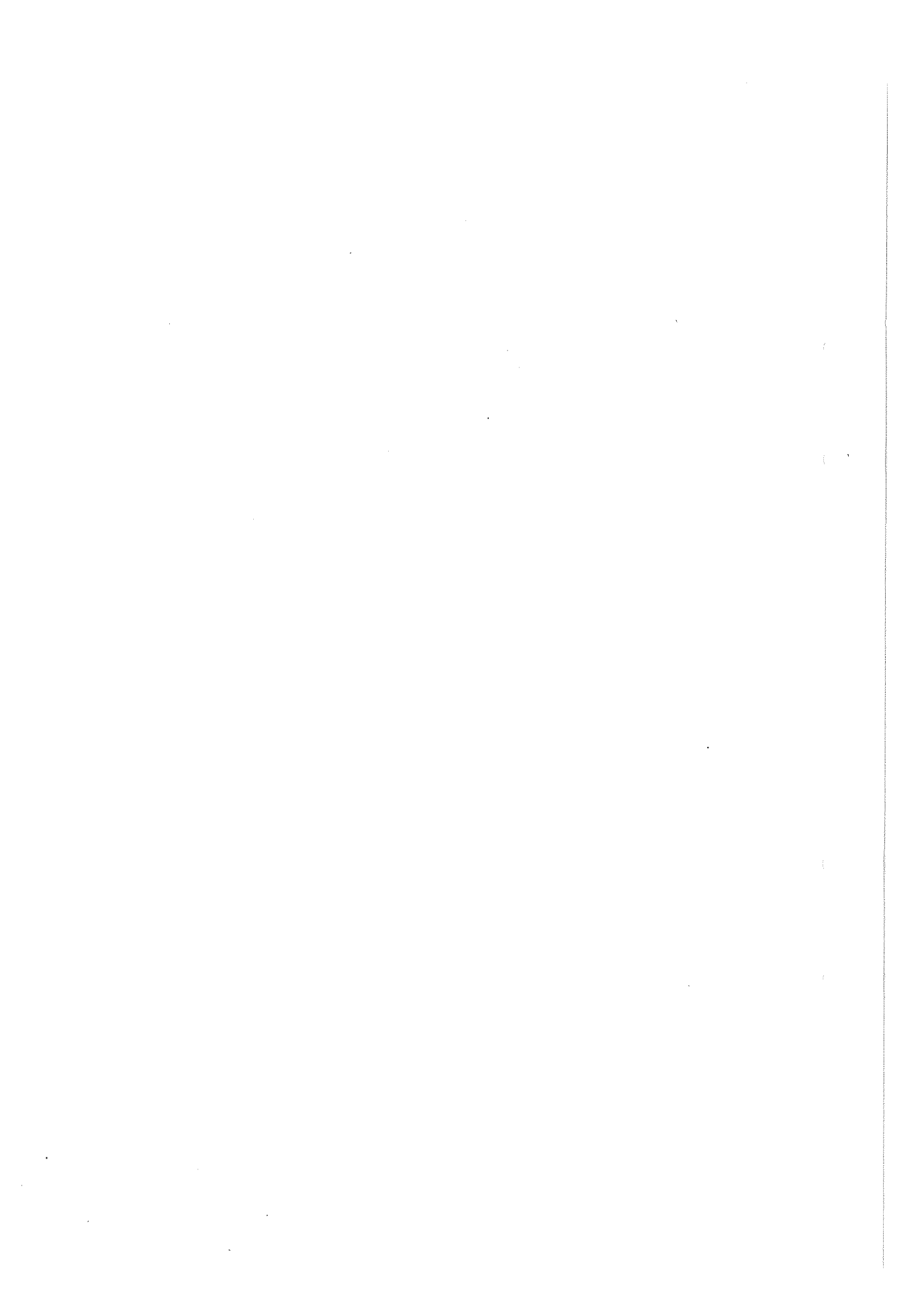




# **THE PROVINCIAL GOVERNMENT (SPECIAL PROVISIONS) BILL 2005**





# **THE PROVINCIAL GOVERNMENT (SPECIAL PROVISIONS) BILL 2005**

**A**

**BILL**

**Entitled**

AN ACT TO PROVIDE FOR CHANGING THE DATES FOR HOLDING CERTAIN ELECTIONS UNDER THE PROVINCIAL GOVERNMENT ACT 1997 AND TO VALIDATE THOSE ELECTIONS AND THE CONSTITUTION, ACTIONS AND DECISIONS OF CERTAIN PROVINCIAL ASSEMBLIES AND PROVINCIAL EXECUTIVES, AND FOR RELATED PURPOSES

ENACTED by the National Parliament of Solomon Islands.

