other law, the Provincial Executive Council has, in addition to the other powers conferred on it, power to do all things that are necessary or convenient to be done for or in connexion with the operations and activities of the Provincial Government.

(3) Subsection (1) and (2) do not prevent a provincial law from conferring on an authority other than the provincial Executive Council executive powers or functions (including, if the law so provides, a further power or further powers of delegation and subdelegation).

Division 2. - The Provincial Executive Council.

48. - MEMBERSHIP OF THE PROVINCIAL EXECUTIVE COUNCIL.

(1) The Provincial Executive Council shall consist of -

- (a) the Premier, and
- (b) the Deputy Premier, and
- (c) members appointed in accordance with Section 49 (representation of regions); and
- (d) such number of other members as is provided for by an Act of the Provincial Assembly, who shall be appointed in accordance with Section 50 (appointment of other members).

(2) All members of the Provincial Executive Council, other than the Premier (for whom special provision is made by this Constitution), must be members of the Provincial Assembly.

49. - REPRESENTATION OF REGIONS.

(1) This section applies in relation to the members of the Provincial Executive Council referred to in Section 48 (1) (c) (membership of the Provincial Executive Council).

(2) For the purposes of this section, an Act of the Provincial Assembly shall provide for the establishment of Committees of the Provincial Assembly, each representing one of the main regions, as determined by the Act, of the North Solomons.

(3) Each Committee referred to in Subsection (2) shall consist of the elected members of the Provincial Assembly representing constituencies within the area that the Committee represents.

(4) Each Committee established for the purposes of this section may recommend to the Premier the name of a member of the Provincial Assembly for appointment as a member of the Provincial Executive Council.

(5) On receipt of a recommendation under Subsection (4), the Premier shall, within five sitting days of the Provincial Assembly -

- (a) appoint to the Provincial Executive Council the person so recommended, and notify the Speaker in accordance with Section 51 (1) (assumption of office by members of the Provincial Executive Council); or
- (b) report to the Provincial Assembly that he refuses to do so, giving his reasons.

(6) If the Premier fails to make an appointment in accordance with Section (5) (a), the Provincial Assembly may, by resolution, appoint a member of the Assembly to be a member of the Provincial Executive Council.

(7) If the office of a member of the Provincial Executive Council appointed under this section becomes vacant under Section 69 (vacation of office of members of the Provincial Executive Council), the preceding provisions of this section apply in respect of the filling of the vacancy.

(8) If a member of the Provincial Executive Council appointed under this section is suspended from office under Section 70 (dismissal and suspension) or Section 90 (responsibilities of certain officeholders), or otherwise -

(a) the Premier may appoint a member of the Provincial Assembly to act in the office of the suspended member pending a recommendation of the relevant Committee appointed under Subsection (2); and

(b) when the Premier receives a recommendation referred to in Paragraph (a) for the temporary filling of the office, Subsection (5) and (6), with the necessary modifications, apply.

(9) A member of the Provincial Executive Council appointed under Subsection (8) (a) ceases to hold office when a member is appointed by virtue of Subsection 8 (b).

(10) In any event, a member of the Provincial Executive Council appointed under Subsection (8) ceases to hold office when the suspension is lifted or the original member is dismissed.

50.- APPOINTMENT OF OTHER MEMBERS.

Members of the Provincial Executive Council referred in Section 48 (1) (d) (membership of the Provincial Executive Council) shall be appointed by the Premier.

51.- ASSUMPTION OF OFFICE BY MEMBERS OF THE PROVINCIAL EXECUTIVE COUNCIL.

(1) Subject to Section 94 (requirement of Provincial Declaration of Loyalty), a member of the Provincial Executive Council, other than the Deputy Premier (for whom special provision is made by this Constitution), appointed by the Premier under Section 49 (5) (a) or (8) (a) (representation of regions) or Section 50 (appointment of other members) takes office on the day on which the Premier notifies the Speaker, in writing, of the appointment.

(2) Subject to Section 94 (requirement of Provincial Declaration of Loyalty) a member of the Provincial Executive Council appointed by the Provincial Assembly under Section 49 (6) or (8) (b) (representation of regions) takes office on his appointment.

52.- RESPONSIBILITIES.

(1) The Provincial Executive Council, and the members of the Council, have such powers, functions, duties and responsibilities in relation to the executive functions of the Provincial Government as are conferred or imposed by or under the Provincial Constitutional Laws and Acts of the Provincial Assembly, or as are delegated to the Council under Section 37 (delegation to Committees, etc.).

(2) In the performance of its functions, the Provincial Executive Council -

(a) is collectively responsible to the Provincial Assembly, and through the Provincial Assembly to the People of North Solomons, for the carrying out of executive functions of the Provincial Government in accordance with Subsection (1), and for all things done by or under the authority of the Provincial Executive Council; and

(b) must comply with the Declaration of Leadership.

(3) Subsection (2) (b) is non-justiciable.

53. - PROCEDURES.

(1) Subject to the Provincial Constitutional Laws, the Provincial Executive Council may determine its own procedures (including, subject to any Act of the Provincial Assembly, its quorum).

(2) Subject to any Act of the Provincial Assembly, a question, whether procedures prescribed or determined for the Provincial Executive Council have been complied with, is non-justiciable.

54.-DELEGATION BY THE PROVINCIAL EXECUTIVE COUNCIL, ETC.

An Act of the Provincial Assembly may make provision for the delegation -

(a) by the Provincial Executive Council - to a member of the Council or to a member of the Provincial Secretariat; or

(b) by a member of the Provincial Executive Council - to member of the Provincial Secretariat or other person,  
of all or any of its or his powers, functions, duties and responsibilities -

(c) including, if the Act so provides, the powers of delegation; and

(d) not including any legislative power or any power in or in relation to the Provincial Assembly.

Division 3. - The Provincial Premier

55.- OFFICE OF PREMIER.

An office of Premier of North Solomons is hereby established.

56.- ELECTION OF PREMIER.

(1) The Premier shall be elected by the electors of North Solomons.

(2) Except as provided by Section 57 (special election of Premier), the election of a Premier shall be held as part of, and at the same time as, each provincial general election, and for that purpose -

(a) the provisions of this Constitution relating to provincial general elections, with the necessary modifications, apply, and

(b) the whole of North Solomons is a single Constituency.



57. - SPECIAL ELECTION OF PREMIER.

- (1) Subject to Section 42 (1)(b) (general elections), where the office of Premier becomes vacant under Section 62 (2) (vacation of office of Premier) an election shall be held to fill the office of Premier.

S.57(1)  
Amd.by  
Const.Amd.  
No.2.S.6.

(2) The Provisions of this Constitution relating to the election of a Premier under Section 56 (election of Premier), with the necessary modifications, apply to and in relation to an election under Subsection (1).

58.- QUALIFICATIONS TO STAND FOR ELECTION AS PREMIER.

- (1) Subject to Subsection (2), a person is qualified to stand for election as Premier if:-

S.58 Repealed & Replaced by Const. Amd. No.2.S.7.

(a) he is at least 25 years of age; and

(b) he -

(i) was born in the North Solomons; or

(ii) has resided in the North Solomons for at least 10 consecutive years at any time.

- (2) A person is not qualified to stand, or to continue to stand, for election as Premier if -

(a) he is not qualified, or becomes disqualified, in accordance with Section 45 (right to vote) to vote in an election to the Provincial Assembly; or

(b) subject to Section 23 (effect of conviction) he is under, or becomes subject to, a sentence of death or imprisonment for a period of more than nine months; or

(c) he is, or becomes disqualified from standing for election under any Provincial Constitutional Law or Act of the Provincial Assembly; or

- (d) he is, or becomes, a member of, or a candidate for election or appointment to, the National Parliament or another Provincial Government.

59.- ASSUMPTION OFFICE.

Subject to Section 94 (requirement of Provincial Declaration of Loyalty), a Premier who is elected at the time of a provincial general election takes office on the day after the declaration of the result of the election.

60.- MEMBERSHIP OF PROVINCIAL ASSEMBLY AND COMMITTEES.

The Premier is, ex officio -

- (a) a member of the Provincial Assembly; and  
(b) a member of all committees of the Assembly, other than the Committee of the Provincial Assembly provided for by Section 90 (responsibilities of certain office-holders).

61.- FUNCTIONS OF THE PREMIER.

The Premier -

- (a) is the Head of the Provincial Executive provided for by Section 17 (3) (provincial executives) of the Organic Law on Provincial Government; and  
(b) is the Chairman of the Provincial Executive Council; and  
(c) shall preside at all meetings of the provincial Executive Council at which he is present; and  
(d) has such other rights, powers, functions, duties and responsibilities as are provided for in this Constitution and any other provincial law, or in National laws.

62.- VACATION OF OFFICE OF PREMIER.

- (1) Subject to Subsection (2), the Premier ceases to hold office on the assumption of office by a new Premier following an election of Premier under Section 56 (election of Premier) or Section 57 (special election of Premier).
- (2) The office of Premier becomes vacant if the Premier -
  - (a) dies; or
  - (b) resigns by written notice to the Speaker, or
  - (c) ceases in accordance with Section 58 (2) (qualifications to stand for election as Premier) to be qualified to stand for election as Premier; or
  - (d) subject to Section 71 (2), has a motion of no confidence passed against him in accordance with Section 71 (motions of no confidence); or
  - (e) is dismissed from office as Premier under -
    - (i) an Act of the Provincial Assembly made for the purposes of Section 90 (responsibilities of certain office-holders); or
    - (ii) a National Organic Law made for the purposes of Section 28 of the National Constitution.

