

**DRAFT**  
**CONSTITUTION**  
**OF**  
**THE**  
**EUAHLAYI PEOPLES REPUBLIC**

THE CONSTITUTION OF THE EUAHLAYI PEOPLES REPUBLIC

**ARRANGEMENT OF PARTS**

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## Draft Constitution of the Euahlayi Peoples Republic

### Article 1

**Short title:** This constitution to be cited as the Constitution of the Euahlayi Peoples Republic.

### Article 2

**Commencement of this Constitution:** The Constitution of the Euahlayi Peoples Republic shall take effect immediately after a referendum is conducted amongst the enrolled Euahlayi People, where after the referendum date has been announced by the Provincial Peoples Executive Council with the approval of the Most Senior Elders Council, the voting Euahlayi population shall cast their vote, whereupon, 60% of those eligible to vote, approves by a “Yes” vote.

### Article 3

**(1) The National Government:** Shall consist of the; The President; The Peoples Executive Council of State; The Legislative House ; The Most Senior Elders Council; The Parliament [consisting of the Plenary of the of the House of Representatives and the Most Senior Elders Council, sitting as one]; The Administration and the Judiciary System.

### Article 4

- (a) The National Government is hereby empowered by this Constitution, to act in all matters pertaining to the Euahlayi Peoples Republic as the governing authority and voice of the Nation.
- (b) The national Government shall in all matters uphold the inherent rights that have been granted by the Creators and solemnized in original laws and ceremonies under Euahlayi law and customs and International law.

### Article 5

- (a) The National Government is the expression of the ancient collective rights and responsibilities of the Euahlayi Peoples and its citizens to the laws of the natural world inclusive of the universe.

### Article 6

The parliament is empowered to promulgate and pass laws; and to establish National policies, standards and regulations for the greater good of the Peoples and citizens of the Euahlayi Republic Nation State.

### Article 7

No law shall be made if, it is, or could impact on the rights and freedoms of all Peoples and citizens living within the Territories of the Euahlayi Peoples Republic.

## **Draft** Constitution of the Euahlayi Peoples Republic

### Article 8

No law(s) can be made that impact on good governance; peace; justice; civil order; and laws of the ancient customary practices of the Euahlayi Peoples including but not limited to: (1) Spiritual Laws; (2) Natural Law and (3) Societal laws of the Peoples.

The administration of these laws and assurances for peace; order; wellbeing; and stability within the Euahlayi Peoples Republic Nation State is the responsibility of the Nation States Secretaries of Government and their appointed administrative authorities.

## **PART I**

### **PREAMBLE**

*WHEREAS*; we the People of the Euahlayi Nation acknowledge Bhiemie; Birring-oolloo and Gunnumbielee; the creators of the, Euahlayi Dthouri –ngu (Land); Ghullee; (Water)Bhurrah-ngar Euahlayi (ancestral lands, waters and the Euahlayi People’s and all *things natural*):

Whereas; we, the Euahlayi , have existed within the Dthouri (land) of the Euahlayi since time immemorial. It is the plan of the Creators that Euahlayi People’s lives would exist within the defined territories for all time.

Whereas; everything that we required to sustain our existence was provided for and we are obligated to be respectful of all that was created as we are of the Creation and we are family.

Whereas; We the Euahlayi hereby declare our intent to live within and occupy our Dhtouri (land) which is our inheritance as bequeathed to us the Euahlayi by the great Creators and we further declare that we will live in unity and in harmony with Mother Nature as is proclaimed in this constitution.

Whereas; This constitution, also provides for the unification of all Peoples and communities living within the Dthouri (lands) of the Euahlayi. Further this Constitution ensures the structure and systems that will facilitate, and protect the rights and privileges of the Euahlayi Peoples and those who come to live within our territories.

*WHEREAS*; the Euahalayi Bhurrah’s (People) have declared that The Euahlayi Nation shall be a “Peoples Republic”, herein after, to be known as The “*Euahlayi Peoples Republic*”

*WHEREAS*; by a Referendum amongst the voting aged Euahalayi Bhurrah’s (Peoples) who have apical ancestral ties to the Dthourignu (Lands of) the Euahlayi, where, by majority vote, accept this Constitution, as the Constitution and Supreme Law of the Euahlayi Peoples Republic:

WHEREAS; with the authority of the most Senior Elders by and in consultation with the Peoples Executive Council of State, who through their prior and Informed consent, agree and authorize this constitution.

## **PART II**

The Euahlayi Peoples Republic AND SUPREME LAW OF the Euahlayi Peoples Republic

### 1. The Euahlayi Peoples Republic

The Euahlayi Peoples Republic is an independent sovereign State made up of seven ancestral provinces to be known as Dirranbandi; Hebel; Collarenebri Angeldool; Lightning Ridge; Goodooga; Cumborah; North Brewarrina and others, as may be approved of by the

Governing legislature of the Euahlayi Peoples Republic in accordance with Euahlayi traditional law and custom.

2. The Supreme Law of The Euahlayi Peoples Republic is:

(a) This Constitution is the Supreme Law of The Euahlayi Peoples Republic.

(b) A law inconsistent with this Constitution is, to the extent of the inconsistency, void.

### **PART III**

#### **RIGHTS UNDER THIS CONSTITUTION**

##### **3. Rights of Mother Earth**

(i). Whereas; Mother Earth has rights, as She is the giver of sustenance for life. Mother Earth is the provider for The Euahlayi Peoples Republic and she keeps us safe in the cradle of her hands.

(ii). Whereas; Mother Earth gives strength and support for all Euahlayi life. She gives us good season and seasons that test our commitment to her and our love for her, however she has rights that must be preserved and protected.

(iii). Whereas; This constitution sets out that Mother Earth has special rights, and through legislation, establish laws that must be observed by all Euahlayi citizens and others to ensure for her preservation and protection.

(iv). Whereas, Mother Earth, has the right, not to be violated and stripped of Her natural resources and wealth to an extent where those natural resources cannot be replenished through a natural process of growth or rehabilitation.

(v). **Whereas, Mother Earths representatives** are those of the Euahlayi Peoples Republic in the elected parliament.

##### **4. Rights and freedoms of the individual**

Whereas; every person in the The Euahlayi Peoples Republic is entitled to the fundamental human rights and freedoms of the individual, including but not limited to all basic rights whatever his race, place of origin, political opinions, color, creed or sex, but subject to respect for the rights and freedoms of others and for the public interest, to each and all of the following freedoms, namely:-

*(a) Life, liberty, cultural identity, security of the person, the enjoyment of property and the protection of the law;*

*(b) Freedom of conscience, of expression and of peaceful assembly and association;  
and*

- (c) Respect for his private and family life and*
- (d) The right to choose one's own religious belief(s)*

The subsequent provisions of this Part have effect for the purpose of affording protection to those rights and freedoms, subject to such limitations of that protection as are contained in those provisions, being limitations designed to ensure that the enjoyment of those rights and freedoms by a person does not prejudice the rights and freedoms of other persons or the public interest.

## **5. The individual right to life**

Whereas; every person has the right to life as is given by our creators. No person shall be deprived of his life intentionally. There is to be no law made that gives the rights to any person or people under law for any person to take another person's life or imprisonment for any reason whatsoever other than by an approved court of the Euahlayi People Republic or that of another court of a recognized State under International Law.

## **6. Individual rights to personal liberty**

Whereas;

**(1.)** No person shall be deprived of his personal liberty, except as authorized by law in any of the following cases:-

- (a) in execution of the sentence or order of a court in respect of an offence of which he/she has been convicted;*
- (b) for the purpose of bringing him/her before a court in execution of the order of a court;*
- (c) upon reasonable suspicion of his/her having committed, or being about to commit, an offence;*
- (d) under the order of a court, for his/her welfare during any period ending not later than the date on which he attains the age of eighteen years;*
- (e) in the case of a person who is, or is reasonably suspected to be, of unsound mind or addicted to drugs or alcohol, for the purpose of his/her care or treatment or the protection of the community; and*
- (f) for the purpose of preventing his/her unlawful entry into the The Euahlayi Peoples Republic, or for the purpose of effecting his/her expulsion, extradition or other lawful removal from the territories of the The Euahlayi Peoples Republic.*

**(2.)** A person who is arrested or detained shall be informed promptly of the reasons for the arrest or detention and shall be permitted to consult in the place in which he is detained a legal representative of his own choice.