**THE PROVINCIAL GOVERNMENT (SPECIAL PROVISIONS)  
BILL 2005**

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## PART 1 - PRELIMINARY

1. (1) This Act may be cited as the Provincial Government (Special Provisions) Act 2005. Short title and commencement

(2) Section 5(1) is taken to have come into operation on 15 December 2003.

(3) Section 11 is taken to have come into operation on 21 September 2003.

(4) Section 16 is taken to have come into operation on 29 September 2005.

(5) Section 22 is taken to have come into operation on 5 March 2003.

(6) Section 27 is taken to have come into operation on 29 February 2004.

(7) Section 32(1) is taken to have come into operation on 15 December 2003.

(8) The remaining provisions of this Act come into operation on the day on which this Act is published in the Gazette.

2. This Act expires on 30 June 2005. Expiry

3. A word or expression that is defined or used in the Provincial Government Act 1997, and used in this Act, has the same meaning as in the Provincial Government Act 1997. Interpretation  
(Act No. 7 of  
1997)

## PART 2 - CHOISEUL PROVINCE

### *Division 1 - Preliminary*

4. In this Part, unless the contrary intention appears - Definitions

“Deputy Premier” means the Deputy Premier for Choiseul Province;

“election” means an ordinary election of the members of the Choiseul Provincial Assembly;

“Premier” means the Premier for Choiseul Province;

“*Provincial Act*” means the Provincial Government Act 1997;

“Provincial Assembly” means the Choiseul Provincial Assembly;

“Provincial Executive” means the Choiseul Provincial Executive;

“Provincial Minister” means a Provincial Minister for  
Choiseul Province other than the Premier or Deputy  
Premier.

### *Division 2 - Date of election*

Date for holding,  
and conduct of,  
election for  
Provincial  
Assembly

5. (1) The election that was to have been held on 15 December 2003 (which was the fourth anniversary of the date of the previous election) is not required to have been held on that date but shall be held on 5 May 2005 instead.

(2) For the purposes of conducting the election on 5 May 2005, the *Provincial Act* and regulations made under that Act relating to conducting elections apply to the election and the electoral procedures set out in that Act and those regulations (other than the requirement to hold the election on the fourth anniversary of the date of the previous election) shall be complied with.

Next election

6. The next election after the election held in accordance with section 5 shall be held on the fourth anniversary of the election held in accordance with that section.

### *Division 3 - Validations*

Validation of  
election

7. The election held in accordance with section 5 -
- (a) shall not be invalid by reason of the failure to hold the election on 15 December 2003; and
  - (b) shall not be the subject of a proceeding, challenge, review or appeal by reason of the ground of the failure to hold the election on 15 December 2003.

Validation of  
decisions and  
actions of  
Provincial  
Executive

8. (1) The decisions made and actions taken by or on behalf of the Provincial Executive in the purported performance of its functions during the period commencing on and from 15 December 2003 until the new Premier is elected in accordance with section 20(2) of the *Provincial Act* after the election held in accordance with section 5, and the consequences of those decisions and actions, shall not be invalid by reason of the failure to hold the election on 15 December 2003.



(2) A decision or action, or the consequences of a decision or action, referred to in subsection (1) shall not be the subject of a proceeding, challenge, review or appeal by reason of the ground of the failure to hold the election on 15 December 2003.

9. (1) The member of the Provincial Assembly who held the office of Premier immediately before 15 December 2003 is declared to have, and shall be taken to have, validly held that office on and from 15 December 2003 until the new Premier is elected after the election held in accordance with section 5 as if he were a validly elected member of the Provincial Assembly who had, under section 20(2) of the *Provincial Act*, been validly elected as the Premier, by secret ballot, by an absolute majority of the members of the Provincial Assembly.

Validations  
relating to  
members of  
Provincial  
Assembly

(2) A member of the Provincial Assembly who held the office of Deputy Premier or Provincial Minister immediately before 15 December 2003 is declared to have, and shall be taken to have, validly held that office on and from 15 December 2003 until the new Premier is elected after the election held in accordance with section 5 as if he were a validly elected member of the Provincial Assembly who had, under section 20(4) of the *Provincial Act*, been validly appointed to that office by the Minister in accordance with the advice of the Premier.

