

142. Voter claiming to vote whose name on roll has been marked.

(1) Notwithstanding anything in this Law, where a voter, against whose name on the certified list of voters used at a polling place prescribed for the electorate for which he is enrolled a mark has been placed in accordance with Section 137, claims to vote in an election at that polling place he may, subject to Sections 51 and 134 and to the Regulations¹, be permitted to vote.

(2) The ballot-paper of a voter voting under this section shall be dealt with as prescribed.

143. Person claiming to vote whose name is noted as person to whom postal vote certificate, etc., issued.

(1) Where a person whose name has been noted on the certified list of voters used at a polling place prescribed for the electorate for which he is enrolled as an elector to whom a postal vote certificate and postal ballot-paper have been issued, claims to vote in an election at that polling place and states, when requested to deliver to the presiding officer for cancellation his postal vote certificate and postal ballot-paper, that he has not received a postal vote certificate and postal ballot-paper, he may, subject to this Law, be permitted to vote, if he makes a declaration in the prescribed form before the presiding officer at the polling place.

(2) The ballot-paper of a voter voting under this section shall be dealt with as prescribed, but no such ballot-paper shall be scrutinized unless the Returning Officer is satisfied that the voter is entitled to vote in the election, and that a postal vote certificate or postal ballot-paper has not been received by him.

144. Blind or physically incapacitated voters.

(1) If a voter who claims to vote under Section 141, 142 or 143 satisfies the presiding officer that his sight is so impaired or that he is so physically incapacitated that he is unable to vote without assistance, the presiding officer shall—

- (a) fill in the form of declaration with the required particulars relating to the enrolment of the voter as required by the voter; and
- (b) read over to the voter the form of declaration; and
- (c) require the voter to sign the form of declaration—
 - (i) in his own handwriting if he is able to do so; or
 - (ii) with his mark as his personal signature if he is unable to sign his name in his own handwriting; and
- (d) cause the signature of the voter, if made by means of a mark, to be witnessed by a scrutineer present, or if no scrutineer be present, by the poll clerk; and
- (e) complete and attest the declaration; and
- (f) permit a person appointed by the voter to enter an unoccupied compartment of the booth with the voter and to mark and fold the ballot-paper for the voter; and
- (g) enclose the ballot-paper in the envelope bearing the declaration of the voter, securely fasten the envelope and deposit it in the ballot-box.

(2) If a voter to whom Subsection (1) applies fails to appoint a person under that subsection, the presiding officer shall take action in accordance with Subsection (1)(a) to (e)

¹ See Section 243 and the footnote to that section.

(inclusive) and shall, in the presence of a person appointed by the voter for the purpose if the voter so desires, or, in the absence of any such appointment, the poll clerk—

- (a) mark and fold the ballot-paper for the voter; and
- (b) enclose the ballot-paper in the envelope bearing the declaration of the voter, securely fasten the envelope and deposit it in the ballot-box.

145. Dealing with voters, etc., under this division.

(1) The presiding officer shall, upon receiving a ballot-paper from a person voting under this Division, in the presence of the voter and of such scrutineers as are present and without unfolding the ballot-paper, enclose it in an envelope bearing the declaration of the voter under Sections 141, 142 or 143, as the case may be, and addressed to the Returning Officer, and shall securely fasten the envelope and deposit it in the ballot-box.

(2) An Assistant Returning Officer who is authorized under this Law to open the ballot-box shall, without opening the envelope, transmit it to the Returning Officer.

(3) Where the claim of a person to vote under this Division is refused, the presiding officer shall make a note in writing of the fact of the claim and the reasons for the refusal, and the presiding officer and a poll clerk shall sign a note in the presence of such scrutineers as are present, who may also sign the note.

Division 4.—Miscellaneous.

146. Spoilt ballot-papers.

If a voter, before depositing his ballot-paper in the ballot-box, satisfies the presiding officer that he has spoilt the ballot-paper by mistake or accident, he may, in¹ giving it up, receive a new ballot-paper from the presiding officer, who shall there and then cancel the spoilt ballot-paper, write the word "Spoilt" across the face of it, place it in an endorsed envelope and forward it to the Returning Officer after the polling.

147. Adjournment of polling on account of riot.

(1) The presiding officer may adjourn the polling from day to day where the polling is interrupted or obstructed by riot or open violence.

(2) If from any cause a polling booth at a polling place is not open on any day during the period for taking the poll at that polling place, the presiding officer may adjourn the polling for a period not exceeding seven days but in no event beyond the end of the polling period, and shall forthwith give public notice of the adjournment.

(3) Where for any reason the polling is adjourned at a polling place, those electors only—

- (a) who are enrolled for the electorate for which the polling place is prescribed;
or
- (b) who are otherwise entitled to vote as electors for the electorate,

and have not already voted, are entitled to vote at the adjourned polling at that polling place.

(4) Nothing in this section shall be deemed to affect the provisions of Division 1.

¹ *Seemle*, "on" was intended.

PART XIV.—THE SCRUTINY.

Division 1.—Preliminary.

148. Scrutiny.

The result of the polling shall be ascertained by scrutiny.

149. Counting centres.

The scrutiny shall be conducted at such places, to be known as "counting centres", as are appointed by the Returning Officer for the purpose.

150. Officers to conduct scrutiny.

The scrutiny at a counting centre shall be conducted by the Returning Officer or, in the absence of the Returning Officer from that counting centre, by an Assistant Returning Officer.

151. Scrutineers at scrutiny.

(1) A candidate may appoint scrutineers to represent him at the scrutiny.

(2) Except as provided by Subsection (3), a candidate is not entitled to be represented at the scrutiny at a counting centre by more than one scrutineer.

(3) The officer who is to conduct, or is conducting, the scrutiny at a counting centre may, subject to any directions given to him from time to time by the Electoral Commission or the Returning Officer for the electorate in which the counting centre is situated, permit each candidate to be represented at the scrutiny at that counting centre by scrutineers not exceeding in¹ such number as that first-mentioned officer determines.

(4) The appointment of a scrutineer under this section to represent a candidate at a counting centre—

(a) shall be made by notice in writing signed by the candidate, or by telegram signed by the candidate before it is tendered for transmission, given or sent to the officer who is to conduct, or who is conducting, the scrutiny at the counting centre; and

(b) shall specify the name and address of the scrutineer.

152. Conduct of scrutiny.

The scrutiny shall be conducted as follows :—

(a) it shall commence as soon as practicable after the end of the polling period; and

(b) any scrutineers duly appointed under Section 151 and any persons approved by the officer conducting the scrutiny, may be present; and

(c) all the proceedings at the scrutiny shall be open to the inspection of the scrutineers; and

(d) the scrutiny may be adjourned from time to time as necessary until the counting of the votes is complete.

¹ *Sembla*, "in" was incorrectly inserted.

153. Action on objections to ballot-papers.

(1) If a scrutineer objects to a ballot-paper as being informal, the officer conducting the scrutiny shall mark the ballot-paper "Admitted" or "Rejected", according to his decision to admit or reject the ballot-paper.

(2) Nothing in this section prevents the officer conducting the scrutiny from rejecting a ballot-paper as being informal although it is not objected to.

154. Informal ballot-papers.

(1) Subject to this section, and to the provisions of Divisions 3 and 4, and the Regulations¹, a ballot-paper is informal if—

- (a) it is not authenticated by the initials of the presiding officer, or by an official mark as prescribed; or
- (b) it has no vote indicated on it or does not clearly show the voter's intention; or
- (c) it has on it any mark or writing (not authorized by this Law to be put on it) by which, in the opinion of the officer conducting the scrutiny, the voter can be identified.

(2) Subsection (1)(c) does not apply to a mark or writing placed on a ballot-paper by an officer, notwithstanding that the placing of the mark or writing on the ballot-paper is a contravention of this Law.

(3) Subject to Divisions 3 and 4, a ballot-paper shall not be informal for any reason other than a reason specified in this section.

(4) Notwithstanding the provisions of this section or Section 139, where the Returning Officer is satisfied that any mark made on a ballot-paper clearly indicates the intention of the voter and the candidate for whom he has given his vote, the Returning Officer shall not determine that the vote is informal merely because the mark is not an "X".

Division 2.—Provisions relating to the Scrutiny of Ordinary Votes.

155. Scrutiny of ordinary votes in elections.

(1) In an election the scrutiny shall, subject to the provisions of Divisions 3 and 4 be conducted in accordance with the succeeding provisions of this section.

(2) The electoral officer conducting the scrutiny shall, in the presence of a presiding officer, poll clerk or an officer and of such authorized scrutineers as choose to attend and any other person approved by the Returning Officer—

- (a) open all ballot-boxes received from polling places within the electorate; and
- (b) reject all informal ballot-papers, and arrange the unrejected ballot-papers under the names of the respective candidates by placing in a separate parcel all those on which a vote is indicated for the same candidate; and
- (c) count the votes given for each candidate on all unrejected ballot-papers; and
- (d) make out and sign a statement (which may be counter-signed by the presiding officer, poll clerk or officer present and, if they so desire, by such scrutineers as are present) setting out the number of votes given for each candidate, and the number of informal ballot-papers; and

¹ See Section 243, and the footnote to that section.

- (e) place in a separate parcel all the ballot-papers which have been rejected as informal; and
- (f) where an Assistant Returning Officer conducts the scrutiny, transmit the following information, by telegram or in some other expeditious manner, to the Returning Officer :—
 - (i) the number of votes given for each candidate; and
 - (ii) the total number of ballot-papers rejected as informal; and
- (g) seal up the parcels and endorse on each parcel a description of the contents of it, and permit any scrutineers present, if they so desire, to counter-sign the endorsement; and
- (h) where an Assistant Returning Officer conducts the scrutiny, transmit the parcels to the Returning Officer with the least possible delay, together with the statement referred to in paragraph (d).

Division 3.—Provisions Relating to the Scrutiny of Postal Votes.

156. Scrutiny of postal votes.

The scrutiny of postal votes shall be conducted by the Returning Officer with the assistance of an Assistant Returning Officer or an officer, in the presence of such authorized scrutineers as choose to attend and any other persons approved by the Returning Officer.

157. Preliminary scrutiny of postal votes.

- (1) The Returning Officer conducting the scrutiny shall—
 - (a) subject to Subsection (2), as soon as practicable after the end of the polling period for an electorate, produce and open the postal voters' ballot-box in which the envelopes containing the voters' ballot-papers have been placed and produce unopened all envelopes containing postal votes received by him before the end of the polling period; and
 - (b) examine each certificate and, if satisfied that—
 - (i) the person making the vote is an elector enrolled for the electorate; and
 - (ii) the declaration purports to be witnessed by an authorized witness, accept the ballot-paper for further scrutiny, and place a mark against the name of the elector on a certified copy of the Roll used by him for the purpose of the scrutiny, but, if not so satisfied, disallow the ballot-paper without opening the envelope in which it is contained; and
 - (c) place in one parcel the unopened envelopes bearing the duly signed and attested declarations of those persons whose ballot-papers have been accepted for further scrutiny; and
 - (d) place in another parcel the unopened envelopes bearing the declarations of those persons whose ballot-papers he has disallowed, fasten and seal the parcel, endorse on it the words "Postal voters' ballot-papers rejected at the preliminary scrutiny" and add the name of the electorate, his signature and the date; and
 - (e) place the envelopes containing the ballot-papers which he has decided to accept for further scrutiny before him on a table in such a manner that the address side of each envelope is visible; and

- (f) number each envelope consecutively from one upwards in the top right-hand corner until all of the envelopes have been dealt with; and
- (g) without further examining the certificate or declaration of any voter or permitting any other person to do so, withdraw from the envelope each ballot-paper contained in it, and, without inspecting or unfolding the ballot-paper or allowing any other person to do so, place on it a number corresponding with that placed on the envelope from which the ballot-paper has been withdrawn and deposit the folded ballot-paper in a locked ballot-box for further scrutiny; and
- (b) place the envelopes in a parcel endorsed with the words "Envelopes bearing postal voters' declarations from which ballot-papers have been withdrawn for further scrutiny", fasten the parcel, and add the name of the electorate, his signature and the date.

(2) The Returning Officer shall, as far as practicable, keep in the Postal Voters' Ballot-box sufficient envelopes containing ballot-papers to ensure that all ballot-papers, when counted, shall be taken from a number sufficient to prevent the identity of voters from being disclosed.

158. Further scrutiny of postal votes.

At the further scrutiny, the officer conducting the scrutiny shall, as soon as practicable after the preliminary scrutiny under Section 157, open the ballot-box referred to in Section 157(g), examine the postal voters' ballot-papers contained in the ballot-box, and take similar action to that set out in Section 155(2) (b), (c), (d), (e) and (g).

159. Mistakes.

A postal vote shall not be rejected as informal merely because, in the case of a candidate, part only of his name has been written on it if there is no possibility of confusion with some other candidate, or by reason of a mistake in spelling or otherwise where there is no doubt as to the identity of the candidate and the elector's intention is clear.

Division 4.—Provisions relating to the Scrutiny of Votes under Division 3 of Part XIII.

160. Conduct of scrutiny.

The scrutiny of votes under Division 3 of Part XIII shall be conducted by the Returning Officer and shall commence as soon as practicable after the end of the polling period for an electorate in the presence of an Assistant Returning Officer or an officer and such scrutineers as choose to attend.

161. Action on receipt of ballot-papers under Division 3 of Part XIII.

The Returning Officer shall produce unopened all envelopes containing ballot-papers used for voting under Division 3 of Part XIII, and shall, before opening an envelope or allowing any other person to do so, examine the declaration of the voter and, if it is in order and, in the case of a vote under Section 141 he is satisfied, after making such inquiry as is necessary, that the voter is a person to whom Subsection (1)(a), (b) or (c) of that section applies, shall deal with the ballot-paper in accordance with this Division, and make such correction (if any) to the Roll as is necessary.

162. Preliminary scrutiny of votes cast under Division 3 of Part XIII.

(1) The Returning Officer shall, in relation to envelopes containing ballot-papers used for voting under Division 3 of Part XIII—

- (a) place in one parcel the envelopes bearing the declarations of persons who he is satisfied are entitled to vote in respect of the electorate, accept for further scrutiny the ballot-papers contained in the envelopes and—
 - (i) in respect of envelopes under Section 141, place the name of each person voting under that section on a certified copy of the Roll used by him for the purposes of the scrutiny; and
 - (ii) in respect of envelopes under Sections 142 and 143, make a notation on a certified copy of the Roll used by him for the purposes of the scrutiny against the names of the persons voting that those persons have been permitted to vote under Section 142 or 143, as the case may be; and
- (b) place in another parcel the envelopes bearing the declarations of persons who he is satisfied are not entitled to vote in respect of the electorate, or whose declarations are not signed and attested, fasten and seal the parcel, endorse thereon the words "Division 3 voters' ballot-papers rejected at the preliminary scrutiny", and add the name of the electorate, his signature and the date; and
- (c) place the envelopes containing the ballot-papers accepted for further scrutiny before him on a table in such a manner that the face only of each envelope bearing the address of the Returning Officer is visible; and
- (d) number each envelope consecutively from one upwards in the top right-hand corner until all of the envelopes have been dealt with; and
- (e) without further examining the declarations of a voter, or permitting any other person to do so, withdraw from the envelope each ballot-paper contained in it, and, without inspecting or unfolding the ballot-paper or allowing any other person to do so, place on it a number corresponding with that placed on the envelope from which the ballot-paper has been withdrawn, and deposit the folded ballot-paper in a locked ballot-box for further scrutiny; and
- (f) place the envelopes in a parcel, endorsed with the words "Envelopes bearing Division 3 voters' declarations from which ballot-papers have been withdrawn for further scrutiny", fasten the parcel and add the name of the electorate, his signature and the date.

(2) A Division 3 voter's ballot-paper shall not be rejected at the preliminary scrutiny by reason only of the fact that the presiding officer has omitted to attest the declaration of the elector.

163. Further scrutiny.

At the further scrutiny, the officer conducting the scrutiny shall, as soon as practicable after the preliminary scrutiny under Section 162, open the ballot-box referred to in Section 162(1)(e), examine the Division 3 voters' ballot-papers contained in the ballot-box, and take similar action to that set out in Section 155(2)(b), (c), (d), (e) and (g).

164. Informal ballot-papers.

In addition to the matters specified in Section 154, a Division 3 voter's ballot-paper is informal if it is not contained in an envelope bearing the declaration of the elector.

165. Parcelling of ballot-papers.

The officer conducting the scrutiny shall place in separate parcels—

- (a) all Division 3 voters' ballot-papers allowed or admitted as formal; and
- (b) all Division 3 voters' ballot-papers disallowed or rejected as informal, and shall fasten and seal each parcel, and endorse on it particulars of the contents of it and the name of the electorate, and add his signature and the date¹.

166. Opening of sealed parcels of ballot-papers.

The sealed parcels of Division 3 voters' ballot-papers may only be opened—

- (a) for the purposes of an authorized re-count; or
- (b) by direction of the National Court.

167. Opening of sealed parcels of declarations.

The sealed parcels of Division 3 voters' declarations may only be opened—

- (a) by direction of the National Court; or
- (b) as provided in the Regulations².

168. Preservation of ballot-papers and declarations.

Subject to any action referred to in Section 166 or 167, the Returning Officer shall preserve the sealed parcels of—

- (a) Division 3 voters' ballot-papers allowed or admitted to the scrutiny; and
- (b) Division 3 voters' ballot-papers disallowed or rejected at the scrutiny; and
- (c) envelopes bearing Division 3 voters' declarations from which ballot-papers have been withdrawn for further scrutiny; and
- (d) envelopes bearing Division 3 voters' declarations and containing ballot-papers rejected at the preliminary scrutiny,

until their destruction has been authorized by the Electoral Commission.

*Division 5.—Mode of Determining the Result of the Scrutiny.***169. Scrutiny of votes in elections.**

(1) The result of an election shall be determined by scrutiny in the following manner :—

- (a) the Returning Officer shall ascertain the total number of votes given for each candidate; and
- (b) the candidate who has received the largest number of votes is elected; and
- (c) if two or more candidates have an equal number of votes, the Returning Officer shall decide by drawing lots who shall be elected.

(2) The procedure for drawing lots is as follows :—

- (a) the Returning Officer shall immediately after the conclusion of the counting and before all persons present, make out in respect of each of the candidates having an equal number of votes a slip bearing the name of the candidate as shown on the ballot-paper, enclose the respective slips in separate blank

¹ *Semble*, Paragraph (b) should end with the word "informal"; with the rest of the section applying to both Paragraph (a) and Paragraph (b) parcels.

² *See* Section 243 and the footnote to that section.

- envelopes of exact similarity and deposit the envelopes in a locked ballot-box; and
- (b) the Returning Officer shall then thoroughly shake and rotate the ballot-box and shall permit any other person present, if he so desires, to do the same; and
 - (c) the ballot-box shall then be opened and an officer shall take out and open one of the envelopes; and
 - (d) the candidate whose name appears on the slip enclosed in the envelope taken from the ballot-box is elected.

170. Further provisions relating to scrutiny.

The officer conducting the scrutiny shall, in respect of ballot-papers scrutinized by him—

- (a) place in a separate parcel all the ballot-papers which have been rejected as informal; and
- (b) place in a separate parcel all the unrejected ballot-papers; and
- (c) seal up the parcels and endorse on each parcel a description of its contents, and permit any scrutineers present, if they so desire to countersign the endorsement.

Division 6.—Re-count of Ballot-Papers.

171. Re-count.

(1) At any time before the declaration of the result of an election, the Returning Officer may, if he thinks fit, on the request of a candidate setting forth the reasons for the request or of his own motion, and shall if so directed by the Electoral Commission, re-count the ballot-papers contained in a parcel.

(2) The officer conducting a re-count has the same powers as if the re-count were the scrutiny, and may reverse any decision in relation to the scrutiny as to the allowance and admission or disallowance and rejection of any ballot-paper.

172. Reservation of disputed ballot-papers.

(1) The officer conducting a re-count may, and at the request of a scrutineer shall, reserve any ballot-paper for the decision of the Electoral Commission.

(2) The Electoral Commission shall decide whether a ballot-paper reserved for its decision under this section is to be allowed and admitted or disallowed and rejected.

(3) In the event of the validity of the election being disputed, the National Court may consider any ballot-papers which were reserved for the decision of the Electoral Commission, but shall not order a further re-count of the whole or part of the ballot-papers in connexion with the election unless it is satisfied that the re-count is justified.

173. Conduct of re-count.

(1) Before proceeding to re-count any ballot-papers, the Returning Officer shall send to each candidate notice of the time and place of the re-count.

(2) The Returning Officer shall, at the time and place fixed for the re-count, in the presence of the scrutineer or scrutineers in attendance and of an officer, open every sealed parcel of ballot-papers to be re-counted and count the votes in it.

(3) Each parcel of ballot-papers to be re-counted shall be opened separately without destroying or rendering illegible any endorsement on the parcel, and every care shall be taken to prevent the ballot-papers in the parcel from being mixed with the ballot-papers in any other parcel.

(4) After a parcel has been opened and the votes in it counted, the Returning Officer shall replace the ballot-papers in their original cover, which he shall reseal, refasten and then place in a new cover which he shall also seal and fasten and endorse with the fact and date of the re-count, and the Returning Officer and such persons authorized to be present at the re-count as choose to do so shall sign the endorsement.

(5) When any ballot-papers at a re-count are reserved for the decision of the Electoral Commission, the Returning Officer shall, in the presence of the scrutineer or scrutineers in attendance, place the ballot-papers in a properly fastened and sealed parcel bearing his signature and the signature or signatures of the scrutineer or scrutineers, together with an endorsement setting out the number of ballot-papers contained in the parcel, the name of the electorate and the date, and shall place the parcel in a fastened and sealed outer cover fully addressed to the Electoral Commission, and transport the parcel to it by hand or registered post.

(6) On receipt of the parcel, the Electoral Commission shall, in the presence of an officer and, if a candidate so desires, of a person appointed by the candidate, open the parcel and scrutinize the ballot-papers, and shall mark each ballot-paper "Admitted" or "Rejected", according to its decision to admit or reject the ballot-paper.

(7) When the Electoral Commission has given its decision on the ballot-papers reserved for its decision, it shall restore them to their original cover, refasten and reseal the cover, and endorse on it—

- (a) the number of ballot-papers contained in the cover; and
- (b) a statement that the ballot-papers have been the subject of decision by it; and
- (c) the signature of the Electoral Commissioner and the date,

and shall request the persons in whose presence it scrutinized the ballot-papers to add their signatures, and shall then place the parcel in a new cover, which it shall cause to be fastened, sealed and returned by hand or registered post to the Returning Officer.

(8) The Electoral Commission shall advise the Returning Officer, in writing, as to the number of ballot-papers admitted or rejected by it, and the decision of the Electoral Commission shall be accepted by the Returning Officer in completing his re-count of the ballot-papers.

(9) The receipt of every parcel of ballot-papers shall be acknowledged in writing by the Electoral Commission and the Returning Officer respectively.

PART XV.—INTERPRETERS.

174. Interpreters.

(1) Notwithstanding the provisions of this Law, for the purposes of, and at any stage of, the proceedings at the polling or at the scrutiny, a person may, with the approval of the presiding officer or the officer conducting the scrutiny, as the case requires, make use of the services of a person as an interpreter.

(2) A candidate shall not be an interpreter, and a scrutineer shall not be an interpreter except for another scrutineer.

175. Duty of interpreters.

(1) An interpreter referred to in Section 174 shall—

- (a) to the best of his ability, correctly interpret any matter which he is required to interpret; and
- (b) comply with any directions given by the presiding officer or the officer conducting the scrutiny, as the case may be; and
- (c) refrain from disclosing any knowledge of the vote of an elector for or to whom he interprets.

Penalty: K400.00 or imprisonment for six months¹.

(2) An interpreter shall not influence, or attempt to influence, in any way, the vote of an elector for or to whom he interprets.

Penalty: K800.00 or imprisonment for six months¹.

PART XVI.—THE RETURN OF THE WRITS.

176. Return of writs.

(1) The Returning Officer shall, as soon as conveniently may be after the result of an election has been ascertained—

- (a) at the place of nomination, publicly declare the result of the election and the name of the candidate elected; and
- (b) by endorsement under his hand certify on the writ the name of the candidate elected, and return the writ through the Electoral Commission.

(2) Where the Returning Officer cannot complete his inquiries into the facts set out in the declarations received by him under Section 141, 142 or 143, without unduly delaying the declaration of the poll, and he is satisfied that the votes recorded on the ballot-papers could not possibly affect the result of the election, he may, subject to the concurrence of the Electoral Commission, declare the result of the election and return the writ without awaiting the receipt of the ballot-papers or the completion of inquiries, as the case may be.

177. Correction of errors.

Any delay, error or omission in the printing, preparation, issue, transmission or return of any Roll, writ, ballot-paper or certified list of voters may be remedied, removed, rectified and supplied by the Electoral Commission by notice published in the National Gazette, specifying the matter dealt with and providing for the course to be followed, and that course shall be valid and sufficient.

178. Extension of time.

(1) Subject to Subsections (2) and (3), within one month before or at any time during the polling period for an election, the Head of State, acting with, and in accordance with, the advice of the Electoral Commission may, where he is of the opinion that it is necessary to do so, provide for—

- (a) extending the time—
 - (i) for holding the election; or
 - (ii) for returning the writ; or

¹ See footnote to Section 55.

- (b) meeting any difficulty which might otherwise interfere with the due course or the election,

and provision so made shall be valid and sufficient.

(2) Where an extension of time granted under Subsection (1) does not apply to all electorates in which elections are being conducted at the same time—

- (a) the last day of the polling period shall not be more than two weeks after the date originally fixed as the last day; and
 (b) the date fixed for the return of the writ shall not be more than two weeks after the date originally fixed for its return.

(3) In the case of an extension of time under Subsection (1), public notice of the extension shall be immediately given in the electorate or the portion of the electorate for which the election is to be held.

PART XVII.—OFFENCES.

179. Illegal practices.

(1) Subject to Subsection (2), the following are illegal practices :—

- (a) publishing an electoral advertisement, handbill or pamphlet or issuing an electoral notice (other than the announcement by advertisement in a newspaper of the holding of a meeting) without the name and address of the person authorizing the publication or issue being printed at the foot of it; and
 (b) printing or publishing a printed electoral advertisement, handbill or pamphlet (other than an advertisement in a newspaper) without the name and place of business of the printer being printed at the foot of it; and
 (c) printing, publishing or distributing an electoral advertisement, notice, handbill, pamphlet or card containing a representation of a ballot-paper or a representation apparently intended to represent a ballot-paper, and having on it any directions intended or likely to mislead or improperly interfere with an elector in or in relation to the casting of his vote; and
 (d) printing, publishing, or distributing an electoral advertisement, notice, handbill, pamphlet or card containing an untrue or incorrect statement intended or likely to mislead or improperly interfere with an elector in or in relation to the casting of his vote; and
 (e) wilfully informing an elector during the polling period that he is not enrolled or entitled to be enrolled for a particular electorate, or is not entitled to vote, when as a fact he is enrolled or entitled to be enrolled, or is enrolled or entitled to be enrolled for that electorate, or is entitled to vote, as the case may be.

(2) Nothing in Subsection (1)(c) or (d) prevents the printing, publishing or distributing of a card, not otherwise illegal, which contains instructions on how to vote for a particular candidate, so long as those instructions are not intended or likely to mislead an elector in or in relation to the casting of his vote.

(3) A person guilty of an illegal practice is liable to a penalty not exceeding K800.00 or imprisonment for six months.

180. Heading to electoral advertisement.

(1) The proprietor of a newspaper shall cause the word "advertisement" to be printed as a headline, in letters not smaller than 10 point or long primer, to each article or paragraph in his newspaper containing electoral matter, the insertion of which is or is to be paid for or for which a reward or compensation or promise of reward or compensation is or is to be made.

Penalty: K400.00¹.

(2) In Subsection (1) "electoral matter" includes all matter intended or calculated to affect the result of the election, and a report of the speech of a candidate if the report is or is to be paid for.

181. Articles to be signed.

(1) On and after the date of issue and before the return of a writ for the election of a member, every article, report, letter or other matter commenting upon a candidate or political party, printed and published in a newspaper, circular, pamphlet or dodger shall be signed by the author, giving his true name and address at the end of the article, report, letter or other matter, or where part only of the article, report, letter or matter appears in any issue of a newspaper, circular, pamphlet or dodger at the end of that part.

Penalty: K400.00¹.

(2) A newspaper editor or proprietor who permits, in a newspaper which he edits or owns, the publication of an unsigned article, report, letter or other matter commenting upon a candidate or political party, after the issue and before the return of any writ for the election of a member, is guilty of an offence.

Penalty: K400.00¹.

(3) This section does not apply to the publication in a newspaper of—

- (a) a leading article; or
- (b) an article in a newspaper² which consists solely of a report of a meeting and does not contain any comment (other than comment made by a speaker at the meeting) upon a candidate or political party.