63.- .....

64. OFFICE OF DEPUTY PREMIER

An office of Deputy Premier of North Solomons is hereby established.

S.63 Repealed by Const. Amd No.2.S.9.

65.- APPOINTMENT OF DEPUTY PREMIER.

The Premier, or where the office of Premier is vacant the Provincial Assembly, shall point a member of the Provincial Assembly to be the Deputy Premier.

66. ASSUMPTION OF OFFICE.

Subject to Section 94 (requirement of Provincial Declaration of Loyalty), a Deputy Premier takes office on the day after the day on which the Premier notifies the Speaker, in writing, of the appointment.

67. FUNCTIONS OF THE DEPUTY PREMIER.

(1) In addition to his powers, functions, duties and responsibilities under any other provincial law, the Deputy Premier has and shall exercise all the rights, priveleges, powers, functions, duties and responsibilities of Premier -

(a) during any vacancy in the office of Premier; and

(b) during any absence or inability to act of the Premier,

and accordingly any reference in this Constitution (other than in Section 18 (2) (a) or any other provincial law, or the Standing Orders of the Provincial Assembly, to the Premier shall be read as including a reference to the Deputy Premier acting under this subsection.

(2) A question, whether the occasion for the exercise or performance of a right, privilege, power, function, duty or responsibility by the Deputy Premier under Subsection (1) has arisen or has ceased, is non-justiciable.

Division 5.- Members of the Provincial Executive Council Generally.

S.67 Amd.  
by Const.  
Amd.No.2.  
S.11.

68.- INTERPRETATION OF DIVISION 5.

In this Division, "member of the Provincial Executive Council to whom this Division applies" means a member of the Provincial Executive Council other than the Premier.

69.- VACATION OF OFFICE OF MEMBERS OF THE PROVINCIAL EXECUTIVE COUNCIL.

(1) The Office of a member of the Provincial Executive Council to whom this Division applies becomes vacant -

- (a) on the assumption of office by a new Premier following an election of office by a new Premier 56<sup>1</sup> (election of Premier) or Section 57 (Special election of Premier); or

S.69 Repealed and Replaced by Const.Amd. No.2.S.12.

- (b) if, other than following a provincial general election of members (when Paragraph (a) applies) he ceases to be a member of the Provincial Assembly; or
  - (c) if he resigns by written notice to the Premier; or
  - (d) if he is dismissed from office under Section 70 (dismissal or suspension); or
  - (e) if, subject to Section 71 (2), a motion of no confidence in him is passed by the Provincial Assembly in accordance with Section 71 (motion of no confidence);
  - (f) if he is dismissed from office under
    - (i) an Act of the Provincial Assembly made for the purposes of Section 90 (4) (responsibilities of certain office-holders); or
    - (ii) A National Organic Law made for the purposes of Section 28 of the National Constitution; or
  - (g) on his death.
- (2) On receipt of a notice of resignation under Sub-section (1) (c) the Premier shall give written notice of the resignation to -
- (a) the Speaker; and
  - (b) the other members of the Provincial Executive Council.

70. - DISMISSAL AND SUSPENSION

(1) A member of the Provincial Executive Council to whom this Division applies may be dismissed or suspended from office by the Premier.

(2) The Premier may lift the suspension under Subsection (1) of a member of the Provincial Executive Council.

(3) Where the Premier dismisses or suspends, or lifts the suspension of , a member of the Provincial Executive Council under Subsection (1) or (2), the Premier shall immediately notify, in writing -

- (a) the member of the Provincial Executive Council concerned; and
- (b) the Speaker; and
- (c) the other members of the Provincial Executive Council.

(4) The dismissal, suspension or lifting of the suspension of a member of the Provincial Executive Council under this section takes effect immediately or at such other times as is fixed by the Premier for the purpose.

Division 6. - Miscellaneous

71. - MOTIONS OF NO CONFIDENCE.

(1) For the purposes of Section 62 (2) (d) (vacation of office of Premier) and Section 69 (1) (e) (vacation of office of members of the Provincial Executive Council), a motion of no confidence is a motion -

S.71 Repealed and Replaced by Const. Amd. No.2.S.13.

- (a) that is expressed to be a motion of no confidence in -
  - (i) the Premier; or
  - (ii) a member of the Provincial Executive Council; or
  - (iii) the Premier and all members of the Provincial Executive Council

and;

- (b) of which not less than two weeks written notice, signed by at least five elected members of the Provincial Assembly, has been given to the Speaker in accordance with the Standing Orders of the Provincial Assembly; and
- (c) that has been circulated, in writing, to all members of the Provincial Assembly before a vote is taken on it, and that is passed by the Provincial Assembly by a two-thirds absolute majority vote.

(2) Where a motion of no confidence is passed, in accordance with Subsection (1), in the Premier and all members of the Provincial Executive Council -

- (a) a special election of Premier shall be held under Section 57 (special election of Premier);  
or
- (b) where the motion is passed after the third anniversary of the declaration of the result of the last provincial general election - a general election shall be held under section 42 (general election), but the persons occupying the positions of Premier and members of the



Provincial Executive Council shall continue to occupy those positions until a new Premier assumes office after the special election of Premier or after the provincial general election, as the case may be.

72. - VALIDITY OF CERTAIN EXECUTIVE ACTS.

(1) Subject to any provincial law, no act of a member of the Provincial Executive Council is open to challenge on the ground that he was not empowered to do the act, if some other member of the Provincial Executive Council (other than the Premier), or any member of the Council, was so empowered.

(2) Subsection (1) does not apply to the exercise of a power of the Premier by the Deputy Premier by virtue of Section 67 (1) (functions of the Deputy Premier).

PART VI. - THE PROVINCIAL SECRETARIAT.

73. - ESTABLISHMENT OF THE PROVINCIAL SECRETARIAT.

(1) A Provincial Secretariat, as provided for by Section 48 (provincial secretariats) of the Organic Law on Provincial Government, is hereby established for North Solomons.

(2) An Act of the Provincial Assembly shall make provision for and in relation to -

- (a) the manner of appointment and dismissal; and
- (b) the conditions of employment; and
- (c) the powers, functions, duties and responsibilities,

of the members of the Provincial Secretariat, and generally in relation to it.

(3) Except as is otherwise expressly provided by a provincial law, members of the Provincial Secretariat are, for all purposes, servants of the Provincial Government.

PART VII. - PROVINCIAL FINANCE

74. - FINANCIAL RESPONSIBILITY OF THE PROVINCIAL ASSEMBLY.

(1) Notwithstanding anything in this Constitution, the raising and expenditure of finance by the Provincial Government, including the imposition of taxation and the raising of loans, is subject to authorization and control by the Provincial Assembly.

(2) In particular, no taxation shall be imposed except as authorized by an Act of the Provincial Assembly.

(3) An Act of the Provincial Assembly shall regulate, or provide for the regulation of, the financial affairs of the Provincial Government.

(4) The Provincial Executive Council shall prepare for each fiscal year, and present to the Provincial Assembly, a Provincial Budget comprising -

(a) estimates of all provincial finances

(including loans) to be raised; and

(b) estimates of all proposed expenditure

of provincial finances; and

(c) all appropriations needed for the year,

and may prepare and present such supplementary Budgets and appropriations as are necessary.

(5) The Provincial Executive Council shall make adequate financial provision (either in the Provincial Budget or in supplementary Budgets and appropriations) for community and other local-level governments provided for by Part VIII (community and local-level governments).

(6) A question, as to the adequacy of provision made under Subsection (5), is non-justiciable.

(7) No Bill or other proposal for the raising or expenditure of finance by the Provincial Government may be introduced into the Provincial Assembly except by, or with the prior approval of, the Provincial Executive Council.

(8) The Provincial Assembly shall approve or reject, but shall not alter, any Budget or appropriation, or any Bill or other proposal for the raising or expenditure of finance by the Provincial Government.

#### 75. - EXPENDITURE.

The finances of the Provincial Government and moneys under the control of the Provincial Government, or of an instrumentality, agency, servant or agent of the Provincial Government in its or his capacity as such, may be expended only as provided for by this Constitution or an Act of the Provincial Assembly, and in accordance with any Act of the Provincial Assembly made for the purposes of Section 74 (3) (financial responsibility of the Provincial Assembly.).

76. - ACCOUNTS AND AUDIT.

(1) All moneys, records of moneys and other relevant financial documentation of the Provincial Government, or of an instrumentality, agency, servant or agent of the Provincial Government in its or his capacity as such, shall be properly accounted for, and shall be subject to an annual audit to be published and made available to the public.

(2) An Act of the Provincial Assembly shall make provision for and in respect of the matters referred to in Subsection (1).

77. - BORROWING POWERS

Subject to the Provincial Constitutional Laws, and in particular to Section 71 (loans and guarantees) of the Organic Law on Provincial Government, the Provincial Executive Council may, with the approval of the Provincial Assembly, borrow moneys from the Central Government or on overdraft, or otherwise, on such terms and conditions as are agreed on by the Provincial Executive Council, or as are authorized by or under an Act of the Provincial Assembly.

78. - CONDITIONS OF EMPLOYMENT OF MEMBERS, EMPLOYEES, ETC.,  
OF THE PROVINCIAL GOVERNMENT.