(3) A member of the Provincial Assembly who is elected to office by the election held in accordance with section 5 is declared to be, and shall be taken to be, validly elected to that office and to (subject to the *Provincial Act*) validly hold that office.

(4) A member of the Provincial Assembly who is, under section 20 of the *Provincial Act*, elected or appointed to the office of Premier, Deputy Premier or Provincial Minister after the election held in accordance with section 5 is declared to be, and shall be taken to be, validly elected or appointed to that office and to (subject to the *Provincial Act*) validly hold that office.

## PART 3 - GUADALCANAL PROVINCE

### *Division 1 - Preliminary*

10. In this Part, unless the contrary intention appears -

Definitions

“by-election” means the by-election to elect the member of the Guadalcanal Provincial Assembly to represent Ward 6, Duidui of Guadalcanal Province;

“Deputy Premier” means the Deputy Premier for Guadalcanal Province;

“Premier” means the Premier for Guadalcanal Province;

(Act No. 7 of 1997)

“*Provincial Act*” means the Provincial Government Act 1997;

“Provincial Assembly” means the Guadalcanal Provincial Assembly;

“Provincial Minister” means a Provincial Minister for Guadalcanal Province other than the Premier or Deputy Premier.

*Division 2 - Date of by-election*

Date for holding by-election for Ward 6, Duidui

11. The by-election that was to have been held not later than 21 September 2003 is not required to have been held not later than that date but is required to have been held not later than 31 January 2005 instead.

*Division 3 Validations*

Validation of by-election

- 12. The by-election held in accordance with section 11 -
  - (a) shall not be invalid by reason of the failure to hold the by-election not later than 21 September 2003; and
  - (b) shall not be the subject of a proceeding, challenge, review or appeal by reason of the ground of the failure to hold the by-election not later than 21 September 2003.

Validation of decisions and actions of Provincial Assembly

13. (1) The decisions made and actions taken by or on behalf of the Provincial Assembly in the purported performance of its functions during the period commencing on and from 21 September 2003 until the election of the member of the Provincial Assembly by the by-election held in accordance with section 11, and the consequences of those decisions and actions, shall not be invalid by reason of the failure to hold the by-election not later than 21 September 2003.

(2) A decision or action, or the consequences of a decision or action, referred to in subsection (1) shall not be the subject of a proceeding, challenge, review or appeal by reason of the ground of the failure to hold the by-election not later than 21 September 2003.

14. The member of the Provincial Assembly who was elected to office by the by-election held in accordance with section 11 is declared to have been, and shall be taken to have been, validly elected to that office and to have (subject to the *Provincial Act*) validly held that office since elected to it, and he shall (subject to that Act) continue to validly hold that office.

Validations relating to member of Provincial Assembly representing Ward 6, Duidui

## PART 4 - MAKIRA ULAWA PROVINCE

### *Division 1 - Preliminary*

15. In this Part, unless the contrary intention appears -

Definitions

“Deputy Premier” means the Deputy Premier for Makira Ulawa Province;

“election” means an ordinary election of the members of the Makira Ulawa Provincial Assembly;

“Premier” means the Premier for Makira Ulawa Province;

“*Provincial Act*” means the Provincial Government Act 1997;

(Act No. 7 of 1997)

“Provincial Assembly” means the Makira Ulawa Provincial Assembly;

“Provincial Executive” means the Makira Ulawa Provincial Executive;

“Provincial Minister” means a Provincial Minister for Makira Ulawa Province other than the Premier or Deputy Premier.

### *Division 2 - Date of election*

16. The election that was to have been held on 29 September 2003 (which was the fourth anniversary of the date of the previous election) is not required to have been held on that date but is required to have been held on 25 November 2003 instead.

Date for holding election for Provincial Assembly

17. The next election shall be held on the fourth anniversary of the election held in accordance with section 16.

Next election

*Division 3 - Validations*

Validation of  
election

18. The election held in accordance with section 16 -
- (a) shall not be invalid by reason of the failure to hold the election on 29 September 2003; and
- (b) shall not be the subject of a proceeding, challenge, review or appeal by reason of the ground of the failure to hold the election on 29 September 2003.

Validation of  
decisions and  
actions of Provincial  
Executive

19. (1) The decisions made and actions taken by or on behalf of the Provincial Executive in the purported performance of its functions during the period commencing on and from 29 September 2003 until the new Premier was elected in accordance with section 20(2) of the *Provincial Act* after the election held in accordance with section 16, and the consequences of those decisions and actions, shall not be invalid by reason of the failure to hold the election on 29 September 2003.