**(3.)** A person who has been arrested or detained in the circumstances referred to in paragraph (c) of clause (1.) of this Article and has not been released, shall be brought before a judge or some other person holding judicial office within a period of twenty-four hours after the arrest or detention and shall not be further held in custody in connexion with that offence except by order of a judge or some other person holding judicial office.

(4.) Where a complaint is made to the Supreme Court that a person is unlawfully detained, the Supreme Court shall enquire into the complaint and the circumstances for the arrest. Unless satisfied that the detention is lawful, shall order that that person be brought before it and shall release him if the case is so warranted.

## 7. Protection from forced labour

Whereas;

(1.) No person shall be required to perform forced labour.

(2.) For the purposes of this Article, "forced labour" does not include:-

*(a) labour required by the sentence or order of a court;*

*(b) labour required of a person while he/she is lawfully detained, being labour that, though not required by the sentence or order of a court, is reasonably necessary for the purposes of hygiene or for the maintenance of the place at which he/she is detained;*

*(c) labour required of a member of a disciplined force in pursuance of his/she duties as such a member; or*

*(d) labour reasonably required as part of reasonable and normal communal or other civic obligations as ordered by the courts from time to time.*

## 8. Protection from inhuman treatment

Whereas; No person shall be subjected to torture or to treatment or punishment, that is inhuman or degrading.

## 9. Protection from deprivation of property

Whereas;

(1.) No person shall be deprived compulsorily of his property except in accordance with law for a public purpose and on just terms.

(2.) Nothing contained in or done under the authority of a law shall be held to be inconsistent with or in contravention of the provisions of this constitution.

*(a) for the taking of possession or acquisition of any property-*

*(i) in satisfaction of a tax;*

*(ii) by way of penalty for breach of the law or forfeiture in consequence of breach of the law;*

*(iii) as an incident of a lease, tenancy, mortgage, charge, bill of sale, pledge or contract;*

*(iv) in the execution of a judgment or order of a court in proceedings for the determination of civil rights or obligations;*

*(v) in circumstances where it is reasonably necessary so to do because the property is in a dangerous state or is injurious to the health of human beings, animals or plants; or*

*(vi) in consequence of any law with respect to the limitation of actions; or*



- (b) for the taking of possession or acquisition of any of the following property:-*
- (i) property of a deceased person, a person of unsound mind or a person who has not attained the age of twenty years, for the purpose of administering it for the benefit of the person entitled to the beneficial interest in that property;*
  - (ii) property of a person adjudged bankrupt or insolvent or of a body corporate in liquidation, for the purpose of administering it for the benefit of the creditors of the bankrupt or insolvent or body corporate and, subject thereto, for the benefit of other persons entitled to the beneficial interest in the property;*
  - (iii) property subject to a trust, for the purpose of vesting the property in persons appointed as trustees under the instrument creating the trust or by a court or, by order of a court, for the purpose of giving effect to the trust; and*
  - (iv) property held by a body corporate established by law for public purposes.*

## 10. Protection of person and property

Whereas;

**(1.)** No person shall without his/her prior and informed consent be subject to the search of his person or property or the entry on his/her premises by other persons without due cause by an authorized officer of the State by way of a Court order.

**(2.)** Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of the provisions of clause (1.) of this Article to the extent that that law makes provision-

*(a) that is reasonably required in the interests of defense, public safety, public order, public morality, public health, the development or utilization of natural resources or the development or utilization of any property for a purpose beneficial to the community;*

*(b) that is reasonably required for protecting the rights or freedoms of other persons;*

*(c) that authorizes an officer or agent of The Euahlayi Peoples Republic or of a body corporate established by law for public purposes to enter, where reasonably necessary, on the premises of a person in order to inspect those premises or anything in or on them in relation to any tax or in order to carry out work connected with any property that is lawfully in or on those premises and belongs to the Republic or body corporate as the case may be; or*

*(d) that authorizes, for the purpose of enforcing the judgment or order of a court, the search of a person or property by order of a court or entry upon any premises under such an order.*

## 11. Provision to secure the protection of law

Whereas;

**(1.)** No person shall be convicted of an offence which is not defined by law.

**(2.)** A person charged with an offence shall, unless the charge is withdrawn, be afforded a fair

hearing within a reasonable time by an independent and impartial court established under this Constitution.

**(3.)** A person charged with an offence:-

- (a) shall be presumed innocent until proved guilty according to law;*
- (b) shall be informed promptly in a language that he/she understands and in detail of the nature of the offence with which he/she is charged;*
- (c) shall be given adequate time and facilities for the preparation of his/her defense;*
- (d) shall be permitted to have without payment the assistance of an interpreter if he/she cannot understand or speak the language used at the trial of the charge;*
- (e) shall be permitted to defend himself/herself before the court in person or, at his/her own expense, by a legal representative of his/her own choice or to have a legal representative assigned to him/her in a case where the interests of justice so require and without payment by him/her in any such case if he/she does not, in the opinion of the court, have sufficient means to pay the costs incurred; and*
- (f) shall be afforded facilities to examine in person or by his/her legal representative the witnesses called before the court by the prosecution, and to obtain the attendance and carry out the examination of witnesses and to testify before the court on his/her own behalf, on the same conditions as those applying to witnesses called by the prosecution,*
- (g) and, except with his/her own consent, the trial shall not take place in his/her absence unless he/she so conducts himself as to render the continuance of the proceedings in his/her presence impracticable and the court has ordered him/her to be removed and the trial to proceed in his/her absence.*

**(4.)** No person shall be convicted of an offence on account of any act or omission that did not, at the time it took place, constitute such an offence and no penalty shall be imposed for an offence that is more severe in degree or description than the maximum penalty that might have been imposed for that offence at the time when it was committed.

**(5.)** No person who shows that he has been tried by a competent court for an offence and either convicted or acquitted shall again be tried for that offence, except upon the order of a superior court made in the course of appeal or review proceedings relating to the conviction or acquittal.

**(6.)** No person shall be tried for an offence for which he/she has been pardoned.

**(7.)** No person who is tried for an offence shall be compelled to give evidence at the trial.

**(8.)** No person shall be compelled in the trial of an offence to be a witness against himself/herself.

**(9.)** A determination of the existence or extent of a civil right or obligation shall not be made except by an independent and impartial court or other authority prescribed by law and proceedings for such a determination shall be fairly heard and within a reasonable time.

**(10.)** Except with the agreement of the parties thereto, proceedings of a court and proceedings for the determination of the existence or extent of any civil right or obligation before any other authority, including the announcement of the decision of the court or other authority,

shall be held in public.

**(11.)** Nothing in clause (10.) of this Article shall prevent the court or other authority from excluding from the hearing of the proceedings persons, other than the parties thereto and their legal representatives, to such extent as the court or other authority-

*(a) is by law, empowered to do and considers necessary or expedient in the interests of public morality or in circumstances where publicity would prejudice the interests of justice, the welfare of persons under the age of twenty years or the protection of the private lives of persons concerned in the proceedings; or*

*(b) is by law, empowered or required to do in the interests of defense, public safety or public order.*

**(12.)** Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of the provisions

*(a) paragraph (a) of clause (3.) of this Article by reason that that law places upon a person charged with an offence the burden of proving particular matters; or*

*(b) paragraph (f) of clause (3.) of this Article by reason that that law imposes reasonable conditions which must be satisfied if witnesses called to testify on behalf of a person charged with an offence are to be paid their expenses out of public funds.*

## **12. Freedom of Conscience**

**(1.)** A person has the right to freedom of conscience, thought and religion, including freedom to change his religion or beliefs and freedom, either alone or in community with others and in public or private, to manifest and propagate his religion or beliefs in worship, teaching, practice and observance.

