

No. 17 of 1997.

*Bougainville (International Assistance Groups) (Privileges and Immunities) Act 1997.*

Certified on : 4.12.97

**INDEPENDENT STATE OF PAPUA NEW GUINEA.**

No. of 1997.

*Bougainville (International Assistance Groups)(Privileges and Immunities) Act 1997.*

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INDEPENDENT STATE OF PAPUA NEW GUINEA.

No. of 1997.

AN ACT

entitled

*Bougainville (International Assistance Groups)(Privileges and Immunities) Act 1997,*

WHEREAS the Government of Papua New Guinea and various parties involved in the conflict in Bougainville Province are endeavouring to resolve the conflict by peaceful means and effect peace and reconciliation and a return to normalcy and the restoration of services in Bougainville Province;

AND WHEREAS other countries in the South Pacific and elsewhere have expressed their willingness to assist the Government of Papua New Guinea and the various parties in their endeavours and in this regard are willing to send Groups consisting of personnel both civilian and/or military to assist;

AND WHEREAS it is appropriate that such Groups and personnel be granted various privileges and immunities in relation to the laws of Papua New Guinea;

THEREFORE it is appropriate that the following Act should be passed -

BEING an Act relating to the privileges and immunities of certain Groups and of persons connected with those Groups in relation to the resolution of the conflict in Bougainville Province, and for related purposes,

MADE by the National Parliament to be deemed to have come into operation on 18 November 1997.

**PART I. - PRELIMINARY.**

**1. COMPLIANCE WITH CONSTITUTIONAL REQUIREMENTS.**

(1) This Act, to the extent that it regulates or restricts a right or freedom referred to in Subdivision III.3.C (*qualified rights*) of the *Constitution*, namely -

(a) freedom from arbitrary search and entry conferred by Section 44 of the *Constitution*; and

(b) the right to privacy conferred by Section 49 of the *Constitution*,

is a law that is made for the purpose of giving effect to the public interest in defence, public safety, public order and public welfare.

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(2) For the purposes of -

(a) Section 29 of the *Organic Law on Provincial Government*; and

(b) Section 41 of the *Organic Law on Provincial Governments and Local-level Governments*.

it is hereby declared that this Act relates to a matter of national interest.

(3) For the purposes of Section 53 (*Protection of unjust deprivation of Property*) of the *Constitution*, the purposes of an Agreement to which this Act applies insofar as they fall within the definition of "public purposes" contained in Section 2 of the *Land Act 1996*, are public purposes.

**2. INTERPRETATION.**

In this Act, unless the contrary intention appears -

"agreement to which this Act applies" means a treaty, pact, contract, agreement, memorandum of understanding or other form of agreement (by whatever name known) -

(a) contained in a Schedule to this Act; or

(b) declared, in accordance with Section 4, to be an agreement to which this Act applies,

regulating the presence in the country of an International Assistance Group;

"Commander" means the person (by whatever designation known) who is in operational control of an International Assistance Group;

"International Assistance Group" means a group of persons comprising -

(a) military personnel; or

(b) civilian personnel; or

(c) both military and civilian personnel,

drawn from one or more countries, other than Papua New Guinea, whose presence in the country is authorized by the Head of State, acting on advice, by notice in the National Gazette and whose purpose in the country is to assist in the peaceful resolution of the conflict in Bougainville Province;

"member of an International Assistance Group" means a non-citizen, not ordinarily resident in the country, who is a member of an International Assistance Group;

"this Act" includes the Regulations.

**3. APPLICATION OF THIS ACT.**

(1) This Act binds the State.

(2) Except as expressly provided in this Act, all members of an International Assistance Group are subject to the laws of Papua New Guinea.

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**PART II. - AGREEMENTS TO WHICH THIS ACT APPLIES.**

**4. HEAD OF STATE, ACTING ON ADVICE, MAY DECLARE AGREEMENT, ETC., TO BE AGREEMENT TO WHICH THIS ACT APPLIES.**

(1) The Head of State, acting on advice, may by notice in the National Gazette, declare a treaty, pact, contract, agreement, memorandum of understanding or other form of agreement (by whatever name known) regulating the presence in the country of an International Assistance Group to be an agreement to which this Act applies.

(2) Where a declaration under Subsection (1) is made while Parliament is not sitting, the Minister shall -

(a) cause the text of the agreement, the subject of the declaration, to be published in full in the National Gazette; and

(b) at the first sitting of the Parliament following publication of an agreement under Paragraph (a) notify the Parliament accordingly and table a copy of the relevant National Gazette.

(3) Where an agreement is published in the National Gazette under Subsection (2)(a), such agreement is deemed to be contained in a Schedule to this Act and this Act applies to it accordingly.

**5. AGREEMENT TO WHICH THIS ACT APPLIES TO HAVE FORCE OF LAW.**

Subject to this Act, the provisions of an agreement to which this Act applies have the force of law and to the extent that any privileges or exemptions which such an agreement purports to grant are contained in an Act of the Parliament, that Act is deemed to have been amended to the extent necessary to permit the granting of the privilege or exemption and the privilege or exemption is deemed to have been granted.

**6. OBLIGATIONS OF DEPARTMENTS, ETC.,**

The -

(a) National Government; and

(b) Provincial Governments; and

(c) Local-level Governments; and

(d) arms, departments, agencies and instrumentalities of the National Government, Provincial Governments and Local-level Governments; and

(e) bodies set up by Statute or administrative act for governmental or official purposes,

shall, so far as it is within their respective powers, take all steps to ensure compliance with the provisions of an agreement to which this Act applies and with this Act.

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**PART III. - MISCELLANEOUS.**

**7. EVIDENCE OF CERTAIN MATTERS.**

(1) Where the Commander of an International Assistance Group certifies in writing that, at a time specified in the certificate, a person specified in the certificate was or was not a member of that International Assistance Group, the certificate is, in any proceedings in a court or tribunal of Papua New Guinea, sufficient evidence of the facts so certified, unless the contrary is proved.

(2) Where the Commander of an International Assistance Group certifies in writing that any act carried out by a member of that International Assistance Group was or was not carried out in the course of his official duties as such member is, in any proceedings in a court or tribunal of Papua New Guinea, sufficient evidence of the facts so certified, unless the contrary is proved.

**8. REGULATIONS.**

The Head of State, acting on advice, may make Regulations, not inconsistent with this Act, prescribing all matters which are required or permitted to be prescribed or are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

I hereby certify that the above is a fair print of the *Bougainville (International Assistance Groups)(Privileges and Immunities) Act 1997* which has been made by the National Parliament.

Clerk of the National Parliament.

I hereby certify that the *Bougainville (International Assistance Groups)(Privileges and Immunities) Act 1997* was made by the National Parliament on 26 November 1997.

Speaker of the National Parliament.