(1) Subject to Subsection (2), the various salaries, allowances and other conditions of employment of the Premier, the Deputy Premier, the Speaker, the Deputy Speaker, members of the Provincial Executive Council, members of the Provincial Assembly and of Committees of the Assembly and servants of the Provincial Government -

- (a) shall be as determined by or under an Act of the Provincial Assembly; and
- (b) shall be paid for out of the finances of the Provincial Government.

(2) Subsection (1) does not prevent any agreement or arrangement by which salaries, allowances or other conditions of employment of servants of the Provincial Government are paid or otherwise provided for wholly or partly by the Central Government.

79. - PROVINCIAL PUBLIC ACCOUNTS COMMITTEE.

An Act of the Provincial Assembly may make provision for and in respect of a Committee of the Provincial Assembly on Provincial Accounts, with such powers in connexion with the supervision of the public accounts of the Provincial Government and otherwise as are provided for by or under an Act of the Provincial Assembly.

PART VIII. - COMMUNITY AND LOCAL-LEVEL GOVERNMENT

80. - SYSTEM OF LOCAL-LEVEL GOVERNMENT.

As provided for by Section 24 (1) (i) (application of Division 3) and section 25 (legislative powers of the provinces) of the Organic Law on Provincial Government, there shall be a system of community and other local-level government for North Solomons.

81. - ESTABLISHMENT OF THE SYSTEM

The Provincial Assembly shall make a law providing for community or other local-level government, and for its structure and administration and its powers, functions, duties and responsibilities.

82. - APPLICATION OF PRINCIPLES OF COMPLEMENTARITY,  
DECLARATION ON LEADERSHIP AND DECLARATION ON  
COMMUNITY AND LOCAL-LEVEL GOVERNMENT.

In the establishment and operation of the system of Community and other Local-Level government, and in the application and enforcement of the laws relating to it, full weight shall be given, in accordance with Section 7 (special status of the Preamble), to the Statement of Principles of Complementarity, the Declaration on Leadership and the Declaration on Community and Local-Level Government, so that the system shall be based on them.

PART IX. - STATES OF EMERGENCY

83. - INTERPRETATION OF PART IX.

For the purposes of this Part. -

"emergency" includes, without limiting the generality of the expression -

- (a) an earthquake, volcanic eruption, storm, tempest, flood, fire or outbreak of pestilence or infectious disease, or any other natural or man-caused calamity whether similar to any such

occurrence or not, such as to deprive the community or any substantial portion of the community of supplies or services essential to life; and

- (b) action taken, or immediately threatened, by any person that is of such a nature as to be likely to endanger the public safety;

"state of emergency" means a state of emergency in North Solomons declared under Section 85 (declaration of state of emergency).

84. - APPLICATION OF EMERGENCY PROVISIONS OF NATIONAL CONSTITUTION.

(1) Nothing in this Part is intended to affect the operation of Part X. (emergency powers) of the National Constitution, or any emergency law or emergency order made under that Part.

(2) In particular, nothing in this Constitution prevents the conferring under Part X. of the National Constitution of powers or functions on the Provincial Government, or any instrumentality, agency or servant of the Provincial Government, but in any such case the political responsibility for the exercise of the power or function remains the same as it would be if it were the exercise of a power or function under a provincial law, subject to any National law relieving from that responsibility.

85. - DECLARATION OF STATE OF EMERGENCY.

(1) If -

(a) the Provincial Assembly is of the opinion that an emergency exists or is about to come into being such that it is desirable that some or all of the powers conferred by the succeeding provisions of this Part be available; or

(b) a declaration of war or a national emergency comes into force under Part X. (emergency powers) of the National Constitution, the

Provincial Assembly may, by an absolute majority vote, declare the existence of a state of emergency in North Solomons.

(2) If at a time when the Provincial Assembly is not meeting -

(a) the Provincial Executive Council is of the opinion that an emergency of a type referred to in Subsection (1) (a) exists or is about to come into being; or

(b) a declaration referred to in Subsection (1) (b) comes into force,

the Provincial Executive Council -

(c) may publicly declare a state of emergency in North Solomons; and

(d) shall arrange for a meeting of the Provincial Assembly to be held as soon as practicable.

(3) A declaration by the Provincial Executive Council of a state of emergency ceases to have effect at the end of the seventh day after the beginning of the first meeting of the Provincial Assembly after the date of the declaration,



unless it is confirmed before that time by the Provincial Assembly by an absolute majority vote.

(4) Unless earlier revoked by resolution of the Provincial Executive Council or of the Provincial Assembly, the declaration of a state of emergency under Subsection (1) or (2) ceases to have effect -

(a) as provided for in the resolution of the Provincial Assembly declaring, or confirming, the declaration of the emergency; and

(b) in any event, at the end of the period of six months after the date of the declaration, but may, subject to any Act of the Provincial Assembly made for the purposes of Section 86 (Emergency Acts), be extended, for a period not exceeding, or for periods each not exceeding, six months, by the Provincial Assembly by an absolute majority vote.

#### 86. - EMERGENCY ACTS.

An Act of the Provincial Assembly expressed to be made for the purposes of this section may make provision for and in relation to declarations under Section 85 (declaration of state of emergency), and may make provision for and in relation to the exercise of powers by the Premier and the Provincial Executive Council and members of the Provincial Executive Council during the state of emergency.

87. - EMERGENCY POWERS OF PREMIER.

(1) Subject to this Part and to any Act of the Provincial Assembly made for the purposes of Section 86 (Emergency Acts), while a declaration of a state of emergency is in force the Premier may -

(a) make any order having, notwithstanding anything in any other Act of the Provincial Assembly, the force of law; and

(b) exercise any executive power (but not a judicial power); and

(c) authorize the expenditure of moneys, to the extent that in his opinion it is necessary or desirable to do so in order to deal with the emergency or with its effects, and that is reasonably justifiable in a democratic society having a proper respect for the rights and dignity of mankind.

(2) Any action by the Premier under Subsection (1) may be confirmed, varied or annulled by Act of the Provincial Assembly or by resolution of the Provincial Assembly or of the Provincial Executive Council, or by a law made by the Provincial Executive Council under Section 88 (2) (emergency powers of Provincial Executive Council).

(3) An Act of the Provincial Assembly may make further provision in relation to the effect of any action by the Premier under Subsection (1), and in particular in relation to the effect of any variation or annulment of such an action.

88. - EMERGENCY POWERS OF PROVINCIAL EXECUTIVE COUNCIL.

(1) The Provincial Executive Council shall meet as soon as practicable after a state of emergency has been declared, and shall meet as often and for as long as is necessary to deal with the emergency and with its effects.

(2) Subject to this Part and to any Act of the Provincial Assembly made for the purposes of Section 86 (Emergency Acts), the Provincial Executive Council may, while a declaration of a state of emergency is in force, make such laws as in its opinion are necessary or desirable to deal with the emergency and its effects, and generally for the peace, order and good government of North Solomons.

(3) A law made under Subsection (2) takes effect as an Act of the Provincial Assembly, and may be repealed or otherwise altered by another such law or by an Act of the Provincial Assembly.

89. - CONTENT AND DURATION OF EMERGENCY PROVISIONS.

- (1) In this section, "emergency provision" means -
- (a) any action by the Premier under Section 87 (1) (emergency powers of Premier); or
  - (b) any law made by the Provincial Executive Council under Section 88 (emergency powers of Provincial Executive Council).

(2) Nothing in this Part authorizes -

- (a) any emergency provision that is inconsistent with the rights and freedom of the individual acknowledged or declared by the National Constitution; or
- (b) internment within the meaning of Section 226 (definitions) of the National Constitution, except to the extent permitted by or under the National Constitution.

(3) Subject to Subsection (4), all emergency provisions cease to have effect immediately after the day on which the declaration of a state of emergency during which they were made ceases to have effect.

(4) To the extent that its extension -

- (a) is necessary to deal with the effects of a state of emergency, and
- (b) is reasonably justifiable in a democratic society having a proper regard for the rights and dignity of mankind,

the operation of an emergency provision may be extended from time to time, after the end of the state of emergency during which it was made, for a period not exceeding, or for periods each not exceeding, six months, by the Provincial Assembly by an absolute majority vote.

PART X. - MISCELLANEOUS.

90. - RESPONSIBILITIES OF CERTAIN OFFICE-HOLDERS.

(1) This section applies to -

- (a) the Premier; and
- (b) the Deputy Premier; and
- (c) the Speaker; and
- (d) the Deputy Speaker; and
- (e) the members of the Provincial Executive Council; and
- (f) all other members of the Provincial Assembly; and
- (g) the members of the Provincial Secretariat; and
- (h) such other persons, and the holders of such other offices and positions under the Provincial Government or in or under instrumentalities or agencies of the Provincial Government, as are specified by an Act of the Provincial Assembly for the purposes of this Section.

(2) A person to whom this section applies has a duty to conduct himself in such a way, both in his public or official life and in his association with other persons, as not -

- (a) to place himself in a position in which he has or could have a conflict of interests between his public responsibilities and his private affairs; or

(b) to use his office for personal gain or to enter into any transaction or engage in any enterprise or activity that might be expected to raise questions of a conflict of interest; or

(c) to act in a manner or to engage in an enterprise or activity by which he might be compromised when discharging his public or official duties.

(3) In particular, the Premier -

(a) must not hold any full-time employment or occupation while in office; and

(b) must not, without the consent of the Provincial Assembly, hold any office or position, or engage in any calling, other than that of Premier and member of the Provincial Assembly and any office or position associated with his office as such.