182. Matter broadcast.

(1) On and after the date of issue and before the return of a writ for the election of a member, a person who broadcasts or permits to be broadcast, from a broadcasting station an announcement, statement or other matter commenting upon a candidate or political party is, unless that announcement, statement or other matter includes the true name and address of the author of it, is³ guilty of an offence.

Penalty: K400.00¹.

(2) Where an announcement, statement or other matter is broadcast in contravention of Subsection (1), the person who supplied the announcement, statement or other matter to the broadcasting station for broadcasting is, unless he proves that the true name and address of the author were included in the announcement, statement or other matter so supplied, guilty of an offence.

Penalty: K400.00¹.

¹ See footnote to Section 55.

² *Semble*, the words "in a newspaper" should be omitted.

³ *Semble*, the word "is" should be omitted.

(3) This section does not apply to the inclusion in a summary of news of a report of a meeting which contains no comment (other than comment made by a speaker at the meeting) upon a candidate or political party.

(4) For the purposes of this section, "broadcasting station" means a station broadcasting messages by means of wireless telegraphy.

183. Display of certain electoral posters prohibited.

(1) Subject to this section, a person who posts up or exhibits, or permits or causes to be posted up or exhibited, on, in or at a building, vehicle, vessel, hoarding or place (whether it is or is not a public place or in a public place, and whether on land or water or in the air)—

(a) an electoral poster the area of which is more than 7 800cm²; and

(b) an electoral poster in combination with any other such poster if the aggregate area of those posters exceed 7 800cm²,

is guilty of an offence.

Penalty: K400.00¹.

(2) Subject to this section, a person who writes, draws or depicts electoral matters directly on a roadway, footpath, building, vehicle, vessel, hoarding or place (whether it is or is not a public place or in a public place, and whether on land or water or in the air), is guilty of an offence.

Penalty: K400.00¹.

(3) The application of Subsections (1) and (2) extends in relation to an election although the writ for that election has not been issued.

(4) Nothing in this section prohibits—

(a) the posting up, exhibiting, writing, drawing or depicting of a sign on or at the office or committee room of a candidate or political party indicating only that the office or room is the office or committee room of the candidate or party, and specifying the name of the candidate or the name of the party concerned; or

(b) the projection, by means of a cinematograph or other similar apparatus, of electoral matter on to a screen in a public theatre, hall or premises used for public entertainment.

(5) In this section—

"electoral matter" means any matter intended or calculated to affect the result of an election;

"electoral poster" means any material whatsoever on which electoral matter is written, drawn or depicted.

184. Removal of prohibited electoral posters.

(1) For the purpose of ensuring compliance with Section 183 a member of the Police Force may, and shall, if so directed by the Electoral Commission or by a Returning Officer—

(a) remove an electoral poster which appears to have been posted up or to be exhibited in contravention of that section; or

¹ See footnote to Section 55.

(b) obliterate electoral matter which appears to have been written, drawn or depicted in contravention of that section.

(2) A person shall not obstruct or hinder a member of the Police Force in the exercise or attempted exercise of any power or in the discharge or attempted discharge of any duty, conferred or imposed upon him under this section.

Penalty: K400.00¹.

185. Injunctions.

For the purpose of ensuring compliance with Section 183, the National Court may, upon the application of an officer, grant an injunction--

(a) restraining an apprehended contravention of that section; or

(b) directing the removal of an electoral poster posted up or exhibited in contravention of that section, or the obliteration of electoral matter written, drawn or depicted in contravention of that section,

and may make an order incidental or supplementary to an order under this section, including an order as to costs.

186. Cards in polling booths.

(1) A person who exhibits or leaves in a polling booth a card or paper having on it a direction or instruction as to how an elector should vote or as to the method of voting is guilty of an offence.

Penalty: K200.00¹.

(2) This section does not apply to official instructions exhibited by electoral officers at the direction of the Electoral Commission at a polling booth.

187. Untrue statements in electoral papers, etc.

(1) A person who makes an untrue statement in an electoral paper, or in answer to a question under this Law or in information supplied to an officer for the purposes of the preparation, maintenance or revision of a Roll is guilty of an offence.

Penalty: K200.00¹.

(2) In Subsection (1), "electoral paper" includes a prescribed form.

188. Signature to electoral paper.

(1) Every electoral paper which by this Law has to be signed by a person shall be signed by that person with his personal signature and in the case of the Electoral Commission by the personal signature of the Electoral Commissioner.

(2) Where a person who is unable to sign his name in writing makes his mark as his signature to an electoral paper, the mark shall be deemed to be his personal signature, if it is identifiable as such and is made in the presence of a witness who signs the electoral paper as a witness to the signature.

(3) A person who makes the signature of any other person on an electoral paper is guilty of an offence.

Penalty: K400.00¹.

(4) In this section, "electoral paper" includes a prescribed form.

¹ See footnote to Section 55.

189. Witnessing electoral papers.

(1) A person who—

- (a) signs his name as witness on a blank electoral paper; or
- (b) signs his name as witness on an electoral paper which has been wholly or partly filled in unless it has been signed by the person intended to sign it; or
- (c) signs his name as witness on an electoral paper unless he has seen the person whose signature he purports to witness sign it; or
- (d) writes on an electoral paper as his own name—
 - (i) the name of another person; or
 - (ii) any name not being his own name,

is guilty of an offence.

Penalty: K400.00¹.

(2) In Subsection (1), "electoral paper" includes a prescribed form.

190. Making marks on ballot-papers.

Except where expressly authorized by or under this Law, a person (other than the elector to whom the ballot-paper has been lawfully issued) who makes a mark or writing on the ballot-paper of an elector is guilty of an offence.

Penalty: K400.00¹.**191. Electoral offences.**

The matters specified in Column 1 of the table in this section are electoral offences punishable in accordance with the provision in Column 2 of that table opposite the statement of the offence in Column 1.

TABLE OF ELECTORAL OFFENCES AND PUNISHMENTS.

Column 1.—Offences	Column 2.—Punishments ¹
1. Voting more than once at the same election	K400.00 or imprisonment for three months.
2. Wagering on the result of an election	K400.00.
3. Wilfully defacing, mutilating, destroying or removing a notice, list or other document affixed by a Returning Officer or by his authority	K20.00.
4. Knowingly making a false statement in a claim, application, return or declaration, or in answer to a question under this Law	Imprisonment for two years.
5. Distributing an advertisement, handbill or pamphlet published in contravention of Section 179	K200.00 or imprisonment for one month.
6. Any contravention of this Law for which no other punishment is provided	K400.00.
7. Falsely personating a person to secure a ballot-paper to which the personator is not entitled, or personating any other person for the purposes of voting	Imprisonment for two years.
8. Fraudulently destroying or defacing a nomination paper or ballot-paper	Imprisonment for two years.

¹ See footnote to Section 55.

TABLE OF ELECTORAL OFFENCES AND PUNISHMENTS.—*Continued.*

Column 1.—Offences	Column 2.—Punishments ¹
9. Fraudulently putting a ballot-paper or other paper into a ballot-box	Imprisonment for six months.
10. Fraudulently taking a ballot-paper out of a polling booth	Imprisonment for six months.
11. Taking a ballot-paper out of a polling booth	K400.00.
12. Forging, or uttering knowing it to be forged, a nomination paper or ballot-paper	Imprisonment for two years.
13. In a polling booth during the polling, misconducting himself, or failing to obey the lawful directions of the presiding officer	K200.00 or imprisonment for one month.
14. Supplying ballot-papers without authority	Imprisonment for six months.
15. Unlawfully destroying, taking, opening, or otherwise interfering with ballot-boxes or ballot-papers	Imprisonment for six months.

192. Prohibition of canvassing near polling booth.

(1) The following acts are, during the polling period and on all days to which the polling is adjourned, prohibited at an entrance of or within a polling booth, or within 7m of an entrance of a polling booth :—

- (a) canvassing for votes; or
- (b) soliciting the vote of an elector; or
- (c) inducing an elector not to vote for a particular candidate; or
- (d) inducing an elector not to vote at the election; or
- (e) exhibiting a notice or sign (other than an official notice) relating to the election.

Penalty: K200.00¹.

(2) Where—

- (a) a building used as a polling booth is situated in grounds within an enclosure; and
- (b) the presiding officer at the polling booth causes to be displayed throughout the polling period at each entrance to those grounds a notice signed by him stating that those grounds are part of the polling booth,

those grounds shall, for the purposes of Subsection (1), be deemed to be part of a polling booth.

193. Badges or emblems in polling booths.

An officer or scrutineer who wears or displays in a polling booth during the polling period a badge or emblem of a candidate or political party is guilty of an offence.

Penalty: K200.00¹.

194. Failure to transmit claims.

A person who accepts a claim for enrolment or transfer of enrolment for transmission to a Returning Officer shall forthwith transmit the claim to the Returning Officer.

Penalty: K400.00¹.

¹ See footnote to Section 55.

195. Forging or uttering electoral papers.

(1) A person who—

(a) forges an electoral paper; or

(b) utters a forged electoral paper, knowing it to be forged,

is guilty of an offence.

Penalty: Imprisonment for two years¹.

(2) In Subsection (1), "electoral paper" includes a prescribed form.

196. Employers to allow employees leave of absence to vote.

(1) If an employee who is an elector notifies his employer that he desires leave of absence to enable him to vote at an election, the employer shall, if the absence desired is necessary to enable the employee to vote at the election, allow him leave of absence without any penalty or disproportionate deduction of pay for such reasonable period as is necessary to enable the employee to vote at the election.

Penalty: K400.00¹.

(2) An employee who obtains leave of absence under this section under pretence that he intends to vote at the election but without the bona fide intention of doing so, is guilty of an offence.

Penalty: K400.00¹.

(3) This section does not apply to an elector whose absence may cause danger or substantial loss in respect of the employment in which he is engaged.

197. Protection of the official mark.

(1) A person who, without lawful authority, the burden of proof of which lies upon him—

(a) makes an official mark on or in a paper; or

(b) has in his possession a paper bearing an official mark; or

(c) makes use of or has in his possession an instrument capable of making on or in a paper an official mark,

is guilty of an offence.

Penalty: K400.00¹.

(2) A person who, without lawful authority, the burden of proof of which lies upon him, makes on or in a ballot-paper, or on or in a paper purporting to be a ballot-paper, an official mark, shall be deemed to have forged a ballot-paper and is punishable accordingly.

(3) All paper bearing an official mark, and all instruments capable of making on or in paper an official mark, made or used by, or in the possession of, a person without lawful authority (the burden of proof of which authority lies upon him) is forfeited to Papua New Guinea, and may without warrant be seized by any member of the Police Force and destroyed or dealt with as prescribed.

(4) In this section, "official mark" means a prescribed mark to be placed or made on or in an electoral paper, and includes a mark so nearly resembling an official mark as to be likely to deceive.

¹ See footnote to Section 55.

198. Disorderly behaviour at meeting.

(1) This section applies to any lawful public political meeting held in relation to an election between the date of the issue of the writ for the election and the date of the return of the writ.

(2) A person who, at a public meeting to which this section applies, acts in a disorderly manner for the purpose of preventing the transaction of the business for which the meeting is held is guilty of an offence.

Penalty: K200.00 or imprisonment for one month¹.

(3) The chairman of a public meeting to which this section applies may direct any member of the Police Force to remove from the room, building or place in which the meeting is being held a person who, in the opinion of the chairman, is preventing the transaction of the business for which the meeting is held, and thereupon the member of the Police Force may take such steps as are necessary for the removal of the person from the room, building or place.

(4) A person—

(a) who has been removed from a room or building in accordance with a direction given under Subsection (3); or

(b) whose removal from a room, building or place has been directed under Subsection (3) and who has left that room, building or place,

and who, without the authority of the chairman (proof of which authority lies upon that person) returns to that room or building while the meeting is in progress, is guilty of an offence.

Penalty: K200.00 or imprisonment for one month¹.

(5) A member of the Police Force may arrest without warrant a person who commits an offence against Subsection (4).

199. Neglect to initial ballot-paper, etc.

An officer who, contrary to his duty, fails to initial a ballot-paper, correctly to mark a certified list of voters, or properly to attest a declaration is guilty of an offence.

Penalty: K200.00¹.

200. Offender may be removed from polling booth.

(1) A person who, in a polling booth during the polling, misconducts himself, or fails to obey the lawful direction of the presiding officer, may be removed from the polling booth by a member of the Police Force or by a person authorized by the presiding officer.

(2) A person who has been removed from a polling booth by direction of the presiding officer under Subsection (1) and who re-enters the polling booth without the permission of the presiding officer is guilty of a further electoral offence, punishable on conviction by twice the penalty prescribed by Section 191 for the original offence.

201. Defamation of candidate.

(1) Subject to Subsection (2), a person shall not make or publish a false and defamatory statement in relation to the personal character or conduct of a candidate.

Penalty: K800.00 or imprisonment for six months¹.

¹ See footnote to Section 55.

(2) It is a defence to a prosecution for an offence against Subsection (1), if the defendant proves that he has had reasonable ground for believing and did in fact believe the statement made or published by him to be true.

(3) A person who makes a false and defamatory statement in relation to the personal character or conduct of a candidate in contravention of this section may be restrained by injunction, at the suit of the candidate aggrieved, from repeating the statement or any similar false and defamatory statement.

202. Publication of matter regarding candidates.

(1) Subject to this section, if, in any matter announced or published by a person, or caused by a person to be announced or published, on behalf of an association, league, organization or other body of persons, it is, without the authority of the candidate (the burden of proof of which authority lies upon that person)—

- (a) claimed or suggested that a candidate in an election is associated with, or supports the policy or activities of, that association, league, organization or other body of persons; or
- (b) expressly or impliedly advocated or suggested that that candidate is the candidate for which a vote should be given,

that person is guilty of an offence.

Penalty: K400.00 or imprisonment for three months¹.

(2) Where any matter, the announcement or publication of which by a person without the written authority of a candidate would be an offence against Subsection (1) on the part of that person, is announced or published by or on behalf of, or with the support of, an association, league, organization or other body of persons, every person who was an officer of that association, league, organization or body at the time of that announcement or publication shall be deemed to be guilty of an offence against that subsection.

(3) For the purposes of this section, where any matter purports expressly or impliedly to be announced or published by or on behalf of, or in the interests or with the support of, an association, league, organization or other body of persons the matter shall, in the absence of proof to the contrary, be deemed to be announced or published by or on behalf of, or with the support of, as the case may be, that association, league, organization or other body of persons.

(4) Nothing in the preceding provisions of this section applies to or in relation to an announcement or publication made or authorized by a bona fide political party or by a bona fide branch of a political party respecting a candidate who, by public announcement, has declared his candidature to be a candidature on behalf of or in the interests of that party.

203. Voting in an electorate when qualified to enrol in another electorate.

A person who is enrolled in respect of an electorate and votes at an election in that electorate knowing that at some time after the date he was enrolled for that electorate and before the date of the issue of the writ for an election in that electorate he became qualified to enrol in, or to transfer his enrolment to, another electorate is guilty of an offence.

Penalty: K800.00 or imprisonment for six months¹.

¹ See footnote to Section 55.

204. Liability for indirect acts.

Every person is liable for an illegal practice or an offence against this Part committed directly or indirectly by himself, or by any other person on his behalf and with knowledge or authority¹.

205. Application of Criminal Code.

Nothing in this Law shall derogate or be deemed to derogate the provisions of the pre-Independence law known as the Criminal Code², but a person is not liable to be prosecuted or punished both under this Law and under the pre-Independence law known as the Criminal Code² for the same offence.

PART XVIII.—DISPUTED ELECTIONS, RETURNS, ETC.

Division 1.—Disputed Elections and Returns.

206. Method of disputing returns.

The validity of an election or return may be disputed by petition addressed to the National Court and not otherwise.

207. Jurisdiction of National Court exercisable by single Judge.

The jurisdiction of the National Court in relation to any matter under this Part may be exercised by a single Judge.

208. Requisites of petition.

A petition shall—

- (a) set out the facts relied on to invalidate the election or return; and
- (b) specify the relief to which the petitioner claims to be entitled; and
- (c) be signed by a candidate at the election in dispute or by a person who was qualified to vote at the election; and
- (d) be attested by two witnesses whose occupations and addresses are stated; and
- (e) be filed in the Registry of the National Court at Port Moresby within two months after the declaration of the result of the election in accordance with Section 176(1)(a).

209. Deposit as security for costs.

At the time of filing the petition the petitioner shall deposit with the Registrar of the National Court the sum of K200.00 as security for costs.

210. No proceedings unless requisites complied with.

Proceedings shall not be had on a petition unless the requirements of Sections 208 and 209 are complied with.

211. Right of returning Officer to be represented.

The Electoral Commission may, by leave of the National Court, enter an appearance in any proceedings in which the validity of an election or return is disputed, and be represented and heard in the proceedings, and in that case shall be deemed to be a party respondent to the petition.

¹ *Semble*, the word "his" was omitted before "knowledge and authority".

² Printed in this Revised Edition in the *Criminal Code*.

212. Powers of Court.

(1) In relation to any matter under this part the National Court shall sit as an open court and may, amongst other things—

- (a) adjourn; and
- (b) compel the attendance of witnesses and the production of documents; and
- (c) grant to a party to a petition leave to inspect, in the presence of a prescribed officer, the Rolls and other documents (except ballot-papers) used at or in connexion with an election and take, in the presence of the prescribed officer, extracts from those Rolls and documents; and
- (d) order a recount of ballot-papers in an electorate; and
- (e) examine witnesses on oath; and
- (f) declare that a person who was returned as elected was not duly elected; and
- (g) declare a candidate duly elected who was not returned as elected; and
- (h) declare an election absolutely void; and
- (i) dismiss or uphold a petition in whole or in part; and
- (j) award costs; and
- (k) punish contempt of its authority by fine or imprisonment.

(2) The Court may exercise all or any of its powers under this section on such grounds as the Court in its discretion thinks just and sufficient.

(3) Without limiting the powers conferred by this section, the power of the Court to declare that a person who was returned as elected was not duly elected, or to declare an election absolutely void, may be exercised on the ground that illegal practices were committed in connexion with the election.

213. Production of postal vote certificate, etc.

(1) Without limiting the powers conferred by Section 212—

- (a) when it is proved that a ballot-paper issued under Section 100, 141, 142 or 143 has, in an election, been marked by a person who was not entitled to vote at the election, the Court may require the production of—
 - (i) the postal vote certificate delivered to or posted to that person; or
 - (ii) any other papers or documents relating to the ballot-papers issued under those sections,as the case may be; and
- (b) the Court may reject a ballot-paper.

(2) The production from proper custody of a ballot-paper purporting to have been used in an election and bearing an official number, and of a postal vote certificate or other papers or documents referred to in Subsection (1)(a) (ii) an official number corresponding to the official number on the ballot-paper, is *prima facie* evidence that the person who marked the ballot-paper was the person to whom the postal vote certificate was delivered or posted or who made the declaration, as the case may be.

(3) In Subsection (2), "official number" means a number purporting to have been placed on the ballot-paper or postal vote certificate, as the case may be, under this Law.

214. Inquiries by Court.

The National Court shall inquire whether or not the petition is duly signed, and so far as Rolls and voting are concerned may inquire into the identity of persons and whether their votes were improperly admitted or rejected, assuming the Roll to be correct, but the Court shall not inquire into the correctness of a Roll.

215. Voiding election for illegal practices.

(1) If the National Court finds that a candidate has committed or has attempted to commit bribery or undue influence, his election, if he is a successful candidate, shall be declared void.

(2) A finding by the National Court under Subsection (1) does not bar or prejudice a prosecution for an illegal practice.

(3) The National Court shall not declare that a person returned as elected was not duly elected, or declare an election void—

(a) on the ground of an illegal practice committed by a person other than the candidate and without the candidate's knowledge or authority; or

(b) on the ground of an illegal practice other than bribery or undue influence or attempted bribery or undue influence,

unless the Court is satisfied that the result of the election was likely to be affected, and that it is just that the candidate should be declared not to be duly elected or that the election should be declared void.

216. Court to report cases of illegal practice.

Where the National Court finds that a person has committed an illegal practice, the Registrar of the Court shall promptly report the finding to the Speaker and to the Electoral Commission.

217. Real justice to be observed.

The National Court shall be guided by the substantial merits and good conscience of each case without regard to legal forms or technicalities, or whether the evidence before it is in accordance with the law of evidence or not.

218. Immaterial errors not to vitiate election.

(1) Subject to Subsection (2), an election shall not be avoided on account of a delay in the declaration of nominations, the polling, the declaration of the poll or the return of the writ, or on account of the absence or an error of, or an omission by, an officer which did not affect the result of the election.

(2) Where an elector was, on account of the absence or an error of, or an omission by, an officer, prevented from voting in an election, the National Court shall not for the purpose of determining whether the absence or error of, or the omission by, the officer did or did not affect the result of the election, admit evidence of the way in which the elector intended to vote in the election.

219. Evidence that person not permitted to vote.

On the trial of a petition, the National Court shall not admit the evidence of a witness that he was not permitted to vote in an election during the hours of polling in the polling period unless the witness satisfies the Court—

- (a) that he claimed to vote in the election, under that provision of this Law under which he was entitled or might be permitted to vote; and
- (b) that he complied with the requirements of this Law relating to voting by electors in so far as he was permitted to do so.

220. Decision to be final.

A decision of the National Court is final and conclusive and without appeal, and shall not be questioned in any way¹.

221. Copies of petition and order of Court to be sent to the Parliament.

The Registrar of the National Court shall promptly after the filing of a petition forward to the Clerk of the Parliament a copy of the petition, and after the trial of the petition shall promptly forward to the Clerk a copy of the order of the Court.

222. Counsel or solicitor.

(1) A party to a petition shall not, except by consent of all parties or by leave of the National Court, be represented by counsel or solicitor.

(2) In no case shall more than one counsel appear on behalf of a party.

223. Costs.

The National Court may award costs against an unsuccessful party to a petition.

224. Deposits applicable for costs.

If costs are awarded to a party against the petitioner, the deposit lodged under Section 209 is applicable in payment of the sum ordered, but otherwise the deposit shall be paid to the petitioner.

225. Other costs.

All other costs awarded by the National Court, including any balance above the deposit payable by the petitioner, are recoverable as if the order of the Court were a judgement of the National Court, and the order, certified by the Court, may be entered as a judgement of the National Court and enforced accordingly.

226. Effect of decision.

Effect shall be given to a decision of the National Court as follows :—

- (a) if a person returned is declared not to have been duly elected, he shall cease to be a member; and
- (b) if a person not returned is declared to have been duly elected, he may take his seat accordingly; and
- (c) if an election is declared absolutely void a new election shall be held.

227. Definition of "petition".

In this Division, "petition" means a petition disputing an election or return.

¹ But, *see*, Constitution, Section 155.

Division 2.—Qualifications and Vacancies.

228. Reference of question of qualification or vacancy.

A question respecting the qualifications of a member or respecting a vacancy in the Parliament may be referred by resolution to the National Court by the Parliament and the Court shall thereupon have jurisdiction to hear and determine the question.

229. Speaker to state case.

When a question is referred to the National Court under this Division, the Speaker shall transmit to the Court a statement of the question upon which the determination of the Court is desired, together with any proceedings, papers, reports or documents relating to the question in the possession of the Parliament.

230. Parties to the reference.

The National Court may allow a person who, in the opinion of the Court, is interested in the determination of a question referred to it under this Division to be heard on the hearing of the reference, or may direct notice of the reference to be served on a person, and a person so allowed to be heard or so directed to be served shall be deemed to be a party to the reference.

231. Powers of Court.

On the hearing of a reference under this Division, the National Court shall sit as an open court and has the powers conferred by Section 212 so far as they are applicable, and in addition has power—

- (a) to declare that a person was not qualified to be a member; and
- (b) to declare that a person was not capable of being chosen or of sitting as a member; and
- (c) to declare that there is a vacancy in the Parliament.

232. Order to be sent to the Parliament.

After the hearing and determination of a reference under this Division, the Registrar of the National Court shall promptly forward to the Clerk of the Parliament a copy of the order or declaration of the National Court.

233. Application of certain sections.

The provisions of Sections 217, 218, 219, 220, 221 and 222 apply so far as they are applicable, to proceedings on a reference to the National Court under this Division.

PART XIX.—MISCELLANEOUS.

234. Local Government rules on advertising, etc.

Any rule of a Local Government Council dealing with advertising, publishing of matter or any similar matter that—

- (a) discriminates or may discriminate against any candidate or class of candidates at an election; or
- (b) gives preference or may give preference to be given¹ to one candidate over another candidate in an election; or

¹ *Sic.* Presumably "to be given" should be omitted or Paragraph (b) should read "gives preference or may give preference, or allows or may allow preference to be given to one candidate over another candidate in an election";.

(c) gives preference or may give preference to one registered political party over another registered political party; or

(d) allows a Council to do any of the matters specified in paragraph (a), (b) or (c),

is to the extent that it discriminates, may discriminate, gives preference, may give preference, or allows a Council to discriminate or give preference void.

235. Institution of proceedings for offences.

(1) The Electoral Commission shall, where the Public Prosecutor so advises, institute legal proceedings against a person committing an offence against this Law.

(2) Nothing in Subsection (1) affects the rights of any person to institute proceedings in respect of an offence against this Law.

236. Certificate evidence.

On a prosecution under this Law, the certificate of the Electoral Commission or the Returning Officer that an election referred to in the certificate was duly held and that the person named in the certificate was a candidate at the election is evidence of the matters stated.

237. Electoral matter may be sent by telegraph.

(1) In all cases where it is impracticable to communicate any electoral matter by post without occasioning undue delay, any telegraphic advice communicated in the ordinary course shall suffice for all the purposes of this Law as if the matter telegraphed had been communicated in the manner prescribed by this Law.

(2) Subject to Subsection (3), where, after the result of an election has been declared, the Returning Officer has certified by telegraph addressed to the Electoral Commission—

(a) that by reason of distance, or the infrequency of, or any interruption to, the postal services, the writ for the election, endorsed by the Returning Officer with the name of the candidate elected, cannot reach the Electoral Commission within 21 days; and

(b) the name of the candidate elected,

the Electoral Commission may endorse upon a copy of the writ a certified copy of the telegram received by it, and the copy so endorsed shall have the same force and effect as if it were the original writ duly endorsed by the Returning Officer.

(3) If, upon the return of an original writ, any inconsistency is found to exist between the original writ and the copy of the writ endorsed under Subsection (2) as to the name of the candidate elected, the copy shall thereupon cease to have any force or effect, and action shall be taken in accordance with the endorsement on the original writ.

238. Averments deemed to be proved.

In a prosecution in a court of summary jurisdiction in respect of a contravention of the provisions of this Law relating to compulsory enrolment, instituted by an officer or by a person acting under the direction of an officer, the averments of the prosecutor contained in the information or complaint shall be deemed to be proved in the absence of evidence to the contrary.

239. Defendant may be called upon to give evidence.

Where a person has secured enrolment in pursuance of an electoral claim, or has made a claim for enrolment or transfer of enrolment, and¹ arise in a court of competent jurisdiction in respect of the claim for enrolment or transfer of enrolment, the person may be called upon to give evidence upon oath to the court as to the truth of the statements contained in the claim for enrolment or transfer of enrolment.

240. Production of claims for enrolment, etc.

(1) A person who is, or has been, an officer shall not, except for the purposes of this Law, be required—

- (a) to produce in court, or give evidence of, a claim for enrolment or transfer of enrolment under this Law; or
- (b) to divulge or communicate to a court any matter or thing in relation to a claim for enrolment or transfer of enrolment under this Law, being a matter or thing that has come under his notice in the performance of his duties or functions under this Law.

(2) In this section, "officer" includes any person performing duties, or exercising powers or functions, under or in relation to this Law.

241. Preservation of ballot-papers.

(1) Subject to Subsection (2), all ballot-papers, certified lists of voters and declarations used at or in connexion with an election shall be preserved as prescribed until the election can no longer be questioned, when they shall be destroyed.

(2) Ballot-papers, certified lists of voters and declarations referred to in Subsection (1) shall be preserved for a period of at least six months after the date of the declaration of the poll.

242. Prescribed offences.

For the purposes of Section 47(1)(b)² (*right to vote and stand for public office*) of the Constitution the offences contained in the sections specified hereunder are prescribed offences:—

Sections 106, 107, 175(2), 179(1)(c), (d) and (e), 188(3), 191(1), (4), (7), (8), (9), (10), (12), (14), and (15), 195, 197(1) and 201.

243. Regulations³.

The Head of State, acting with, and in accordance with, the advice of the National Executive Council may make regulations, not inconsistent with this Law, prescribing all matters that by this Law are required or permitted to be prescribed, or that are necessary or convenient to be prescribed, for carrying out or giving effect to this Law, and in particular for prescribing—

- (a) penalties not exceeding K200.00 for contraventions of the Regulations; and
- (b) the procedure in relation to the imposition and recovery of penalties for offences against the compulsory enrolment provisions of this Law.