**(2.)** Except with his consent, no person shall be hindered in the enjoyment of a right or freedom referred to in clause (1.) of this Article.

**(3.)** Except with his consent or, if he is under the age of Eighteen years, the consent of his parent or guardian, no person attending a place of education is required to receive religious instruction or to take part in or attend a religious ceremony or observance if that instruction, ceremony or observance relates to a religion other than his own religion or belief.

**(4.)** Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of the provisions of this Article to the extent that that law makes provision which is reasonably required:-

*(i) in the interests of defense, public safety, public order, public morality or public health;*

*(ii) for protecting the rights and freedoms of other persons, including the right to observe and practice any religion without the unsolicited intervention of members of some other religion; or*

*(iii) for regulating the secular education provided in any place of education in the interests of the persons receiving instruction in that place.*

### 13. Protection of Freedom of Expression

(1.) A person has the right to freedom of expression.

(2.) Except with his/her consent, no person shall be hindered in the enjoyment of his/her right to freedom of expression.

(3.) Nothing contained in or done under the authority of any law shall be held to be inconsistent with, or in contravention of, the provisions of this Article to the extent that that law makes provision:-

*(i) that is reasonably required in the interests of defense, public safety, public order, public morality or public health;*

*(ii) that is reasonably required for the purpose of protecting the reputations, rights and freedoms of other persons or the private lives of persons concerned in legal proceedings, preventing the disclosure of information received in confidence or maintaining the authority and independence of the courts;*

*(iii) that is reasonably required for the purpose of regulating the technical administration or technical operation of telephony, telegraphy, posts, wireless broadcasting or television or restricting the establishment or use of telephonic, telegraphic, wireless broadcasting or television equipment or of postal services; or*

*(iv) that regulates the use of information obtained by public officers in the course of their employment.*

### 14. Protection of Freedom of Assembly and Association

(1.) Persons have the right to assemble and associate peaceably and to form or belong to trade unions or other associations.

(2.) Except with his/her consent, no person shall be hindered in the enjoyment of a right referred to in clause (1.) of this Article.

(3.) Nothing contained in or done under the authority of any law shall be held to be inconsistent with, or in contravention of, the provisions of this Article to the extent that that law makes provision that is reasonably required:-

*(a) in the interests of defense, public safety, public order, public morality or public health; or*

*(b) for protecting the rights and freedoms of other persons.*

### 15. Enforcement of fundamental rights and freedoms

(1) A right or freedom, conferred by this Part, is enforceable by the Supreme Court at the suit of a person having an interest in the enforcement of that right or freedom.

(2.) The Supreme Court may make all such orders and declarations as are necessary

and appropriate for the purposes of clause (1.) of this Article.

## **16. Interpretation**

In this Part, unless the context otherwise requires:-

*"contravention", in relation to any requirement, includes a failure to comply with that requirement, and cognate expressions shall be construed accordingly;*

*"disciplined force" means:-*

**(a)** *the Police Force; or*

**(b)** *State Marines*

**(c)** *any other body established by law for the purposes of defense and security or maintaining public safety or public order within the Euahlayi Peoples Republic State Borders;*

*"legal representative" means a person entitled to be in or to enter The Euahlayi Peoples Republic and entitled by law to appear in proceedings before a court on behalf of a party to those proceedings;*

*"member", in relation to a disciplined force, includes a person who, under the law regulating the discipline of that force, is subject to that discipline;*

*"public property" includes property of a body corporate established by law for public purposes.*

## **PART IV**

### **PRESIDENT AND GOVERNMENT**

## **17. THE GOVERNANCE**

The governance of The Euahlayi Peoples Republic will consist of a President, the parliament and the Executive Council (cabinet) and a Senior Elders Council.

### **The President**

There shall be a President of The Euahlayi Peoples Republic, who shall be elected by Euahlayi Peoples who are citizens of The Euahlayi Peoples Republic every 4 years commencing from the first election of the president.

**(1.)** A person is not qualified to be elected President if they are not a direct descendent of the Euahlayi Apical Ancestors.

**(2.)** The President holds office until the election of another person as President.

**(3.)** The people shall elect a President-

- (a) Whenever the office of President is vacant;*
- (b) The President tenders the resignation of his office by writing under his hand delivered to a sitting of the parliament or at a specially convened sitting of the parliament for the purpose of receiving such a resignation.*
- (c) a resolution for the impeachment and removal from office of the President by a sitting of parliament where 90 days' notice is given under a resolution of two thirds of the parliament signed by the speaker of the parliament.*
- (d) The President can only be removed from office with a 90% majority of the parliament on a no confidence vote.*
- (e) If the President cannot perform the role of president because of illness or other incapacity such as mental health, and not being present for a period of one month, then the speaker of the house may fill the role of President, until an election is called after consultation with the House of the Elders. The election of a new President must be within six months of speaker of the Legislative House filling the temporary position of President.*

## **18. The Parliament**

- (2)** The Parliament of The Euahlayi Peoples Republic shall have a 84 member parliament.
- (3)** The parliament will have 1 male and 1 female representatives elected by their respective ancestral family groups through a fair and just election process within their respective province and family group. The parliament will also consist of representatives elected from the Non-ancestral citizens (two from each province).
- (4)** The parliament shall consist of two houses of parliament, one The Executive Legislative House and the Most Senior Elders Council.

The parliament will elect a speaker and the speaker will control the parliamentary processes and business of parliament.

## **19. Election of members of parliament**

- (1.)** For the purpose of the election of members of Parliament, The Euahlayi Peoples Republic shall be divided into seven provinces.
- (2.)** Each province will elect the required numbers as per the family groups that can show their direct ancestral connection to the province. There will also be two seats made available within the parliament for citizens of The Euahlayi Peoples Republic who are permanently residing within the province who are non-ancestral citizens of The Euahlayi Peoples Republic. Each of the provinces shall elect two non-ancestral permanent residents to the Legislature. The non-Ancestral permanent residents shall elect two Elders from amongst them to the Most Senior Council of Elders.
- (3.)** A person shall not be at the same time a Member of Parliament for more than one Province or elected to represent more than one ancestral family group.

## **20. Electors for Parliament**

Members of Parliament shall be appointed in such manner as is prescribed by this

constitution, by The Euahlayi Peoples Republic citizens who have attained the age of eighteen years.

## **21. Qualification for membership of Parliament**

A person is qualified to be elected a Member of Parliament if, and is not so qualified unless, he/she:-

- (a) is a citizen The Euahlayi Peoples Republic and has attained the age of eighteen years; and*
- (b) is not disqualified under this Constitution.*

## **22. Disqualifications for membership of Parliament**

No person is qualified to be elected a Member of Parliament if he/she:-

- (a) is un-discharged bankrupt or insolvent who has been declared bankrupt or insolvent according to law;*
- (b) is a person certified to be insane or otherwise adjudged according to law to be mentally disordered;*
- (c) has been convicted and is under sentence or is subject to be sentenced for an offence punishable according to law by death or by imprisonment for one year or longer;*
- (d) does not possess such qualifications relating to residence or domicile in The Euahlayi Peoples Republic as are prescribed by law; or*
- (e) holds an office of profit in the service of The Euahlayi Peoples Republic or of a statutory corporation, being an office prescribed by law for the purposes of this paragraph.*

## **23. Vacation of seats by members of Parliament**

**(1.)** A Member of Parliament vacates his seat:-

- (a) upon the dissolution of Parliament next after his/her election;*
- (b) upon becoming disqualified under Article 31 to be elected a member of Parliament;*
- (c) upon resigning his/her seat by writing under his/her hand delivered, in the case of a member other than the Speaker, to the Speaker and, in the case of the Speaker, to the Clerk of Parliament;*
- (d) if he/she is absent without leave of Parliament on every day on which a meeting of Parliament is held during a period of two months; or*
- (e) upon ceasing to be a The Euahlayi Peoples Republic citizen.*

**(2.)** In the event of the occurrence of a vacancy in the office of a Member of Parliament, an appointment shall be made in the manner prescribed by law of a member to fill the vacant office.