(4) An Act of the Provincial Assembly may make provision for and in respect of -

(a) the further definition and enforcement of the duties and responsibilities imposed by Subsection (2) and (3); and

(b) the disclosure by all or any persons to whom this section applies of their respective interest, financial positions and connexions and other information relevant to their respective offices or positions, or to those duties and responsibilities; and

- (c) the establishment of a Committee of the Provincial Assembly to supervise and enforce the provisions of this section; and
- (d) the suspension or dismissal from all or any offices or positions of a person to whom this section applies who defaults in relation to his duties and responsibilities under this section or any Act of the Provincial Assembly made for the purposes of this section.

91. - PEACE AND GOOD ORDER COMMITTEE.

An Act of the Provincial Assembly, or an arrangement with the Central Government, may make provision for and in respect of a Peace and Good Order Committee for the purposes set out in the Bougainville Agreement in relation to the committee of that name provided for in that Agreement, and for similar or related purposes.

92. - INDEPENDENT POLICE COMMISSION.

If in its opinion there are no arrangements by or with the Central Government, and no National law, suitable or adequate for the purpose for which the Bougainville Agreement made provision for the establishment of an "independent Police Commission", the Provincial Assembly may, as far as its powers under the National Constitutional Laws extend, make an Act of the Provincial Assembly for effectuating those purposes and generally for ensuring that the activities of the Police Force meet the needs of the People of North Solomons and conform with the Statement of Principles of Complementarity and the Statement on Leadership set out in the Preamble to this Constitution.

93. - EFFECT OF SECTIONS 91 AND 92.

Nothing in Section 91 (Peace and Good Order Committee) or Section 92 (Independent Police Commission) derogates any power of the Provincial Government under any other law.

94. REQUIREMENT OF PROVINCIAL DECLARATION OF LOYALTY.

(1) Before entering on the duties of their respective offices or positions -

- (a) the Premier; and
- (b) the Deputy Premier; and
- (c) the Speaker; and
- (d) the Deputy Sepaker; and
- (e) the members of the Provincial Executive Council; and
- (f) all other members of the Provincial Assembly; and
- (g) the members of the Provincial Secretariat; and
- (h) such other persons, and the holders of such other offices and positions under the Provincial Government or in or under instrumentalities or agencies of the Provincial Government, as are specified by an Act of the Provincial Assembly for the purposes of this section, must make the Provincial Declaration of Loaylty.



(2) The Provincial Declaration of Loyalty should be made before a Judge or a person authorized for the purpose by the Premier, or by any other provincial law, but is binding and effectual no matter before whom it is made.

(3) Until the Provincial Declaration of Loyalty is made as required by this section, a person referred to in Subsection (1) is suspended from office.

PART XI. - REVIEW OF CONSTITUTIONAL ARRANGEMENTS.

95. - INTERPRETATION OF PART XI.

In this Part -

"the Constitutional Commission" means the Constitutional Commission of North Solomons provided for by Section 96 (Constitutional Commission of North Solomons);

"the Constitutional Commission Act" means the Act of the Provincial Assembly referred to in Section 96 (Constitutional Commission of North Solomons).

96. - CONSTITUTIONAL COMMISSION OF NORTH SOLOMONS.

An Act of the Provincial Assembly shall make provision for -

(a) the establishment of a Constitutional Commission of North Solomons; and

(b) its powers and functions,

and generally for enabling and facilitating its work.

97. COMPOSITION OF THE CONSTITUTIONAL COMMISSION.

(1) Subject to Subsection (2), the only persons who may be appointed to the Constitutional Commission are persons who would be entitled, under Section 18 (1) (qualifications for and disqualifications from election) to stand for election to the Provincial Assembly if -

- (a) Section 18 (4); and
- (b) Section 50 (right to vote and stand for public office) of the National Constitution,

did not apply.

(2) Subject to the Constitutional Commission Act -

- (a) the Premier; and
- (b) members of the Provincial Assembly; and
- (c) members of the National Parliament representing electorates in North Solomons,

may be appointed to be members of the Constitutional Commission.

(3) The Constitutional Commission Act shall provide that, as far as practicable -

- (a) members of the Constitutional Commission must be broadly representative of the different areas of North Solomons; and
- (b) the Commission will give a balanced representation of the major political and cultural groupings in North Solomons.

(4) Subsection (3) is non-justiciable.

98. - FUNCTIONS OF THE CONSTITUTIONAL COMMISSION.

(1) The functions of the Constitutional Commission are to inquire fully into -

- (a) the suitability to North Solomons and its People of the present constitutional arrangements; and
- (b) the workings of this Constitution and of the National Constitutional Laws and other laws, and administrative arrangements, so far as any of them relate to or affect North Solomons; and
- (c) relations between North Solomons and the Central Government and other provincial governments; and
- (d) such other matters related to the matters referred to in Paragraphs (a), (b) and (c) as are referred to it by or under the Constitutional Commission Act or as the Commission thinks proper for it to inquire into,

and in particular on the attitudes and opinions of the People of North Solomons in relation to such matters.

(2) The Constitutional Commission Act may make provision for further defining or expanding the terms or reference of the Constitutional Commission.

99. - REPORTS BY THE CONSTITUTIONAL COMMISSION.

(1) Subject to and in accordance with the Constitutional Commission Act, the Constitutional Commission shall present to -

- (a) the Premier, and
- (b) the Speaker, for presentation to the Provincial Assembly,

reports of its findings.

(2) The reports of the Commission shall include its recommendations (if any) as to -

- (a) constitutional arrangements appropriate to North Solomons; and
- (b) the replacement or other alteration of this Constitution and of the National Constitutional Laws and other laws, and of administrative practices, so far as any of them relate to or affect North Solomons; and
- (c) new or amended laws or administrative practices necessary or desirable in view of the matters referred to in Paragraphs (a) and (b); and
- (d) such other matters related to its functions as the Commission thinks proper for report,

and in particular on -

- (e) the attitudes and opinions of the People of North Solomons in relation to the matters dealt with in its reports; and

- (f) the cost and feasibility of, and the manner of implementation of, its recommendations.

PART XII. - IMMEDIATE AND TRANSITIONAL PROVISIONS.

100.- INTERPRETATION OF PART XII.

In this Part -

"the former Bougainville Provincial Government" means the Provincial Government of Bougainville declared under the Preparatory Arrangements Act;

"the Preparatory Arrangements Act" means the pre-Independence Provincial Government (Preparatory Arrangements) Act 1974 of the National Government, as in force immediately before the adoption of this Constitution.

101.- APPLICATION OF PART XII.

(1) The provisions of this Part have effect notwithstanding anything in the preceding provisions of this Constitution.

(2) Nothing in this Part is intended to derogate or otherwise affect any provision of Part XV. (immediate and transitional provisions) of the Organic Law on Provincial Government, or any other provision of or under that law regulating the transition from the status of "provincial government body" to "provincial government".

102.- FIRST PREMIER.

The Chairman (or Premier) of the former Bougainville Provincial Government in office immediately before the commencement of this Constitution is the first Premier under this Constitution.

103.- FIRST PROVINCIAL EXECUTIVE COUNCIL.

(1) The members of the Executive Committee of the former Bougainville Provincial Government in office immediately before the commencement of this Constitution constitute the first Provincial Executive Council under this Constitution.

(2) The members (other than the Premier) of the Provincial Executive Council appointed by Subsection (1) cease to hold office as members of the Council by virtue of that subsection immediately before the first appointment is made under Section 49 (representation of regions), but are eligible for re-appointment under that section or Section 50 (appointment of other members).

(3) This section does not prevent a Committee established under Section 49 (representation of regions) from making recommendations under that section, or appointments being made in accordance with that section or Section 50 (appointment of other members).

104. - FIRST PROVINCIAL ASSEMBLY, PROVINCIAL CONSTITUENCIES, ETC.

(1) The electorates for the former Bougainville Provincial Government immediately before the commencement of this Constitution are the first constituencies for the Provincial Assembly under this Constitution.

(2) The elected members of the former Bougainville Provincial Government in office immediately before the commencement of this Constitution are the first elected members of the Provincial Assembly under this Constitution.

(3) The persons declared by Subsection (2) to be the first elected members of the Provincial Assembly shall be deemed to have been elected for the constituencies that, under Subsection (1), replace the electorates for which they were respectively elected.

(4) The persons who were, immediately before the commencement of this Constitution, informally appointed as nominated members of the former Bougainville Provincial Government are the first nominated members of the Provincial Assembly.

105. - FIRST MEETING OF PROVINCIAL ASSEMBLY.

(1) The Premier shall call the first meeting of the Provincial Assembly for a time as soon as practicable after the grant of the Charter of North Solomons.

(2) The meeting shall be called -

- (a) by notice to the first members of the Provincial Assembly; or
- (b) in such other manner as in the opinion of the Premier will give adequate publicity.

(3) A notice given to the members of the former Bougainville Provincial Government before the grant of the Charter of North Solomons is sufficient for the purposes of Subsection (2) (a)

106. - CALCULATION OF PERIODS FROM PROVINCIAL GENERAL ELECTIONS.

For the purpose of any provision of this Constitution or any other law with respect to which the date of a provincial general election is relevant, the results of a provincial general election shall be deemed to have been declared on 21 August 1976 (being the date on which the results of the last general election for the former Bougainville Provincial Government were declared for the purposes of the Preparatory Arrangements Act).