¹ A blank space appears in the Organic Law at this point. *Seem*, the word "proceedings" was omitted: compare Section 233 of the pre-Independence *Electoral Act* 1963.

² This reference is incorrect. It seems that the correct reference is to Section 50(1)(b), and "47(1)(b)" was the numbering in the draft Constitution debated and amended by the National Constituent Assembly.

³ *See*, however, Constitution, Section 258, which provides for the making of "Constitutional Regulations" for the purposes of Organic Laws.

PART XX.—TRANSITIONAL.¹

244. Law takes effect for first general election.

This Law takes effect for the purposes of the first general election to be held after Independence Day.

245. Special provision in relation to certain provincial electorates.

- (1) This section shall come into operation on 1 November 1975.
- (2) Notwithstanding anything in this Law or in any other law—
 - (a) the provincial electorate of Western Highlands² is divided into—
 - (i) the provincial electorate of Western Highlands consisting of the open electorates of Dei, Hagen, Jimi, Mul, Tambul-Nebilyer and Wahgi; and
 - (ii) the provincial electorate of Enga consisting of the open electorates of Kandep-Porgera, Kompian-Baiyer, Lagaip, Wabag and Wapenamanda; and
 - (b) the provincial electorate of Central² is divided into—
 - (i) the provincial electorate of Central consisting of the open electorates of Goilala, Kairuku-Hiri, Rigo-Abau; and
 - (ii) the provincial electorate of National Capital District consisting of the open electorates of Moresby Coastal and Moresby Inland.
- (3) The member of the Parliament representing the provincial electorate of Western Highlands² and the member of the Parliament representing the provincial electorate of Central² in office immediately before 1 November 1975 continue in office unless and until—
 - (a) his seat becomes vacant by virtue of Section 105(2) (a), (b), (c), (d), (e), (g) or (h)³ (normal term of office) of the Constitution; or
 - (b) he becomes a member who has been convicted of and is under sentence of imprisonment, or is subject to be sentenced (other than a person who has been released on recognizance to appear and receive judgement when called upon), for an offence punishable by imprisonment for one year or longer, as in Section 47(1)(a)⁴ (right to vote and stand for public office) of the Constitution; or
 - (c) he becomes disqualified under Section 104(3)(b) or (d)⁴ (qualifications for and disqualifications from membership) of the Constitution.
- (4) The Parliament shall before 1 November 1975, by resolution, determine—
 - (a) that the member representing the provincial electorate of Western Highlands² shall be deemed for all purposes to have been elected as the member representing the provincial electorate of—
 - (i) Western Highlands; or

¹ This heading was omitted, presumably accidentally as it was included in the Arrangement of Sections.

² Presumably, these references are to the former "regional" electorates of those names (under the pre-Independence Electoral Act 1963) which, by virtue of the Constitution, Section 269(1), became known as "provincial" electorates.

³ This reference is incorrect. It seems that the correct reference is to Section 104(2)(a), (b), (c), (d), (e), (g) or (h), and that "105(2)(a)", etc., was the numbering in the draft Constitution debated and amended by the National Constituent Assembly.

⁴ These references are incorrect. It seems that the correct references are to Sections 50(1)(a) and 103(3)(b) or (d) respectively, and that "47(1)(a)" and "104(3)(b) or (d)" was the numbering in the draft Constitution debated and amended by the National Constituent Assembly.

(ii) Enga; and

(b) that the member representing the provincial electorate of Central¹ shall be deemed for all purposes to have been elected as the member representing the provincial electorate of—

(i) Central; or

(ii) National Capital District,

and that resolution shall have full power and effect as if the member had been elected for that electorate.

246. Pre-Independence Act to remain in force.

The pre-Independence laws known as the *Electoral Act 1963* and *Electoral (Regional Electorates) Act 1971* remains in force for the purposes of any by-election to be conducted between Independence Day and the date of issue of the writs for the first general election after Independence Day.

247. First Electoral Commissioner.

(1) The person holding office, immediately before Independence Day, as the Chief Electoral Officer, is, for the purposes of Section 244, the first Electoral Commissioner for a period ending on the date on which an Electoral Commissioner is appointed under Section 4 and on the same terms and conditions of employment that were applicable to him immediately before Independence Day.

(2) Nothing in Subsection (1) prevents the person appointed as the First Electoral Commissioner under that subsection from being appointed Electoral Commissioner under Section 4.

SCHEDULE 1.

PAPUA NEW GUINEA.

Organic Law on National Elections.

Sec. 74.

Form 1.

WRIT FOR A GENERAL ELECTION OF MEMBERS OF THE NATIONAL PARLIAMENT.

To: _____, Returning Officer for _____ Electorate.

GREETING:

This is to command you to cause election to be made according to law of one Member of the National Parliament for the _____ Electorate to serve in the Parliament, and I appoint the following dates for the purposes of the said election:—

- | | | |
|---|----|----|
| 1. For nomination | 19 | |
| 2. For the first day of the polling period in the Electorate if the election is contested | 19 | . |
| 3. For the last day of the polling period in the Electorate if the election is contested | 19 | . |
| 4. For the return of the writ, on or before | 19 | . |
| GIVEN under my hand at | | 19 |

(Head of State).

¹ See footnote to Section 245(2)(a).

PAPUA NEW GUINEA
Organic law on National Elections.

Sec. 74.

Form 2.

WRIT FOR AN ELECTION OF A MEMBER OF THE NATIONAL PARLIAMENT TO FILL A CASUAL VACANCY.

To: _____, Returning Officer for the _____ Electorate.

GREETING:

This is to command you to cause election to be made according to law of one Member of the National Parliament to fill the vacant office of Member for the _____ Electorate, and I appoint the following dates for the purposes of the said election:—

- 1. For nomination 19 .
 - 2. For the first day of the polling period in the Electorate if the election is contested 19 .
 - 3. For the last day of the polling period in the Electorate if the election is contested 19 .
 - 4. For the return of the writ, on or before 19 .
- GIVEN under my hand at _____ 19 .

(Head of State).

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 1.

Electoral (Marking of Voters) Regulation.

ARRANGEMENT OF SECTIONS.

1. Interpretation—
 - "appropriate"
 - "appropriate mark"
 - "Principal Law".
2. Inspection of fingers.
3. Person receiving ballot paper to be marked.
4. Certain particulars to be recorded.
5. Offences.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 1.

Electoral (Marking of Voters) Regulation.

MADE under the *Organic Law on National Elections.*

1. Interpretation.

In this Regulation, unless the contrary intention appears—

“appropriate”, in relation to the inspection or marking of a voter, means—

- (a) the little finger of his left hand, or, if the little finger is missing, any other finger of his left hand; or
- (b) if all the fingers of his left hand are missing, the little finger of his right hand or, if the little finger is missing, any other finger of his right hand; or
- (c) if all the fingers of his left and right hands are missing, such extremity of his left or right hand as the voter possesses;

“appropriate mark” means a mark made with indelible ink;

“Principal Law” means the *Organic Law on National Elections.*

2. Inspection of fingers.

Before handing a ballot paper to a person claiming to vote, the presiding officer or a poll clerk shall request the person to allow an inspection of his finger to ascertain whether the appropriate mark has been made and shall inspect the fingers offered for inspection.

3. Person receiving ballot paper to be marked.

The presiding officer or a poll clerk, who in terms of Section 136(1) of the Principal Law hands a ballot paper to a person claiming to vote, shall immediately after handing the ballot paper to that person, place the appropriate mark on that person.

4. Certain particulars to be recorded.

(1) Where a person claiming to vote—

- (a) refuses to allow an inspection of his fingers under Section 2; or
- (b) refuses to allow the appropriate mark to be made under Section 3; or
- (c) is found, on an inspection under Section 2, to have on his finger a mark which, in the opinion of the presiding officer or a poll clerk, resembles an appropriate mark,

the presiding officer or a poll clerk shall prepare a report for the information of the Electoral Commission and the Returning Officer.

(2) A report under Subsection (1) shall specify—

- (a) the name given by the person; and
- (b) the reasons why a report is made.

5. Offences.

A person claiming to vote who—

- (a) refuses to allow an inspection of his fingers under Section 2; or
- (b) refuses to allow the appropriate mark to be made under Section 3,

is guilty of an offence.

Penalty: A fine not exceeding K200.00.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 1.

Organic Law on the Nomination of the Governor-General.

ARRANGEMENT OF SECTIONS.

1. Definitions—
 "member"
 "Parliament's nominee"
 "the Clerk".
2. The Clerk to conduct elections.
3. Nominations.
4. Proposals for nomination.
5. Rejection of proposals.
6. Functions of Clerk prior to ballot.
7. Voting where one person only proposed.
8. Voting where two persons proposed.
9. Voting where more than two persons proposed.

SCHEDULE 1.—Proposal for nomination.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 1.

Organic Law on the Nomination of the Governor-General.

Being a Provisional Organic Law to implement Section 88(2) (*appointment to office*) of the Constitution by providing for the conduct of an exhaustive secret ballot to decide the Parliament's nomination for the office of Governor-General,

MADE by the Constituent Assembly to come into operation on Independence Day¹.

1. Definitions.

In this Law, unless the contrary intention appears—

- "member" means a member of the National Parliament;
- "Parliament's nominee" means the person nominated by, or to be nominated by the National Parliament, to occupy the office of Governor-General;
- "the Clerk" means the Clerk of the National Parliament.

2. The Clerk to conduct elections.

An election under this Law shall be conducted by, or under the supervision of, the Clerk.

3. Nominations.

Whenever the office of Governor-General is vacant, or is about to become vacant, the Speaker shall—

- (a) on the first sitting day of the Parliament after the vacancy occurs, or the need to elect a new Governor-General occurs, as the case may be, notify the members of the Parliament of the vacancy or of the imminent vacancy; and
- (b) at the same time fix a date, being a date not later than 10 sitting days after the day referred to in paragraph (a), for the conduct of a ballot to decide the person to be nominated by the Parliament to fill the vacant office; and
- (c) call for nominations to fill the vacancy.

4. Proposals for nomination.

(1) A proposal for nomination shall be—

- (a) in the form in Schedule 1; and
- (b) contain the signature or other mark of—
 - (i) the proposer; and
 - (ii) the person proposed as accepting the nomination; and
 - (iii) not less than 15 other members of the Parliament; and
- (c) handed to the Clerk at any time before the commencement of voting.

(2) A member of the Parliament shall not propose more than one person as a candidate for election as the Parliament's nominee.

¹"Adopted" on 12 August 1975, before the adoption of the Constitution, and "made" on 15 August 1975.

5. Rejection of proposals.

(1) The Clerk may reject a proposal for nomination where—

- (a) the proposal is not in the prescribed form; or
- (b) the proposal is not signed by at least 15 members of the Parliament; or
- (c) he has reasonable cause to believe, and does believe, that the person nominated is not qualified for appointment as the Governor-General.

(2) Where the Clerk rejects a proposal for nomination he shall immediately inform the Speaker, the proposer and the person proposed of his reasons for so doing.

(3) A person aggrieved by a decision of the Clerk may, within five days after the decision, appeal against the decision to the National Court.

(4) An election under this Law shall not be held until all appeals under this section have been dealt with.

6. Functions of Clerk prior to ballot.

The Clerk shall, immediately before the commencement of voting—

- (a) furnish the Speaker with a list of all candidates for election and the Speaker shall declare the names to the Parliament; and
- (b) distribute, or cause to be distributed, to each member present in the Parliament at that time a ballot-paper in a form approved by the Clerk.

7. Voting where one person only proposed.

(1) Where only one person has been proposed as the Parliament's nominee, each member present shall—

- (a) indicate on his ballot-paper whether or not he agrees with the proposal; and
- (b) deliver the ballot-paper to the Clerk.

(2) The Clerk shall, as soon as he has received all the ballot-papers, in the presence of the members present, count the votes and furnish the result to the Speaker.

(3) The Speaker shall—

- (a) where the person proposed has received a majority of votes, declare that person elected as the Parliament's nominee; or
- (b) where the person proposed has received less than a majority, declare that the election has failed, and that person shall not again be proposed as a candidate for election at that election.

8. Voting where two persons proposed.

(1) Where two persons have been proposed as the Parliament's nominee, each member present shall—

- (a) indicate on the ballot-paper the name of the candidate for whom he votes; and
- (b) deliver his ballot-paper to the Clerk.

(2) The Clerk shall, as soon as he has received all the ballot-papers, in the presence of the members present, count the votes for each candidate and furnish the result to the Speaker.

(3) The Speaker shall—

- (a) where one of the candidates receives a majority of votes, declare that candidate elected as the Parliament's nominee; or

*Organic Law on the Nomination of
the Governor-General*

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(b) where both the candidates receive an equal number of votes, declare that a further ballot shall take place immediately.

(4) Where on a ballot referred to in Subsection 3(b) there is again an equality of votes, the Speaker shall declare that—

(a) the matter stands adjourned for one sitting day; and

(b) that a further ballot shall then take place.

(5) Where on the ballot referred to in Subsection (4) there is again an equality of votes, the Speaker shall cast his vote.

(6) Where there is an equality of votes, a candidate may at any time after the result of the first ballot is declared, but before the commencement of the second or other subsequent ballot, withdraw his name from the election which shall then proceed in accordance with Section 7.

9. Voting where more than two persons proposed.

(1) Where more than two persons have been proposed as the Parliament's nominee, each member present shall—

(a) indicate on the ballot-paper the name of the candidate for whom he votes; and

(b) deliver his ballot-paper to the Clerk.

(2) The Clerk shall, as soon as he has received all the ballot-papers, in the presence of the members present, count the votes for each candidate and furnish the result to the Speaker.

(3) As soon as he has been furnished with the result of the ballot the Speaker shall declare the candidate with the least number of votes to be excluded from further ballots and a second ballot shall be held immediately and so on until there are only two candidates remaining.

(4) Where only two candidates remain in accordance with Subsection (3) the further ballots shall be conducted in accordance with Section 8 as though those two candidates were the only candidates nominated.

(5) Where in any ballot conducted under Subsection (3) no decision can be made as to which candidate to exclude from a subsequent ballot because two or more candidates have an equality of votes, a ballot shall be conducted as between those candidates only to determine which should be excluded and, if after conducting that ballot there is still an equality of votes, the Speaker shall cast his vote to determine which of the candidates is to be excluded from subsequent ballots.

(6) At any time after the result of the first ballot under this section is declared, but before the commencement of the second or other subsequent ballot, a candidate may withdraw his name from the election which shall then proceed as if he had not been nominated.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 1.

Organic Law on the Number of Ministers.

ARRANGEMENT OF SECTIONS.

Number of Ministers.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 1.

Organic Law on the Number of Ministers.

Being a Provisional Organic Law to implement Section 144 (*other Ministers*) of the Constitution by providing for the number of Ministers,

MADE by the Constituent Assembly to come into operation on Independence Day¹.

Number of Ministers.

(1) The Head of State, acting with, and in accordance with, the advice of the Prime Minister shall, from time to time, by notice in the National Gazette, determine the number of Ministers (other than the Prime Minister).

(2) Until such time as a determination is made under Subsection (1) the number of Ministers (other than the Prime Minister) is 18.

¹ "Adopted" on 31 July 1975, before the adoption of the Constitution, and "made" on 15 August 1975.

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INDEPENDENT STATE OF PAPUA NEW GUINEA

CHAPTER NO. 1.

Organic Law on the Ombudsman Commission.

ARRANGEMENT OF SECTIONS.

PART I.—INTRODUCTORY.

1. Effect of this Law.
2. Definitions—
 - "the Commission"
 - "the Committee"
 - "member of the Commission"
 - "the responsible person"
 - "statutory body".
3. Application of this Law.

PART II.—CONSTITUTION, ETC., OF THE COMMISSION.

4. Qualifications for appointment.
5. Term of office.
6. Conditions of employment.
7. Disqualifications from office.
8. Special conditions of employment.
9. Resignation.
10. Retirement.
11. Acting Chief Ombudsman and acting Ombudsman.
12. Declaration of office.

PART III.—FUNCTIONS, ETC., OF THE COMMISSION.

13. Functions of the Commission.
14. Procedures of the Commission.
15. Delegation.

PART IV.—COMPLAINTS AND PROCEEDINGS.

16. Complaints.
17. Proceedings of the Commission.
18. Evidence.
19. Disclosure of certain matters not to be required.
20. Members, etc., to maintain secrecy.
21. Preservation of secrecy.
22. Procedure after investigation.
23. Publication of results of investigations.
24. Proceedings not to be questioned or to be subject to review.

PART V.—THE SERVICE OF THE COMMISSION.

25. Appointment of officers.
26. Control of Service.
27. Regulations for the Service of the Commission.
28. Temporary and casual employees.

PART VI.—FINANCE.

29. Application of Public Bodies (Financial Administration) Act.

PART VII.—OFFENCES.

30. Failure to attend or produce documents.
31. Refusing to be sworn or give evidence.
32. Contempt of the Commission.
33. Giving false evidence.
34. Prosecution for offences.

PART VIII.—MISCELLANEOUS.

35. Privilege.
36. Power of entry.
37. Regulations.
38. Savings.

SCHEDULES.

SCHEDULE 1.—

PART I.—Oath and Affirmation of Secrecy to be taken or made by Members of the Commission.

PART II.—Oath and Affirmation of Secrecy to be taken or made by Officers and employees of the Commission.

SCHEDULE 2.—Exceptions and Modifications to the *Public Bodies (Financial Administration) Act 1969*.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 1.

Organic Law on the Ombudsman Commission.

Being a Provisional Organic Law to implement Division VIII.2 (*Ombudsman Commission*) of the Constitution,

MADE by the Constituent Assembly to come into operation on Independence Day¹.

PART I.—INTRODUCTORY.

1. Effect of this Law.

(1) Sections 2 and 19² and Parts V, VI and VIII are intended to take effect, as provided for by Section 12(3)(a) (*Organic Laws*) of the Constitution as an Act of the Parliament.

(2) The balance of this Law takes effect as an Organic Law.

2. Definitions.

In this Law—

“the Commission” means the Ombudsman Commission;

“the Committee” means the Ombudsman Appointments Committee established by Section 229³ (*the Ombudsman Commission*) of the Constitution;

“member of the Commission” means the Chief Ombudsman or an Ombudsman;

“the responsible person” means—

(a) in the case of any State Service, provincial service or other governmental body—the Permanent Head of that service or body; and

(b) in the case of a natural person—that person; and

(c) in the case of any statutory body—the statutory head of that body; and

(d) in the case of any local government body—the President or Chairman of that body.

“statutory body” means any body to which Section 231(1)(a)(iv)⁴ (*functions of the Commission*) of the Constitution refers.

3. Application of this Law.

Except as provided by any other law, this Law does not apply to the powers, functions, duties and responsibilities of the Ombudsman Commission under Division III.2 (*leadership code*) of the Constitution.

¹ “Adopted” on 15 August 1975, after the adoption of the Constitution.

² *Semble*, the reference should be to Section 18, as Section 19 must (under Section 219(7)(a) and (b) of the Constitution) take effect as an Organic Law, and all section numbers in the draft Law were affected by the omission of Clause 4 by the National Constituent Assembly.

³ This reference is incorrect. It seems that the correct reference is to Section 217, and “229” was the numbering in the draft Constitution debated and amended by the National Constituent Assembly.

⁴ Incorrect reference. *Semble*, “Section 219(1)(a)(iv)” was intended: compare footnote 3.

PART II.—CONSTITUTION, ETC., OF THE COMMISSION.

4. Qualifications for appointment.

(1) A person is not eligible for appointment as the Chief Ombudsman unless he is, in the opinion of the Committee, a person of integrity, independence of mind, resolution and high standing in the community.

(2) One of the Ombudsmen shall have such professional accountancy qualifications and experience as, in the opinion of the Committee, is appropriate.

(3) The other Ombudsman shall have such administrative or legal qualifications and experience as, in the opinion of the Committee, is appropriate.

5. Term of office.

(1) Subject to Subsection (2), a member of the Commission shall be appointed—

(a) in the case of any citizen of Papua New Guinea appointed to office for the first time within 10 years after Independence Day—for a term of three years; and

(b) in the case of any other citizen—for a term of six years; and

(c) in the case of a non-citizen—for a term of three years,

and is eligible for re-appointment.

(2) The first appointments to the Commission shall be arranged so that the terms of each member expires at a different time.

6. Conditions of employment.

Subject to Section 229(3)¹ (*the Ombudsman Commission*) of the Constitution, the salary and other conditions of employment of the members of the Commission shall be as determined by the Head of State, acting with, and in accordance with, the advice of the National Executive Council given after receiving a report from the Public Services Commission.

7. Disqualifications from office.

A person is not qualified to be, or to remain, a member of the Commission if he is—

(a) a member of the Parliament; or

(b) a member of a provincial government body; or

(c) a member of a Local Government Council or Authority; or

(d) an office-holder in a registered political party; or

(e) an undischarged bankrupt or insolvent; or

(f) of unsound mind within the meaning of any law relating to the protection of the person and property of persons of unsound mind; or

(g) under sentence of death or imprisonment.

8. Special conditions of employment.

(1) A member of the Commission shall not—

(a) actively engage in politics; or

¹ See Footnote 3 on p. 283. *Semble*, the reference should be to Section 217(3) and (4).

- (b) subject to Subsection (2), engage either directly or indirectly in the management or control of a corporation or other body of persons carrying on business for profit; or
- (c) except on leave granted by the Head of State, or because of illness, absent himself from duty for more than 14 consecutive days or more than 28 days in any period of 12 months; or
- (d) subject to Subsection (3), acquire by way of gift or otherwise, or use or hold in any other manner any interest in, any property of Papua New Guinea¹ or solicit, accept or receive any other benefit in addition to his terms and conditions of employment.

(2) Nothing in Subsection (1)(b) prevents a member of the Commission from holding office in a professional body in relation to which his qualifications are relevant.

(3) Subject to any Organic Law made for the purposes of Division III.2 (*leadership code*) of the Constitution, a member of the Commission may purchase, lease or otherwise acquire land in the same manner and subject to the same conditions as any other citizen.

9. Resignation.

(1) A member of the Commission may resign by giving three months' notice in writing of his intention to do so to the Head of State.

(2) The period of three months specified in Subsection (1) shall be deemed to commence on the twenty-second day after the receipt by the Head of State of the notice except where the Head of State, acting with, and in accordance with, the advice of the Committee, by notice in writing to the member, fixes an earlier date for the commencement.

(3) A member of the Commission may withdraw his resignation at any time before the period of three months referred to in Subsection (1) commences.

10. Retirement.

(1) Subject to Subsection (2), a person who has attained the age of 55 years shall not be appointed or re-appointed as a member of the Commission and a person shall not be appointed or re-appointed for a period that extends beyond the date on which he will attain the age of 55 years.

(2) The Head of State, acting with, and in accordance with, the advice of the Committee, may, for special reason in a particular case, appoint or re-appoint a person who is over 55 years of age to be a member of the Commission but in no case can any member of the Commission continue to act as a member after he has attained the age of 60 years.

11. Acting Chief Ombudsman and acting Ombudsman.

A person suitably qualified may be appointed to be an acting Chief Ombudsman or an acting Ombudsman—

- (a) to fill temporarily a vacancy; or
- (b) in the case of the absence from duty for any reason of the Chief Ombudsman or an Ombudsman.

¹ *Sic.*

12. Declaration of office.

Before entering upon the duties of their offices, the members of the Commission shall make the Declaration of Office before the Head of State or a person appointed by the Head of State.

PART III.—FUNCTIONS, ETC., OF THE COMMISSION.**13. Functions of the Commission.**

For the purposes of Section 219(1)(a) (*functions of the Commission*) of the Constitution the functions of the Commission, in addition to the functions specified in Section 219(1)(b), (c), (d) and (e) (*functions of the Commission*) of the Constitution, are to investigate, on its own initiative or on complaint by a person affected, any conduct on the part of—

- (a) any State Service or a member of any State Service; or
- (b) any governmental body, or an officer or employee of a governmental body; or
- (c) any other service or body referred to in Section 219(a)¹ (*functions of the Commission*) of the Constitution that the Head of State, acting with, and in accordance with, the advice of the National Executive Council, by notice in the National Gazette, declares to be a service or body for the purposes of this section.

14. Procedures of the Commission.

(1) The Commission shall meet at such times and places as are fixed by the Chief Ombudsman.

(2) The Chief Ombudsman shall preside at all meetings of the Commission.

(3) For the purposes of conducting an inquiry under this Law, the quorum at a meeting of the Commission is two.

(4) All matters before a meeting of the Commission shall be decided in accordance with the majority of votes.

(5) In the event of an equality of votes on a matter, the Chief Ombudsman has a casting, as well as a deliberative, vote.

(6) The Commission shall cause minutes of its meetings to be kept.

(7) Subject to this Law, the procedures of the Commission are as determined by it.

15. Delegation.

(1) The Commission may, with the prior approval of the Prime Minister, by instrument in writing under the hand of the Chief Ombudsman, delegate to any member or officer of the Commission all or any of its powers and functions (other than this power or function or any prescribed power or function) so that the delegated powers and functions may be exercised and performed by the delegate in relation to the matters or class of matters specified in the instrument of delegation.

(2) Every delegation under Subsection (1) is revocable, in writing, at will, and no such delegation affects the exercise of a power or the performance of a function by the Commission.

¹ *Semble*, "Section 219(1)(a)" was intended.

PART IV.—COMPLAINTS AND PROCEEDINGS.

16. Complaints.

(1) Any person may make a complaint to the Commission concerning any matter that is within the jurisdiction of the Commission.

(2) A letter to the Commission from a person in custody, or confined in a hospital or in an institution under the control of a governmental body shall not be opened by any person other than a member of the Commission or a person authorized by the Commission, and the person in charge of the place where the correspondent is in custody or is confined shall make all facilities available that may be necessary to have the letter properly forwarded.

Penalty: K1 000.00 or imprisonment for 12 months¹.

(3) The Commission shall investigate the subject of any complaint received by it, other than a complaint that relates to a matter outside its jurisdiction, unless, in its deliberate judgement, it decides not to do so because—

- (a) the complaint is trivial, frivolous, vexatious or not made in good faith; or
- (b) it is not within the jurisdiction of the Commission; or
- (c) the complainant has available to him another remedy or channel of complaint that he could reasonably be expected to use; or
- (d) the complainant has not a sufficient interest in the subject of the complaint; or
- (e) the complaint has been too long delayed to justify an investigation; or
- (f) it has before it other matters more worthy of its attention; or
- (g) its resources are insufficient for adequate investigation,

and may defer or discontinue an investigation for any of the same reasons.

(4) No decision by the Commission to decline to investigate or to defer or discontinue, an investigation into the subject of a complaint affects the Commission's power to inquire generally into a matter on its own initiative.

17. Proceedings of the Commission.

(1) Before investigating any matter within its jurisdiction, the Commission shall inform the responsible person of its intention to make the investigation.

(2) Every investigation by the Commission under this Law shall be conducted in private.

(3) The Commission may hear or obtain information from any person who the Commission considers can assist and may make whatever inquiries it thinks fit.

(4) Nothing in this Law compels the Commission to hold any hearing and no person is entitled as of right to be heard by the Commission except that—

- (a) where a report of the Commission may affect a State Service, provincial government body or statutory body, the Commission shall provide reasonable opportunity for the Permanent Head of that service or the statutory head of that body, as the case may be, to comment on the subject of the investigation; and

¹ In respect of the Constitutional Laws, there is no provision similar to Sections 14 and 15 of the *Interpretation Act*, declaring such penalties to be maxima only.

(b) the Commission shall not make any comment in its report that is adverse to or derogatory of any person without—

- (i) providing him with reasonable opportunity of being heard; and
- (ii) fairly setting out his defence in its report.

(5) The Commission shall, in its discretion, at any time, during or after any investigation, consult any Minister who is concerned in the matter of the investigation.

(6) On the request of any Minister in relation to any investigation, or in any case where any investigation relates to any recommendation made to a Minister, the Commission shall consult that Minister after making the investigation and before forming a final opinion on the matter it has investigated.

(7) If, during or after an investigation, the Commission is, after considering any defence lodged by or on behalf of the officer or employee concerned, of the opinion that there has been a breach of duty or misconduct on the part of any officer or employee of any State Service, provincial government body, local government body or statutory body, it shall refer the matter, together with its report on the matter, to the Permanent Head of that service or the statutory head of that body, as the case requires, and shall send a copy of its report and any defence lodged to the responsible Minister.

18. Evidence.

(1) Subject to the provisions of this section and of Section 20¹, the Commission may from time to time require any person who in its opinion is able to give any information relating to any matter that is being investigated by the Commission to furnish to it that information and to produce any documents, papers or things that, in the opinion of the Commission, relate to any matter being investigated by it and that may be in the possession or control of that person.