(2) A decision or action, or the consequences of a decision or action, referred to in subsection (1) shall not be the subject of a proceeding, challenge, review or appeal by reason of the ground of the failure to hold the election on 29 September 2003.

Validations  
relating to members of  
Provincial Assembly

20. (1) The member of the Provincial Assembly who held the office of Premier immediately before 29 September 2003 is declared to have, and shall be taken to have, validly held that office on and from 29 September 2003 until the new Premier was elected after the election held in accordance with section 16 as if he were a validly elected member of the Provincial Assembly who had, under section 20(2) of the *Provincial Act*, been validly elected as the Premier, by secret ballot, by an absolute majority of the members of the Provincial Assembly.

(2) A member of the Provincial Assembly who held the office of Deputy Premier or Provincial Minister immediately before 29 September 2003 is declared to have, and shall be taken to have, validly held that office on and from 29 September 2003 until the new Premier was elected after the election held in accordance with section 16 as if he were a validly elected member of the Provincial Assembly who had, under section 20(4) of the *Provincial Act*, been validly appointed as Deputy Premier or Provincial Minister by the Minister in accordance with the advice of the Premier.

(3) A member of the Provincial Assembly who was elected to office by the election held in accordance with section 16 is declared to have been, and shall be taken to have been, validly elected to that office and to have (subject to the *Provincial Act*) validly held that office since that election, and he shall (subject to that Act) continue to validly hold that office.

(4) A member of the Provincial Assembly who was, under section 20 of the *Provincial Act*, elected or appointed to the office of Premier, Deputy Premier or Provincial Minister after the election held in accordance with section 16 is declared to have been, and shall be taken to have been, validly elected or appointed to that office and to have (subject to the *Provincial Act*) validly held that office since elected or appointed to it, and he shall (subject to that Act) continue to validly hold that office.

## PART 5 - MALAITA PROVINCE

### *Division 1 - Preliminary*

21. In this Part, unless the contrary intention appears -

Definitions

“by-election” means the by-election to elect the member of the Malaita Provincial Assembly to represent Ward 33, Sikaiana of Malaita Province;

“Deputy Premier” means the Deputy Premier for Malaita Province;

“Premier” means the Premier for Malaita Province;

“*Provincial Act*” means the Provincial Government Act 1997;

(Act No. 7 of 1997)

“Provincial Assembly” means the Malaita Provincial Assembly;

“Provincial Minister” means a Provincial Minister for Malaita Province other than the Premier or Deputy Premier.

### *Division 2 - Date of by-election*

22. The by-election that was to have been held not later than 5 March 2003 is not required to have been held not later than that date but is required to have been held not later than 28 November 2003 instead.

Date for holding  
by-election for Ward 33,  
Sikaiana

### *Division 3 - Validations*

Validation of  
by-election

- 23.** The by-election held in accordance with section 22 -
- (a) shall not be invalid by reason of the failure to hold the by-election not later than 5 March 2003; and
  - (b) shall not be the subject of a proceeding, challenge, review or appeal by reason of the ground of the failure to hold the by-election not later than 5 March 2003.

Validation of  
decisions and  
actions of  
Provincial  
Assembly

**24.** (1) The decision made and actions taken by or on behalf of the Provincial Assembly in the purported performance of its functions during the period commencing on and from 5 March 2003 until the election of the member of the Provincial Assembly by the by-election held in accordance with section 22, and the consequences of those decisions and actions, shall not be invalid by reason of the failure to hold the by-election not later than 5 March 2003.

(2) A decision or action, or the consequences of a decision or action, referred to in subsection (1) shall not be the subject of a proceeding, challenge, review or appeal by reason of the ground of the failure to hold the by-election not later than 5 March 2003.

Validations  
relating to member of  
Provincial Assembly  
representing  
Ward 33, Sikaiana

**25.** The member of the Provincial Assembly who was elected to office by the by-election held in accordance with section 22 is declared to have been, and shall be taken to have been, validly elected to that office and to have (subject to the *Provincial Act*) validly held that office since that by-election, and he shall (subject to that Act) continue to validly hold that office.