107. - TRANSITIONAL PROVISIONS CONCERNING ELECTIONS.

(1) Until an Act of the Provincial Assembly made for the purposes of Section 46 (conduct of elections) makes other provision, elections to the Provincial Assembly shall be conducted by the National Electoral Commission, in accordance with the provisions of the National Constitution and of the Organic Law on National



Election, with the necessary modifications.

(2) Subsection (2) is not intended to affect the operation of Section 113 (functions of the Electoral Commission) of the Organic Law on Provincial Government.

108.- TRANSFER OF ASSETS AND LIABILITIES.

On the commencement of this Constitution, the assets and liabilities of the former Bougainville Provincial Government are transferred to and become the assets and liabilities of the Provincial Government.

109. - CONTINUANCE OF ACTS OF FORMER PROVINCIAL GOVERNMENT.

For the purposes of anything done or suffered after the commencement of this Constitution, all acts, matters and things done or suffered -

- (a) by the former Bougainville Provincial Government; or
- (b) by any instrumentality, agency or servant of that Government; or
- (c) under the authority or supposed authority of that Government,

shall be given the same effect as if they had been done or suffered -

- (d) by the Provincial Government; or
- (e) by the equivalent or analogous instrumentality, agency or servant of the Provincial Government; or
- (f) under the authority of the Provincial Government,

SCHEDULE 2.

Sec.9,

RULES FOR SHORTENING AND INTERPRETATION OF THE  
CONSTITUTION.

sch.2.1. - APPLICATION OF SCHEDULE 2.

(1) The rules contained in this Schedule apply, unless the context indicates otherwise, or some other meaning is clearly intended, in the interpretation of this Constitution.

(2) Unless adopted by law for the purpose, they do not apply to any other law.

Sch.2.2 - APPLICATION OF NATIONAL LAWS, ETC.

(1) Any expression used in this Constitution that is defined in, or to which a meaning or effect is given by, Schedule 1 (Rules for Shortening and Interpretation of the Constitution) to the National Constitution, as in force immediately before the adoption of this Constitution, has the same meaning or effect in the Constitution.

(2) Where in this Constitution or reference to any law, institution, office or other thing is qualified to the expression "National", or any expression having a similar meaning, the reference is intended as a reference.

(a) in the case of a law - to an Organic Law or to an Act of the National Parliament or a Subordinate legislative enactment made under an Act of the National Parliament; and

(b) in the case of any institution, office or other thing - to the appropriate institution.

office or thing established or provided for by or under a National Constitutional Law or a National Law.

(3) Unless the context indicates otherwise, or some other meaning is clearly intended, a reference in this Constitution to a National Constitutional Law is a reference to that Law as in force from time to time.

Sch.2.3.- MEANING OF CERTAIN EXPRESSIONS

(1) In this Constitution -

"absolute majority vote" has the meaning given to it by Section Sch.2.4. (absolute majority votes),

"Act of the Provincial Assembly" means a law made by the Provincial Assembly, and includes a subordinate legislative enactment made under any such law;

"the Bougainville Agreement" means the Agreement entitled "Statement and Documents of Agreement between National Government and Provincial Government of North Solomons dated August 7th 1976" (including the documents attached to it entitled "Schedule A" and "Schedule B");

"the Central Government" means the National Government established by Part V. of the National Constitution;

"the Charter of North Solomons" means the Charter granted under Section 6 (grant of provincial government) of the Organic Law on Provincial Government in relation to North Solomons;

"commencement", in relation to this Constitution, means the date of grant of the Charter of North Solomons;

"Constituency"

(a) in relation to an elected member of the Provincial Assembly - means a constituency as defined from time to time under Section 41B (constituencies); and

Ins. by Const.  
Amd. No. 1, S.7.

(b) in relation to the Premier - means the area of North Solomons as a single constituency;

"elected member of the Provincial Assembly" does not include the Premier (for whom special provision is made by this Constitution);

"Executive Member" means a member of the Provincial Executive Council;

"The Executive Member", in relation to any provincial law, provision, matter or thing, means the Executive Member for the time being administering that law or provision, or the Executive Member for the time being administering the law or provision that governs that matter or thing, as the case may be;

"fiscal year", in relation to any activity of the Provincial Government, means the period of 12 months commencing on 1 July or on such other date as is fixed by an Act of the Provincial Assembly for the purpose;

"the Legal Adviser to the Provincial Government" means the person appointed by or under an Act of the Provincial Assembly to be the principal legal adviser to the Provincial Government;

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

"National Constitutional Law" means the National Constitution, a law altering the National Constitution or a National Organic Law;

"the North Solomons Boundaries Authority"

Ins. by Const.  
Amd. No.1.S.7

means the North Solomons Boundaries

Authority provided for by Section 41A

(Boundaries Authority and Electoral Authority)

and 41B (Constituencies);

"the North Solomons Electoral Authority"

means

(a) the North Solomons Electoral

Ins. by Const.  
Amd. No.1.S.7.

Authority established under

Section 46 (2) (conduct of

election);

(b) until that Authority is established  
- the National Electoral Commission,  
acting in accordance with Section  
107 (transitional provisions  
concerning elections);

"the Provincial Government Printer" means a  
person appointed by or under an Act of the  
Provincial Assembly to be the printer to the  
Provincial Government, and includes a person  
printing or purporting to print for, or by  
the authority of, the Provincial Government,  
whether generally or in a particular case;

"subordinate legislative enactment" means a  
regulation or other instrument made under an  
Act of the Provincial Assembly.

(2) Unless the context indicates otherwise, or some  
other meaning is clearly intended, where an expression is  
defined for any purpose in this Schedule, or otherwise in  
this Constitution, then for that purpose all grammatical  
variations and cognate and related expressions are to be  
understood in the same sense.

(3) Unless the context indicates otherwise, or some  
other meaning is clearly intended (as, for example, by the  
use of the expression "National; or any expression having  
a similar meaning), a reference in this Constitution, to  
an institution, office or other thing shall be read as a  
reference to the appropriate institution, office or thing  
established or provided for in this Constitution, or  
referred to in the Preamble to this Constitution.

Sch.2.4. - ABSOLUTE MAJORITY VOTES.

(1) In this Constitution, "absolute majority votes", in relation to the Provincial Assembly, means -

- (a) if the expression is qualified by reference to a fraction (for example, two-thirds) - affirmative votes equal to not less than that fraction of the number of the relevant places in the Provincial Assembly; and
- (b) if it is not so qualified - affirmative votes equal to more than 50% of the number of those places.

(2) For the purposes of Subsection (1), the number of the relevant places in the Provincial Assembly at any time is the sum of -

- (a) the total number of the offices of -
  - (i) the Premier; and
  - (ii) the 18 offices of elected members; whether or not any of those offices are vacant at that time; and
- (b) the number of nominated members actually appointed and in office at that time,

minus 1 if the Speaker is an elected member of the Provincial Assembly.

(3) The right of the Speaker to vote in a case to which this section applies is governed by Section 28 (b) (voting by the Speaker).

Sch.2.5.- FORM OF THE CONSTITUTION.

The heading or head-notes to the various section of this Constitution do not form part of this Constitution, but other headings do form part of this Constitution.

Sch.2.6.- CONSTITUTION SPEAKS FROM TIME TO TIME.

This Constitution speaks from time to time.

Sch.2.7. - FAIR MEANING TO BE GIVEN TO LANGUAGE USED.

(1) This Constitution, and each provision of this Constitution, is intended to be read as a whole.

(2) All provisions of, and all words, expressions and propositions in, this Constitution shall be given their fair and liberal meaning.

Sch.2.8 - "REASONABLY JUSTIFIABLE IN A DEMOCRATIC SOCIETY, ETC.

In this Constitution, the expression "reasonably justifiable in a democratic society having a proper regard for the rights and dignity of mankind" has the same meaning as that and similar expressions used in the National Constitution, and Section 39 ("reasonably justifiable in a democratic society", etc.) of the National Constitution applies accordingly.

Sch.2.9. "NON-JUSTICIABLE".

Where this Constitution declares a question to be non-justiciable, the question may not be heard or determined by any court or tribunal, but nothing in this section limits the jurisdiction of a Committee or Commission established for the purposes of Section 90 (responsibilities of certain office-holders),



Section 91 (Peace and Good Order Committee) or Section 92 (independent Police Commission).

Sch.2.10- GENDER AND NUMBER

In this Constitution -

(a) words importing the masculine gender include females; and

(b) words in the singular include the plural and words in the plural include the singular.

Sch.2.11.- PROVISION WHERE NO TIME PRESCRIBED.

Where no time is prescribed or allowed within which an act is required or permitted by this Constitution to be done, the act shall or may be done, as the case may be, with all convenient speed and as often as the occasion arises.

Sch.2.12.- EXERCISE AND PERFORMANCE OF POWERS AND DUTIES

(1) Where this Constitution confers a power or imposes a duty, the power may be exercised or the duty shall be performed from time to time as the occasion requires.

(2) Where this Constitution confers a power or imposes a duty on the holder of an office as such, the power may be exercised or the duty shall be performed by the holder (whether substantive or other) for the time being of the office.

(3) Where this Constitution confers a power to make any instrument or decision (other than a decision of a court), the power includes power, exercisable in the same manner and subject to the same conditions (if any), to alter the instrument or decision.

(4) Subject to Subsection (5), where this Constitution confers a power to make an appointment, the power includes power to remove or suspend a person so appointed, and to appoint another person temporarily in the place of a person so removed or suspended or, where the appointee is for any reason unable or unavailable to perform his duties, to appoint another person temporarily in his place.