(2) Subsection (1) applies whether or not—

- (a) the person is an officer, employee or member of any State Service, provincial government body, local government body or statutory body; and
- (b) the documents, papers or things referred to in that subsection are in the custody or under the control of any State Service, provincial government body, local government body or statutory body.

(3) The Commission may, by instrument in writing, summon any person who in its opinion is able to give any information relating to any matter that is being investigated by the Commission, to attend the Commission at a time and place specified in the summons for examination by it on oath or affirmation.

(4) The Commission may administer on² oath or affirmation to a person appearing as a witness before the Commission whether the witness has been summoned or appears without being summoned, and may examine the witness on oath or affirmation.

(5) A witness attending before the Commission has the same privileges and is subject to the same penalties in relation to the giving of information, the answering of questions and the production of documents, papers and things as a witness before the National Court.

(6) Except on the trial of any person for perjury in respect of his sworn testimony, no statement made or answer given by that or any other person in the course of any inquiry by or any proceedings before the Commission is admissible in evidence against any person in

¹ *Semble*, the reference should be to Section 19: compare Footnote 2 on p. 283.

² *Semble*, "an" was intended.

any court or at any inquiry or any other proceedings, and no evidence in respect of proceedings before the Commission shall be given against any person.

(7) Where any person is required by the Commission to attend before it for the purposes of this section, the person is entitled to the same fees, allowances and expenses as if he were a witness in the National Court.

19. Disclosure of certain matters not to be required.

(1) Where the Prime Minister, after consultation with the Chief Ombudsman, certifies that the giving of any information or the answering of any question or the production of any documents or papers or things likely¹ to—

- (a) prejudice the security, defence or international relations of Papua New Guinea (including Papua New Guinea's relations with the Government of any other country or with any international organization) or the investigation or detection of offences; or
- (b) involve the disclosure of proceedings, deliberations or decisions of the National Executive Council, or of any committee of that Council which the Prime Minister certifies relate to matters of a secret or confidential nature, disclosure of which would be injurious to the public interest,

the Commission shall not require the information or answer to be given or, as the case may be, the document, paper or thing to be produced.

(2) Subject to Subsection (1), any law that authorizes or requires the withholding of any document, paper or thing, or the refusal to answer any question, on the ground that the disclosure of the document, paper or thing or the answering of the question would be injurious to the public interest does not apply in respect of any investigation by or proceedings before the Commission.

20. Members, etc., to maintain secrecy.

(1) Before entering on the exercise of the duties of his office, a member of the Commission shall take an oath or make an affirmation in the form in Part I of Schedule 1 before a Judge of the National Court.

(2) Every officer and employee of the Commission shall maintain secrecy in respect of all matters that come to their knowledge in the exercise of their duties and shall, before entering on the exercise of their duties, take an oath or make an affirmation in the form in Part II of Schedule 1 before a member of the Commission.

(3) Notwithstanding the provisions of Subsection (1), the Commission may disclose for the purposes of any investigation being conducted by it and in any report made by it, such matters as in its opinion ought to be disclosed in order to properly investigate the matter before it or establish grounds for its conclusions and recommendations, as the case may be.

(4) The power conferred by Subsection (3) does not extend to any matter that might prejudice the security, defence or international relations of Papua New Guinea (including Papua New Guinea's relations with the Government of any other country or with any international organization) or the investigation or detection of offences, or that might involve the disclosure of the deliberations of the National Executive Council.

¹ Presumably "is" was omitted before "likely".

21. Preservation of secrecy.

(1) The Commission may direct that any evidence given before it, or any document, paper or thing produced to it, be not published.

(2) Any person who publishes or discloses to any person—

(a) any evidence given before the Commission; or

(b) any of the contents of any document, paper or thing,

which the Commission has directed not to be published without the consent in writing of the Commission is guilty of an offence.

Penalty: K1 000.00 or imprisonment for 12 months, or both¹.

22. Procedure after investigation.

(1) The succeeding provisions of this section apply in every case where the Commission, after making an investigation under this Law, is of the opinion that—

(a) the conduct, the subject of the investigation, was wrong; or

(b) the law or administrative practice, the subject of the investigation, or any other law or administrative practice, is defective; or

(c) the practice, the subject of the investigation, is discriminatory within the meaning of any law prohibiting such practices.

(2) If in any case to which this section applies the Commission is of the opinion that any service, body, person or other appropriate authority should—

(a) consider the matter further; or

(b) take certain specific action; or

(c) modify or cancel any administrative act; or

(d) alter any regulation or ruling; or

(e) explain more fully any administrative act; or

(f) do any other thing,

the Commission shall report its opinion, and the reasons for its opinion, to the Minister responsible for the relevant service, body or person and to the Permanent Head or statutory head responsible for the service, body or person, and may refer the matter to the Public Prosecutor if action by him is warranted and may make such recommendations as it thinks fit.

(3) If the Commission so requests, the responsible Minister, Permanent Head or statutory head, as the case may be, shall, within such period as is specified by the Commission, notify the Commission as to the steps (if any) that he proposes to take to give effect to its recommendations.

(4) Where the Commission is of the opinion that an administrative action has produced unfair or objectionable results and that that action was caused wholly or partly by legislation, the Commission shall forward a report on the matter to—

(a) in the case of National legislation—the Parliament; and

(b) in the case of legislation of a provincial government body—the relevant provincial government body; and

¹ In respect of the Constitutional Laws, there is no provision similar to Sections 14 and 15 of the *Interpretation Act*, declaring such penalties to be maxima only.

- (c) in the case of local government legislation—the relevant local government body.

23. Publication of results of investigations.

(1) The Commission may, in its discretion, publish the results of any investigation carried out by it by forwarding a copy of its conclusions, recommendations and suggestions to—

- (a) the Prime Minister; and
- (b) the Minister responsible for the National Public Service; and
- (c) the Chairman of any parliamentary committee; and
- (d) the Speaker, who shall present it to the Parliament within eight sitting days of the Parliament; and
- (e) the Minister responsible for the National Legal Administration¹; and
- (f) the Chief Justice; and
- (g) the Chief Magistrate; and
- (h) the Chairman of the Public Services Commission; and
- (i) the head of any provincial government body; and
- (j) any other person holding an official position as² the Commission considers appropriate,

or any of them.

(2) The Commission shall, unless in its deliberate judgement, it considers that to do so may prejudice the security, defence or international relations of Papua New Guinea (including Papua New Guinea's relations with the Government of any other country or with any international organization), forward a copy of its conclusions, recommendations and suggestions to the person on whose complaint the investigation was carried out.

(3) Where the Commission publishes an opinion that is adverse to or derogatory of any service, body or person, it shall, unless it has obtained the consent of the responsible person to do otherwise, include in the document published the substance of any statement the responsible person may have made in explanation of past difficulties, or present rejection of the Commission's recommendations.

24. Proceedings not to be questioned or to be subject to review³.

No proceeding of the Commission shall be held bad for want of form, and, except on the ground of lack of jurisdiction, no proceeding or decision of the Commission shall be challenged, reviewed, quashed or called into question in any court.

PART V.—THE SERVICE OF THE COMMISSION.

25. Appointment of officers.

(1) The Commission—

(a) shall appoint—

- (i) a Counsel to the Commission; and

¹ This reference is incorrect. The draft Constitution was amended by the National Constituent Assembly to refer to "the National Justice Administration" (see Constitution, Section 154).

² *Semble*, "that" was intended.

³ But see Constitution, Section 217(6), which makes the necessary provision for this matter.

(ii) a Secretary to the Commission; and

(b) within the limit of funds lawfully available to it, may appoint such other officers as, in its opinion, are necessary for the efficient performance of the functions of the Commission.

(2) The offices¹ of the Commission constitute the Service of the Commission.

(3) Subject to this Part and to the Regulations², officers hold office on such terms and conditions as the Commission after consultation with the Public Services Commission, fixes.

(4) If an officer appointed under this section was, immediately before his appointment, an officer of the National Public Service, his service as an officer of the Commission shall be counted as service in the National Public Service for the purposes of determining his rights (if any) in respect of—

(a) absence or leave on the ground of illness; and

(b) furlough or pay in lieu of furlough (including pay to dependants or personal representatives on the death of the officer).

(5) The provisions of Section 115 of the pre-Independence law known as the *Public Service (Interim Arrangements) Act 1973*³ apply in relation to offices in the Service of the Commission as if they had been specifically included in that section.

26. Control of Service.

The Service of the Commission is subject to the control and direction of the Commission.

27. Regulations for the Service of the Commission.

The Regulations may make provision in relation to the Service of the Commission and in particular, may—

(a) prescribe the terms and conditions of employment of officers; and

(b) make provision for the establishment of a superannuation scheme to provide benefits for officers of the Commission on retirement, resignation, retrenchment or death.

28. Temporary and casual employees.

(1) The Commission may appoint such temporary and casual employees as it thinks necessary for the purposes of this Law.

(2) Employees so appointed shall be employed on such terms and conditions as the Commission determines.

PART VI.—FINANCE.

29. Application of Public Bodies (Financial Administration) Act.

The pre-Independence law known as the *Public Bodies (Financial Administration) Act 1969*⁴ applies to and in relation to the Commission subject to the exceptions and modifications specified in Schedule 2.

¹ *Semble*, "officers" was intended.

² See Section 37 and the footnote to that section.

³ Printed in this Revised Edition as Section 104 of the *Public Service Act*.

⁴ Printed in this Revised Edition as the *Public Bodies (Financial Administration) Act*.

PART VII.—OFFENCES.

30. Failure to attend or produce documents.

A person who, having been summoned to attend the Commission, fails without reasonable excuse, the burden of proof of which lies on him, to attend the Commission or to produce any documents, books or writings in his custody or control that he is required by the summons to produce, is guilty of an offence.

Penalty: K500.00 or imprisonment for three months¹.

31. Refusing to be sworn or give evidence.

A person appearing as a witness before the Commission who refuses to be sworn or to make an affirmation or to answer any questions relevant to the inquiry put to him by a member of the Commission, or having attended leaves the Commission without the permission of a member of the Commission, is guilty of an offence.

Penalty: K500.00 or imprisonment for three months¹.

32. Contempt of the Commission.

A person who wilfully insults a member of the Commission, or wilfully interrupts the proceedings of the Commission, or is in any manner guilty of wilful contempt of the Commission, is guilty of an offence.

Penalty: K500.00 or imprisonment for three months¹.

33. Giving false evidence.

A person appearing as a witness before the Commission, who wilfully gives false evidence, is guilty of perjury and is liable to prosecution and punishment accordingly.

34. Prosecution for offences.

Proceedings for an offence under this Law—

(a) shall be brought in the National Court; and

(b) may not be brought against any person except with the consent in writing of the Commission².

PART VIII.—MISCELLANEOUS.

35. Privilege.

(1) A member of the Commission or an officer or employee of the Commission is not liable for any act or omission done or made *bona fide* and without negligence under or for the purposes of this Law.

(2) A member of the Commission or an officer or employee of the Commission shall not be called to give evidence in any court, or in any proceedings of a judicial nature, in respect of anything coming to his knowledge in the exercise of his functions.

(3) Anything said or any information supplied or any document, paper or thing produced by any person in the course of any inquiry by or proceedings before the Commission under this Law are privileged in the same manner as if the inquiry or proceedings were proceedings in a Court.

¹ In respect of the Constitutional Laws, there is no provision similar to Sections 14 and 15 of the *Interpretation Act*, declaring such penalties to be maxima only.

² But see Constitution, Section 177.

36. Power of entry.

(1) For the purposes of this Law, but subject to this section, a member of the Commission may, at any time, enter upon any premises occupied by any State Service, provincial government body, local government body or statutory body over whom it has jurisdiction and inspect the premises and, subject to Sections 18 and 19¹ carry out in the premises any investigation that is within its jurisdiction.

(2) Before entering upon any premises the member of the Commission shall notify the Permanent Head or statutory head or other person in charge of the premises.

(3) The Prime Minister may after consultation with the Chief Ombudsman, from time to time, exclude the operation of Subsection (1) to any premises if he is satisfied that the exercise of the powers conferred by this section is likely to prejudice the security, defence or international relations of Papua New Guinea (including Papua New Guinea's relations with the Government of any other country or with any international organization).

37. Regulations².

The Head of State, acting with, and in accordance with, the advice of the National Executive Council, may make regulations, not inconsistent with this Law, prescribing all matters that by this Law are required or permitted to be prescribed for carrying out or giving effect to this Law, and generally for achieving the purposes of this Law, and in particular for prescribing penalties not exceeding K500.00 and default penalties not exceeding K10.00 for offences against or contraventions of any regulations so made.

38. Savings.

The provisions of this Law are in addition to the provisions of any other enactment, subordinate enactment or any rule of law under which any remedy or right of appeal or objection is provided for any person or any procedure is provided for the inquiry into or investigation of any matter, and nothing in this Law limits or affects any such remedy or right of appeal or objection or procedure.

SCHEDULES.

SCHEDULE 1.

Sec. 21³.**PART I.**

Oath and Affirmation of Secrecy to be taken or made by Members of the Commission.

OATH.

I, _____, a member of the Ombudsman Commission, do swear that I will at all times maintain secrecy in relation to the affairs of the Commission and, in particular, that I will not directly or indirectly communicate or divulge any information that comes to my knowledge in the performance of my functions as a member of the Commission, except under compulsion or obligation of law or as provided by law.

So help me God!

¹ *Semble*, the reference should be to Sections 17 (compare the wording of Section 17(1)) and 18. Compare footnote to Section 1.

² *Sec.*, however, Constitution, Section 258, which provides for the making of "Constitutional Regulations" for the purposes of Organic Laws.

³ *Semble*, Section 20 was intended.

AFFIRMATION.

I, _____, a member of the Ombudsman Commission, do solemnly and sincerely promise and declare that I will at all times maintain secrecy in relation to the affairs of the Commission and, in particular, that I will not directly or indirectly communicate or divulge any information that comes to my knowledge in the performance of my functions as a member of the Commission, except under compulsion or obligation of law or as provided by law.

PART II.

Oath and Affirmation of Secrecy to be taken or made by officers and employees of the Commission.

OATH.

I, _____, (*an officer or employee of the Ombudsman Commission, as the case requires*) do swear that I will at all times maintain secrecy in relation to the affairs of the Commission and, in particular, that I will not directly or indirectly communicate or divulge any information that comes to my knowledge in the performance of my functions as an officer/employee of the Commission, except under compulsion or obligation of law or as provided by law.

So help me God!

AFFIRMATION.

I, _____, (*an officer or employee of the Ombudsman Commission, as the case requires*) do solemnly and sincerely promise and declare that I will at all times maintain secrecy in relation to the affairs of the Commission and, in particular, that I will not directly or indirectly communicate or divulge any information that comes to my knowledge in the performance of my functions as an officer/employee of the Commission, except under compulsion or obligation of law or as provided by law.

SCHEDULE 2.

Sec. 29.

Exceptions and Modifications to the Public Bodies (Financial Administration) Act 1969¹.

<i>Provision.</i>	<i>Modification.</i>
Section 8	Not applicable.
Section 10	Not applicable.
Section 11	Not applicable.
Section 13	Not applicable.
Section 15	Not applicable.
Section 16	Not applicable.
Section 17	(a) applies only to financial statements. (b) applies as if references to Head of State were references to the Prime Minister.

¹ Printed in this Revised Edition as the *Public Bodies (Financial Administration) Act*.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 1.

Organic Law on Provincial Boundaries.

ARRANGEMENT OF SECTIONS.

1. Provinces.
2. Provincial boundaries.

SCHEDULE.—Provincial Boundaries.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 1.

Organic Law on Provincial Boundaries.

Being a Provisional Organic Law to implement Section 5 (*provinces*) of the Constitution by providing for the establishment of Provinces,

MADE by the Constituent Assembly to come into operation on Independence Day¹.

1. Provinces.

Papua New Guinea is divided into the following Provinces :—

- (a) Bougainville Province.
- (b) Central Province.
- (c) Chimbu Province.
- (d) Eastern Highlands Province.
- (e) East New Britain Province.
- (f) East Sepik Province.
- (g) Enga Province.
- (h) Gulf Province.
- (i) Madang Province.
- (j) Manus Province.
- (k) Milne Bay Province.
- (l) Morobe province.
- (m) New Ireland Province.
- (n) Northern Province.
- (o) Southern Highlands Province.
- (p) Western Province.
- (q) Western Highlands Province.
- (r) West New Britain Province.
- (s) West Sepik Province.

2. Provincial boundaries.

The boundaries of the respective Provinces are as set out in the Schedule.

¹ "Adopted" on 31 July 1975, before the Constitution was adopted, and reconsidered and "re-adopted" on 15 August 1975, after the adoption of the Constitution.

SCHEDULE.

Sec. 2.

PROVINCIAL BOUNDARIES.

BOUGAINVILLE PROVINCE.

Commencing at the point of intersection of the meridian 154 degrees east longitude with the Equator thence by the said Equator east to its intersection with the meridian 160 degrees east longitude thence by the said meridian 160 degrees east longitude south to its intersection with the parallel 4 degrees 50 minutes south latitude thence by the said parallel 4 degrees 50 minutes south latitude west to its intersection with the meridian 159 degrees east longitude thence by a straight line south-westerly to a point distant 6 nautical miles on a bearing of 42 degrees true from Cape Friendship thence by a straight line southerly to a point distance 4 nautical miles on a bearing of 70 degrees 30 minutes true from Cape Friendship aforesaid thence by a straight line south-westerly to a point distant 3 nautical miles due south from the southern point of the peninsula which bounds the harbour of Tonelei on the east thence by a straight line south-westerly to a point distant 3 nautical miles due south from Moila Point thence by a straight line westerly to a point distant 8 nautical miles on a bearing of 249 degrees true from Moila Point aforesaid thence by a straight line south-westerly to the intersection of the parallel 8 degrees south latitude with the meridian 154 degrees east longitude thence by the said meridian 154 degrees east longitude north to the point of commencement.

CENTRAL PROVINCE.

Commencing at the point being the seaward extremity of Cape Possession and bounded thence on the west by a straight line due north to a point due west of the junction of the middle threads of the Kunimaipa and Oreba Rivers thence on the north by a straight line due east to the said junction of the middle threads of the Kunimaipa and Oreba Rivers thence generally on the north-west by the said middle thread of the Oreba River upstream generally north-easterly to its intersection with the common border between the former Territory of Papua and the former Territory of New Guinea thence on the north-east by the said common border south-easterly to its intersection with the watershed of the Eti-Waria Divide thence again generally on the east north-east and north-west by the said watershed of the Eti-Waria Divide and the watershed of the Chapman Range generally southerly south-easterly and north-easterly to its intersection with the said common border between the former Territory of Papua and the former Territory of New Guinea at approximate meridian 146 degrees 57 minutes east longitude thence again on the northeast by the said common border south-easterly to its intersection with meridian 147 degrees east longitude thence again on the north-east by a straight line south-easterly to the summit of the west dome of Mount Albert Edward thence on the north-west by a straight line north-easterly to the intersection of parallel 8 degrees 20 minutes 30 seconds south latitude with meridian 147 degrees 27 minutes 45 seconds east longitude thence again on the north-east by a straight line south-easterly to the intersection of parallel 8 degrees 32 minutes 30 seconds south latitude with meridian 147 degrees 39 minutes 30 seconds east longitude thence on the south-east by a straight line south-westerly to the summit of Mount Scratchley thence again on the north-east by the watershed of the Owen Stanley Range generally south-easterly to a point due north of the headwaters of the Tavane River at approximate meridian 149 degrees 20 minutes 30 seconds east longitude thence on the east by a straight line due south to the said headwaters of the Tavane River thence again generally on the south-east by the middle thread of the said Tavane River downstream generally south-westerly to its intersection with parallel 9 degrees 56 minutes 30 seconds south latitude thence again on the north by the said parallel 9 degrees 56 minutes 30 seconds south latitude due east to its intersection with the said watershed of the Owen Stanley Range thence again on the north-east by the said watershed of the Owen Stanley Range south-easterly to the summit of Mount Simpson thence again on the north by a straight line due east to its intersection with meridian 149 degrees 40 minutes east longitude thence on the east by the said meridian 149 degrees 40 minutes east longitude due south to the border of Papua New Guinea thence on the south by the said border of Papua New Guinea due west to its intersection with the aforesaid meridian passing through the seaward extremity of Cape Possession thence on the west by the said meridian passing through the seaward extremity of Cape Possession due north to the point of commencement.

EXCLUDING all that area:

FIRSTLY—commencing at a point being the easternmost corner of Portion 1139 in the Milinch of Granville Fourmil of Moresby being a point on the high water mark of Moresby Harbour and bounded thence on the south-east by the south-eastern boundaries of Portions 1129 and 1130 in the said

Milinch south-westerly to the southernmost corner of the said Portion 1130 thence on the north-west by the north-western boundary of the said Portion 1130 and part of the north-western boundary of the said Portion 1129 north-easterly to its intersection with the south-western side of the Napa Napa to Port Moresby road formation thence generally on the south-west west and north by the generally south-western western and northern sides of the said Napa Napa to Port Moresby road formation generally north-westerly northerly and easterly to a point due south of the summit of Huhundamo Hill thence on the west by a line due north to the said summit of Huhundamo Hill thence on the north-west by a straight line north-easterly to the summit of Tovobada Hill thence again on the north-west by a straight line north-easterly to the summit of Mount Saamu thence again on the north-west by a straight line north-easterly to the northernmost corner of Portion 994 in the said Milinch and a straight line in continuation thereof north-easterly to the left bank of the Laloki River thence generally on the north-east by the said left bank of the Laloki River about 10 miles upstream generally south-easterly to a point due north of the north-western corner of Portion 907 in the said Milinch thence generally on the east by the northerly prolongation of the western boundary and the western boundary of the said Portion 907 part of the south-eastern boundary of the said Portion 907 and a line in continuation thereof to the eastern side of the formation of the old Rigo Road the eastern boundary of the formation of the said old Rigo Road and part of the eastern boundary of the formation of the Port Moresby to Rigo Road generally southerly to a point due east of Ludumava Hill thence on the south by a straight line due west to a point 200 metres seaward from the seashore of Bogoro Inlet at high water thence again generally on the south-west by a line parallel to and 200 metres seaward from the said seashore at high water and the seashore of Bootless Inlet Joyce Bay Walter Bay Port Moresby Harbour and Fairfax Harbour at high water generally north-westerly to its intersection with the north-easterly prolongation of the south-eastern boundary of Portion 1129 aforesaid thence again on the south-east by a straight line south-westerly to the point of commencement.

SECONDLY—Comprising the whole of Daunagena Island and the area contained within a line parallel to and 200 metres seaward from the seashore of the said Daunagena Island at high water.

THIRDLY—Comprising the whole of Manubada (Local) Island and the area contained within a line parallel to and 200 metres seaward from the seashore of the said Manubada Island at high water.

FOURTHLY—Comprising the whole of Motukea Island and the area contained within a line parallel to and 200 metres seaward from the seashore of the said Motukea Island at high water.

FIFTHLY—Comprising the whole of Gemo Island and the area contained within a line parallel to and 200 metres seaward from the seashore of the said Gemo Island at high water.

SIXTHLY—Comprising the whole of Lolorua Islands and the area contained within a line parallel to and 200 metres seaward from the seashore of the said Lolorua Islands at high water.

SEVENTHLY—Comprising the whole of Daugo (Fishermans) Island and the area contained within a line parallel to and 200 metres seaward from the seashore of the said Daugo Island at high water.

CHIMBU PROVINCE.

Commencing at a point being the intersection of the common border between the former Territory of Papua and the former Territory of New Guinea and the watershed of the Kubor Range at approximate meridian 144 degrees 36 minutes east longitude and bounded thence generally on the north-west and south-west by the said watershed of the Kubor Range generally north-easterly and north-westerly to the summit of Mount Kubor thence again on the north-west by a straight line north-easterly to the headwaters of Waibe Creek thence generally again on the north-west by the middle threads of said Waibe Creek Namantz Creek Noi Creek and the Wahgi River downstream generally north-easterly to the junction of the said middle thread of the Wahgi River with the middle thread of the Garniger River thence generally on the west by the said middle thread of the Garniger River and the middle thread of the Ga River upstream generally northerly to the headwaters of the said Ga River thence again on the west by a straight line northerly to the summit of Mount Udon thence generally on the north by the watershed of the Sepik-Wahgi Divide generally easterly to the summit of Mount Wilhelm thence generally on the north-east by the watershed of the Bismarck Range generally south-easterly to its intersection with meridian 145 degrees 10 minutes east longitude thence on the south-east by a straight line south-westerly to the summit of Mount Kerigomna thence on the east by a straight line southerly to the intersection of parallel 6 degrees 5 minutes south latitude with meridian 145 degrees 8 minutes east longitude thence again on the north-east by a straight line south-easterly to the intersection of parallel 6 degrees 8 minutes south latitude with meridian 145 degrees 11 minutes east longitude thence on the north by the said parallel 6 degrees 8 minutes south latitude due east to its intersection with meridian 145 degrees 15 minutes east longitude thence again on the east by a straight line southerly to the intersection of the middle thread of the Asaro River with meridian 145 degrees 16 minutes east longitude thence generally on the south-east by the said middle thread of the Asaro

River and the middle thread of the Tua River downstream generally south-westerly to the intersection of the said middle thread of the Tua River with meridian 145 degrees east longitude thence again on the south-east by a straight line south-westerly to the intersection of parallel 6 degrees 32 minutes south latitude with meridian 144 degrees 59 minutes east longitude thence again on the north-east by a straight line south-easterly to the intersection of parallel 6 degrees 34 minutes south latitude with meridian 145 degrees 6 minutes east longitude thence again on the north-east by a straight line south-easterly to the intersection of parallel 6 degrees 41 minutes south latitude with meridian 145 degrees 12 minutes east longitude thence again on the north by the said parallel 6 degrees 41 minutes south latitude due east to its intersection with meridian 145 degrees 19 minutes east longitude thence again on the north-east by a straight line south-easterly to the intersection of parallel 6 degrees 44 minutes south latitude with meridian 145 degrees 21 minutes east longitude thence again on the south-east by a straight line south-westerly to the intersection of the said common border between the former Territory of Papua and the former Territory of New Guinea with meridian 145 degrees 18 minutes east longitude thence again on the south-west by the said common border north-westerly to its intersection with the middle thread of the Pio River thence generally on the south by the said middle thread of the Pio River downstream generally westerly to its junction with the middle thread of the Erave River thence generally on the south-west north-west and west by the said middle thread of the Erave River and the middle threads of the Tua and Monogo Rivers upstream generally north-westerly north-easterly and northerly to the intersection of the said middle thread of the Monogo River with the said common border between the former Territory of Papua and the former Territory of New Guinea thence again on the north-east by the said common border south-easterly to the point of commencement.

EASTERN HIGHLANDS PROVINCE.

Commencing at a point being the intersection of the common border between the former Territory of Papua and the former Territory of New Guinea with meridian 145 degrees 18 minutes east longitude thence on the north-west by a straight line north-easterly to the intersection of parallel 6 degrees 44 minutes south latitude with meridian 145 degrees 21 minutes east longitude thence on the south-west by a straight line north-westerly to the intersection of parallel 6 degrees 41 minutes south latitude with meridian 145 degrees 19 minutes east longitude thence on the south by the said parallel 6 degrees 41 minutes south latitude due west to its intersection with meridian 145 degrees 12 minutes east longitude thence again on the south-west by a straight line north-westerly to the intersection of parallel 6 degrees 34 minutes south latitude with meridian 145 degrees 6 minutes east longitude thence again on the south-west by a straight line north-westerly to the intersection of parallel 6 degrees 32 minutes south latitude with meridian 144 degrees 59 minutes east longitude thence again on the north-west by a straight line north-easterly to the intersection of meridian 145 degrees east longitude with the middle thread of the Tua River thence again generally on the north-west by the said middle thread of the Tua River and the middle thread of the Asaro River upstream generally north-easterly to the intersection of the said middle thread of the Asaro River with meridian 145 degrees 16 minutes east longitude thence on the west by a straight line northerly to the intersection of parallel 6 degrees 8 minutes south latitude with meridian 145 degrees 15 minutes east longitude thence again on the south by the said parallel 6 degrees 8 minutes south latitude due west to its intersection with meridian 145 degrees 11 minutes east longitude thence again on the south-west by a straight line north-westerly to the intersection of parallel 6 degrees 5 minutes south latitude with meridian 145 degrees 8 minutes east longitude thence again on the north-west by a straight line north-easterly to the summit of Mount Kerigomna thence again on the north-west by a straight line north-easterly to the intersection of meridian 145 degrees 10 minutes east longitude with the watershed of the Bismarck Range thence generally on the north by the said watershed of the Bismarck Range generally easterly to its intersection with meridian 145 degrees 17 minutes 15 seconds east longitude thence again on the north-west by a straight line north-easterly to the intersection of parallel 5 degrees 51 minutes south latitude with the middle thread of the East Tauya River thence generally on the north-east by the said middle thread of the East Tauya River upstream generally south-easterly to its intersection with parallel 5 degrees 53 minutes 45 seconds south latitude thence on the north-east by a straight line south-easterly to the intersection of the said watershed of the Bismarck Range with meridian 145 degrees 26 minutes 45 seconds east longitude thence again generally on the north-east by the said watershed of the Bismarck Range generally south-easterly to the summit of Mount Otto thence again on the north by a straight line due east to its intersection with meridian 145 degrees 32 minutes east longitude thence again on the north-west by a straight line north-easterly to the intersection of parallel 5 degrees 54 minutes 30 seconds south latitude with meridian 145 degrees 34 minutes 15 seconds east longitude thence again on the north-east by a straight line south-easterly to the intersection of parallel 5 degrees 55 minutes 15 seconds south latitude with meridian 145 degrees 39 minutes 30 seconds east longitude thence again on the north-east by a straight line south-easterly to a point due east of the said

summit of Mount Otto at meridian 145 degrees 40 minutes east longitude thence again on the north by a straight line due east to its intersection with the middle thread of the Ramu River thence again generally on the north-east by the said middle thread of the Ramu River upstream generally south-easterly to its intersection with parallel 6 degrees 6 minutes south latitude thence again on the north-east by a straight line south-easterly to the intersection of the middle thread of the Yati River with meridian 146 degrees 8 minutes east longitude thence on the south-east by a straight line south-westerly to the intersection of the watershed of the Kratke Range with parallel 6 degrees 42 minutes south latitude thence again generally on the south and north-east by the said watershed of the Kratke Range generally westerly and south-westerly to the summit of Table-Top Mountain thence again generally on the south-east by the watershed of the Vailala-Tauri Divide generally south-westerly to its intersection with the said common border between the former Territory of Papua and the former Territory of New Guinea at approximate meridian 145 degrees 42 minutes 30 seconds east longitude thence again on the south-west by the said common border between the former Territory of Papua and the former Territory of New Guinea north-westerly to the point of commencement.