**24. Authority of Government is vests in the Executive Council of State of The Euahlayi Peoples Republic**

- (1) The executive authority of The Euahlayi Peoples Republic is vested in a Executive Council of State constituted as provided by this Part and the Executive Council of State has the general direction and control of the government of The Euahlayi Peoples Republic.
- (2.) The Cabinet is collectively responsible to Parliament.

**25. The Cabinet**

- (1.) The Executive Council of State consists of the State Secretary's appointed by the President with advice from the speaker and deputy speaker of the house to fulfill the Ministry which will make up the Executive Council of State.
- (2.) A member of the Executive Council of State shall, before entering upon the duties of his office, take and subscribe the oath set out in the **First Schedule**.
- (3.) A member of the Executive Council of State shall not hold an office of profit in the service of The Euahlayi Peoples Republic or of a statutory corporation while being an elected parliamentarian.

**26. Appointment of Ministers**

- (1.) The president will appoint ministers outlined in 19.1 in consultation with the speakers of both Houses of parliament.

**27. Vacation of office**

A Minister ceases to hold office:-

- (a) upon resigning his office by writing under his hand delivered to the President;
- (b) upon being removed from office by the President; or
- (c) upon ceasing to be a member of Parliament otherwise than by reason only of its dissolution.

**28. Provision for Minister to act as President**

The Executive Council of State may appoint a Minister to perform the duties and exercise the functions of the office of the President during any period during which the President is unable to act owing to illness, absence from The Euahlayi Peoples Republic or any other cause.

**29. Meetings of Executive Council of State**

- (1.) The President shall preside at all meetings of the Executive Council of State.
- (2.) Subject to this Constitution, the Executive Council of State may regulate its own procedure.



**30. Appointment of State Secretary's to Departments**

The President may assign to himself or to a State Secretary responsibility for any business of the government of The Euahlayi Peoples Republic and may revoke or vary an assignment made under this Article.

**31. Vote of No Confidence**

(1.) Where Parliament on a resolution approved by at least ninety percent of the total number of members of Parliament, resolves to impeach the President, the President will be removed from office on the grounds that the parliament no longer has confidence in the President whereupon, an election for a President shall be held at the request of the Most Senior Council of Elders, within six months.

**32. Chief Secretary**

(1.) There shall be a Chief Secretary of the Euahlayi Peoples Republic, who shall be appointed by the Executive Council of State.

(2.) A Member of Parliament is not qualified to be appointed Chief Secretary.

(3.) The Chief Secretary may resign his office by writing under his hand delivered to the President and may be removed from office by the Executive Council of State.

(4.) The Chief Secretary has such powers and functions as the Executive Council of State directs and as are conferred on him by this Constitution or by law.

**PART V.**

**ESTABLISHMENT OF LEGISLATURE**

**34. Legislative powers of Parliament**

Subject to this Constitution, Parliament may make laws for the peace, order and good government of the Euahlayi Peoples Republic; laws so made may have effect outside as well as within the Euahlayi Peoples Republic.

**35. Clerk of Parliament**

(1.) There shall be a Clerk of Parliament, who shall be appointed by the Speaker.

(2.) A Member of Parliament is not qualified to be appointed Clerk of Parliament.

(3.) The Clerk of Parliament may at any time resign his office by writing under his hand delivered to the Speaker and may be removed from office by the Speaker at any time.

(4.) Before or during the absence of the Clerk of Parliament, the Speaker may appoint a

person who is not a Member of Parliament to perform the functions of the Clerk during his absence.

### **36. Speaker of the parliament**

**(1.)** Parliament shall, before it proceeds to the dispatch of any other business, elect one of its members to be Speaker and, whenever the office of Speaker is vacant, shall not transact any business other than the election of one of its members to fill that office.

**(2.)** The Speaker ceases to hold office-3

*(a) When Parliament first meets after dissolution;*

*(b) Upon ceasing to be a Member of Parliament otherwise than by reason only of its dissolution;*

*(d) Upon being removed from office by a resolution of Parliament; or*

*(e) Upon resigning his office by writing under his hand delivered to the Clerk of Parliament.*

### **37 Deputy Speaker of Parliament**

**(1.)** Parliament shall, after the election of the Speaker and before it proceeds to the dispatch of any other business, elect one of its members to be Deputy Speaker and, whenever the office of Deputy Speaker is vacant, shall, as soon as possible, elect one of its members to fill that office.

**(2.)** The Deputy Speaker ceases to hold office-

*(a) When Parliament first meets after dissolution;*

*(b) Upon ceasing to be a Member of Parliament otherwise than by reason only of its dissolution;*

*(d) Upon being removed from office by a resolution of Parliament; or*

*(e) Upon resigning his office by writing under his hand delivered to the Clerk of Parliament.*

**(3.)**The powers and functions conferred by this Constitution upon the Speakers shall, if there is no person holding the office of Speaker or if the Speaker is absent from a sitting of Parliament or is otherwise unable to exercise those powers and perform those functions, be exercised and performed by the Deputy Speaker and, if he is also absent or unable to exercise those powers and perform those functions, Parliament may elect one of its members to exercise those powers and perform those functions.

### **38. Determination on questions of membership of Parliament**

**(1)** any question that arises concerning the right of a person to be of or to remain a member of

Parliament shall be referred to and determined by the Supreme Court.

**39. Powers privileges and immunities of Parliament**

(1) the powers, privileges and immunities of Parliament and of its members and committees are such as are declared by Parliament.

**40. Procedure in Parliament**

(1.) Parliament may make, amend or repeal rules and orders with respect to-

*(a) The mode in which its powers, privileges and immunities may be exercised and upheld; and*

*(b) The conduct of its business and proceedings.*

(1.)Parliament may act notwithstanding a vacancy in its membership and the presence or participation of a person not entitled to be present at, or to participate in, the proceedings of Parliament does not invalidate those proceeding

**41. Appointments for Parliament**

(1) Appointment of members of Parliament shall be made at such time within two months after dissolution of Parliament as the Speaker in accordance with the advice of the President appoints.

**42. Sessions of Parliament**

(1.) Each session of Parliament shall be held at such place and shall begin at such time, not being later than twelve months after the end of the preceding session if Parliament has been prorogued, or twenty-one days after the last day on which a candidate at a general election is declared elected if Parliament has been dissolved, as the Speaker in accordance with the advice of the President appoints.

(2.) Subject to the provisions of clause (1.) of this Article, the sittings of Parliament shall be held at such times and places as it, by its rules of procedure or otherwise, determines.

**42. Prorogation and dissolution of Parliament**

(1.) The Speaker, in accordance with the advice of the President, may at any time prorogue Parliament.

(2.) The Speaker shall, if he is advised by the President to dissolve Parliament, refer the advice of the President to Parliament as soon as practicable and in any case before the expiration of fourteen days after his receipt of the advice.

(3.) For the purposes of clause (2.) of this Article, and notwithstanding Article 40, the

Speaker shall, if necessary, appoint a time for the beginning of a session, or for a sitting, of Parliament.

**(4.)** Where the Speaker has, under clause (2.) of this Article, referred the advice of the President to Parliament, and no resolution for the removal from office of the President and State Secretary's under Article 24 is approved after the date on which the advice was so referred, he shall dissolve Parliament on the seventh day after that date.

**(5.)** The President may withdraw his advice at any time before the Speaker has dissolved Parliament and where the President so withdraws his advice, the Speaker shall not dissolve Parliament.