(5) The power provided for by Subsection (4) is exercisable only subject to any conditions to which the exercise of the original power or appointment was subject.

Sch.2.13.- INABILITY TO ACT.

For the purposes of this Constitution relating to the making of acting appointments to an office or position, where the occupant of any office or position is -

- (a) suspended from office; or
- (b) on leave of absence; or
- (c) absent from North Solomons; or
- (d) out of speedy and effective communication; or
- (e) unavailable to perform the duties of his office or position, or not readily available to perform them,

he shall be deemed to be unable to perform his duties.

Sch.2.14.- ATTAINMENT OF AGE.

For any purpose of this Constitution, a person attains a certain age at the first moment of the relevant anniversary of his birth .

Sch.2.15.- RESIDENCE.

(1) Where in this Constitution there is for any purpose a requirement of permanent residence or of continuous residence in a place (including North Solomons), an Act of the Provincial Assembly may, subject to this Constitution, provide that -

- (a) periods of temporary absence from that place shall be counted as periods of residence in that place; or
- (b) periods of temporary absence from that place shall not be counted as periods of residence in that place but otherwise do not affect the continuity of residence.

(2) In Subsection (1), "temporary absence" means subject to Subsection (3), absence for temporary purposes with the intention of returning.

(3) An Act of the Provincial Assembly may, subject to this Constitution, further provide for the definition of kinds of absence that constitute or do not constitute temporary absence for the purposes of any provision of this Constitution.

Sch.2.15A.- RESIDENCE IN PARTICULAR AREAS.

If, by reason of the change in the boundaries of a constituency, the Constituency in which a person's residence is situated is changed, that fact does not of itself affect the length of his residence in his new constituency, and the length of a person's residence at any place shall be the the basis for calculating the length of his residence in any constituency in which that place is from time to time situated.

Sch.2.15A.  
Ins.by  
Const. Amd.  
No.1.S.5.

Sch.2.16.- EFFECT OF TIME LIMITS.

(1) Where in this Constitution a time limit is imposed for the doing of an act (whether the provision is mandatory, directory or permissive, and whether it is positive or negative), and in a particular case it is not practicable to comply with the limitation, the period shall be deemed to be extended by whatever period is necessary to make compliance practicable.

(2) The operation of Subsection (1) is not excluded by a provision that unqualifiedly specifies a time limit or a maximum time limit.

Sch.2.16A.- INDEPENDENCE

Where this Constitution provides that a person or institution is not subject to direction or control, or otherwise refers to the independence of a person or institution, that provision does not affect -

Sch.2.16A  
Ins.by Const.  
Amd.No.1.S.6

- (a) control or direction by a court; or
- (b) the regulation, by or under an Act of the Provincial Assembly, of the exercise or performance of the powers, functions, duties or responsibilities of the person or institution; or
- (c) the exercise of jurisdiction -
  - (i) under Section 90 (responsibilities of certain office-holders); or
  - (ii) by any public accounts committee established in accordance with Section 74 (3) (control and audit of provincial accounts) of the Organic Law on Provincial Government.

Sch.2.17. - REGULATION OF ACTS, ETC.

A provision of this Constitution that provides for the regulation of an Act or thing does not extend to its prohibition whether in law or in effect.

I certify that the Constitution set out above was adopted by the Provincial Constituent Assembly of North Solomons (that is, the Bougainville province of Papua New Guinea, under the Organic Law on Provincial Boundaries) on 11th August 1977, and that this is a true copy of that Constitution as so adopted.

Dated 18th August 1977.

(Signed)  
(Dr. Alexis Sarei)  
Chairman, Provincial  
Constituent Assembly  
of North Solomons.

In the presence of -

(signed)  
(Moses Havini)  
Clerk of the Constituent  
Assembly.

SIGNATORIES TO THE CONSTITUTION

(Signed)  
Dr. A. H. Sarei  
Premier

(signed)  
Mr Naona Taniung  
Deputy Premier  
Elected Member for Nasioi-Pirung

Mr. Denis Sareke  
Elected Member for Arawa

(signed)  
Mr Hamao Tato  
Elected Member for Haku-Halia

(signed)  
Mr Clement Dana  
Elected Member for Teop-Tinputz

(signed)  
Mr Andrew Komoro  
Elected Member for Porobere

(signed)  
Mr Henry Moses  
Elected Member for Panguna-Kieta

(signed)  
Mr John Dakeni  
Elected Member for Koromira

(signed)  
Mr Joseph Kovie  
Elected Member for Bagana

(signed)  
Mr Simon Pute  
Elected Member for Rotokas

(signed)  
Mr Joseph Doka  
Elected Member for Ioro-Eivo

(signed)  
Mr Albert Hannett  
Appointed Representative of  
People of Outer Islands.

SIGNATORIES OF THE CONSTITUTION (cont.)

(signed)

Mr Thomas Hakin  
Elected Member for Buka Passage

Mr Aloysius Noga  
Elected Member for Rerebere

(signed)

Mr Paul Kaile  
Elected Member for Basina

(signed)

Mr Peter Tatamas  
Elected Member for Kunua

(signed)

Mr Timpa Poroni  
Elected Member for Pongo

(signed)

Mr Ezekiel Guam  
Elected Member for Punen

(signed)

Mr Joseph Makunei  
Appointed Representative of  
People of Rino Electorate.

Mr Michael Aite  
Nominated Member for Panguna.

(signed)

Mrs. Mary Cheung  
Nominated Member for Selau

(signed)

Miss Josephine Diai  
Nominated Member for Buin



THIS CONSTITUTION HAS BEEN REPRINTED BY  
AUTHORITY OF THE LEGAL ADVISER IN ACCORDANCE  
WITH SECTION 4 OF THE PRINTING OF LAWS ACT,  
1978.

KAPEATU PUARIA  
LEGAL ADVISER  
ARAWA

12.4.84

NORTH SOLOMONS PROVINCIAL GOVERNMENT

A BILL

for

A LAW

entitled

CONSTITUTIONAL AMENDMENT (ELECTION OF PREMIER) ACT 1987

Being an Act having retrospective effect to amend the Constitution of North Solomons Provincial Government to make provision for filling vacancies in the Office of Premier.

Made by the Provincial Assembly and to be deemed to have come into effect on the 1st day of April 1987.

1. - AMENDMENT OF SECTION 21 (VACATION OF OFFICE).

Paragraph (g) of Section 21(1) is amended by inserting, after the word "if", the following words -

" , except in the case of a Premier elected by the Provincial Assembly under Section 57A. , " .

2. - AMENDMENT OF SECTION 42 (GENERAL ELECTIONS).

(1) Section 42(1)(b) is amended by deleting the words "under Section 62(2)" and substituting for those words the following words -

"through a motion of no confidence under Section 71(2)(c)"

(2) Section 42(4) is amended by inserting after the words "provincial general election", wherever those words appear, the following words -

"or a special election of the Premier under Section 57".

3. - AMENDMENT OF SECTION 56 (ELECTION OF PREMIER).

Section 56(1) is amended by inserting, before the words "The Premier", the following words -

"Subject to Section 57A. (Special Election of Premier by the Assembly)".

4. - AMENDMENT OF SECTION 57 (SPECIAL ELECTION OF PREMIER).

(1) Section 57 (1) is amended by -

(a) inserting after the words "Section 42(1)(b) (General Elections)" the following words -  
"Section 57A."; and

(b) deleting the words "an election" and substituting for those words the following words -

"a special election of the Premier".

(2) Section 57(2) is amended by deleting the words "an election under Subsection (1) "and substituting for those words the following words -

"a special election under Subsection (1)".

5. - NEW SECTION 57A. (SPECIAL ELECTION OF PREMIER BY THE ASSEMBLY).

The following new section is inserted between Section 57 and Section 58 -

"57A. - SPECIAL ELECTION OF PREMIER BY THE ASSEMBLY.

Subject to Section 71(3)(c), if after the second anniversary of the declaration of the result of the last provincial general election the office of Premier becomes vacant under Section 62 (Vacation of Office of Premier) a new Premier shall be elected from amongst the members of the Assembly by an absolute majority vote of the Assembly in accordance with the Standing Orders of the Assembly."

6. - REPEAL AND REPLACEMENT OF SECTION 59 (ASSUMPTION OF OFFICE).

Section 59 is repealed and in its place the following Section is substituted -

"59. - ASSUMPTION OF OFFICE BY PREMIER"

Subject to Section 94 (Requirement of Provincial Declaration of Loyalty) -

(a) a Premier who is elected -

(i) at the time of a provincial general election under Section 56; or

(ii) at a special election of the Premier under Section 57,

takes office on the day after the declaration of the result of the election in question; and

(b) a Premier who is elected by the Provincial Assembly under Section 57A. takes office on his election by the Assembly."

**7. - REPEAL AND REPLACEMENT OF SECTION 60 (MEMBERSHIP OF PROVINCIAL ASSEMBLY AND COMMITTEES).**

Section 60 is repealed and in its place the following Section is substituted-

**"60. - PREMIER A MEMBER OF COMMITTEES.**

The Premier is, ex officio, a member of all committees of the Assembly other than the Committee provided for by Section 90 (Responsibilities of Certain Officer-holders)".