EAST NEW BRITAIN PROVINCE.

Commencing at a point on the sea shore of the western headland of Montagu Harbour at the intersection of approximate parallel 6 degrees 5 minutes south latitude with approximate meridian 150 degrees 48 minutes east longitude and bounded thence on the south-west by a straight line north-westerly to the intersection of parallel 5 degrees 55 minutes south latitude with meridian 150 degrees 36 minutes east longitude thence on the west by the said meridian 150 degrees 36 minutes east longitude due north to its intersection with the watershed of the Nakanai Mountains thence generally on the north-west by the said watershed generally north-easterly to a point due east of the headwaters of the Toiru River thence on the south by a straight line due west to the said headwaters of the said Toiru River thence generally on the south by the middle thread of the said Toiru River downstream generally westerly to its intersection with meridian 151 degrees 8 minutes east longitude thence again on the north-west by a straight line north-easterly to the summit of The South Son thence again on the north-west by a straight line north-easterly to the summit of The Father again in the north-west by a straight line to the middle thread of the Pandi River at its intersection with parallel 4 degrees 59 minutes south latitude thence on the north by the said parallel 4 degrees 59 minutes south latitude due east to its intersection with meridian 151 degrees 42 minutes east longitude thence again on the south-west by a straight line north-westerly to the intersection of parallel 4 degrees south latitude with meridian 150 degrees 40 minutes east longitude thence again on the north by the said parallel 4 degrees south latitude due east to its intersection with meridian 152 degrees 32 minutes 30 seconds east longitude thence on the east by the said meridian 152 degrees 32 minutes 30 seconds east longitude due south to its intersection with parallel 5 degrees south latitude thence again on the north by the said parallel 5 degrees south latitude due east to its intersection with meridian 154 degrees east longitude thence again on the east by the said meridian 154 degrees east longitude due south to a point on the common border between the former Territory of Papua and the former Territory of New Guinea thence again on the south by the said common border due west to a point due south of the point of commencement thence again on the west by a straight line due north to the point of commencement.

EAST SEPIK PROVINCE.

Commencing at a point being the intersection of parallel 2 degrees south latitude with meridian 143 degrees 05 minutes east longitude thence on the north by the said parallel 2 degrees south latitude due east to its intersection with meridian 145 degrees east longitude thence on the east by the said meridian 145 degrees east longitude due south to its intersection with parallel 3 degrees 55 minutes south latitude thence on the south-east by a straight line south-westerly to the intersection of parallel 4 degrees south latitude with meridian 144 degrees 55 minutes east longitude thence on the south by the said parallel 4 degrees south latitude due west to its intersection with the shore of Papua New Guinea thence again on the east by a straight line southerly to the most westerly point on the left bank of the Ramu River at approximate parallel 4 degrees 34 minutes 30 seconds south latitude thence again on the south-east by a straight line south-westerly to the summit of Schrader Mountain thence again on the south-east by a straight line south-westerly to the summit of Burgers Mountain thence generally on the south-west by the watershed of the Central Range generally north-westerly to a point due north of the headwaters of the Kotufa River at approximate meridian 142 degrees 19 minutes 45 seconds east longitude thence on the west by a straight line due north to its intersection with parallel 4 degrees 36 minutes 45 seconds south latitude thence again on the south by the said parallel 4 degrees 36 minutes 45 seconds south latitude due west to its intersection with meridian 141 degrees 20 minutes 30 seconds east longitude thence again on the west by the said meridian 141 degrees 20 minutes 30 seconds east

longitude due north to its intersection with parallel 4 degrees 15 minutes 30 seconds south latitude thence on the north-west by a straight line north-easterly to a point on the middle thread of the Sepik River at its intersection with meridian 141 degrees 43 minutes 15 seconds east longitude thence generally on the north-east by the said middle thread of the Sepik River downstream generally south-easterly to its intersection with parallel 4 degrees 4 minutes 15 seconds south latitude thence again on the north by the said parallel 4 degrees 4 minutes 15 seconds south latitude due east to its intersection with meridian 142 degrees 32 minutes east longitude thence again on the west by the said meridian 142 degrees 32 minutes east longitude due north to its intersection with parallel 3 degrees 55 minutes 15 seconds south latitude thence again on the north by the said parallel 3 degrees 55 minutes 15 seconds south latitude due east to its intersection with meridian 142 degrees 38 minutes east longitude thence again on the west by the said meridian 142 degrees 38 minutes east longitude due north to a point on the middle thread of the Keang River at its intersection with approximate parallel 3 degrees 46 minutes south latitude thence generally again on the west by the said middle thread of the Keang River upstream generally northerly to its intersection with the said meridian 142 degrees 38 minutes east longitude at approximate parallel 3 degrees 30 minutes south latitude thence again on the west by the said meridian 142 degrees 38 minutes east longitude due north to its intersection with the watershed of the Torricelli Mountains thence generally on the north by the said watershed of the Torricelli Mountains generally easterly to its intersection with meridian 143 degrees 05 minutes east longitude thence again on the west by the said meridian 143 degrees 05 minutes east longitude due north to the point of commencement.

(Replaced by Organic Law on Provincial Boundaries (Amendment No. 1.) Law, Schedule 1.)

ENGA PROVINCE.

Commencing at a point being the summit of Burgers Mountain and bounded thence on the north-west by part of the straight line connecting the said summit of Burgers Mountain with the summit of Schrader Mountain north-easterly to its intersection with the middle thread of the Yuat River at approximately meridian 143 degrees 58 minutes 30 seconds east longitude thence generally on the north-east by the said middle thread of the Yuat River upstream generally south-easterly to its intersection with the middle thread of the Gai River thence generally on the south-east by the said middle thread of the Gai River south-westerly to its intersection with the middle thread of the Minimb River thence generally on the south-east by the said middle thread of the Minimb River south-westerly to its intersection with the middle thread of the Lai River thence generally on the east by the said middle thread of the Lai River and the middle thread of the Gu River upstream generally southerly to its headwaters thence on the north-east by a straight line south-easterly to the summit of Mount Hagen thence generally on the south-east by the watershed of the Lai-Erave Divide generally south-westerly to the intersection of parallel 5 degrees 52 minutes south latitude with meridian 143 degrees 47 minutes 45 seconds east longitude thence again on the north-east by a straight line south-easterly to the intersection of the common border between the former Territory of Papua and the former Territory of New Guinea with meridian 143 degrees 49 minutes 30 seconds east longitude thence on the south-west by the said common border north-westerly to its intersection with meridian 143 degrees 42 minutes 30 seconds east longitude thence again on the south-east by a straight line south-westerly to the intersection of the middle thread of the Ka River with parallel 5 degrees 58 minutes 45 seconds south latitude thence again on the south-west by a straight line north-westerly to the intersection of parallel 5 degrees 52 minutes 30 seconds south latitude with meridian 143 degrees 20 minutes 45 seconds east longitude thence again on the south-west by a straight line north-westerly to the intersection of the aforesaid common border with meridian 143 degrees 15 minutes 30 seconds east longitude thence again on the south-west by the said common border north-westerly to its intersection with meridian 142 degrees 45 minutes east longitude thence on the west by the said meridian 142 degrees 45 minutes east longitude due north to its intersection with the watershed of the Central Range thence again generally on the north-east by the said watershed of the Central Range generally south-easterly to the point of commencement.

(Replaced by Organic Law on Provincial Boundaries (Amendment No. 1.) Law, Schedule 2.)

GULF PROVINCE.

Commencing at a point being the intersection of the middle thread of the Oreba River with the common border between the former Territory of Papua and the former Territory of New Guinea and bounded thence generally on the south-east by the said middle thread of the Oreba River downstream generally south-westerly to its junction with the middle thread of the Kunimaipa River thence on the south by a straight line due west to a point north of the seaward extremity of Cape Possession thence on the east by a straight line due south to its intersection with the border of Papua New Guinea and passing through the seaward extremity of Cape Possession thence on the south by the said border of

Papua New Guinea due west to its intersection with the border of the State of Queensland thence generally on the west by the said border of the State of Queensland generally northerly to a point due south of the seaward extremity of Bell Point thence on the west by a straight line due north to the said seaward extremity of Bell Point thence on the south-west by a straight line north-westerly to the intersection of meridian 143 degrees east longitude with the middle thread of Turama River at approximate parallel 7 degrees 2 minutes 30 seconds south latitude thence on the west by the said meridian 143 degrees east longitude due north to a point due west of the summit of Mount Agu thence on the north by a straight line due east to the said summit of Mount Agu again on the north west by a straight line north-easterly to the junction of the middle threads of the Erave and Pio Rivers thence generally on the north by the said middle thread of the Pio River upstream generally easterly to its intersection with the common border between the former Territory of Papua and the former Territory of New Guinea thence again on the north-east by the said common border south-easterly to its intersection with meridian 146 degrees 4 minutes 15 seconds east longitude thence again on the north-east by a straight line south-easterly to the intersection of parallel 7 degrees 31 minutes 45 seconds south latitude with meridian 146 degrees 5 minutes 15 seconds east longitude thence again on the north-east by a straight line south-easterly to the intersection of parallel 7 degrees 33 minutes 15 seconds south latitude with meridian 146 degrees 7 minutes 15 seconds east longitude thence again on the north-east by a straight line south-easterly to the intersection of meridian 146 degrees 24 minutes 30 seconds east longitude with the said common border between the former Territory of Papua and the former Territory of New Guinea thence again on the north-east by the said common border south-easterly to the point of commencement.

MADANG PROVINCE.

Commencing at a point being the intersection of meridian 143 degrees 58 minutes 30 seconds east longitude with the middle thread of the Yuat River and bounded thence on the north-west by a straight line north-easterly to the summit of Schrader Mountain thence again on the north-west by a straight line north-easterly to the westernmost point of the left bank of the Ramu River at approximately parallel 4 degrees 34 minutes 30 seconds south latitude thence on the south-west by a straight line north-westerly to the intersection of parallel 4 degrees south latitude with the shore of Papua New Guinea thence on the north by the said parallel 4 degrees south latitude due east to its intersection with meridian 144 degrees 55 minutes east longitude thence again on the north-west by a straight line north-easterly to the intersection of parallel 3 degrees 55 minutes south latitude with meridian 145 degrees east longitude thence on the west by the said meridian 145 degrees east longitude due north to its intersection with parallel 3 degrees south latitude thence on the north-east by a straight line south-easterly to the intersection of parallel 4 degrees south latitude with meridian 148 degrees 17 minutes east longitude thence on the south-east by a straight line south-westerly to the intersection of parallel 5 degrees south latitude with meridian 147 degrees 30 minutes east longitude thence on the east by the said meridian 147 degrees 30 minutes east longitude due south to its intersection with parallel 5 degrees 42 minutes south latitude thence on the south by the said parallel 5 degrees 42 minutes south latitude due west to its intersection with meridian 147 degrees east longitude thence again on the south-east by a straight line south-westerly to the intersection of parallel 6 degrees south latitude with meridian 146 degrees 30 minutes east longitude thence again on the south by the said parallel 6 degrees south latitude due west to its intersection with the middle thread of the said Ramu River thence again on the south-west by the said middle thread of the Ramu River downstream north-westerly to a point due east of the summit of Mount Otto thence again on the south by a straight line due west to its intersection with meridian 145 degrees 40 minutes east longitude thence again on the south-west by a straight line north-westerly to the intersection of parallel 5 degrees 55 minutes 15 seconds south latitude with meridian 145 degrees 39 minutes 30 seconds east longitude thence again on the south-west by a straight line north-westerly to the intersection of parallel 5 degrees 54 minutes 30 seconds south latitude with meridian 145 degrees 34 minutes 15 seconds east longitude thence again on the south-east by a straight line south-westerly to the intersection of meridian 145 degrees 32 minutes east longitude with a straight line due east from the said summit of Mount Otto thence again on the south by the said straight line due west to the said summit of Mount Otto thence again generally on the south-west by the watershed of the Bismarck Range generally north-westerly to its intersection with meridian 145 degrees 26 minutes 45 seconds east longitude thence again on the south-west by a straight line north-westerly to the intersection of the middle thread of the East Tauya River with parallel 5 degrees 53 minutes 45 seconds south latitude thence again generally on the south-west by the said middle thread of the East Tauya River downstream generally north-westerly to its intersection with parallel 5 degrees 51 minutes south latitude thence again on the south-east by a straight line south-westerly to the intersection of the said watershed of the Bismarck Range with meridian 145 degrees 17 minutes 15 seconds east longitude thence again generally on the south and south-west by the said watershed of the Bismarck Range generally westerly and north-westerly to its intersection with parallel 5 degrees 17 minutes 45 seconds south latitude thence again on the south-west by a straight line north-westerly to the intersection of parallel 5 degrees 14 minutes south latitude with meridian

144 degrees 19 minutes 30 seconds east longitude thence again on the south-east by a straight line south-westerly to the intersection of the said middle thread of the Yuat River with meridian 144 degrees 17 minutes east longitude thence again generally on the south-west by the said middle thread of the Yuat River generally north-westerly to the point of commencement.

(Replaced by Organic Law on Provincial Boundaries (Amendment No. 1) Law, Schedule 3.)

MANUS PROVINCE.

Commencing at the point of intersection of the meridian 141 degrees east longitude with the Equator thence by the Equator bearing east to its intersection with the meridian 149 degrees east longitude thence by part of the said meridian 149 degrees east longitude being a western boundary of the New Ireland Province bearing south to its intersection with the parallel 4 degrees south latitude thence by part of the said parallel 4 degrees south latitude being part of the northern boundary of the West New Britain Province west to its intersection with the meridian 148 degrees 17 minutes east longitude thence by a straight line being the north-eastern boundary of the Madang Province bearing north-westerly to the intersection of the parallel 3 degrees south latitude with the meridian 145 degrees east longitude thence by part of the said meridian 145 degrees east longitude being the eastern boundary of the East Sepik Province bearing north to its intersection with the parallel 2 degrees south latitude thence by part of the said parallel 2 degrees south latitude being the northern boundary of the East Sepik Province aforesaid west to its intersection with the aforesaid meridian 141 degrees east longitude and thence by part of the said meridian 141 degrees east longitude north to the point of commencement.

MILNE BAY PROVINCE.

Commencing at a point being the intersection of the common border of the former Territory of Papua and the former Territory of New Guinea with meridian 150 degrees east longitude and bounded thence on the north by the said common border of the former Territory of Papua and the former Territory of New Guinea due east to its intersection with meridian 154 degrees east longitude thence again on the north on the east and south by the border of the former Territory of Papua due east due south and due west to its intersection with meridian 149 degrees 40 minutes east longitude thence on the west by the said meridian 149 degrees 40 minutes east longitude due north to a point due east of the summit of Mount Simpson at approximate parallel 10 degrees 2 minutes south latitude thence again on the south by a straight line due west to the said summit of Mount Simpson thence generally on the south-west by the watershed of the Owen Stanley Range generally north-westerly to its intersection with parallel 9 degrees 56 minutes 30 seconds south latitude thence again on the south by the said parallel 9 degrees 56 minutes 30 seconds south latitude due west to its intersection with the middle thread of the Tavane River thence generally on the north-west by the said middle thread of the Tavane River upstream generally north-easterly to its headwaters thence again on the west by a straight line due north to its intersection with the said watershed of the Owen Stanley Range thence again generally on the south-west west and north by the said watershed generally north-westerly northerly and easterly to the summit of Mount Tantom thence again on the north-west by a straight line north-easterly to the intersection of parallel 9 degrees 36 minutes south latitude with the shore of Moi Biri Bay thence again on the north-west by a straight line north-easterly to the point of commencement.

MOROBE PROVINCE.

Commencing at a point being the intersection of the watershed of the Vailala-Tauri Divide with the common border between the former Territory of Papua and the former Territory of New Guinea at approximate meridian 145 degrees 42 minutes 30 seconds east longitude and bounded thence generally on the north-west by the said watershed of the Vailala-Tauri Divide generally north-easterly to the summit of Table-Top Mountain thence generally on the south-west and north by the watershed of the Kratke Ranges generally north-westerly and easterly to its intersection with parallel 6 degrees 42 minutes south latitude thence again on the north-west by a straight line north-easterly to the intersection of the middle thread of the Yati River with meridian 146 degrees 8 minutes east longitude thence again on the south-west by a straight line north-westerly to the intersection of the middle thread of the Ramu River with parallel 6 degrees 6 minutes south latitude thence again generally on the south-west by the said middle thread of the Ramu River downstream generally north-westerly to its intersection with parallel 6 degrees south latitude thence on the north by the said parallel 6 degrees south latitude due east to its intersection with meridian 146 degrees 30 minutes east longitude thence again on the north-west by a straight line north-easterly to the intersection of parallel 5 degrees 42 minutes south latitude with meridian 147 degrees east longitude thence again on the north by the said parallel 5 degrees 42 minutes south latitude due east to its intersection with meridian 147 degrees 30 minutes east longitude thence on the west by the said meridian 147 degrees 30 minutes east longitude

due north to its intersection with parallel 5 degrees south latitude thence again on the north by the said parallel 5 degrees south latitude due east to its intersection with meridian 148 degrees 17 minutes east longitude thence on the east by the said meridian 148 degrees 17 minutes east longitude due south to its intersection with the said common border between the former Territory of Papua and the former Territory of New Guinea thence on the south by the said common border between the former Territory of Papua and the former Territory of New Guinea due west to its intersection with meridian 147 degrees 15 minutes 45 seconds east longitude thence on the south-east by a straight line south-westerly to the intersection of parallel 8 degrees 2 minutes 30 seconds south latitude with meridian 147 degrees 12 minutes east longitude thence again on the south-west by a straight line north-westerly to the intersection of the said common border between the former Territory of Papua and the former Territory of New Guinea with meridian 147 degrees 10 minutes 30 seconds east longitude thence again on the south and south-west by the said common border west and north-east to its intersection with the watershed of the Chapman Range at approximate meridian 146 degrees 57 minutes east longitude thence again generally on the south-east south-west and west by the said watershed of the Chapman Range and the watershed of the Eri-Waria Divide south-westerly north-westerly and northerly to the intersection of the said Eri-Waria Divide with the said common border between the former Territory of Papua and the former Territory of New Guinea thence again on the south-west by the said common border north-westerly to its intersection with meridian 146 degrees 24 minutes 30 seconds east longitude thence again on the south-west by a straight line north-westerly to the intersection of parallel 7 degrees 33 minutes 15 seconds south latitude with meridian 146 degrees 7 minutes 15 seconds east longitude thence again on the south-west by a straight line north-westerly to the intersection of parallel 7 degrees 31 minutes 45 seconds south latitude with meridian 146 degrees 5 minutes 15 seconds east longitude thence again on the south-west by a straight line north-westerly to the intersection of the said common border between the former Territory of Papua and the former Territory of New Guinea with the watershed of the Kapau-Tauri Divide thence again on the south-west by the said common border north-westerly to the point of commencement.

NEW IRELAND PROVINCE.

Commencing at the point of intersection of the meridian 149 degrees east longitude with the Equator thence by the said Equator east to its intersection with the meridian 154 degrees east longitude thence by the said meridian 154 degrees east longitude south to its intersection with the parallel 5 degrees south latitude thence by the said parallel 5 degrees south latitude west to its intersection with the meridian 152 degrees 32 minutes 30 seconds east longitude thence by the said meridian 152 degrees 32 minutes 30 seconds east longitude north to its intersection with the parallel 4 degrees south latitude thence by the said parallel 4 degrees south latitude west to its intersection with the meridian 149 degrees east longitude beforementioned thence by the said meridian 149 degrees east longitude north to the point of commencement.

NORTHERN PROVINCE.

Commencing at a point on the common border between the former Territory of Papua and the former Territory of New Guinea being the intersection of parallel 8 degrees south latitude with meridian 147 degrees east longitude and bounded thence on the north by the said common border due east to its intersection with meridian 147 degrees 10 minutes 30 seconds east longitude thence on the north-east by a straight line south-easterly to the intersection of parallel 8 degrees 2 minutes 30 seconds south latitude with meridian 147 degrees 12 minutes east longitude thence on the north-west by a straight line north-easterly to a point on the said common border between the former Territory of Papua and the former Territory of New Guinea at its intersection with meridian 147 degrees 15 minutes 45 seconds east longitude thence again on the north by the said common border due east to its intersection with meridian 150 degrees east longitude thence on the south-east by a straight line south-westerly to the intersection of the shore of Moi Biri Bay with parallel 9 degrees 36 minutes south latitude thence again on the south-east by a straight line south-westerly to the summit of Mount Tantam thence generally on the south-east and south-west by the watershed of the Owen Stanley Range generally south-westerly and north-westerly to the summit of Mount Scratchley thence again on the north-west by a straight line north-easterly to the intersection of parallel 8 degrees 32 minutes 30 seconds south latitude with meridian 147 degrees 39 minutes 30 seconds east longitude thence again on the south-west by a straight line north-westerly to the intersection of parallel 8 degrees 20 minutes 30 seconds south latitude with meridian 147 degrees 27 minutes 45 seconds east longitude thence again on the south-east by a straight line south-westerly to the summit of the West Dome of Mount Albert Edward thence again on the south-west by a straight line north-westerly to the point of commencement.

SOUTHERN HIGHLANDS PROVINCE.

Commencing at a point being the intersection of meridian 142 degrees 19 minutes 45 seconds east longitude with the watershed of the Central Range and bounded thence generally on the north by the said watershed of the Central Range generally easterly to its intersection with meridian 142 degrees 45 minutes east longitude thence on the east by the said meridian 142 degrees 45 minutes east longitude due south to its intersection with the common border between the former Territory of Papua and the former Territory of New Guinea thence on the north-east by the said common border south-easterly to its intersection with meridian 143 degrees 15 minutes 30 seconds east longitude thence again on the north-east by a straight line south-easterly to the intersection of parallel 5 degrees 52 minutes 30 seconds south latitude with meridian 143 degrees 20 minutes 15 seconds east longitude thence again on the north-east by a straight line south-easterly to the intersection of the middle thread of the Ka River with parallel 5 degrees 58 minutes 45 seconds south latitude thence on the north-west by a straight line north-easterly to the intersection of the said common border with meridian 143 degrees 42 minutes 30 seconds east longitude thence again on the north-east by the said common border south-easterly to its intersection with the meridian of longitude through Mount Giluwe thence again on the east by the said meridian of longitude through Mount Giluwe due south to the summit of the said Mount Giluwe thence again on the north-west by a straight line north-easterly to the said common border at the intersection of parallel 6 degrees south latitude with meridian 144 degrees east longitude thence again on the north-east by the said common border south-easterly to its intersection with the middle thread of the Monogo River thence again generally on the east south-east and again north-east by the said middle thread of the Monogo River and the middle threads of the Tua River and the Erave River downstream generally southerly south-westerly and south-easterly to the intersection of the said middle thread of the Erave River with the middle thread of the Pio River thence again on the south-east by a straight line south-westerly to the summit of Mount Agu thence on the south by the parallel of latitude through the said summit of Mount Agu being approximately parallel 6 degrees 49 minutes 30 seconds south latitude due west to its intersection with the meridian of longitude through Mount Gigira being approximately meridian 142 degrees 38 minutes east longitude thence on the west by the said meridian 142 degrees 38 minutes¹ east longitude due north to the summit of the said Mount Gigira thence generally on the south-west by the watershed of the Karius Range generally north-westerly to the summit of Duna Peaks thence again on the south-west by a straight line north-westerly to the intersection of the middle thread of the Strickland River with parallel 5 degrees 28 minutes 30 seconds south latitude at approximately meridian 142 degrees 10 minutes east longitude thence again generally on the north-west by the said middle thread of the Strickland River upstream generally north-easterly to its junction with the middle thread of the Lagaip River thence again generally on the south-west by the said middle thread of the Lagaip River upstream generally north-westerly to its junction with the middle thread of the Kotufa River thence again generally on the west by the said middle thread of the Kotufa River upstream generally northerly to its intersection with aforesaid meridian 142 degrees 19 minutes 45 seconds east longitude thence again on the west by the said meridian 142 degrees 19 minutes 45 seconds east longitude due north to the point of commencement.

WESTERN PROVINCE.

Commencing at a point on the coastline of the Arafura Sea in the middle of the mouth of Bensbach River situated approximately in longitude 141 degrees 1 minute 47 and nine-tenths seconds east thence by the territorial boundary between West Irian (Irian Djaya) and Papua New Guinea generally north to its junction with the territorial boundary between the former Territory of Papua and the former Territory of New Guinea south-easterly to its intersection with the middle thread of the Strickland River thence by the said middle thread of² Strickland River downstream generally south-westerly to its nearest point to the north-west extremity of Muller Range thence by the shortest line to the summit of the said Muller Range thence by the respective summits of the said Muller Range and Karius Range generally south-easterly to the eastern extremity of the said Karius Range thence by the shortest line to the middle thread of Tari River thence by the said middle thread of Tari River and Kikori (or Hegigio) River downstream generally southerly to a point due east of the highest point of Mount Bosavi thence by a straight line west to the meridian 143 degrees east longitude thence by the said meridian 143 degrees east longitude south to its intersection with the middle thread of Kanawe Creek thence by a straight line south-easterly to Bell Point situated on the south coast of Papua New Guinea between Turama River and Gama River thence by the coastline of Papua New Guinea generally south-westerly to the point of commencement and including all those islands and reefs

¹ *Semble*, 142 degrees 38 minutes was intended.

² *Semble*, "the" was omitted.

forming part of Papua New Guinea lying off the coast between the 141st meridian of east longitude the meridian passing through Bell Point and the boundary of the State of Queensland.

WESTERN HIGHLANDS PROVINCE.

Commencing at a point being the intersection of parallel 5 degrees 14 minutes south latitude with meridian 144 degrees 19 minutes 30 seconds east longitude and bounded thence on the north-east by a straight line south-easterly to the intersection of the watershed of the Bismarck Range with parallel 5 degrees 17 minutes 45 seconds south latitude thence generally on the north-east by the said watershed of the Bismarck Range generally south-easterly to the summit of Mount Wilhelm thence generally on the south by the watershed of the Sepik-Wahgi Divide generally westerly to the summit of Mount Udon thence on the east by a straight line southerly to the headwaters of the Ga River thence generally on the east by the middle thread of the said Ga River and the middle thread of the Garniger River downstream generally southerly to the junction of the said middle thread of the Garniger River with the middle thread of the Wahgi River thence generally on the south-west by the said middle thread of the Wahgi River upstream generally north-westerly to its junction with the middle thread of the Noi Creek thence again generally on the south-east by the said middle thread of the Noi Creek and the middle threads of the Numantz Creek and Waibe Creek generally south-westerly to the headwaters of the said Waibe Creek thence again on the south-east by a straight line south-westerly to the summit of Mount Kubor thence again generally on the north-east and south-east by the watershed of the Kubor Range generally south-easterly and south-westerly to its intersection with the common border between the former Territory of Papua and the former Territory of New Guinea at approximately meridian 144 degrees 36 minutes east longitude thence again on the south-west by the said common border north-westerly to the intersection of parallel 6 degrees south latitude with meridian 144 degrees east longitude thence again on the south-east by a straight line south-westerly to the summit of Mount Giluwe thence on the west by a straight line through Mount Giluwe due north to its intersection with the said common border at approximately parallel 5 degrees 57 minutes 30 seconds south latitude thence again on the south-west by the said common border north-westerly to its intersection with meridian 143 degrees 49 minutes 30 seconds east longitude thence again on the south-west by a straight line north-westerly to the intersection of the watershed of the Lai-Erave Divide with meridian 143 degrees 47 minutes 45 seconds east longitude thence generally on the north-west by the said watershed of the Lai-Erave Divide generally north-easterly to the summit of Mount Hagen thence on the south-west by a straight line north-westerly to the headwaters of the Gu River thence again generally on the west by the middle threads of the said Gu River and the Lai River downstream generally northerly to the junction of the said middle thread of the Lai River with the middle thread of the Minimb River thence generally on the north-west by the middle threads of the said Minimb River and the Gai River downstream generally north-easterly to the intersection of the said middle thread of the Gai River with the middle thread of the Yuat River thence again generally on the north-east by the said middle thread of the Yuat River upstream generally south-easterly to its intersection with meridian 144 degrees 17 minutes east longitude thence again on the north-west by a straight line north-easterly to the point of commencement.