## PART 6 - RENNELL AND BELLONA PROVINCE

### *Division 1 - Preliminary*

Definitions

- 26.** In this Part, unless the contrary intention appears -
- “by-election” means the by-election to elect the member of the Rennell and Bellona Provincial Assembly to represent Ward 4, Kanava of Rennell and Bellona Province;

“Deputy Premier” means the Deputy Premier for Rennell and Bellona Province;

“Premier” means the Premier for Rennell and Bellona Province;

“*Provincial Act*” means the Provincial Government Act 1997; (Act No. 7 of 1997)

“Provincial Assembly” means the Rennell and Bellona Provincial Assembly;

“Provincial Minister” means a Provincial Minister for Rennell and Bellona Province other than the Premier or Deputy Premier.

### *Division 2 - Date of by-election*

27. The by-election that was to have been held not later than 29 February 2004 is not required to have been held not later than that date but is required to have been held not later than 31 January 2005 instead.

Date for holding  
by-election for Ward 4,  
Kanava

### *Division 3 - Validations*

28. The by-election held in accordance with section 27 -

Validation of  
by-election

(a) shall not be invalid by reason of the failure to hold the by-election not later than 29 February 2005; and

(b) shall not be the subject of a proceeding, challenge, review or appeal by reason of the ground of the failure to hold the by-election not later than 29 February 2004.

29. (1) The decisions made and actions taken by or on behalf of the Provincial Assembly in the purported performance of its functions during the period commencing on and from 29 February 2004 until the election of the member of the Provincial Assembly by the by-election held in accordance with section 27, and the consequences of those decisions and actions, shall not be invalid by reason of the failure to hold the by-election not later than 29 February 2004.

Validation of decisions  
and actions of Provincial  
Assembly

(2) A decision or action, or the consequences of a decision or action, referred to in subsection (1) shall not be the subject of a proceeding, challenge, review or appeal by reason of the ground of the failure to hold the by-election not later than 29 February 2004.

Validations relating to member of Provincial Assembly representing Ward 4, Kanava

30. The member of the Provincial Assembly who is elected to office by the by-election held in accordance with section 27 is declared to have been, and shall be taken to have been, validly elected to that office and to have (subject to the *Provincial Act*) validly held that office since that by-election, and he shall (subject to that Act) continue to validly hold that office.

## PART 7 - WESTERN PROVINCE

### *Division 1 - Preliminary*

Definitions

31. In this Part, unless the contrary intention appears -

“Deputy Premier” means the Deputy Premier for Western Province;

“election” means an ordinary election of the members of the Western Provincial Assembly;

“Premier” means the Premier for Western Province;

(Act No. 7 of 1997)

“*Provincial Act*” means the Provincial Government Act 1997;

“Provincial Assembly” means the Western Provincial Assembly;

“Provincial Executive” means the Western Provincial Executive;

“Provincial Minister” means a Provincial Minister for Western Province other than the Premier or Deputy Premier.

### *Division 2 - Date of election*

Date for holding, and conduct of, election for Provincial Assembly

32. (1) The election that was to have been held on 15 December 2003 (which was the fourth anniversary of the date of the previous election) is not required to have been held on that date but shall be held on 5 May 2005 instead.



(2) For the purpose of conducting the election on 5 May 2005, the *Provincial Act* and regulations made under that Act relating to conducting elections apply to the election and the electoral procedures set out in that Act and those regulations (other than the requirement to hold the election on the fourth anniversary of the date of the previous election) shall be compiled with.

33. The next election after the election held in accordance with section 32 shall be held on the fourth anniversary of the election held in accordance with that section.

Next election

### *Division 3 - Validations*

34. The election held in accordance with section 32 -

Validation of election

(a) shall not be invalid by reason of the failure to hold the election on 15 December 2003; and

(b) shall not be the subject of a proceeding, challenge, review or appeal by reason of the ground of the failure to hold the election on the 15 December 2003.

35. (1) The decisions made and actions taken by or on behalf of the Provincial Executive in the purported performance of its functions during the period commencing on and from 15 December 2003 until the new Premier is elected in accordance with section 20(2) of the *Provincial Act* after the election held in accordance with section 32, and the consequences of those decisions and actions, shall not be invalid by reason of the failure to hold the election on 15 December 2003.

Validation of decisions and actions of Provincial Executive

(2) A decision or action, or the consequences of a decision or action, referred to in subsection (1) shall not be the subject of a proceeding, challenge, review or appeal by reason of the ground of the failure to hold the election on 15 December 2003.