**(6.)** Notwithstanding the preceding provisions of this Article, where a resolution for the removal from office of the President and State Secretary's is approved under Article 24, the Speaker shall not-

- (a) Prorogue Parliament; or*
- (b) Dissolve Parliament,*

During the period of seven days after the day on which the resolution is approved

**(7.)** Parliament shall, unless sooner dissolved, continue for a period of four years from and including the date of the first sitting of Parliament after any dissolution and shall then stand dissolved.

#### **43. Sessions of Parliament at request of one-third of members**

**(1.)** Where-

- (a) Parliament is not in session; and*
- (b) There is delivered to the Speaker a request that complies with clause (2.) of this Article for the holding of a session,*

The Speaker shall appoint a time for the holding of a session of Parliament, being a time before the expiration of fourteen days after the request is delivered.

**(2.)** A request referred to in clause (1.) of this Article10-

- (a) Shall be in writing;*
- (b) Shall be signed by a Member of Parliament for each of at least three constituencies and by a number of members of Parliament which is at least one-third of the total number of members of Parliament; and*
- (c) Shall set out particulars of the business proposed to be dealt with at the session of Parliament.*

#### **44. Oath of members of Parliament**

**(1.)** A Member of Parliament shall, before taking his seat, take and subscribe before Parliament the oath set out in the Third Schedule, but a member may before taking and

subscribing that oath take part in electing the Speaker.

(2.) The Speaker shall, if he has not taken and subscribed the oath set out in the Third Schedule, take and subscribe that oath before entering upon the duties of his office.

**45. Speaker to preside**

(1) The Speaker shall preside at a sitting of Parliament.

**46. Quorum**

No business shall be transacted at a sitting of Parliament if the number of its members present, other than the person presiding at the sitting, is less than one-half of the total number of members of Parliament.

**46. Voting**

(1.) Except as otherwise provided by this Constitution, a question before Parliament shall be decided by a majority of the votes of its members present and voting.

(2.) The Speaker or other member presiding in Parliament shall not vote unless on a question the votes are equally divided in which case he has and shall exercise a casting vote.

**48. Enactment of laws**

a proposed law becomes law on the date when the Speaker certifies that it has been passed by Parliament and the President has signed under the Presidential Seal.

**PART VI**

**THE JUDICATURE**

**49. Supreme Court of the Euahlayi Peoples Republic Republic**

(1.) There shall be a Supreme Court of the Euahlayi Peoples Republic, which shall be a superior court of record.

(2.) The Supreme Court has, in addition to the jurisdiction conferred on it by this Constitution, such jurisdiction as is prescribed by law.

**50. Chief Justice and Judges of Supreme Court**

(1.) The Supreme Court consists of a Chief Justice and such number, if any, of other judges as is prescribed by law.

(2.) The judges of the Supreme Court shall be appointed by the President.

(3.) A person is not qualified to be appointed a judge of the Supreme Court unless he is entitled as prescribed by law to practice as a barrister or solicitor in the Euahlayi Peoples

Republic and has been so entitled for not less than five years(?).

**51. Vacation of office**

(1.) A judge of the Supreme Court ceases to hold office on attaining the age of sixty-five years or, if a greater age is prescribed by law for the purposes of this Article, on attaining that greater age.

(2.) A law that prescribes a greater age for the purposes of this Article may provide that that law applies only to specified judges.

**52. Removal from office and resignation**

(1.) A judge of the Supreme Court may not be removed from office except on a resolution of Parliament approved by not less than two-thirds of the total number of members of Parliament seeking his removal from office on the ground of proved incapacity or misconduct.

(2.) A judge of the Supreme Court may resign his office by writing under his hand delivered to the President.<sup>12</sup>

**53. Oath of office**

a judge of the Supreme Court shall not enter upon the duties of his office unless he has taken and subscribed the oath set out in the Fourth Schedule.

**54. Acting judges**

(1.) If the office of Chief Justice is vacant or if the Chief Justice is for any reason unable to perform the duties of his office then until a person has been appointed to and has assumed the duties of that office or until the person holding that office has resumed those duties, as the case may be, those duties shall be discharged by such one of the other judges of the Supreme Court as is designated by the President or, if there is no other judge of the Supreme Court, by a person designated by the President, being a person who is qualified to be appointed a judge of the Supreme Court.<sup>13</sup>

(2.) If the office of a judge of the Supreme Court other than the office of the Chief Justice is vacant or if the person holding that office is for any reason unable to perform the duties of his office or if the state of business in the Supreme Court so requires, the President may appoint a person qualified to be appointed a judge of the Supreme Court to act as a judge of the Supreme Court and a person so appointed may act as a judge of the Supreme Court notwithstanding that he has attained the age of sixty five years or, if a greater age is prescribed by law for the purposes of Article 50, has attained that greater age.

(3.) The provisions of clause (2.) of this Article apply in respect of the office of Chief Justice if at a time when the office of the Chief Justice is vacant no other person holds office as a judge of the Supreme Court.

(4.) A person appointed under clause (2.) of this Article to act as a judge of the Supreme

Court shall continue to act for the period of his appointment or, if no such period is specified, until his appointment is revoked by the President.15

**55. Matters concerning the Constitution**

(1.) The Supreme Court shall, to the exclusion of any other court, have original jurisdiction to determine any question arising under or involving the interpretation or effect of any provision of this Constitution.

(2.) Without prejudice to any appellate jurisdiction of the Supreme Court, where in any proceedings before another court a question arises involving the interpretation or effect of any provision of this Constitution, the cause shall be removed into the Supreme Court, which shall determine that question and either dispose of the case or remit it to that other court to be disposed of in accordance with the determination.

**56. Referral powers**

(1.) The Cabinet may refer questions on Constitution to the Supreme Court

(2.) The President or a State Secretary may, in accordance with the approval of the Cabinet, refer to the Supreme Court for its opinion any question concerning the interpretation or effect of any provision of this Constitution which has arisen or appears to the Cabinet likely to arise, and the Supreme Court shall pronounce in open court its opinion on the question.

**57. Subordinate courts**

(1) there shall be such subordinate courts as are established by law and those courts possess such jurisdiction and powers as are prescribed by law.

**58. Appeals**

(1.) Parliament may provide that an appeal lies as prescribed by law from a judgment, decree, order or sentence of the Supreme Court constituted by one judge to the Supreme Court constituted by not less than two judges.

(2.) Parliament may provide that an appeal as prescribed by law from a judgment, decree, order or sentence of the Supreme Court to a court of another country.

**PART VII**

**FINANCE**

**59. Treasury Fund**

(1). All revenues and other moneys raised or received by the Euahlayi Peoples Republic, not being revenues or other moneys payable by law into another fund established for a specific

purpose, shall be paid into and form a Treasury Fund.

**60. Withdrawals from Treasury Fund and Public Funds**

(1.) No moneys shall be withdrawn from the Treasury Fund except to meet expenditure that is charged upon the Treasury Fund by this Constitution or in accordance with law.

(2.) No moneys shall be withdrawn from any fund referred to in Article 58 other than the Treasury Fund except in accordance with law.

(3.) A proposed law for the withdrawal of moneys from the Treasury Fund or any other fund referred to in Article 58 shall not receive the certificate of the Speaker under Article 47 unless the purpose of the withdrawal has been recommended to Parliament by the Cabinet.18

(4.) The Cabinet shall cause to be prepared and laid before Parliament before the date of commencement of each financial year (or if, in respect of a particular financial year, Parliament, by resolution, determines a later date, before that later date), estimates of the revenues and expenditure of Euahlayi Peoples Republic for that year.19

**61. Taxation**

No tax shall be raised except as prescribed by law and a proposed law for the imposition of a tax shall not receive the certificate of the Speaker under Article 47 unless the imposition of the tax has been recommended to Parliament by the Executive Council of State.