(Replaced by Organic Law on Provincial Boundaries (Amendment No. 1.) Law Schedule 4.)

WEST NEW BRITAIN PROVINCE.

Commencing at a point on the sea shore of the western headland of Montagu Harbour at the intersection of approximate parallel 6 degrees 5 minutes south latitude with approximate meridian 150 degrees 48 minutes east longitude and bounded thence on the east by a line due south to a point on the common border between the former Territory of Papua and the former Territory of New Guinea thence on the south by the said common border due west to its intersection with meridian 148 degrees 17 minutes east longitude thence on the west by the said meridian 148 degrees 17 minutes east longitude due north to its intersection with parallel 5 degrees south latitude thence again on the south by the said parallel 5 degrees south latitude due west to its intersection with meridian 147 degrees 30 minutes east longitude thence on the north-west by a straight line north-easterly to the intersection of parallel 4 degrees south latitude with meridian 148 degrees 17 minutes east longitude thence on the north by the said parallel 4 degrees south latitude due east to its intersection with meridian 150 degrees 40 minutes east longitude thence on the north-east by a straight line south-easterly to the intersection of parallel 4 degrees 59 minutes south latitude with meridian 151 degrees 42 minutes east longitude thence again on the south by the said parallel 4 degrees 59 minutes south latitude due west to its intersection with the middle thread of the Pandi River thence on the south-east by a straight line to the summit of The Father thence again on the south-east by a straight line to the summit of The South Son thence again on the south-east by a straight line to a point on the middle thread of the Toiru

River at its intersection with meridian 151 degrees 8 minutes east longitude thence again generally on the north by the said middle thread of the Toiru River upstream generally easterly to its headwaters thence again on the north by a straight line due east to the watershed of the Nakanai Mountains thence again generally on the south-east by the said watershed generally south-westerly to its intersection with meridian 150 degrees 36 minutes east longitude thence again on the east by the said meridian 150 degrees 36 minutes east longitude due south to its intersection with parallel 5 degrees 55 minutes south latitude thence again on the north-east by a straight line south-easterly to the point of commencement.

WEST SEPIK PROVINCE.

Commencing at a point on the common border between West Irian (Irian Djaya) and the former Territory of New Guinea at its intersection with parallel 2 degrees south latitude and bounded thence on the north by the said parallel 2 degrees south latitude due east to its intersection with meridian 143 degrees 5 minutes east longitude thence on the east by the said meridian 143 degrees 5 minutes east longitude due south to its intersection with the watershed of the Torricelli Mountains thence generally on the south by the said watershed of the Torricelli Mountains generally westerly to its intersection with meridian 142 degrees 38 minutes east longitude thence again on the east by the said meridian 142 degrees 38 minutes east longitude due south to its intersection with the middle thread of the Keang River at approximate parallel 3 degrees 30 minutes south latitude thence generally on the east by the said middle thread of the Keang River downstream generally southerly to its intersection with said meridian 142 degrees 38 minutes east longitude at approximate parallel 3 degrees 46 minutes south latitude thence again on the east by the said meridian 142 degrees 38 minutes east longitude due south to its intersection with parallel 3 degrees 55 minutes 15 seconds south latitude thence again on the south by the said parallel 3 degrees 55 minutes 15 seconds south latitude due west to its intersection with meridian 142 degrees 32 minutes east longitude thence again on the east by the said meridian 142 degrees 32 minutes east longitude due south to its intersection with parallel 4 degrees 4 minutes 15 seconds south latitude thence again on the south by the said parallel 4 degrees 4 minutes 15 seconds south latitude due west to its intersection with the middle thread of the Sepik River thence generally on the south-west by the said middle thread of the Sepik River upstream generally north-westerly to its intersection with meridian 141 degrees 43 minutes 15 seconds east longitude thence on the south-east by a straight line south-westerly to the intersection of parallel 4 degrees 15 minutes 30 seconds south latitude with meridian 141 degrees 20 minutes 30 seconds east longitude thence again on the east by the said meridian 141 degrees 20 minutes 30 seconds east longitude due south to its intersection with parallel 4 degrees 36 minutes 45 seconds south latitude thence again on the north by the said parallel 4 degrees 36 minutes 45 seconds south latitude due east to its intersection with a line due north to the headwaters of the Kotufa River being approximate meridian 142 degrees 19 minutes 45 seconds east longitude thence again on the east by a straight line due south to the said headwaters of the Kotufa River thence again generally on the east by the middle thread of the said Kotufa River and the middle threads of the Lagaip River and the Strickland River generally southerly to the intersection of the said middle thread of the Strickland River with the common border between the former Territory of Papua and the former Territory of New Guinea thence again on the south-west by the said common boundary between the former Territory of Papua and the former Territory of New Guinea north-westerly to its intersection with the said common border between the former Territory of New Guinea and West Irian (Irian Djaya) being the intersection of parallel 5 degrees south latitude with meridian 141 degrees east longitude thence on the west by the said common border due north to the point of commencement.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 1.

Organic Law on Provincial Government

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3. Consultation on grant of provincial government.
4. Authorization of grant of provincial government.
5. Rescission, etc., of resolutions recognizing constituent assemblies.
6. Grant of provincial government.
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9. Standing orders of provincial constituent assemblies.
10. Effect of ratification.
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13. Legal status of provincial constitutions.
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16. Provincial legislatures.
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- “the adjusted base figure”
- “the base figure”
- “the preceding fiscal year”
- “transferred activity”
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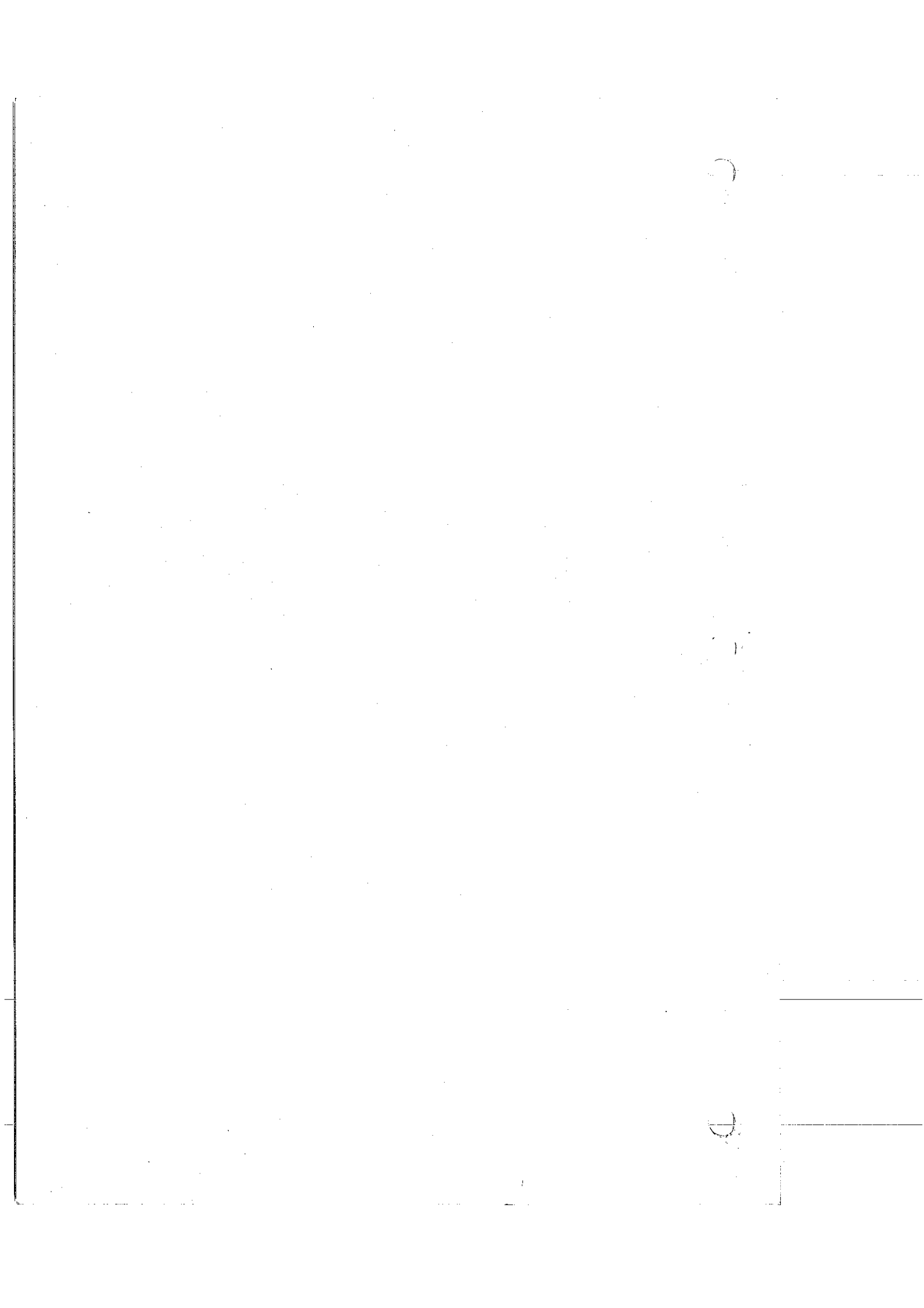
- “export value”
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INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 1.

Organic Law on Provincial Government

Being an Organic Law to implement Part VIA. (*Provincial Government and Local Level Government*) of the Constitution.

PART I.—PRELIMINARY.

1. Interpretation.

In this Organic Law, unless the contrary intention appears—

“Charter” means an instrument under Section 6(1) granting provincial government to a province;

“the provincial constituent assembly”, in relation to a province, means the body recognized under Section 2 in relation to the province;

“provincial law”, in relation to a province, means—

- (a) the constitution of the province or a law made by the provincial legislature; or
- (b) a subordinate legislative enactment made under that constitution or any such law.

PART II.—GRANT OF PROVINCIAL GOVERNMENT.

2. Provincial constituent assemblies.

The Minister responsible for provincial affairs may, by notice in the National Gazette, recognize, for the purposes of this Organic Law and of Section 187B (*grant of provincial government*) of the National Constitution, any properly organized body, that in his opinion provides an adequate means of consultation with a province, as the constituent assembly for the province.

3. Consultation on grant of provincial government.

As soon as practicable after the recognition of a constituent assembly for a province, the Minister responsible for provincial affairs shall, on behalf of the National Government, consult with the provincial constituent assembly on a constitution for the province and on the granting of provincial government to the province.

4. Authorization of grant of provincial government.

After consultation, as required by Section 3, by the Minister responsible for provincial affairs with a provincial constituent assembly—

- (a) that Minister may move in the National Parliament; and
- (b) the Parliament may, by an absolute majority vote, resolve,

that the National Executive Council be authorized to approve the grant of provincial government, and the granting of a Charter under Section 6, to the province.

5. Rescission, etc., of resolutions recognizing constituent assemblies.

(1) At any time before the making of a resolution under Section 4, the Minister responsible for provincial affairs may revoke a notice under Section 2, but otherwise shall not alter it.

(2) At any time before a Charter is granted under Section 6, the National Parliament may, by an absolute majority vote, rescind a resolution under Section 4.

6. Grant of provincial government.

(1) When—

(a) a resolution authorizing the grant of provincial government to a province has been made and is in force under Section 4; and

(b) the provincial constituent assembly has adopted, in accordance with Part III., a constitution for the province that is not inconsistent with the National Constitution or this Organic Law,

the National Executive Council shall advise the Head of State to grant provincial government to the province, and the Head of State shall, by instrument under his hand, grant, in the name and on behalf of the Independent State of Papua New Guinea, provincial government to the province accordingly.

(2) At the first meeting of the National Parliament after a Charter is granted under Subsection (1), the Prime Minister shall table a copy of the Charter in the Parliament.

(3) The granting of a Charter under Subsection (1) in relation to a province is conclusive evidence that the requirements of this Organic Law in relation to the grant and to the adoption of a constitution for the province have been complied with.

7. Entry into effect of provincial constitutions.

The constitution of a province comes into effect on the date of the granting of a Charter under Section 6 or on such later date as is provided for by that constitution.

PART III.—MANNER OF ADOPTION OF PROVINCIAL CONSTITUTIONS.**8. Adoption of proposed constitutions by provincial constituent assemblies.**

A constitution for a province shall be adopted by the provincial constituent assembly in accordance with the standing orders of the assembly made in accordance with Section 9.

9. Standing orders of provincial constituent assemblies.

Not less than one day before the day on which a constitution for a province is adopted, the provincial constituent assembly shall make standing orders providing for—

(a) the manner of adoption of the constitution; and

(b) the manner in which the adoption is to be authenticated.

10. Effect of ratification.

Authentication, in accordance with the standing orders made by the provincial constituent assembly for the purposes of Section 9(b), of the adoption of a constitution for a province is conclusive evidence as to the manner and form of its adoption.

11. Alteration of provincial constitutions.

Subject to this Organic Law and to Section 100(3) (*exercise of the legislative power*) of the National Constitution, the constitution of a province may be repealed or otherwise altered only—

- (a) in accordance with its provisions; or
- (b) by an Organic Law.

PART IV.—LEGAL STATUS OF PROVINCIAL GOVERNMENTS, PROVINCIAL CONSTITUTIONS, ETC.

12. Legal capacity of provincial governments.

A provincial government—

- (a) may acquire, hold and dispose of property of any kind; and
- (b) may sue and be sued,

and a provincial law may make provision for and in respect of the manner and form in which it may do so.

13. Legal status of provincial constitutions.

The constitution of a province that has come into effect in accordance with Section 7 takes effect for the purposes of any law of Papua New Guinea as if it were an Organic Law, but may be altered only in a manner prescribed by Section 11.

14. Recognition of provincial laws.

Full faith and credit shall be given throughout Papua New Guinea to the laws, the public acts and records and the judicial proceedings of all provinces.

PART V.—STRUCTURE OF PROVINCIAL GOVERNMENTS.

15. General structure.

In accordance with Section 187C(2) (*constitution, functions, etc., of provincial governments*) of the National Constitution, a provincial government shall consist of—

- (a) a provincial legislature; and
- (b) a provincial executive.

16. Provincial legislatures.

(1) The legislative power of a province shall be vested in the provincial legislature.

(2) A provincial legislature—

- (a) must include—
 - (i) not less than 15 elected members; and
 - (ii) each member of the National Parliament representing an electorate in the province; and
- (b) may include appointed or nominated members as permitted by Section 187C(2)(a) (*constitution, functions, etc. of provincial governments*) of the National Constitution, but if so must not include more such members than—
 - (i) three; or

(ii) 10% of the number of the elected members,
whichever is the greater number.

(2A) A member of the National Parliament who is a member of a provincial legislature by virtue of Subsection (2)(a)(ii) is entitled to attend all meetings of that provincial legislature but has no voting rights, shall not be counted towards a quorum and shall not hold any other office in that provincial legislature.

(3) For the purposes of Subsection (2) and without in any way affecting the operation of Section 187C(2)(a) (*constitution, functions, etc., of provincial governments*) of the National Constitution, members appointed or nominated by local, community or village governments, or other local level governments within the meaning of Section 1871 (*local and village governments*) of the National Constitution shall be deemed to be elected members.

(4) A provincial legislature may, in accordance with and subject to the constitution of the province, make laws as provided for by this Organic Law, and has such other powers, functions, duties and responsibilities as are conferred or imposed on it by or under that constitution.

(5) Nothing in Subsection (1) or (4) prevents a provincial law from providing for the conferring of legislative powers or functions on an authority other than the provincial legislature.

(6) Where—

- (a) no provincial legislature has been established under Subsection (2); and
- (b) legislative powers or functions have been conferred under Subsection (5) on an authority by the provincial constitution,

each member of the National Parliament representing an electorate in the province is included as a member of the authority for that province.

(7) A member of the National Parliament who is a member of an authority by virtue of Subsection (6) is entitled to attend all meetings of that authority but has no voting rights, shall not be counted towards a quorum and shall not hold any office in that authority.

(Amended by Organic Law on Provincial Government (Amendment No. 1) Law, s. 1.)

17. Provincial executives.

(1) The executive power of a province, and the execution of the provincial laws, shall, subject to this Organic Law, be vested in the provincial executive.

(2) The provincial executive has such powers, functions, duties and responsibilities as are conferred or imposed on it by or under this Organic Law or a provincial law.

(3) The provincial executive shall consist of—

- (a) a head of the provincial executive; and
- (b) such other members as are provided by or under the constitution of the province; and
- (c) two members of the National Parliament who represent electorates in the province, chosen by a majority of members who represent electorates in the province.

(3A) A member of the National Parliament who is a member of a provincial executive by virtue of Subsection (3)(c) is entitled to attend all meetings of that provincial executive but has no voting rights, shall not be counted towards a quorum and shall not hold any other office in that provincial executive.

(4) Nothing in Subsection (1) or (2) prevents a provincial law from providing for the conferring or imposing of powers, functions, duties or responsibilities on a person or authority outside the provincial executive.

(5) Where—

- (a) no provincial executive has been established under Subsection (3); and
- (b) powers, functions, duties or responsibilities have been conferred under Subsection (4) on an authority by the provincial constitution,

there is included in that authority either—

- (c) the member of the National Parliament representing the provincial electorate for the province; or
- (d) one of the members of the National Parliament who represents an open electorate in the province chosen by the majority of members who represent electorates in the province.

(6) A member of the National Parliament who is a member of an authority by virtue of Subsection (5) is entitled to attend all meetings of that authority but has no voting rights, shall not be counted towards a quorum and shall not hold any office in that authority.

(Amended by Organic Law on Provincial Government (Amendment No. 1) Law, s. 2.)

PART VI.—LEGISLATIVE POWERS.

Division 1.—Introductory.

18. Interpretation of Part VI.

In this Part, "provincial law" means a provincial law as defined in Section 1, other than the constitution of the province.

19. General legislative power of the National Parliament.

Except as is expressly provided by this Part, this Part does not affect the power of the National Parliament, under Section 109 (*general power of law-making*) of the National Constitution, to make laws for the peace, order and good government of Papua New Guinea.

20. General legislative power of provincial governments.

(1) Within the limits allowed or imposed by this Organic Law and the other National Constitutional Laws, a provincial legislature has full legislative power to make laws for the peace, order and good government of the province.

(2) Where this Organic Law or any other National Constitutional Law makes specific provision for an Act of the Parliament as to any matter, a provincial legislature has no power to make laws for the purpose of that provision, but this subsection does not affect the operation of Subsection (3).

(3) Provincial laws may be made—

- (a) on any subject provision for which by way of a provincial law is expressly authorized by any provision of this Organic Law other than this Part, or by any other National Constitutional Law; and
- (b) in the field of primarily provincial competence, as provided for by Division 3; and

- (c) in the field of competence concurrent with that of the National Parliament, as provided for by Division 4; and
- (d) in any other field in which there is no competing National legislation, as provided for by Division 5; and
- (e) in relation to judicial matters, as provided for by Part VII; and
- (f) under delegation by the National Government as provided for by Part VIII; and
- (g) in relation to taxation, as provided for by Division X.2.

21. Extraterritoriality.

Except as provided by Part IV, a provincial law has effect only in and in relation to the province.

22. Interpretation of provincial laws.

All provincial laws (including the constitutions of the provinces) shall be read and construed subject to this Organic Law and to the other National Constitutional Laws, and so as not to exceed the authority to make them properly given, to the intent that where any such law would, but for this section, have been in excess of the authority so given it is nevertheless a valid law to the extent to which it is not in excess of that authority.

*Division 2.—Technical Definition.***23. Exhaustive laws.**

(1) For the purposes of this Part, a law is exhaustive in relation to a matter if it shows, by reason of—

- (a) its subject-matter; or
- (b) the method of dealing with the matter that has been adopted by it or by any other law that should be considered with it; or
- (c) the form or complexity of it or of any other law that should be considered with it,

that the legislature has intended to set out completely, exhaustively or exclusively—

- (d) the statutory requirements of the matter; or
- (e) the statute law to govern the matter; or
- (f) the policy on the matter.

(2) The operation of Subsection (1) is not affected by reliance placed by the law on—

- (a) any principle or rule of the underlying law; or
- (b) any other statute,

for purposes of definition or interpretation, or for procedural, evidentiary or other ancillary or adjectival purposes.

(3) For the purposes of this section, a statement in a law that it is or is intended to be exhaustive is not conclusive on the point.

(4) The fact that a law is exhaustive in its relation to a matter does not of itself involve inconsistency with any other law.

Division 3.—Primarily "Provincial" Subjects.

24. Application of Division 3.

(1) Subject to Subsection (2), the subjects to which this Division applies are—

- (a) the control by licensing of mobile traders (other than mobile banks); and
- (b) primary schools (including community schools and village self-help schools) and primary education other than curriculum; and
- (c) the sale and distribution of alcoholic liquor; and
- (d) the control by licensing of public entertainments and of places of public entertainment; and
- (e) housing (other than housing owned or to be owned by the State); and
- (f) libraries, museums, cultural centres and Cultural Councils; and
- (g) sporting activities; and
- (h) to the extent provided for by Section 39, village courts; and
- (i) subject to Section 187I (*local and village governments*) of the National Constitution, local, community and village governments and other local level governments within the meaning of that section,

but not including the imposition of taxation (which is provided for by Division X.2).

(2) Subsection (1)(f) does not apply to libraries, museums, cultural centres and Cultural Councils (as the case may be) that are—

- (a) conducted, or to be conducted, by the State or by an authority established by or under an Act of the Parliament; or
- (b) established or conducted, or to be established or conducted, by or under an Act of the Parliament,

or to the establishment or conduct of such institutions.

25. Legislative powers of the provinces.

A provincial legislature may make a law with respect to a subject or subjects to which this Division applies.

26. Legislative powers of the National Parliament.

(1) Except as provided by Subsection (2), the National Parliament has no power to make an Act of the Parliament on a subject to which this Division applies.

(2) If a provincial legislature has not made an exhaustive law, in accordance with Section 25, on a subject to which this Division applies, an Act of the Parliament on the subject may have effect in the province so far as it is not inconsistent with any provincial law made in accordance with that section.

Division 4.—"Concurrent" Subjects.

Subdivision A.—Preliminary.

27. Application of Division 4.

The subjects to which this Division applies are—

- (a) community development and rural development; and

- (b) primary school (including community school and village self-help school) curriculum; and
- (c) agriculture and stock; and
- (d) fishing and fisheries; and
- (e) health; and
- (f) public works; and
- (g) trade and business, and commercial and industrial investment and development; and
- (h) high schools, and vocational and technical schools; and
- (i) gambling, lotteries and games of chance; and
- (j) tourism; and
- (k) transportation and transportation facilities; and
- (l) town planning; and
- (m) land and land development; and
- (n) forestry; and
- (o) wild life protection; and
- (p) parks and reserves; and
- (q) family and marriage laws (including laws relating to divorce and other matrimonial proceedings and to the custody of children); and
- (r) courts and tribunals (other than village courts), and their jurisdiction; and
- (s) communications and mass media; and
- (t) wharves and harbours; and
- (u) aviation; and
- (v) labour and employment; and
- (w) research and training institutions; and
- (x) marketing; and
- (y) renewable and non-renewable natural resources,

but not including the imposition of taxation (which is provided for by Division X.2).

Subdivision B.—“Concurrent” Legislative Powers.

28. Legislative powers of the provinces.

(1) A provincial legislature may make a law with respect to a subject or subjects to which this Division applies, that shall have effect so far as it is not inconsistent with any Act of the Parliament.

(2) For the purposes of Subsection (1), a question—

(a) whether or not a provincial law is a law with respect to a particular subject to which this Division applies; or

(b) whether or not a provincial law is inconsistent with an Act of the Parliament, is non-justiciable except at the instance of the National Government or of a provincial government.

29. Legislative powers of the National Parliament.

(1) The National Parliament shall not make an Act of the Parliament on a subject to which this Division applies except—

- (a) in relation to a matter that is of national interest; and
- (b) to the extent that the matter is of national interest.

(2) A question, whether or not an Act of the Parliament complies with Subsection (1), is non-justiciable.

Subdivision C.—Consultation, etc.**30. Consultation generally.**

(1) Failure to comply with Subsection (2) in relation to a law does not invalidate the law.

(2) The Minister responsible for provincial affairs shall, if so requested by the head of a provincial executive, consult with the provincial executive on any proposed Act of the Parliament relating to a subject to which this Division applies.

31. Notice of Acts of the Parliament.

(1) This section does not apply in respect of—

- (a) emergency laws within the meaning of Section 226 (*definitions for the purposes of Part X*) of the National Constitution; or
- (b) any Act of the Parliament dealing with a matter of urgent national importance when it is in the national interest that the Act be made without delay.

(2) In a case to which Subsection (1)(b) applies, the Minister responsible for provincial affairs shall, as soon as practicable, advise the provincial government concerned of the law or proposed law and of the reason for the urgency.

(3) If—

- (a) the Minister responsible for provincial affairs asks the head of a provincial executive that the provisions of this section be waived in relation to any proposed law; and
- (b) the head of the provincial executive thinks that it is in the public interest to do so,

the head of a provincial executive may, in writing, waive the requirements of this section, so far as they relate to the province, in relation to the proposed law.

(4) Not less than two months before an Act of the Parliament is made concerning a subject to which this Division applies, the Minister responsible for provincial affairs shall give to each provincial government notice by registered post of the proposed Act.

(5) A question, whether the provisions of this section have been complied with in relation to a law, is non-justiciable except at the instance of a provincial government.

Division 5.—“Unoccupied” Legislative Fields.**32. Application of Division 5.**

This Division does not apply in relation to the powers of provincial legislatures in respect of—

- (a) any matter that can be dealt with only as an Organic Law; or

- (b) a law that can be made only as an emergency law within the meaning of Section 226 (*definitions for the purposes of Part X.*) of the National Constitution; or
- (c) a law of a kind to which Division 3 or 4 applies; or
- (d) a law of a kind referred to in Section 109(2) (*general power of law-making*) of the National Constitution; or
- (e) the imposition of taxation (which is provided for by Division X.2).

33. Additional legislative powers of the provinces.

(1) If the National Parliament has not made an exhaustive law, applying in a province, on any subject, the provincial legislature may make a law, not inconsistent with any Act of the Parliament, on that subject.

(2) If an Act of the Parliament that is inconsistent with a provincial law made under Subsection (1) comes into force, the provincial law shall, to the extent of the inconsistency, be deemed to be repealed by a provincial law.

Division 6.—Miscellaneous Matters Relating to Provincial Laws.

34. Application of Division 6.

(1) Subject to Subsection (2), this Division applies in relation to all provincial laws (including any amendments to the constitution of a province made or to be made otherwise than by an Organic Law), other than provincial laws so far as they impose taxation.

(2) This Division does not affect the operation of Part VIII.

35. Notice of provincial laws.

(1) Failure to comply with this section in relation to a law does not invalidate the law.

(2) If—

(a) the provincial government asks the Minister responsible for provincial affairs that the provisions of this section be waived in relation to any proposed provincial law, or to any proposed amendments to a proposed provincial law; and

(b) the Minister thinks that it is in the public interest to do so,

the Minister may, in writing, waive the requirements of this section in relation to the proposed law or to all or any amendments to the proposed law.

(3) Before a provincial law is made, the provincial executive shall give to the Minister responsible for provincial affairs by registered post, or otherwise in the quickest practicable manner, copies of the text of the proposed law and of any amendments made or proposed to be made to the proposed law.

36. Commencement of provincial laws.

(1) Notwithstanding anything in any provincial law, except with the consent of the Minister responsible for provincial affairs a provincial law shall not come into operation until the end of the period of 30 days after the provincial government has forwarded to the Minister, by registered mail, a copy of the text of the law.