36. (1) The member of the Provincial Assembly who held the office of Premier immediately before 15 December 2003 is declared to have, and shall be taken to have, validly held that office on and from 15 December 2003 until the new Premier is elected after the election held in accordance with section 32 as if he were a validly elected member of the Provincial Assembly who had, under section 20(2) of the *Provincial Act*, been validly elected as the Premier, by secret ballot, by an absolute majority of the members of the Provincial Assembly.

Validations relating to members of Western Provincial Assembly

(2) A member of the Provincial Assembly who held the office of Deputy Premier or Provincial Minister immediately before 15 December 2003 is declared to have, and shall be taken to have, validly held that office on and from 15 December 2003 until the new Premier is elected after the election held in accordance with section 32 as if he were a validly elected member of the Provincial Government who had, under section 20(4) of the *Provincial Act*, been validly appointed to that office by the Minister in accordance with the advice of the Premier.

(3) A member of the Provincial Assembly who is elected to office by the election held in accordance with section 32 is declared to be, and shall be taken to be, validly elected to that office and to (subject to the *Provincial Act*) validly hold that office.

(4) A member of the Provincial Assembly who is, under section 20 of the *Provincial Act*, elected to appointed to the office of Premier, Deputy Premier or Provincial Minister after the election held in accordance with section 32 is declared to be, and shall be taken to be, validly elected or appointed to that office and to (subject to the *Provincial Act*) validly hold that office.

**THE PROVINCIAL GOVERNMENT (SPECIAL PROVISIONS)  
BILL 2005**

**Objects and Reasons**


The following ordinary elections and by-elections of members of the Provincial Assemblies were not held on the dates required under the Provincial Government Act 1997 because of lack of funds:

- (i) the ordinary election of members of Choiseul Provincial Assembly due to be held on 15 December 2003;
- (ii) the ordinary election of members of Makira Ulawa Provincial Assembly due to be held on 29 September 2003;
- (iii) the ordinary election of members of Western Province Provincial Assembly due to be held on 15 December 2003;
- (iv) the by-election for Ward 6, Duidui in Guadalcanal Province due to be held not later than 21 September 2003;
- (v) the by-election for Ward 33, Sikaiana in Malaita Province due to be held not later than 5 March 2003;
- (vi) the by-election for Ward 4, Kanava in Rennell and Bellona Province due to be held not later than 29 February 2004.

The Provincial Government (Special Provisions) Bill 2005 -

- (a) validates the ordinary election of members for Choiseul Provincial Assembly to be held on 5 May 2005; the ordinary election of members for Makira Ulawa Provincial Assembly held on 25 November 2003 and the ordinary election of members for Western Province Provincial Assembly to be held on 5 May 2005;
- (b) validates the decisions and actions of the Provincial Executive of Choiseul Province, the Provincial Executive of Makira Ulawa Province and the Provincial Executive of Western Province after the Provincial Assembly elections of those Provinces fell due under the Provincial Government Act 1997;

- (c) validates the continuation in office of the members of the Provincial Executive of Choiseul Province, the Provincial Executive of Makira Ulawa Province and the Provincial Executive of Western Province after the Provincial Assembly elections of those Provinces fell due under the Provincial Government Act 1997;
- (d) specifies that the next ordinary election of members for Choiseul Provincial Assembly, Makira Ulawa Provincial Assembly and Western Province Provincial Assembly after the elections held in accordance with the Bill shall be held on the fourth anniversary of the date the elections for those Provinces are held in accordance with the Bill;
- (e) validates the Provincial Assembly by-election for Ward 6, Duidui in Guadalcanal Province held on 31 January 2005, the Provincial Assembly by-election for Ward 33, Sikaiana in Malaita Province held on 28 November 2003 and the Provincial Assembly by-election for Ward 4, Kanava in Rennell and Bellona held on 31 January 2005;
- (f) validates the decisions and actions of the Provincial Assembly of Guadalcanal Province, the Provincial Assembly of Malaita Province, and the Provincial Assembly of Rennell and Bellona after the by-elections for those Provincial Assemblies fell due;
- (g) excludes the decisions and actions referred to in paragraphs (b) and (f) from judicial review or appeal by reason of the ground of the failure to hold the elections and by-elections referred to in those paragraphs when they fell due under the Provincial Government Act 1997; and
- (h) specifies that the Bill expires on 30 June 2005.



MINISTER FOR PROVINCIAL GOVERNMENT  
AND CONSTITUENCY DEVELOPMENT