**62. Withdrawal of moneys in advance of appropriation law**

(1.) If the appropriation law in respect of a financial year has not received the certificate of the Speaker under Article 47 on or before the twenty-first day before the commencement of that financial year, the Cabinet may, in accordance with clause (2.) of this Article, recommend to Parliament a proposed law authorizing the withdrawal of moneys from the Treasury Fund for the purpose of meeting expenditure necessary to carry on the services of the Euahlayi Peoples Republic after the commencement of that financial year until the expiration of three months or the coming into operation of the appropriation law, whichever is the earlier.21

(2.) A recommendation by the Executive Council of State referred to in clause (1.) of this Article shall be in writing delivered to the Speaker not later than the fourteenth day before the commencement of the financial year and the Speaker shall, on receiving the recommendation, lay it before Parliament as soon as practicable.22

(3.) For the purposes of clause (2.) of this Article and notwithstanding Article 40, the Speaker shall, if necessary, appoint a time for the beginning of a session, or for a sitting, of Parliament.23

(4.) Where the Executive Council of State has recommended a proposed law under clause (1.) of this Article and neither the appropriation law nor that proposed law has come into operation on or before the commencement of that financial year, the Executive Council of State may authorize the withdrawal of moneys in accordance with that proposed law but the amount of moneys so withdrawn shall not exceed one-quarter of the amount withdrawn under



the authority of the appropriation law or laws in respect of the preceding financial year.<sup>24</sup>

**63. Long Term Investment Fund**

(1.) There shall be a Long Term Investment Fund constituted by the moneys that immediately before the commencement of this Constitution constituted a fund called the Euahlayi Peoples Republic Long Term Investment Fund and by such other moneys as are appropriated by law for payment into the fund or are paid into the fund as provided by clause (2.) of this Article.

(2.) Moneys constituting the Long Term Investment Fund may be invested as prescribed by law and income derived from moneys so invested shall be paid into the fund.

(3.) Notwithstanding the provisions of Article 59, no moneys shall be withdrawn from the Long Term Investment Fund, unless for purposes of items agreed to by 90 per cent of the parliament and is to be used for the purpose for which it has been withdrawn for and only 25 percent of the fund may be drawn.

(4) The Long Term Investment Funds must not fall below 75% of original investment amount.

**64. Mineral royalties**

(1.) Parliament may provide for the establishment of a fund for the benefit of persons from whose land minerals have been recovered and for the payment into that fund of amounts from the Treasury Fund and for the payment of moneys out of that fund to those persons.

(2.) Parliament may provide for the payment from the Treasury Fund to persons from whose land the mineral deposits have been recovered of such royalties as are prescribed by law.

**65. Contingencies Fund**

(1.) Parliament may provide for the establishment of a Contingencies Fund and for authorizing the Cabinet, if satisfied, that there has arisen an urgent and unforeseen need for expenditure for which no other provision exists, to make advances from that fund for the purposes of that expenditure.

(2.) Where an advance is made from the Contingencies Fund, provision may be made by law for replacing the amount so advanced.

**66. Remuneration of certain officers**

(1.) There shall be paid to the holders of the offices to which this Article applies such salary and such allowances as are prescribed by law.

(2.) The salaries and allowances payable to the holders of the offices to which this Article applies are a charge on the Treasury Fund.

(3.) The salary and allowances payable to the holder of an office to which this Article applies and his other conditions of service shall not be altered to his disadvantage during the term of his appointment.

(4.) This Article applies to the office of judge of the Supreme Court, Clerk of Parliament and Director of Audit.

**67. Director of Audit**

(1.) There shall be a Director of Audit, whose office is a public office.

(2.) The powers and functions and the conditions of service of the Director of Audit are, subject to this Constitution, as prescribed by law.

(3.) The Director of Audit shall not hold or act in any other public office during his period of service and a person who has held the office of Director of Audit shall not hold or act in any public office during the period of three years after he ceases to be Director of Audit.

(4.) The Director of Audit may resign his office at any time by writing under his hand delivered to the Speaker.

(5.) The Director of Audit may not be removed from office except on a resolution of Parliament approved by not less than two-thirds of the total number of members of Parliament praying for his removal from office on the ground of proved incapacity or misconduct.

**68. Public debt**

(1.) All debt charges for which the Euahlayi Peoples Republic is liable are a charge on the Treasury Fund.

(2.) For the purposes of this Article, debt charges include interest, sinking fund charges, repayment or amortization of debt and all expenditure in connexion with the raising of loans and the service and redemption of the debt thereby created.

**PART VIII.**

**THE PUBLIC SERVICE**

**69. The Public Service**

Appointments etc., in the Public Service

(1) Except as otherwise provided by law under Article 69, there is vested in the Chief Secretary the power -

*(a) To appoint, subject to clause (3.) of this Article, persons to hold or act in offices in the Public Service;*

*(b) To exercise disciplinary control over persons holding or acting in such offices;*

and

*(c) To remove such persons from office.*

- (2.)** The Chief Secretary may, by instrument in writing under his hand, delegate to a public officer power to exercise disciplinary control over persons holding or acting in such public offices, other than offices referred to in clause (3.) of this Article, as the Chief Secretary specifies in the instrument and such delegation is subject to such conditions, if any, as the Chief Secretary specifies in the instrument.
- (3.)** The Chief Secretary may not exercise his power under paragraph (a) of clause (1.) of this Article in relation to the office of a person in charge of a department of government and such other offices as are prescribed by law except in accordance with the approval of the Executive Council of State.
- (4.)** The Chief Secretary shall report to the Executive Council of State on such matters relating to the exercise of the powers under this Article as are prescribed by law at least once a year and the Executive Council of State shall cause a copy of the report to be laid before Parliament.

**70. Power of Parliament to establish Public Service Board and to make special provisions regarding police**

- (1.)** Parliament may make provision for either or both of the following:-

*(a) vesting the powers and functions of the Chief Secretary under clauses (1.) and (2.) of Article 68 in a Public Service Board consisting of the Chief Secretary, who shall be Chairman, and not less than two other persons who are not members of Parliament; and*

*(b) Subject to clause (2.) of this Article, vesting in the public officer in charge of the Euahlayi Peoples Republic Police Force the powers and functions of the Chief Secretary under clause (1.) of Article 68, in so far as they apply to or in respect of public officers in the Euahlayi Peoples Republic Police Force.*

- (2.)** Where Parliament makes provision under paragraph (b) of clause (1.) of this Article -

*(a) it shall also make provision for establishing a Police Service Board consisting of not less than three persons, who are not members of Parliament, of whom one shall be the Chief Justice, who shall be Chairman, one shall be the Chief Secretary, and one shall be a person elected by members of the Euahlayi Peoples Republic Police Force in such manner and for such term as are prescribed by law;*

*(b) the power of the public officer in charge of the Euahlayi Peoples Republic Police Force to appoint persons to hold or act in offices in the Euahlayi Peoples Republic Police Force shall be subject to such consent, if any, of the Police Service Board as is required by law; and*

*(c) The Chief Secretary or, where Parliament has made provision for a Public Service Board, the Public Service Board, shall not exercise the powers or perform the functions under clauses (1.) and (2.) of Article 68 in so far as they apply to or in respect of public officers in the Euahlayi Peoples Republic Police Force.*

- (3.)** An appeal lies to the Police Service Board from a decision of the public officer in charge of the Euahlayi Peoples Republic Police Force under this Article to remove a public officer from office or to exercise disciplinary control over a public officer at the instance of the public officer in respect of whom the decision is made.

- (4.)** The Police Service Board shall exercise such other powers and functions as are conferred

on it by law and shall, subject to this Article and any law, regulate its own procedure.

**(5.)** Except as otherwise provided by law, no appeal lies from a decision of the Police Service Board.

## **71. Public Service Appeals Board**

**(1.)** There shall be a Public Service Appeals Board which shall consist of the Chief Justice, who shall be Chairman, one person appointed by the Executive Council of State and one person elected by public officers as prescribed by law.