(2) If copies of the text of the law as proposed and of any amendments to it have been given in accordance with Section 35(3), the period referred to in Subsection (1) runs from

the date on which notice of the making of the law is forwarded in the quickest practicable manner to the Minister responsible for provincial affairs.

37. Disallowance of provincial laws.

(1) Subject to Subsections (2) and (4), the National Parliament may, by a two-thirds absolute majority vote, by resolution disallow any provincial law, if in its opinion the disallowance is in the public interest.

(2) The National Parliament shall not disallow a provincial law unless, at least two months before the disallowing resolution is made, the Parliament has, by a simple majority vote, resolved to consider the matter of the disallowance.

(3) The Speaker of the National Parliament shall, by the quickest practicable means, formally advise the provincial legislature concerned of the making of a resolution under Subsection (1).

(4) A resolution under Subsection (1) shall not be made unless the Minister responsible for provincial affairs has, not less than 30 days before the date on which it is proposed to make it, consulted with the provincial executive on the issues related to the provincial law in question that are involved in the proposed disallowance.

PART VII.—JUDICIAL MATTERS.

38. Extent of powers as to judicial matters.

(1) Except as provided in this Part, a provincial government has no power to make laws relating to the establishment or administration of courts, or to the exercise of judicial power.

(2) Nothing in Subsection (1) prevents—

(a) an Act of the Parliament making provision, in accordance with Part VIII, for the exercise or performance by a provincial government of powers or functions (other than judicial powers or functions) in relation to the administration of courts or tribunals; or

(b) the establishment, by or under a provincial law of tribunals of an administrative or quasi-judicial kind; or

(c) a provincial law making provision for offences and fines and other punishments, penalties and forfeitures for offences against provincial laws.

39. Village courts.

(1) Subject to Subsection (2), a provincial law may, as permitted by and subject to Division VI. 3, make provision for or in respect of the establishment and administration of village courts of civil or criminal jurisdiction, or both.

(2) The jurisdiction of village courts established under Subsection (1) is as determined by or under an Act of the Parliament, but in any event such courts have the jurisdiction possessed, immediately before the commencement of this Organic Law, by village courts established under the pre-Independence *Village Courts Act 1973*.

40. Other provincial courts.

As permitted by, and in accordance with, Division VI.4, a provincial law may make provision for or in respect of the establishment, jurisdiction and administration of courts and tribunals of civil or criminal jurisdiction, or both.

41. Court fees, fines, etc.

The powers of provincial legislatures under this Part in relation to courts and tribunals extend to matters relating to the imposition of fees in, and the disposition of fines, penalties and forfeitures imposed by, such courts and tribunals.

PART VIII.—DELEGATED POWERS.**42. Application of Part VIII.**

This Part does not—

- (a) apply in respect of judicial powers or functions; or
- (b) affect the operation of Section 209 (*parliamentary responsibility*) of the National Constitution or any corresponding provision of the constitution of a province.

43. Delegations of powers and functions.

(1) An Act of the Parliament may make provision for or in relation to the exercise and performance in or in relation to a province—

- (a) by the provincial legislature; or
- (b) as provided by a provincial law not inconsistent with any Act of the Parliament, by or by direction of the provincial executive or a member of the provincial executive,

of—

- (c) any legislative power or function of the National Government, including a power to make subsidiary legislation but not including a power to make—
 - (i) an amendment to the National Constitution; or
 - (ii) an Organic Law; or
 - (iii) a law of a kind that can be made only as an emergency law within the meaning of Section 226 (*definitions for the purposes of Part X*) of the National Constitution; or
 - (iv) a Constitutional Regulation; or
- (d) any power or function of the National Government under an Act of the Parliament.

(2) A provincial law may make provision for and in relation to the exercise by the National Government of—

- (a) any legislative power or function of the provincial government, including a power to make subsidiary legislation; or
- (b) any power or function under a provincial law.

(3) The powers and functions to which Subsection (1) and (2) apply include powers of delegation and subdelegation.

44. Alterations to delegating laws.

(1) A law repealing or otherwise altering a provision of a law made for the purposes of Section 43 shall not come into operation until reasonable notice of it has been given by notification in the National Gazette.

(2) A question, whether or not notice was given as required by Subsection (1) or as to the reasonableness of any such notice, is non-justiciable except in the Supreme Court at the instance of the delegate government.

PART IX.—PROVINCIAL STAFF.

Division 1.—Preliminary.

45. Interpretation of Part IX.

In this Part—

“Departmental Head” means the Departmental Head within the meaning of the pre-Independence *Public Service (Interim Arrangement) Act 1973*, as in force immediately before the commencement of this Organic Law, or if that Act is altered or replaced the corresponding office under the altered Act or the replacing Act, as the case may be;

“the National Public Service Act” means the pre-Independence *Public Service (Interim Arrangements) Act 1973*, as in force immediately before the commencement of this Organic Law, or that Act as altered or replaced.

46. Application of Part IX.

(1) Subject to Subsection (3), this Part does not affect any power of a provincial government to enter into contracts for the provision of services to the provincial government, or to employ under a contract of service consultants or advisers, or other persons in a like capacity, not having any executive responsibility for the discharge of functions assumed by the provincial government.

(2) This Part does not affect employment by statutory authorities established by or under provincial laws, or the employment of persons for the purposes of commercial enterprises conducted by provincial governments.

(3) Where—

- (a) a provincial government proposes to employ a consultant or adviser, or any other person in a like capacity, for a period in excess of 12 months; or
- (b) any such person has been continuously employed by a provincial government for a period in excess of 12 months,

the provincial government shall consult with the Public Services Commission with a view to ascertaining whether alternative arrangements could be made for the assignment to the province of a person in the National Public Service.

Division 2.—Provincial Administrative Staff.

47. Provincial administrative staff.

(1) For the purposes of this Part, the provincial administrative staff of a province shall consist of—

- (a) the members of the provincial secretariat established under Section 48; and
- (b) members of the National Public Service assigned, under Section 49, to the provincial government; and
- (c) the person appointed under Section 50.

(2) Except as provided by any law relating to the National Public Service, the persons referred to in Subsection (1)(b) and (c), in their capacities as such, are subject to the direction and control of the provincial government.

(3) The powers of a provincial government under Subsection (2) may, if the constitution of the province so provides, be exercised through the provincial secretariat.

48. Provincial secretariats.

(1) A provincial law may make provision for and in relation to a provincial secretariat consisting of not more than six persons whose offices in the provincial secretariat shall not be offices in the National Public Service.

(2) The National Government has no power of direction or control over a provincial secretariat or the members of a provincial secretariat.

(3) The members of a provincial secretariat hold office on such terms and conditions as are determined by the provincial government.

49. Assignment of members of the National Public Service to provincial governments.

(1) The Public Services Commission, after consultation with the provincial government, may assign members of the National Public Service on a full-time basis to a provincial government.

(2) The salaries and allowances, and the cost of other conditions of employment, in the National Public Service of members of the National Public Service assigned under Subsection (1), and all other costs associated with the making of their services available to provincial governments, shall be borne by the National Government.

(3) Nothing in this section or in Section 47 prevents the services of additional members of the National Public Service being made available by the National Government to a provincial government.

50. National Public Service control of assigned members.

(1) The Prime Minister, on the recommendation of the provincial government made after consultation with the Public Services Commission, may, by notice in the National Gazette, appoint a member of the National Public Service to act for the purposes of this section in relation to a province.

(2) The person appointed under Subsection (1) shall be stationed in the province.

(3) The person appointed under Subsection (1) shall, in relation to—

(a) members of the National Public Service assigned to a provincial government under Section 49; and

(b) offices or proposed offices occupied or intended to be occupied by such officers,

be deemed, for the purposes of the National Public Service Act, to be the Departmental Head.

(4) To the extent to which in the exercise and performance of his powers, functions, duties and responsibilities a Departmental Head may be, under the National Public Service Act, subject to the supervision and control of any person or authority, the person appointed under Subsection (1) is subject to the supervision and control of a Committee of Management to be appointed, under a provincial law, by the provincial executive.

51. Grants on account of provincial staffing.

(1) In addition to any other grants and assistance provided or that may be provided under Division X.3 or otherwise, the National Government shall, in respect of each fiscal year, grant unconditionally to each provincial government an amount equal to the sum of the salaries and allowances, and the cost of other conditions of employment, of members of the National Public Service occupying in the National Public Service—

- (a) one office classified at Level 1; and
- (b) one office classified at Class 11; and
- (c) two offices classified at Class 10; and
- (d) two offices classified at Class 9.

(2) If in the case of an office in the National Public Service referred to in Subsection (1) there is a scale or range of salary, allowances or other conditions, the amount to be granted in accordance with that subsection is such amount within the scale or range as the Public Services Commission thinks appropriate.

(3) If at any time there is no office, or no appropriate office, in the National Public Service corresponding to an office in that Service referred to in Subsection (1), the Public Services Commission shall decide what in its opinion is the corresponding office as at that time, and the amount to be granted in accordance with that subsection shall be calculated accordingly.

(4) This section does not limit the right of a provincial government to apply any amount granted under this section in such manner as it thinks to be in the best interests of the province.

Division 3.—Teaching Staff.

52. Members of the Teaching Service in provincial schools.

An Act of the Parliament, made after consultation between the National Government and the provincial government, shall make provision for and in relation to—

- (a) the continued availability of members of the Teaching Service to teach in—
 - (i) primary schools (including community schools and village self-help schools); and
 - (ii) other schools subject to the jurisdiction of the provincial government; and
- (b) the transfer to the provincial executive of control over members of the Teaching Service in and for schools referred to in Paragraph (a).

PART X.—FISCAL MATTERS.

Division 1.—Preliminary.

53. Outline of provincial finances.

The finances of a province shall consist of—

- (a) receipts from taxation—
 - (i) imposed by provincial laws, as provided for by Division X.2; or
 - (ii) imposed under delegation from the National Government, in accordance with Part VIII.; and

- (b) grants from the National Government as provided for by Division X.3, including grants on account of provincial staffing in accordance with Section 51; and
- (c) the proceeds of court fees, fines and penalties as provided for by Sections 41 and 69, and other fees and charges under provincial laws as provided for by Section 70; and
- (d) the proceeds of certain borrowings in accordance with Section 71; and
- (e) the proceeds of investments by it (including interest on bank deposits) and income from commercial enterprises conducted by it; and
- (f) such other moneys as are lawfully available to it under an Act of the Parliament or a provincial law.

Division 2.—Provincial Taxation.

Subdivision A.—Taxation Generally.

54. Provincial taxation generally.

A provincial government has no power to impose taxation except—

- (a) as provided by this Part; or
- (b) by virtue of a delegation from the National Government under Part VIII.

55. Government exemptions.

(1) In this section, "income" includes dividends or other payments in the nature of dividends or returns from investments by the State or a provincial government in commercial enterprises.

(2) Subject to Subsection (3) and to any agreement between the governments concerned—

- (a) the property and income of the State or of another provincial government is exempt from taxation under any provincial law; and
- (b) property imported or otherwise obtained by a provincial government for its own use and not for sale or other disposal is exempt from duties of customs (including export duties) or excise under any Act of the Parliament; and
- (c) other property and income of a provincial government is exempt from taxation under any Act of the Parliament; and
- (d) a provincial government is exempt from stamp duties or similar charges under any Act of the Parliament; and
- (e) the National Government and other provincial governments are exempt from retail sales tax imposed under a provincial law so far as goods purchased by the National Government or the other provincial government for its own use and not for sale are concerned.

(3) Subsection (2) does not apply in relation to property or income of, or to property used for the purposes of—

- (a) a commercial enterprise conducted by the State or by a provincial government; or
- (b) an instrumentality of the National Government or of a provincial government.

(4) This section does not limit the power of the National Government or a provincial government to grant any exemption from taxation imposed by it.

Subdivision B.—Provincial Taxes.

56. Exclusively provincial taxes.

(1) Subject to the constitution of the province and to this Organic Law, a provincial law may impose or provide for the imposition of taxation of all or any kinds referred to in Section 57.

(2) The National Parliament has no power to impose or to provide for the imposition of taxation of any kind referred to in Section 57.

57. Kinds of provincial taxes.

The kinds of taxation referred to in Section 56 are—

- (a) retail sales tax, in accordance with Section 58; and
- (b) taxes on public entertainments for which admission is charged, and on places kept for the purpose of such entertainments; and
- (c) fees for licences for mobile traders (other than mobile banks within the meaning of the pre-Independence *Banks and Financial Institutions Act 1973*); and
- (d) fees for the licensing of places where intoxicating liquor is sold; and
- (e) fees for licences to operate or carry on gambling, lotteries and games of chance; and
- (f) taxes on land, in accordance with Section 59; and
- (g) head tax, in accordance with Section 60; and
- (h) any other tax that could, and to the extent that it could, have been imposed, immediately before the commencement of this Organic Law, by Local Government Councils.

58. Retail sales tax.

(1) For the purposes of Section 57(a), a retail sales tax is a tax that is imposed on or by reference to—

- (a) the retail sale in the province of all or any goods; or
- (b) the sale in the province of all or any services by persons holding themselves out as offering such services to the public or to any section of the public.

(2) In Subsection (1)—

“retail sale of goods” means the sale of goods for consumption or use and not for re-sale—

- (a) at a place to which the public has access, by invitation or otherwise, for the purposes of the sale or purchase of such goods; or
- (b) in pursuance of an offer or invitation to the public or a section of the public, or of an advertisement addressed to the public or a section of the public;

“services” does not include services under a contract of employment.

(3) In the case of the sale of goods, a retail sales tax may be levied on—

- (a) the retail seller; or
- (b) a seller other than the retail seller by reference to his sale of goods for retail sale.

(4) In the case of the sale of services by way of contract and subcontract, a retail sales tax may be levied on—

- (a) the principal contractor; or
- (b) the sub-contractor,

but not on both.

59. Taxes on land.

(1) Land rent is not a tax for the purposes of Section 57.

(2) For the purposes of Section 57(f)—

- (a) rates or taxes on land for services supplied or to be supplied, or for services that are available to be supplied; and
- (b) taxes on receipts from rent; and
- (c) taxes on capital gains; or
- (d) death, estate or succession taxes, or like taxes,

are not taxes on land.

(3) Subsection (2)(a) does not affect the operation of Section 70.

(4) The Minister responsible for financial matters, after consultation with the provincial government concerned, may, by notice in the National Gazette, exempt any land that is used for the purpose of any mining or industrial activity (including the generation of electricity) from any tax on land imposed by a provincial law, to the extent that the law imposes a tax otherwise than on the unimproved value of the land.

60. Head tax.

(1) For the purposes of Section 57(g), a head tax—

- (a) may be imposed on corporations as well as on natural persons; and
- (b) shall not be imposed by reference to income.

(2) Subsection (1) does not prevent exemptions, in whole or in part, from a head tax being provided for by reference to capacity to pay.

Subdivision C.—Avoidance of Discrimination.

61. Discrimination.

(1) Where in the opinion of the National Parliament a tax imposed by a provincial law—

- (a) discriminates unjustly between any persons; or
- (b) discriminates against persons who are not residents of the province, or against products originating or coming from outside the province; or
- (c) is set, wholly or partly, at an unreasonably high level,

an Act of the Parliament that is expressed to be made for the purpose may make such provision as seems to the Parliament proper to remove or correct the discrimination or unreasonableness.

(2) The powers of the National Parliament under Subsection (1) include power—

- (a) to repeal or otherwise alter the offending law; or
- (b) to order compensation or restitution to be made by the provincial government.

(3) A question—

- (a) whether or not a provincial law is discriminatory or unreasonable for the purposes of this section; or
- (b) as to the propriety of any Act of the Parliament made for the purpose of this section,

is non-justiciable.

62. Special references to National Fiscal Commission.

(1) The National Parliament shall not make an Act of the Parliament under Section 61 unless—

- (a) the National Executive Council has referred the matter to the National Fiscal Commission; and
- (b) either—
 - (i) the Commission has reported to the National Parliament and to the provincial assembly in accordance with Subsection (3) and the Parliament has considered the report; or
 - (ii) the Commission fails to report, as required by Subsection (3), to the Parliament within 30 days after notice of the reference is published under Subsection (2).

(2) On the making of a reference under Subsection (1)(a), the National Executive Council shall cause notice of the reference to be published in the National Gazette.

(3) Where a matter is referred to the National Fiscal Commission under Subsection (1)(a), it is the duty of the Commission to report on the matter to the National Parliament and to the provincial assembly within 30 days after notice of the reference is published under Subsection (2).

Division 3.—Grants and Aid from National Government.

63. Grants generally.

The National Government may make the following grants to a provincial government, in accordance with this Division:—

- (a) unconditional grants in accordance with Section 64; and
- (b) conditional grants in accordance with Section 65; and
- (c) derivation grants in accordance with Section 66; and
- (d) the share of national taxation provided for by Section 67.

64. Unconditional grants.

(1) For each fiscal year, the National Government shall, out of moneys lawfully available for the purpose, make unconditional grants to the provincial governments.

(2) The minimum amount of the unconditional grant to a provincial government in respect of a fiscal year shall be as calculated in accordance with Schedule 1.

65. Conditional grants.

(1) The National Government may, out of moneys lawfully available for the purpose, make conditional grants to a provincial government, for any purpose agreed on by the National Government and the provincial government.

(2) A grant under Subsection (1)—

- (a) may be subject to such conditions as are agreed on by the National Government and the provincial government; and
- (b) shall be expended only on and for the purpose for which it was made and in accordance with the conditions so agreed on.

66. Derivation grants.

(1) For each fiscal year, the National Government shall, out of moneys lawfully available for the purpose, pay to a provincial government an amount equal to 1.25% of the value derived from the province of goods exported from Papua New Guinea during the preceding fiscal year, less the total amount received by the provincial government under Section 67(2)(a) in respect of that preceding fiscal year.

(2) For the purposes of Subsection (1), the value derived from a province shall be calculated in accordance with Schedule 2.

(3) For the purposes of this section, no account shall be taken of—

- (a) goods exported as passengers' baggage or personal effects; or
- (b) ship's or aircraft's stores for the use of the vessel or aircraft on which they are exported; or
- (c) imported goods not released from bond before re-export; or
- (d) goods comprising or including imported components where the value attributable to those components (exclusive of any increment of value due to processing in Papua New Guinea) exceeds 70% of the export value.

67. Transfer of proceeds of certain national taxation.

(1) In this section—

"net payment to the State", in relation to any amount of royalty or fees, means the amount of the payment concerned, less—

- (a) the costs of collection and recovery; and
- (b) any amount that is paid by the State, or that the State is liable to pay, to any person under any other law;

"royalty"—

- (a) in relation to any goods referred to in Subsection (2)(a)(i)—means any net payment to the State in consideration of the right to win, cut or take the goods that is calculated by reference to the value or amount of the goods won, cut or taken; and
- (b) in relation to private hydro-electric undertakings—means any net payment to the State in consideration of the right to take or use water for the purpose of the generation of electricity that is calculated by reference to the volume of water taken or used or to the value or amount of electricity produced.

(2) As soon as practicable after the end of each fiscal year, the National Government shall, out of moneys lawfully available for the purpose, grant to a provincial government an amount calculated by the National Executive Council as being equal to the sum of—

- (a) subject to Subsection (3), royalties—
 - (i) in respect of—
 - (A) minerals (other than petroleum and natural gas); and

- (B) petroleum; and
- (C) natural gas; and
- (D) timber; and
- (E) fish,

won, cut or taken in the province; and

- (ii) in respect of electricity produced from private hydro-electricity undertakings in the province,

collected by the National Government during the fiscal year in question; and

- (b) subject to Subsection (4), the net payments to the State of fees, (other than insurance premiums, inspection charges and similar payments) for the registration or licensing of motor vehicles, and for licences and permits to drive motor vehicles, paid in the province under any Act of the Parliament relating to motor vehicles.

(3) Where there is a doubt as to the province (if any) in which any fish was taken, the National Executive Council may apportion, for the purposes of this section, royalties collected by the State in respect of the fish in such reasonable manner as seems to it just and in accordance with the purpose of this section.

(4) If at any time the arrangements for—

- (a) the grant of registrations, licences and permits referred to in Subsection (2)(b); or
- (b) the making or acknowledgement of payments for such registrations, licences or permits,

are such that they tend to be granted, made or given in a province other than the province in which they would be granted, made or given if there were suitable arrangements in the latter, the National Executive Council shall make or cause to be made such adjustments as between the amounts payable to the respective provinces in accordance with Subsection (2)(b) as it thinks appropriate.

68. Pre-appropriation of certain grants.

(1) Any amount payable by the National Government to a provincial government—

- (a) as the minimum amount of unconditional grant payable in accordance with Section 64(2); or
- (b) by way of a derivation grant in accordance with Section 66; or
- (c) by way of the share of national taxation provided for by Section 67,

shall be paid out of the Consolidated Revenue Fund which is, to the necessary extent, appropriated accordingly.

(2) A certificate by the Minister responsible for financial matters as to any amount payable in accordance with Subsection (1)(b) or (c) is, in the absence of proof to the contrary, proof that that amount is so payable.

Division 4.—Other Provincial Revenue.

69. Court fees and fines.

(1) Where a provincial law made for the purpose of Section 41 provides for the imposition of fines or penalties, or of forfeitures, for any offence against any provincial law,

the amount of the fines or penalties shall be paid, or the forfeitures shall be made, as the case may be, to the provincial government.

(2) Where a provincial law made for the purpose of Section 41 provides for a fee to be payable in any court, the amount of the fee shall be paid to the provincial government.

70. Other fees, charges, etc.

A provincial law may impose, or may provide for the imposition of, fees or charges in respect of goods or services supplied, rendered or made available, or to be supplied, rendered or made available, under a provincial law.

Division 5.—Borrowings.

71. Loans and guarantees.

(1) In this section—

“medium- or long-term loan” means a loan other than a short-term loan;

“short-term loan” means a loan under which, by agreement or by informal arrangement, both principal and interest are payable on demand or within a period not exceeding six months, and includes any case where, by agreement or by informal arrangement, on the repayment of any such loan a further loan will or may be expected to be granted such that the total repayment period over the loans will exceed, or may be expected to exceed, six months.

(2) For the purposes of this section, money shall be deemed to have been borrowed on loan where, by agreement or arrangement, payment for any goods or services is deferred, and the period of the deferment shall be deemed to be the repayment period of the loan.

(3) Subject to, and in accordance with, any provincial law regulating the obtaining of loans and the giving of guarantees by it, a provincial government may—

(a) borrow money on short-term loan, or guarantee a short-term loan to any other person; or

(b) borrow money from the State; or

(c) with the approval of the Minister responsible for financial matters—

(i) borrow money on medium- or long-term loan from any other person;
or

(ii) guarantee a medium- or long-term loan to any person.

Division 6.—Accounts and Audit.

72. Accounts and records to be kept.

A provincial government shall cause to be kept proper accounts and records of its transactions and affairs, and shall do all things necessary to ensure that—

(a) all payments out of its moneys are correctly made and properly authorized;
and

(b) adequate control is maintained over its assets or assets in its custody, and over the incurring of expenses by it.

73. Submission of provincial accounts.

As soon as practicable after the end of a fiscal year, each provincial government shall submit to the Minister responsible for provincial affairs a full statement of the financial

position and of the affairs of the province for that year, in such form and detail, and containing such information, as the Minister requires.

74. Control and audit of provincial accounts.

(1) Subject to Subsections (2) and (3), the provisions of Section 214 (*functions of the Auditor-General*) of the National Constitution, and of any Act of the Parliament relating to the inspection and audit of the public accounts of Papua New Guinea and of transactions referred to in Section 214(1) of the National Constitution, extend to the accounts, moneys and property of a provincial government.

(2) The report of the Auditor-General shall be given to—

- (a) the Minister responsible for provincial affairs who shall table it in Parliament at its meeting immediately following the report; and
- (b) the provincial government.

(3) A provincial legislature may by provincial law or standing orders make provision for the establishment, powers and functions of a public accounts committee for the province.

PART XI.—INTER-GOVERNMENTAL RELATIONS.

Division 1.—The National Fiscal Commission.

75. Establishment of the Commission.

As required by Section 187H(1) (*inter-governmental relations*) of the National Constitution, a National Fiscal Commission is hereby established.

76. Composition of the Commission.

(1) The National Fiscal Commission shall consist of five members, all of whom must be citizens.

(2) The members of the Commission shall be appointed by the Head of State, acting with, and in accordance with, the advice of the National Executive Council given after consultation with—

- (a) the heads of the provincial executives of the provinces whose constitutions have come into effect (other than any provinces whose provincial governments are suspended); and
- (b) the chairmen or analogous officers of provincial constituent assemblies for the provinces that have such assemblies but that do not yet have constitutions that are in effect; and
- (c) the Presidents of Local Government Area Authorities for other provinces.

(3) Unless he earlier ceases to hold office, a member of the Commission holds office for a term of four years, and is eligible for re-appointment.

77. Independence of the Commission.

In the exercise and performance of its powers, functions, duties and responsibilities, the National Fiscal Commission is not subject to direction or control by any person or authority.

78. Functions of the Commission.

(1) In addition to any other functions, duties and responsibilities under this Organic Law or any Act of the Parliament, the National Fiscal Commission has the following functions and duties—

- (a) in accordance with Section 62, to consider, and to report to the National Parliament and to the provincial assembly concerned on, any alleged discrimination or unreasonableness in provincial taxation, and any proposals by the National Government to remove or correct it; and
- (b) in accordance with Section 79, to consider, and to make recommendations to the National Executive Council on, the allocation of unconditional grants under Section 64 to provincial governments and as between provincial governments; and
- (c) to consider, and to make recommendations to the National Government and provincial governments on, other fiscal matters relating to provincial government referred to it by the National Government or a provincial government.

(2) Copies of all advice, reports and recommendations by the Commission referred to in Subsection (1) shall be sent by it to—

- (a) the Speaker of the National Parliament, for presentation to the Parliament; and
- (b) the Minister responsible for financial matters; and
- (c) the Speaker or analogous officer of each provincial legislature; and
- (d) the head of each provincial executive.

79. Principles of allocation of unconditional grants.

(1) This section applies only in respect of amounts of unconditional grants in excess of the minimum amounts of such grants provided for by Section 64(2) and Schedule 1.

(2) Before a decision is made as to the allocation as between provinces of the total amount of the unconditional grants under Section 64 for any fiscal year, the Minister responsible for financial matters shall consult with the National Fiscal Commission.

(3) In accordance with Section 78, the Commission shall consider the matter, and shall recommend to the National Executive Council a just and equitable allocation, within the limits of finance available, to each province.

(4) In making a recommendation under Subsection (3), the Commission—

- (a) shall, in principle, base its decision on equal grants per head of population, or its estimate of population, to each province; and
- (b) may depart from the principle set out in Paragraph (a) where, and to the extent that, in its opinion—
 - (i) the location and physical nature of a province; or
 - (ii) the lack of development of a province; or
 - (iii) any other relevant factor (whether or not of a similar kind),

would make the strict application of that principle unjust or inequitable.

80. Meetings of the Commission.

The National Fiscal Commission shall meet at least once in each year, and on such other occasions as are necessary for the performance of its functions and duties, at such

times and places as are, subject to any Act of the Parliament made for the purpose of Section 81, determined by it.

81. Procedures, etc., of the Commission.

Subject to this Organic Law, an Act of the Parliament may make provision for or in respect of—

- (a) the manner of appointment, and the conditions of employment, of members of the National Fiscal Commission; and
- (b) the procedures, powers, functions and duties of the Commission.

Division 2.—The Premiers' Council.

82. Establishment of the Council.

A Premiers' Council is hereby established.

83. Constitution of the Council.

The Premiers' Council shall be constituted as provided by Section 187H(2) and (3) (*inter-governmental relations*) of the National Constitution.

84. Functions of the Council.

The Premiers' Council shall meet at least once in each year to discuss—

- (a) all matters regarding grants, loans, taxation and other aspects of provincial finance; and
- (b) the legislative powers of the provinces; and
- (c) any other matters concerning inter-provincial and inter-governmental problems,

with a view, in particular, to avoiding legal proceedings between governments by providing a forum for the non-judicial settlement of inter-governmental disputes.

Division 3.—Particular Consultations.

85. Consultation as to major investment.

(1) The National Government and the provincial government shall consult with each other concerning any major investment or proposed investment in or affecting a province, and concerning the implications of any such investment for Papua New Guinea and the province.

(2) Without limiting the operation of Subsection (1), in principle such consultation shall take place as far as practicable before any major or special assistance is given by the National Government or a provincial government in relation to any such investment.

PART XII.—SUSPENSION OF PROVINCIAL GOVERNMENTS.

Division 1.—Re-establishment.

86. Affirmation of power of re-establishment.

This Part does not affect the operation of Section 187F (*re-establishment of provincial governments*) of the National Constitution.

87. Lifting of suspension.

(1) The suspension of a provincial government in accordance with Division 2 may be lifted by the Parliament by an absolute majority vote.