**8. - AMENDMENT OF SECTION 71 (MOTIONS OF NO CONFIDENCE).**

(1) Section 71(1) is amended by deleting the existing Paragraph (c) and replacing it with the following paragraphs -

"(c) that has been circulated, in writing, to all members of the Provincial Assembly before a vote is taken on it; and

(d) subject to Subsection (2), that is passed by the Provincial Assembly by a two-thirds absolute majority vote."

(2) Section 71(2) is repealed and in its place the following subsections are substituted -

"(2) Where -

- (a) the Premier has been elected in a general election under Section 42 or a special election of the Premier under Section 57; and
- (b) a motion of no confidence is moved in either -
  - (i) the Premier; or
  - (ii) the Premier and the Provincial Executive Council; and
- (c) a motion of a kind referred to in Paragraph (b) is moved after the second anniversary of the declaration of the results of the last provincial general election but on or before the third anniversary of the declaration of the result of that election,

the motion shall be passed only if it is supported by a three-quarters absolute majority vote.

"(3) If a motion of no confidence is passed, in accordance with Subsections(1) or (2), in either the Premier, or in the Premier and all members of the Provincial Executive Council, -

- (a) if the motion is passed on or before the second anniversary of the declaration of the result of the last provincial general election, a special election of the Premier shall be held under Section 57; and
- (b) if the motion is passed after the second anniversary of the declaration of the result of the last provincial general election but on or before the third anniversary of the declaration of the result of that election, a new Premier shall be elected by the Provincial Assembly in accordance with Section 57A.; and
- (c) if the motion is passed after the third anniversary of the result of the last provincial general election, a general election shall be held under Section 42 (General Election),

but the persons occupying the positions of Premier and members of the Provincial Executive Council shall continue to occupy those positions until a new Premier assumes office after the special election of the Premier, or after the election by the Provincial Assembly, or after the provincial general election, as the case may be."

9. - AMENDMENT OF SECTION SCHEDULE 2.3.(1) (MEANING OF OF CERTAIN EXPRESSIONS).

Section Schedule 2.3.(1) is amended by inserting, after the words ' "elected member of the Provincial Assembly" does not', the following words -

"except in the case of a Premier elected by the Provincial Assembly under Section 57A.,".

*A J Regan*

NORTH SOLOMONS PROVINCIAL GOVERNMENT.  
(under suspension)  
A PROPOSED LAW

entitled

***Constitutional Amendment (Transitional Arrangements) Law***

Being a Law to amend the Constitution of North Solomons to provide for a transitional arrangement for the province and in particular -

- (i) to restructure the legislative and executive arms of the government of the province to establish a Transitional Provincial Assembly and Transitional Executive Council; and
- (ii) to re-name the province "Bougainville", as it is known under the National Constitutional Laws; and
- (iii) to allow a process under provincial law for the appointment of certain members to the Transitional Provincial Assembly upon the nomination of the Councils of Chiefs of the province through the Interim Authorities established under the *Bougainville Interim Authorities Act 1991* so as to accord with Section 16(2A) of the *Organic Law on Provincial Government* and Section 187C(2)(a) of the *National Constitution*; and
- (iv) to allow the continuation of Interim Authorities established under the *Bougainville Interim Authorities Act 1991* as the local-level government of the province for the duration of the transitional period; and
- (v) and for related purposes.

MADE by the Head of State, acting with, and in accordance with the advice of the National Executive Council under Section 97 of the *Organic Law on Provincial Government* to come into effect in accordance with a notice in the National Gazette, by the Prime Minister.

P R E A M B L E

**STATEMENT OF SPECIAL AIM OF THE BOUGAINVILLE TRANSITIONAL GOVERNMENT.**

The Bougainville Transitional Government is established as a transitional arrangement to restore the civil authority of the people of the Bougainville under the *Organic Law on Provincial Government*. Apart from running the affairs of the province the Bougainville Transitional Government will be responsible for negotiating a political settlement with the National Government. It is not intended that this body become the ultimate form of government for the province. Under the "Charter of Mirigini for a New Bougainville" signed on the 24 November 1994, Bougainville leaders and leaders of the National Government agreed that after a negotiated settlement is reached between the National Government and the Bougainville Transitional Government the Assembly of the Transitional Government shall act as a Constituent Assembly to review the Constitution of the North Solomons Provincial Government and enact a new Constitution. The Bougainville Transitional Government will be committed to this task. The leaders also committed themselves to "a new spirit" and to a "new deal for a new

## *Constitutional Amendment (Transitional Arrangements)*

Bougainville". The Bougainville Transitional Government and the National Government will be committed to working out a new deal for Bougainville which, the leaders of both governments agree, must address the basic grievances of the people and of the province, politically, socially and economically.

### 1. AMENDMENT OF SHORT TITLE.

The short title of the Constitution is amended by repealing the words "North Solomons" and replacing them with the following:-

"Bougainville".

### 2. NEW PART IA.

The Constitution is amended by inserting before Part I the following new Part:-

#### "PART IA. - APPLICATION.

##### "1A. APPLICATION.

(1) On and from the date of coming into operation of the *Constitutional Amendment (Transitional Arrangements for Bougainville) Law -*

- (a) the provisions of this Constitution insofar as relating to the establishment and composition of the Provincial Assembly and the Provincial Executive Council shall not apply; and
- (b) the provisions of this Constitution insofar as relating to the appointment of Premier and Deputy Premier and Speaker and Deputy Speaker shall not apply; and
- (c) the provisions of this Constitution insofar as relating to provincial elections shall not apply; and
- (d) the provisions of Part XII shall apply; and
- (e) the provisions of this Constitution including the Preamble thereto shall be read and construed so as to give effect to the provisions of Part XII.

(2) On and from the date of coming into operation of the *Constitutional Amendment (Transitional Arrangements for Bougainville) Law -*

- (a) the Standing Orders and all Acts of the Provincial Assembly in force immediately prior to that date of coming into operation shall continue in force until expiring or repealed according to law; and
- (b) in this Constitution, the Standing Orders and all Acts of the Provincial Assembly, references to -
  - (i) the Provincial Government - shall be read as references to the Transitional Government; and
  - (ii) the Provincial Assembly - shall be read as references to the Transitional Assembly; and
  - (iii) the Provincial Executive Council - shall be read as references to the Transitional Executive Council; and
  - (iv) the Premier - shall be read as references to the Premier elected under Section 124; and
  - (v) the Speaker - shall be read as references to the Premier elected under Section 124; and



*Constitutional Amendment (Transitional Arrangements)*

- (vi) the Deputy Premier - shall be read as references to the Deputy Premier elected under Section 124; and
- (vii) the Deputy Speaker - shall be read as references to the Deputy Premier elected under Section 124; and

(c) this Constitution, the Standing Orders and all Acts of the Provincial Assembly shall be read and construed so as to give effect to the provisions of this section and Part XII."

**3. REPEAL AND REPLACEMENT OF SECTION 1.**

Section 1 of the Constitution is repealed and is replaced with the following:-

**"1. THE PROVINCE.**

For the purposes of this Constitution and the Standing Orders and of all provincial laws, and for all official and governmental purposes, the Bougainville Province, as established under the National Constitution, shall be known as Bougainville Province."

**4. NEW PART XII.**

The Constitution is amended by adding after Part XI the following new Part:-

**"PART XII. - TRANSITIONAL GOVERNMENT.**

**"112. INTERPRETATION.**

In this Part, unless the contrary intention appears -

"Bougainville leaders" means the Bougainville leaders who were signatories to the Charter of Mirigini for a New Bougainville signed on 24 November 1994;

"constituency" means a constituency established under the *Constituencies Act* 1995;

"Council of Chiefs" means a traditional Council of Chiefs;

"Deputy Premier" means the Deputy Premier elected in accordance with Section 124;

"Interim Authority" means an Interim Authority established under the *Interim Authorities Act* 1991;

"nominated member" means a member of the Transitional Assembly nominated under Section 114;

"Premier" means the Premier elected in accordance with Section 124;

"Transitional Assembly" means the Transitional Assembly established by Section 113;

"Transitional Executive Council" means the Transitional Executive Council established by Section 113;

"Transitional Government" means the Bougainville Transitional Government established by Section 113.

**"113. ESTABLISHMENT AND TENURE OF TRANSITIONAL GOVERNMENT.**

(1) There is established for Bougainville a provincial government which shall be known as "The Bougainville Transitional Government".

- (2) The Transitional Government shall consist of -
  - (a) a Transitional Assembly; and
  - (b) a Transitional Executive Council.

## *Constitutional Amendment (Transitional Arrangements)*

(3) The Transitional Government shall remain in operation until the adoption of a new Constitution and the establishment of a government in accordance with that new Constitution.

### **\*114. MEMBERSHIP OF THE TRANSITIONAL ASSEMBLY.**

- (1) Subject to this section, the Transitional Assembly is a single-chamber legislative, consisting of 32 members being -
- (a) the Chairman of each Interim Authority (being eight in number); and
  - (b) one woman nominated by the Provincial Council of Women; and
  - (c) one member nominated by the Melanesian Council of Churches; and
  - (d) one member nominated by the Provincial Youth Council; and
  - (e) one member from each of the 18 constituencies nominated by the Interim Authority for the area in which the constituency is situated on the recommendation of the Council of Chiefs for that constituency; and
  - (f) two members to represent the National Government nominated by the Bougainville leaders after consultation with the Prime Minister; and
  - (g) one other member, where the Transitional Assembly is of the opinion that any group of persons in the Province requires special representation, appointed by the Prime Minister to represent that group.