**(2.)** A Member of Parliament is not qualified to be a member of the Public Service Appeals Board.

**(3.)** A member of the Public Service Appeals Board ceases to hold office-

*(a) Upon being elected a Member of Parliament;*

*(b) If he was appointed by the Cabinet, upon being removed from office by the Cabinet or upon resigning his office by writing under his hand delivered to the President; or*

*(c) if he was elected by public officers, upon the expiration of the term for which he was elected, upon being removed from office in the manner prescribed by law or upon resigning his office by writing under his hand delivered to the Chief Secretary.*

**(4.)** Whenever a member of the Public Service Appeals Board, other than the Chief Justice, is unable for any reason or ineligible under clause (5.) of this Article to perform the duties of his office, the Executive Council of State **may-**

*(a) If the member was appointed by it, appoint a person who is not a Member of Parliament; or*

*(b) If the member was elected by public officers, appoint, subject to such conditions, if any, as are prescribed by law, a person,*

To act as a member of the Public Service Appeals Board during the period of the inability or ineligibility of the member.

**(5.)** Parliament may provide that a member of the Public Service Appeals Board, other than the Chief Justice, is ineligible to act in relation to such matters as are prescribed by law.

**(6.)** Except where an appeal lies to the Police Service Board under Article 69, an appeal lies to the Public Service Appeals Board from a decision to remove a public officer or to exercise disciplinary control over a public officer at the instance of the public officer in respect of whom the decision is made.

**(7.)** The Public Service Appeals Board shall exercise and perform such other powers and functions as are conferred on it by law and shall, subject to this Constitution and any law, regulate its own procedure.

**(8.)** Except as otherwise provided by law, no appeal lies from a decision of the Public Service Appeals Board.

## **PART IX.**

### **CITIZENSHIP**

#### **72. CITIZENSHIP**

(1). Members of Euahlayi Peoples Republic to be Euahlayi citizens

(i) A person who on the **thirtieth day of March two thousand and thirteen** who is a descendant of an identified Euahlayi Peoples Republic Apical Ancestor and chooses to be a Euahlayi Citizen.

(ii) Failure to register as a Euahlayi citizen provides a plausible denial of Euahlayi citizenship even though one may have a Euahlayi Apical Ancestor; and

(iii) Other person(s) who resides within the Euahlayi boundaries who are not of a Euahlayi Apical Ancestor on the said date herein are declared as Euahlayi Peoples Republic Residential citizen(s).

(iv) Person(s) born on or after the declaration of Independence must be a direct descendant of a Euahlayi Apical Ancestor will be known as a Euahlayi citizen.

(v) A child born of a Residential citizen shall be known as a permanent resident of the Euahlayi Peoples Republic and shall be availed of all Laws and Protection of the Euahlayi Peoples Republic within and without the Euahlayi State.

#### **73. Powers of Parliament regarding citizenship**

(1.) Parliament may make provision for the acquisition of Euahlayi Peoples Republic citizenship by persons who are not otherwise eligible to become Euahlayi citizens under the provisions of this Part.

(2.) Parliament may make provision for depriving a person of his/her/her Euahlayi Peoples Republic citizenship being a person who has acquired the nationality of another country otherwise than by marriage.

(3.) Parliament may make provision for depriving a person of his/her Euahlayi Peoples Republic citizenship being a person who is a Euahlayi Peoples Republic citizen otherwise than by reason of Article 71 or Article 72.

(4.) Parliament may make provision for the renunciation by a person of his/her Euahlayi Peoples Republic citizenship.

#### **74. Interpretation**

(1.) A reference in this Part to the citizenship of the parent of a person at the date of that person's birth shall, in relation to a person one of whose parents died before the birth of that person, be construed as a reference to the citizenship of the parent at the time of the parent's death.

**PART X.**

**EMERGENCY POWERS**

**75. Declaration of an emergency**

(1.) If the President is satisfied that a grave emergency exists whereby the security or economy of Euahlayi Peoples Republic is threatened he may, by public proclamation, declare that a state of emergency exists.

(2.) A declaration of emergency lapses-

*(a) If the declaration is made when Parliament is sitting, at the expiration of seven days after the date of publication of the declaration; or*

*(b) In any other case, at the expiration of twenty-one days after the date of publication of the declaration,*

Unless, it has in the meantime been approved by a resolution of Parliament approved by a majority of the members of Parliament present and voting.

(3.) The President may at any time revoke a declaration of emergency by public proclamation.

(4.) A declaration of emergency that has been approved by a resolution of Parliament under clause

(5.) of this Article remains, subject to the provisions of clause (3.) of this Article, in force for twelve months or such shorter period as is specified in the resolution.

(6.) A provision of this Article that a declaration of emergency lapses or ceases to be in force at a particular time does not prevent the making of a further such declaration whether before or after that time.

**76. Emergency powers**

(1.) During the period during which a declaration of emergency is in force, the President may make such orders as appear to him to be reasonably required for securing public safety, maintaining public order or safeguarding the interests or maintaining the welfare of the community.

(2.) An order made by the President under clause (1.) of this Article<sup>30</sup>:

*(a) has effect notwithstanding anything in Part II of this Constitution or in Article 94;*  
*(b) is not invalid in whole or in part by reason only that it provides for any matter for which provision is made under any law or because of inconsistency with any law; and*  
*(c) Lapses when the declaration of emergency lapses unless in the meantime the order is revoked by a resolution of Parliament approved by a majority of the members of Parliament present and voting.*

(3.) The revocation or lapsing of an order made by the President under clause (1.) of this Article does not affect the previous operation of that order, the validity of anything done or omitted to be done under it or any offence committed or penalty or punishment incurred.<sup>31</sup>

#### **77. Restriction on detention**

(1.) For the purposes of this Article there shall be an advisory board consisting of the Chief Justice, one person nominated by the Chief Justice and one person nominated by the Executive Council of State.

(2.) A person detained under an order under Article 78 shall, as soon as practicable, be informed of the reasons for his detention and be brought before the advisory board and permitted to make representations against his detention.

(3.) No person shall be detained under an order under Article 78 for a period exceeding three months unless that person has been brought before the advisory board and any representations made by him have been considered by it and it has within that period determined that there is sufficient cause for the detention.

### **PART XII.**

#### **GENERAL**

#### **78. Grant of pardon**

The President may-

*(a) grant a pardon, either free or subject to lawful conditions, to a person convicted of an offence;<sup>33</sup>*

*(b) Grant to a person a respite, either indefinite or for a specified period, of the execution of a punishment imposed on that person for an offence;*

*(c) Substitute a less severe form of punishment for any punishment imposed on a person for an offence; or*

*(d) Remit the whole or a part of a punishment imposed on a person for an offence or of a penalty or forfeiture on account of an offence.*

#### **79. Interpretation**

(1.) In this Constitution, unless the context otherwise requires:-

*"Article"*

*"Article" means Article of this Constitution;*

*" Executive Council of State"*

*" Executive Council of State " means the Executive Council of State established under Article 17;*

*"Chief Justice"*

*"Chief Justice" means the Chief Justice of the Supreme Court;*

*"Chief Secretary"*

*"Chief Secretary" means the Chief Secretary of Euahlayi Peoples Republic appointed under Article 25;*

**"Court"**

"Court" means a court of law having jurisdiction in Euahlayi Peoples Republic;

**"Existing law"**

"Existing law" means a law in force the Euahlayi Peoples Republic immediately before Independence Day;

**"Government Gazette"**

"Government Gazette" means the Euahlayi Government Gazette;

**"Independence Day"**

**"Independence Day" means the 1st day of July in the year two thousand and thirteen; and shall be a public holiday on the same date every year thereafter.**

**"Law"**

"Law" includes an instrument having the force of law and an unwritten rule of law and "lawful" and "lawfully" shall be construed accordingly;

**"Minister"**

"Minister" means a Minister of the Executive Council of State;

**"Month"**

"Month" means calendar month;

**"Parliament"**

"Parliament" means the Parliament of Euahlayi Peoples Republic established under Article 26;

**"Person"**

"Person" includes a body corporate or politic;

**"President"**

"President" means the President of Euahlayi Peoples Republic

**"Property"**

"Property" includes a right, title or interest in or over property;

**"Public office"**

"Public office" means an office of emolument in the public service;

**"Public officer"**

"Public officer" means a person holding or acting in a public office;

**"Public service"**

"Public service" means, subject to the provisions of this Article, the service of the Euahlayi Peoples Republic

**"Schedule"**

"Schedule" means Schedule to this Constitution;

**"Session"**

"Session" means the period beginning when the Legislative Assembly of the Euahlayi Peoples Republic first met on Independence Day or after Parliament has at any time been prorogued or dissolved and ending when next Parliament is prorogued or dissolved;

**"Sitting"**

"Sitting" means a period during which Parliament is sitting without adjournment;

**"Speaker"**

"Speaker" means the Speaker of Parliament;

**"Supreme Court"**

"Supreme Court" means the Supreme Court of Euahlayi Peoples Republic established under Article 48;

**"Writing"**

"Writing" includes any mode of representing or reproducing words in a visible form.