(Amended by Organic Law on Provincial (Government Amendment No. 2 (Suspension and Re-establishment) Law, s. 1.)

(2) The suspension of a provincial government by the National Executive Council under Section 187E(4) (*suspension of provincial governments*) of the National Constitution may be lifted—

(a) by resolution of the National Executive Council; or

(b) by resolution of the National Parliament.

(3) A resolution lifting the suspension of a provincial government may not be rescinded or otherwise altered.

Division 2.—Suspension by the National Parliament.

Subdivision A.—Suspension Generally.

88. Application of Division 2.

(1) This Division applies in relation to the suspension of a provincial government on a ground set out in Section 187E(1) (*suspension of provincial governments*) of the National Constitution.

(2) This Division does not affect the operation of Section 187E(4) of the National Constitution.

89. Grounds of suspension.

A provincial government may be suspended only on a ground set out in Section 187E(1) of the National Constitution,

90. Powers of Minister where he is of the opinion that a ground for suspension may exist.

Where the Minister is of the opinion that a ground or grounds for suspension of a provincial government exist or may exist, he may—

(a) require the head of the provincial executive to appear before him and give an explanation of any matters which have come to the attention of the Minister; and

(b) report to the National Executive Council on any matters which appear to constitute a ground or grounds for suspension of the provincial government.

(Replaced by Organic Law on Provincial Government Amendment No. 2 (Suspension and Re-establishment) Law, s. 2.)

91. Duties of National Executive Council on submission of report, etc.

The National Executive Council shall consider any report and comments submitted under Section 90(b) and may—

(a) cause the Minister to make further inquiries; and

- (b) require the head of the provincial executive concerned to attend before it and make explanations.

(Replaced by Organic Law on Provincial Government Amendment No. 2 (Suspension and Re-establishment) Law, s. 3.)

91A. National Executive Council may suspend a provincial government.

Where, after considering—

- (a) the report and comments submitted under Section 90(b); and
- (b) any further report or explanation which it may have required under Section 91,

the National Executive Council is of the opinion that—

- (c) a ground for suspension exists; and
- (d) the matter can only be put right by suspension,

the National Executive Council may by notice in the National Gazette provisionally suspend a provincial government.

(Added by Organic Law on Provincial Government No. 2 (Suspension and Re-establishment) Law, s. 4.)

91B. Notification of suspension to Parliament.

(1) Where a provincial government has been provisionally suspended under Section 91A, the Minister shall—

- (a) send to the Speaker of the National Parliament, for presentation to the Parliament—
 - (i) the report submitted under Section 90(b); and
 - (ii) any further report or a resume or any explanation obtained under Section 91; and
 - (iii) a copy of the National Executive Council decision; and
- (b) within the first seven sitting days of the Parliament following a provisional suspension under Section 91A move a motion confirming the suspension.

(2) A vote on a motion under Subsection (1)(b) shall be taken within the first seven sitting days following the tabling of a report from the Permanent Parliamentary Committee on Provincial Government Suspensions as provided in Section 91C.

(Added by Organic Law on Provincial Government Amendment No. 2 (Suspension and Re-establishment) Law, s. 4.)

91C. Investigation by Permanent Parliamentary Committee on Provincial Government Suspensions.

(1) Where a motion confirming the suspension of a provincial government has been moved under Section 91B(1)(b), the motion, together with the documents presented under Section 91B(1)(a) shall stand referred to the Permanent Parliamentary Committee on Provincial Government Suspensions for investigation into and report on the matters giving rise to the provisional suspension of that provincial government.

(2) A report under Subsection (1) shall be tabled by the Speaker.

(Added by Organic Law on Provincial Government Amendment No. 2 (Suspension and Re-establishment) Law, s. 4.)

91D. Permanent Parliamentary Committee on Provincial Government Suspensions.

(1) There is established a Permanent Parliamentary Committee on Provincial Government Suspensions consisting of six members of the Parliament appointed by the Parliament to hold office during the pleasure of the Parliament.

(2) The Parliament shall appoint one of the members of the Committee to be the Chairman and another to be the Deputy Chairman of the Committee.

(3) The function of the Committee is, in accordance with Section 91C, to investigate into and report on the matters giving rise to the provisional suspension of a provincial government.

(4) For the purposes of the exercise and performance of its functions, the Committee may—

- (a) summon witnesses, by instrument under the hand of the Chairman or Deputy Chairman; and
- (b) take evidence on oath or affirmation and administer oaths and affirmations for the purpose; and
- (c) by instrument under the hand of the Chairman, require a person to produce a document, book or paper in his possession or control.

(5) A person who, when summoned or required under this section to give evidence or to produce a document, book or paper in his possession or control, fails without reasonable excuse (proof of which is on him)—

- (a) to attend before the Committee at the time and place appointed in the summons or requirement; or
- (b) to be sworn or make an affirmation; or
- (c) to answer any question put to him by a member of the Committee; or
- (d) to produce the document, book or paper,

is guilty of an offence.

Penalty: A fine not exceeding K500.00.

(6) Subject to the Constitution, this Law and the Standing Orders, the procedures of the Committee are as determined by it.

(7) For the purposes of this section, "the Committee", means the Permanent Parliamentary Committee on Provincial Government Suspensions.

(Added by Organic Law on Provincial Government Amendment No. 2 (Suspension and Re-establishment) Law, s. 4.)

91E. Circumstances in which suspension lapses.

Where a motion under Section 91B(1)(b) has not been passed within the first seven sitting days of the Parliament following the tabling of a report from the Permanent Parliamentary Committee on Provincial Government Suspensions as provided in Section 91C, the suspension lapses.

(Added by Organic Law on Provincial Government Amendment No. 2 (Suspension and Re-establishment) Law, s. 4.)

92. Commencement of suspension.

(1) The suspension of a provincial government takes effect at such time as is specified in the notice under Section 91A, or if no such time is so specified at midnight on the day on which the notice is published in the National Gazette.

(Replaced by Organic Law on Provincial Government Amendment No. 2 (Suspension and Re-establishment) Law, s. 5.)

(2) *(Repealed by Organic Law on Provincial Government Amendment No. 2 (Suspension and Re-establishment) Law, s. 5.)*

(3) Subsection (2) does not authorize the taking of any action that is contrary to any provision of Division III.3 (*basic rights*) of the National Constitution.

Subdivision B.—Commission on Proposed Suspensions of Provincial Governments.

93. The Commission. *(Repealed by Organic Law on Provincial Government Amendment No. 2 (Suspension and Re-establishment) Law s. 6.)*

94. Functions of the Commission. *(Repealed by Organic Law on Provincial Government Amendment No. 2 (Suspension and Re-establishment) Law, s. 7.)*

Division 3.—Effect, etc., of Suspension.

95. Application of Division 3.

This Division applies in relation to the suspension of a provincial government—

(a) in accordance with Division 2; or

(b) by the National Executive Council in accordance with Section 187E(4) (*suspension of provincial governments*) of the National Constitution.

(Amended by Organic Law on Provincial Government Amendment No. 2 (Suspension and Re-establishment) Law, s. 8.)

96. Effect of suspension.

(1) Subject to Subsection (2), while a provincial government is suspended its powers and functions are, as provided for by Section 187E of the National Constitution, divested from it and vested in the National Executive Council, to be exercised and performed in accordance with Sections 97 and 98.

(2) The suspension of a power or function of a provincial government does not affect—

(a) any right, privilege, obligation or liability acquired, accrued or incurred under or in respect of the suspended power or function; or

(b) any investigation, legal proceedings or remedy in respect of any such right, privilege, obligation or liability.

97. Exercise of legislative powers, etc., of suspended provincial governments.

(1) While a provincial government is suspended, the National Executive Council has and may exercise and perform, subject to Subsection (2), all the legislative powers, functions, duties and responsibilities of the provincial legislature.

(2) A law made in the exercise of the power conferred by Subsection (1)—

(a) shall be made by the Head of State, acting with, and in accordance with, the advice of the National Executive Council; and

- (b) shall be tabled in the National Parliament as soon as practicable after being made; and
- (c) unless earlier repealed, expires at the end of the period of seven sitting days of the Parliament after it is made, unless within that period the Parliament, by resolution, confirms it.

98. Exercise of executive powers, etc., of suspended provincial governments.

(1) While a provincial government is suspended, the National Executive Council has and may exercise and perform all the executive powers, functions, duties and responsibilities of the provincial government.

(2) The power conferred by Subsection (1) may be exercised—

- (a) by the Head of State, acting with, and in accordance with, the advice of the National Executive Council; or
- (b) subject to any decision or direction of the National Executive Council, by a Minister authorized by the National Executive Council for the purpose, acting on behalf of the Council.

99. Validity and effect of exercise of suspended powers, etc.

(1) The exercise or performance of a power, function, duty or responsibility of a suspended provincial government by the National Executive Council is as valid and effectual, and has the same effect, for all purposes as if it had been exercised or performed by the provincial government.

(2) All things that might have been done or suffered, or might have continued to be done or suffered, by or in relation to the suspended provincial government may be done or suffered, or may continue to be done or suffered, by or in relation to the State in the name and on behalf of the suspended government.

(3) The exercise or performance of a power, function, duty or responsibility of a suspended provincial government by the National Executive Council does not affect the identity or existence of the provincial government and of its separate rights and liabilities, and for those purposes the National Executive Council shall be treated as the agent of the suspended provincial government for all purposes.

PART XIII.—GRADATION OF PROVINCIAL GOVERNMENTS.

100. Limitations of provincial governments.

With the approval of the National Parliament given by resolution supported by a two-thirds absolute majority vote, the constitution of a province may provide that some or all of the powers, functions, duties or responsibilities of provincial governments provided for by this Organic Law—

- (a) shall not be assumed by the provincial government; or
- (b) shall be assumed subject to such conditions and limitations as are provided for in that constitution.

101. Effect of limitations.

(1) In a resolution approving limitations on the powers, functions, duties or responsibilities of a provincial government, the National Parliament may make it a condition of its approval that the province accept—

- (a) such adjustments to the aid (including financial support) to be otherwise provided for the province under this Organic Law; and
- (b) such increased powers of the National Government in relation to the province,

as the Parliament thinks appropriate in the circumstances and includes in the resolution.

(2) The acceptance by the province of the conditions to which an approval is made subject under Subsection (1) shall be signified—

- (a) where the limitations on the powers, functions, duties and responsibilities of the province are to be included in the original constitution of the province—in the same way and subject to the same conditions as those by and on which that constitution is or is to be adopted; or
- (b) where the limitations are to be imposed by alteration to the constitution of the province—in the same way and subject to the same conditions as those by and on which that constitution may be altered.

(3) Where the conditions to which an approval is made subject are accepted under Subsection (2) by the province, this Organic Law and the constitution of the province take effect subject to the conditions included, under Subsection (1), in the resolution.

PART XIV.—MISCELLANEOUS.**102. Provincial government purposes to be public purposes.**

The purposes of this Organic Law and of the system of Provincial Government for Papua New Guinea established by Part VIA. (*Provincial Government and Local Level Government*) of the National Constitution are public purposes for the purpose of that Constitution and of all Acts of the Parliament.

103. Powers, privileges and immunities of provincial legislatures.

(1) A provincial law may make provision declaring the powers (other than legislative powers), privileges and immunities of the provincial legislature, and of its members and committees, but so that the powers, privileges and immunities so declared do not exceed the powers, privileges and immunities of the National Parliament under Section 115 (*Parliamentary privileges, etc.*) of the National Constitution.

(2) Until a provincial law makes provision in accordance with Subsection (1), Section 115 of the National Constitution, with the necessary modifications, applies.

104. Handing-over of certain assets of the National Government.

(1) The Minister responsible for provincial affairs may, at the request of a provincial government, by order vest in the provincial government any land or building formerly used by the National Government for the purpose of carrying out any activity responsibility for which has been, or is to be, assumed by the provincial government.

(2) Any such land or building vests for—

- (a) the largest interest for which, under any Act of the Parliament in force at the time of the making of the order, the National Government has the power to vest it in the provincial government; or
- (b) for such lesser interest as is agreed on between the Minister and the provincial government.

PART XV.—IMMEDIATE AND TRANSITIONAL PROVISIONS.

105. Effect of Part XV.

The provisions of this Part have effect notwithstanding anything in the preceding provisions of this Organic Law.

106. Interpretation of Part XV.

In this Part, "provincial government body" means a body declared to be a provincial government body under the pre-Independence *Provincial Government (Preparatory Arrangements) Act 1974*.

107. Continuance of Preparatory Arrangements Act.

(1) Except as expressly provided in this Organic Law, in its application to and in relation to a provincial government body established, immediately before the commencement of this Organic Law, for a province the pre-Independence *Provincial Government (Preparatory Arrangements) Act 1974* continues in force as though this Organic Law had not been made.

(2) Subsection (1) ceases to apply when a Charter is granted under Section 6 in relation to the province concerned.

(3) Except as provided by this section, the pre-Independence *Provincial Government (Preparatory Arrangements) Act 1974* is repealed.

108. First provincial constituent assemblies.

A provincial government body established for a province immediately before the commencement of this Organic Law shall be deemed to have been recognized under Section 2 as the provincial constituent assembly for the province.

109. First authorizations of grant of provincial government.

The National Parliament shall be deemed to have made a resolution under Section 4 authorizing the National Executive Council to approve the grant of provincial government to all provinces in respect of which provincial government bodies were established immediately before the commencement of this Organic Law.

110. Rescission of first recognitions and authorizations.

The recognition of a provincial constituent assembly or the authorization of approval to the grant of provincial government to a province deemed to have been effected by Section 108 or 109 may be rescinded with, and only with, the consent of the provincial constituent assembly concerned.

111. Abolition of former provincial government bodies.

When the constitution of a province for which a provincial government body was established comes into effect—

- (a) the provincial government body is abolished; and
- (b) all assets and liabilities of the body are transferred to and become assets of the provincial government; and
- (c) all legal proceedings pending by or against the body may be continued by or against the provincial government.

112. Transitional electoral laws.

Until other provision is made by—

- (a) some other Organic Law provided for by the National Constitution; or
- (b) the constitution of the province; or
- (c) a provincial law made in accordance with the constitution of the province,

and subject to any provision so made, the laws in force immediately before the commencement of this Law, relating to elections to provincial government bodies apply, with the necessary modifications, in respect of elections to a provincial government

113. Functions of the Electoral Commission.

(1) If at any time—

- (a) the Electoral Commission has a function in relation to a provincial government election; and
- (b) the performance of that function will or may interfere with or hinder the proper and efficient performance of a function in relation to—
 - (i) a National election; or
 - (ii) another provincial election,

the succeeding provisions of this section apply.

(2) In a case to which Subsection (1)(b)(i) applies—

- (a) the performance of the function in relation to the National election has priority, to the necessary extent, over the performance of the function in relation to the provincial election, and if in the opinion of the Electoral Commission it is necessary to do so to ensure that the elections are conducted without one interfering with, or making less effective, the other the Electoral Commission may, by notice in the National Gazette—
 - (i) defer; or
 - (ii) cancel,the provincial election or any step in it; and
- (b) to that extent the performance of the latter function shall be deemed to be impracticable; and
- (c) Section Sch.1.16 (*effect of time limits*) of the National Constitution applies in relation to the latter election accordingly.

(3) In a case to which Subsection (1)(b)(ii) applies—

- (a) the Electoral Commission shall, in its discretion, make such arrangements as seem to it to be in the circumstances the most convenient and proper to ensure that both of the elections are completed as soon as practicable; and
- (b) to the extent that either of the elections is delayed by arrangements made under Paragraph (a), the performance of any affected function of the Electoral Commission in relation to that election shall be deemed to be impracticable; and
- (c) Section Sch.1.16 (*effect of time limits*) of the National Constitution applies in relation to the election accordingly.

114. Continuance of certain national laws.

(1) Subject to Subsections (2) and (3) and to Sections 107, 115 and 116, each Act of the Parliament made before the date of the coming into effect of the constitution of a province continues in force, and may be altered by another Act, after that date.

(2) When a provincial law is made in accordance with Division VI.3, all Acts of the Parliament that were—

- (a) made with respect to a subject or subjects to which that Division applies; and
- (b) continued in force in relation to the province by Subsection (1),

cease to have effect, to the extent of any inconsistency, in relation to the province as if they had been repealed, in relation to the province, by another Act.

(3) As soon as practicable after receiving a request from a provincial government to do so, the National Executive Council shall take whatever action is in its power to secure the repeal, in relation to the province, of a law dealing with a subject to which Division VI.4 applies to the extent that it does not concern matters of national interest.

115. Continuance of national taxing powers.

(1) Subject to Subsection (2), in particular any Act of the Parliament dealing with any kind of taxation that, under Section 56, is reserved for the provincial government remains in force in accordance with Section 114 until a provincial law is made dealing with that kind of taxation.

(2) A provincial law may declare that an Act of the Parliament to which Subsection (1) applies shall cease to have effect in relation to the province, and thereupon the Act shall be deemed to be repealed by another Act.

116. First provincial laws.

(1) Subject to the National Constitution and to this Organic Law, on the date on which the constitution of a province for which a provincial government body was established comes into effect all laws made by the provincial government body and in force immediately before that date shall be deemed to be provincial laws for the province.

(2) Where an Act of the Parliament made before the grant to a province of a Charter under Section 6 deals with a matter that could be dealt with by a provincial law to which Division VI.3 applies, the Head of State, acting with, and in accordance with, the advice of the National Executive Council given at the request of the provincial executive or the provincial legislature, may, by notice in the National Gazette, declare that the Act shall apply in a province as if it were a provincial law.

(3) A law that is deemed under Subsection (1) to be a provincial law takes effect, and a notice under Subsection (2) may provide that an Act of the Parliament shall take effect under that subsection, subject to such changes as to names, titles, offices, persons and institutions, and to such other formal and non-substantive changes, as are necessary to adapt the law to the circumstances of the province and to the constitution of the province.

(4) A notice under Subsection (2) shall not be revoked or otherwise altered except at the request of the provincial executive or the provincial legislature.

(5) When a notice is published under Subsection (2), the Act of the Parliament to which it relates shall, subject to any changes made in accordance with the notice, be deemed—

- (a) to be a provincial law that came into force on the date of publication of the notice or on such later date as is provided for in the notice; and
- (b) to have been repealed, on that date, by another Act.

SCHEDULE 1.

Sec. 64(2).

MINIMUM UNCONDITIONAL GRANTS.

Sch.1.1. Interpretation of Schedule 1.

In this Schedule—

“the adjusted base figure”, for a transferred activity, in relation to a year of grant, means the adjusted base figure calculated for that year in accordance with Section Sch.1.2;

“the base figure”, for a transferred activity, means—

(a) for the year of grant 1977-78—

(i) the cost to the National Government, in the fiscal year 1976-77, of the transferred activities in the province; plus

(ii) in the case of the Bougainville Province—the amount paid by the National Government to the provincial government body for that province in respect of the activities to which Paragraphs (c) and (d) of the definitions of “transferred activity” in this section relate; and

(b) for any subsequent year of grant—the adjusted base figure for the preceding year of grant;

“the preceding fiscal year”—

(a) in relation to the year of grant 1977-78—means the fiscal year 1976-77; and

(b) in relation to any later year of grant—means the fiscal year immediately preceding that year of grant;

“transferred activity”, in relation to a province, means an activity that—

(a) was carried out by the National Government in the fiscal year 1976-77; and

(b) was carried out by the provincial government at some time after the fiscal year 1976-77 or is to be carried out in the year of grant,

and includes, in relation to the Bougainville Province, any activity that—

(c) was carried out by the provincial government body for that province in the fiscal year 1976-77; and

(d) was previously carried out by the National Government;

“the year of grant” means the fiscal year for which the minimum amount of unconditional grant, under Section 64, is to be calculated.

Sch.1.2. The adjusted base figure.

(1) Subject to the succeeding provisions of this section, the adjusted base figure for a transferred activity, in relation to a province and to a year of grant, means the smaller of the amounts calculated in accordance with the formulas—

$A + AB$; and

$A + AC$,

Where—

A = the base figure for the activity.

B = the percentage increase (if any) in the cost of living in the preceding fiscal year.

C = the percentage increase or decrease (shown as a positive or negative figure, as the case requires) in the total of the payments to the Consolidated Revenue Fund for the year of grant as compared with the total for the preceding fiscal year, from—

(i) income tax and corporate taxes; and

(ii) customs and excise duties; and

(iii) the Mineral Resources Stabilization Fund established under the pre-Independence *Mineral Resources Stabilization Fund Act 1974*, or any fund established in place of that fund; and

(iv) non-repayable grants (conditional and unconditional) from foreign governments.

(2) For the purpose of calculating the adjusted base figure for a transferred activity that is, in the year of grant, to be carried out for the first time by the provincial government, an adjusted base figure shall be calculated in relation to each year of grant commencing with the year 1977-78 and ending with the year of grant in question, and the final figure so obtained becomes the adjusted base figure for the transferred activity for the year of grant in question.

(3) In Subsection (1), the reference to the cost of living is a reference to that cost obtained by averaging the Consumer Price Index and the Statistician's Import Price Index, adjusted (if the Government Statistician thinks it proper to do so for the purpose of comparison) to make allowance for any changes in the bases of calculation.

(4) If the Consumer Price Index or the Statistician's Import Price Index is not available at any time, the Government Statistician shall calculate the increase in the cost of living for the purposes of Subsection (1) on such basis as seems to him to give, as nearly as may be, the result required by that subsection and Subsection (3).

(5) The Government Statistician is not subject to the control or direction of any person or authority as to the manner in which calculations are to be made for the purposes of this section.

Sch.1.3. Minimum amount of the unconditional grant.

The amount of the unconditional grant, under Section 64, to a provincial government for a year of grant shall be at least the amount of the adjusted base figure for all activities that are transferred activities in relation to the province, less the estimated cost to the National Government, for the year of grant, of the salary and allowances of members of the National Public Service assigned to the provincial government for the carrying out, in the year of grant, of transferred activities.

Sch.1.4. Change of fiscal year.

If at any time there is a change in the period of the fiscal year, appropriate proportional changes shall be made in the adjusted base figure for each year or years in which the change occurs, and in the base figure for the next fiscal year.

SCHEDULE 2.

Sec. 66.

VALUATION OF GOODS AND APPORTIONMENT BETWEEN PROVINCES.

Sch.2.1. Interpretation of Schedule 2.

In this Schedule—

“export value”, in relation to any goods exported from Papua New Guinea, means, subject to Section Sch.2.2, the F.O.B. value at the port or airport of export;

“goods” includes electricity, but does not include negotiable instruments or the like;

“port or airport of export”, in relation to any goods, means the port or airport at which the goods are entered for export;

“processing”, in relation to any goods, includes any packaging, or submission to any process of manufacture, by which the export value of the goods is increased;

“province of production” means—

(a) in the case of goods imported into Papua New Guinea and subsequently re-exported after processing—the province in which they were processed; and

(b) in the case of any other goods, other than imported goods—the province in which they were originally produced.

Sch.2.2. Export values assessed under other laws.

Where for the purposes of the calculation of the amount of tax payable under any Act of the Parliament an export value is attributed to or determined for any goods, the value so attributed or determined (or if there is more than one such value the higher or highest of them) shall be deemed to be the export value of the goods for the purposes of this Schedule.

Sch.2.3. Export of goods from province of production.

In the case of any goods exported from Papua New Guinea without processing in any province other than the province of production, the export value of the goods shall be attributed to the province of production.

Sch.2.4. Processed goods.

(1) In the case of any goods exported from Papua New Guinea that have been processed, before export, in a province other than the province of production, the export value of the goods shall be apportioned between the province of production and the province in which the processing took place, in accordance with the amounts of proportions of that value that are attributable to the unprocessed goods and to the processing, respectively.

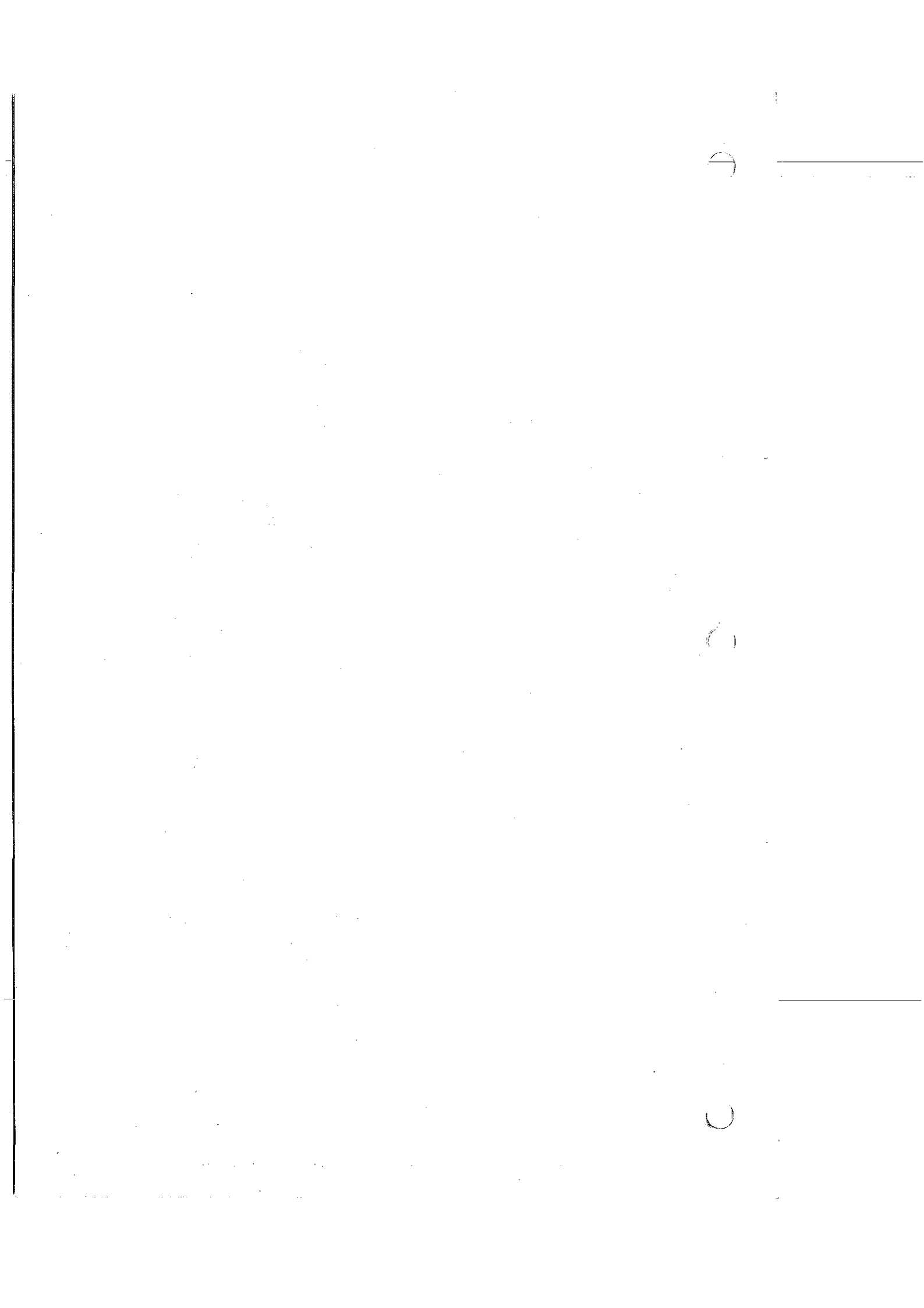
(2) For the purpose of the application of Subsection (1) to goods that are processed more than once, the reference in that subsection to the amount or proportion of the export value that is attributable to the processing shall be read as a reference to the amount or proportion of that value that is attributable to any re-processing, and the balance of the value shall be apportioned as if—

(a) the goods were exported immediately before the re-processing; and

(b) that balance were the export value of the goods.

Sch.2.5. Apportionment of value of certain fish.

Where there is any doubt as to the province (if any) in which any fish was taken or processed, the National Executive Council may, for the purposes of this Schedule, apportion the export value of the fish in such reasonable manner as seems to it just and in accordance with the purposes of Section 66 and of this Schedule.



INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 1.

Organic Law on Provincial Government.

SUBSIDIARY LEGISLATION.

1. Section 2—Recognition of provincial constituent assemblies.

- Enga Constituent Assembly.
- Gulf Constituent Assembly.
- Milne Bay Constituent Assembly.
- Morobe Constituent Assembly.
- West New Britain Constituent Assembly.
- West Sepik Constituent Assembly.
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2. Section 6—Grant of Provincial Government.

- Bougainville (known as North Solomons) Province.
- Central Province.
- Chimbu Province.
- East New Britain Province.
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- Eastern Highlands Province.
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- Gulf Province.
- Madang Province.
- Manus Province.
- Milne Bay Province.
- Morobe Province.
- New Ireland Province.
- Northern Province.
- Southern Highlands Province.
- West New Britain Province.
- West Sepik Province.
- Western Province.
- Western Highlands Province.