"(2) The members of the Transitional Assembly shall be appointed by the Prime Minister by notice in the National Gazette.

"(3) Members of the National Parliament representing electorates in Bougainville are entitled to attend meetings of the Transitional Assembly and to take part in debate, but shall not be entitled to vote and shall not be counted towards a quorum.

### **\*115. ASSUMPTION OF OFFICE.**

A member of the Transitional Government takes office after -

- (a) his appointment has been gazetted under Section 114(2); and
- (b) he has made the Provincial Declaration of Loyalty under Section 94.

### **\*116. VACATION OF OFFICE.**

The office of a member of the Transitional Assembly becomes vacant -

- (a) if he resigns his seat by written notice to the Premier (or, in the case of the Premier, to the Deputy Premier); or
- (b) if he is dismissed from office in accordance with a provincial law; or
- (c) if he is absent, without leave of the Transitional Assembly, during the whole of three consecutive meetings of the Transitional Assembly, unless the Transitional Assembly decides to waive this rule; or

**Constitutional Amendment (Transitional Arrangements)**

- (d) if, except as authorized by a provincial law, he directly or indirectly takes or agrees to take any payment in respect of his services in the Transitional Assembly; or
- (e) if he becomes a member of or a candidate for election or appointment to the National Parliament or another provincial government; or
- (f) if he is dismissed from office under Section 22 (*suspension and dismissal for certain offences*); or
- (g) if he is dismissed from office as a member of the Transitional Assembly under -
  - (i) an Act of the Transitional Assembly made for the purpose of Section 90(4) (*responsibilities of certain office holders*); or
  - (ii) a National Organic Law made for the purpose of Section 28 (*further provisions*) of the National Constitution; or
- (h) on his death.

**\*117. FILLING OF CASUAL VACANCIES.**

In the event of a casual vacancy in the office of a member of the Transitional Assembly it shall be filled in the same manner as the office vacated.

**\*118. FUNCTIONS AND POWERS OF THE TRANSITIONAL ASSEMBLY.**

The Transitional Assembly has all the functions and powers and privileges given to the Provincial Assembly under this Constitution and in addition shall act as a Constituent Assembly to review this Constitution and enact a new Constitution.

**\*119. PROCEDURES OF THE TRANSITIONAL ASSEMBLY.**

(1) Subject to this Part, the procedures of the Transitional Assembly are those of the Provincial Assembly under Division IV.5 of this Constitution and the provisions of Division IV.5 shall be read to give effect to this Part.

"(2) The quorum for a meeting of the Transitional Assembly shall be half of the number of members of the Transitional Assembly as provided in Section 114.

"(3) At a meeting of the Transitional Assembly, the Premier, or in his absence the Deputy Premier, shall preside, and in the absence of both the Premier and the Deputy Premier the members present shall elect one of their number to preside.

"(4) At a meeting of the Transitional Assembly, the person presiding shall have a deliberative vote, and in the event of an equality of votes on a matter, shall also have a casting vote.

**\*120. TRANSITIONAL EXECUTIVE COUNCIL.**

The Transitional Executive Council shall consist of -

- (a) the Premier; and
  - (b) the Deputy Premier; and
  - (c) the Chairman of each of the Interim Authorities;
- and

*Constitutional Amendment (Transitional Arrangements)*

- (d) two other members of the Transitional Assembly, of whom one shall be a member under Section 114(1)(f) appointed by the Premier by notice in the National Gazette.

**\*121. FUNCTIONS, POWERS AND RESPONSIBILITIES OF THE TRANSITIONAL PROVINCIAL EXECUTIVE COUNCIL.**

The Transitional Executive Council has all the functions, powers and responsibilities given to the Provincial Executive Council under this Constitution.

**\*122. PROCEDURES OF THE TRANSITIONAL PROVINCIAL EXECUTIVE COUNCIL.**

Subject to this Part, the Transitional Provincial Executive Council may determine its own procedures.

**\*123. NO SPEAKER OR DEPUTY SPEAKER.**

There shall be no offices of Speaker or Deputy Speaker in the Transitional Assembly.

**\*124. PREMIER AND DEPUTY PREMIER.**

(1) There shall be a Premier and a Deputy Premier of the Transitional Assembly who shall be elected by the Transitional Assembly from amongst its members.

(2) Where, at any time -

(a) the Premier is a member of the Transitional Assembly under Section 114(1)(a) - the Deputy Premier shall not be a member of the Transitional Assembly under Section 114(1)(a); and

(b) the Deputy Premier is a member of the Transitional Assembly under Section 114(1)(a) - the Premier shall not be a member of the Transitional Assembly under Section 114(1)(a).

(3) The Premier shall have all the functions, powers, duties and responsibilities given to the Premier and to the Speaker under this Constitution and shall preside over meetings at the Transitional Assembly.

(4) The Deputy Premier shall have all the functions, powers, duties and responsibilities given to the Deputy Premier under this Constitution."

**5. FURTHER AMENDMENTS.**

The Constitution is further amended in accordance with the Schedule.

**6. REFERENCES TO NORTH SOLOMONS TO BE READ AS REFERENCES TO BOUGAINVILLE.**

A reference in any provincial law, or subordinate legislation thereunder, document or instrument to the North Solomonss shall be read and construed as a reference to Bougainville.

*Constitutional Amendment (Transitional Arrangements)  
for Bougainville*

S C H E D U L E

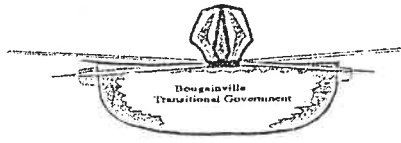
Section 5.

Provision

Preamble (whichever occurring);  
Sections 2; 3(1); 4(e); 5(1) and (2);  
6; 7(1)(b) and (3); 13(5); 15(1);  
17(2); 18(3)b(i) and (5); 29(2); 41A(b);  
41B(a); 46(4)(c); 47(1); 52(2)(a);  
56(2)(b); 83; 95(twice occurring); 96(a);  
97(3)(a); 98(1)(a) and (c); 99(2)(c);  
105(1) and (3); Schedules 1 and 2  
(wherever occurring).

Amendment

In each case repeal the words  
"North Solomons" and replace  
with "Bougainville".



# BOUGAINVILLE TRANSITIONAL GOVERNMENT

## CONSTITUTIONAL AMENDMENT (TRANSITIONAL ARRANGEMENT) AMENDMENT NO.2 LAW 1997

Being a Law to amend the Provincial Constitutional Amendment Transitional Amendment Law 1995 to provide for the inclusion of Members of Parliament as automatic members of the Assembly, and for related purposes to come into effect on 1<sup>st</sup> January 1998.

### “114 MEMBERSHIP OF THE TRANSITIONAL ASSEMBLY

(1) Subject to this section, the Transitional Assembly is a single - chamber legislative, consisting of 36 members being -

- (a) the Chairman of each Interim Authority (being eight in number); and
- (b) one woman nominated by the Provincial Council of Women; and
- (c) one member nominated by the Melanesian Council of Churches; and
- (d) one member nominated by the Provincial Youth Council; and
- (e) one member from each of the 18 constituencies nominated by the Interim Authority for the area in which the constituency is situated on the recommendation of the Council of Chiefs for that constituency; and
- (f) two members to represent the National Government nominated by the Bougainville leaders after consultation with the Prime Minister; and
- (g) one other member, where the Transitional Assembly is of the opinion that any group of persons in the Province requires special representation, appointed by the Prime Minister to represent that group; and
- (h) members of the National Parliament representing electorates in Bougainville.

“(2) . The members of the Transitional Assembly shall be appointed by the Prime Minister by notice in the National Gazette.

“(3) Members of the National Parliament representing electorates in Bougainville are entitled to attend meetings of the Transitional Assembly and to take part in debate, and shall be entitled to vote and be counted towards a quorum.

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CERTIFICATE OF MAKING OF LAW AND WAIVER OF REQUIREMENTS OF PROVINCIAL CONSTITUTION

I, Gerard Sinato, by virtue of powers conferred on me under the Provincial Constitution and especially Section 11 (Urgent Amendments) of the Provincial Constitution and Section 7 of the Standing Orders of the Assembly and having considered the public interest required in having the Assembly pass the amendments to the Provincial Constitution hereby certify that the Assembly has by this day resolved to waive the requirement of the two sittings required for the passage of this bill; and

And I hereby certify further that the Transitional Assembly has passed this bill today Wednesday, 10<sup>th</sup> December 1997.

Dated this 10<sup>th</sup> day of December 1997.

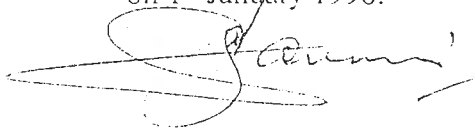


Gerard Sinato  
Premier & Speaker

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CERTIFICATE OF WAIVER OF REQUIREMENTS UNDER SECTION 35 OF ORGANIC LAW ON PROVINCIAL GOVERNMENT

I, Simon Kaumi, Minister for Provincial Government and Local Level Governments, by virtue of powers conferred on me under Section 35 of the Organic Law on Provincial Government hereby waive the requirements of Section 35 as regards the coming into effect of the above bill - Constitutional Amendment (Transitional Arrangement) Amendment No. 2 Law 1997 - and declare further that the said bill shall come into effect on 1<sup>st</sup> January 1998.



Simon Kaumi  
Minister for Provincial Government and  
Local Level Government