**(2.)** In this Constitution

*(a) a reference to an office in the public service does not include-*

*(i) a reference to the office of President, Minister, Speaker, Deputy Speaker, member of Parliament or Clerk of Parliament;*

*(ii) a reference to the office of a Judge of the Supreme Court; or*

*(iii) except in so far as is prescribed by law, a reference to the office of a member of a council, board, panel, committee or other similar body, whether incorporated or not, established by law; and*

*(b) a reference to an office of profit in the service of the Euahlayi Peoples Republic does not include a reference to the office of President, Secretaries of State, Speaker, Deputy Speaker, or member of Parliament.*

**(3.)** In this Constitution, unless the context otherwise requires, a reference to the holder of an office by an expression designating his office shall be construed as including, to the extent of his authority, a reference to a person for the time being authorized to exercise the powers or perform the functions of that office.

**(4.)** In this Constitution, a reference to the total number of members of Parliament is a reference to the number of members of which Parliament consists in accordance with Article 28.

**(5.)** In this Constitution, unless the context otherwise requires-

*(a) Words importing the masculine gender shall be taken to include females; and*

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

**(6.)** Where a law is repealed, or is deemed to have been repealed, by, under or by reason of this Constitution, the repeal does not-

*(a) Revive anything not in force or existing at the time at which the repeal takes effect;*

*(b) Affect the previous operation of the law or anything only done or suffered under the law;*

*(c) Affect any right, privilege, obligation or liability acquired, accrued or incurred under the law;*

*(d) Affect any penalty, forfeiture or punishment incurred in respect of any offence committed against the law; or*

*(e) Affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment,*

And any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed, as if the law had not been repealed.

**(7.)** Where a person is required by this Constitution to take and subscribe an oath, he shall be permitted, if he so desires, to comply with that requirement by making and subscribing an affirmation.

## **80. Parts, etc. of Constitution**

**(1.)** The headings of the Parts into which this Constitution is divided are part of this

Constitution.

(2.) A Schedule to this Constitution is part of this Constitution.

(3.) The preamble and the marginal notes to this Constitution do not form part of this Constitution.

**81. Right to minerals; oils; natural gases; and other precious stones and rare earth**

(1.) Except as otherwise provided by law, the right to mine minerals oils; natural gases; and other precious stones and rare earth is vested in the Government and exploration and mining of minerals must be approved by the Parliament.

**82. Amendment of the Constitution**

(1.) This Constitution shall not be altered except in accordance with this Article.

(2.) This Constitution may be altered by law but a proposed law for that purpose shall not be passed by Parliament unless-

*(a) there has been an interval of not less than ninety days between the introduction of the proposed law in Parliament and the passing of the proposed law by Parliament; and*

*(b) It is approved by not less than two-thirds of the total number of members of Parliament.*

(3.) A proposed law to alter or having the effect of altering the Fifth Schedule or any of the provisions of this Constitution specified in the Fifth Schedule shall not be submitted for the certificate of the Speaker under Article 47 unless, after it has been passed by Parliament, it has been approved by not less than two-thirds of all the votes validly cast on a referendum held, subject to clause (4.) of this Article, as prescribed by law.

(4.) A person who, at the time the referendum is held, is qualified to vote at an election of members of Parliament, is entitled to vote at a referendum held for the purposes of this Article and no other person is so entitled.

(5.) A proposed law to alter this Constitution shall not receive the certificate of the Speaker under Article 47 unless it is accompanied by a certificate under the hand of the Clerk of Parliament that the provisions of clause (2.) of this Article have been complied with and, if it is a proposed law to which clause (3.) of this Article applies, by a certificate under the hand of a person prescribed by law stating that it has been approved as provided by that clause.

**PART XIII**

**TRANSITIONAL POWERS**

**83. Transitional Provisions**

**Existing law(s)**

## **Draft Constitution of the Euahlayi Peoples Republic**

**(1.)** An Australian law in force at the time of Independence shall remain in force until such time new laws can be passed by the newly elected parliament. Until such time of an election the interim governments has the power to in force laws and enact new laws that are consistent with this constitution.

**(2.)** A law which has not been brought into force in the Euahlayi Peoples Republic before Independence Day may, subject to this Constitution and to any amendment of that law made by law, be brought into force on or after Independence Day and a law brought into force under this clause continues in force subject as aforesaid, until repealed by a law enacted under this Constitution.

**(3.)** Where a matter that, under this Constitution, is to be prescribed or otherwise provided for by law, is prescribed or otherwise provided for by a law continued in force by clause (1.) or (2.) of this Article, that matter has, on and after Independence Day, effect as if it had also been prescribed or provided for by a law enacted under this Constitution.

**(4.)** For the purposes of bringing the provisions of an existing law into accord with the provisions of this Constitution (other than Part II. of this Constitution) the President may, except as otherwise prescribed by law, within a period of two years after Independence Day, make, by order published in the Government Gazette, such adaptations, whether by way of modification of, addition to or omission from those provisions, as he deems necessary or expedient and an order so made has effect, or shall be deemed to have effect, from and including such date, not being a date before Independence Day, as is specified in the order.<sup>44</sup>

### **84. The first Parliament**

**(1.)** The persons who were elected at the election conducted on the 1<sup>st</sup> Saturday of September 2015' At their inauguration at the instance appointment to become members of the Legislative House and the Most Senior Elder Council of Euahlayi Peoples Republic are members of the first Parliament and shall be deemed to have been elected in accordance with this Constitution.

**(2.)** The first Parliament came into existence on Independence Day under the name of the Legislative House of the Euahlayi Peoples Republic and continues under the name of Parliament from and including the date on which this clause comes into operation.

**(3.)** The first Parliament shall, unless sooner dissolved, continue for a period of four years from and including the 1<sup>st</sup> day of September.

### **85. Powers privileges and immunities of Parliament**

Until otherwise declared by Parliament, the powers, privileges and immunities of Parliament and of its members and committees shall be those of all other parliaments of the world; and of its members and committees as at the commencement of this Constitution.

### **86. Vesting of property, etc.**

**(1.)** All property and assets which, immediately before Independence Day, were vested in private land holdings, Lands that are under lease from the crown and all crown lands shall be vest in the Euahlayi Peoples Republic. All such private land will then be transferred into the

name of the land holder at such time of independence.

**(2.)** All rights, liabilities and obligations of the State of New South Wales, Queensland and the Commonwealth of Australia, whether arising out of contract or otherwise, are rights, liabilities and obligations of the Euahlayi Peoples Republic and cannot be contested in another State other than the Supreme Court of the Euahlayi Peoples Republic.

**87      Director of Audit**

**(1.)** Notwithstanding Article 66, until the Director of Audit is first appointed the Executive Council of State shall cause to be audited at least once in every year the public accounts of the Euahlayi Peoples Republic and the accounts of such public bodies as Parliament by resolution determine.

**(2.)** The Executive Council of State shall cause a report on the results of an audit under clause (1.) of this Article to be laid before Parliament as soon as practicable after completion of the audit.