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THE INDEPENDENT STATE OF PAPUA NEW GUINEA

THE CONSTITUTION

ALTERATION TO THE CONSTITUTION

THE Government proposes to alter the Constitution and, pursuant to Section 14(2) (*Making of alterations to the Constitution and Organic Laws*) of the Constitution, I, Rabbie Namaliu, Speaker of the National Parliament, hereby publish the Proposed Law—

Draft of: 20/06/96

INDEPENDENT STATE OF PAPUA NEW GUINEA

PROPOSED LAW TO ALTER THE CONSTITUTION

Constitutional Amendment (Commencement of Constitutional Amendments 16 and 17)

ARRANGEMENT OF CLAUSES.

1. Amendment of Commencement Clause of Constitutional Amendment No. 16-
(*Provincial Governments and Local-level Governments*).
2. Amendment of Commencement Clause of Constitutional Amendment No. 17-
(*Further Provisions relating to Provincial Governments and Local-level Governments*).

Draft of 20/6/96.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

PROPOSED LAW TO ALTER THE CONSTITUTION

entitled

*Constitutional Amendment (Commencement of Constitutional Amendments
Nos. 16 and 17),*

Being a Law to alter the Commencement Clauses of *Constitutional Amendment No.16 - Provincial Governments and Local-level Governments* and *Constitutional Amendment No.17 - Further Provisions relating to Provincial Governments and Local-level Governments,*

MADE by the National Parliament.

1. AMENDMENT OF COMMENCEMENT CLAUSE OF CONSTITUTIONAL AMENDMENT NO.16 - PROVINCIAL GOVERNMENTS AND LOCAL-LEVEL GOVERNMENTS.

The Commencement Clause of *Constitutional Amendment No. 16 - Provincial Governments and Local-level Governments* is amended by repealing Paragraph (b) and replacing it with the following:-

"(b) in so far as relating to Bougainville Province - on 1 January 1998; and

(c) in so far as relating to the National Capital District - in accordance with a notice published in the National Gazette by the Head of State, acting with, and in accordance with, the advice of the Minister."

2. AMENDMENT OF COMMENCEMENT CLAUSE OF CONSTITUTIONAL AMENDMENT NO. 17 - FURTHER PROVISIONS RELATING TO PROVINCIAL GOVERNMENTS AND LOCAL-LEVEL GOVERNMENTS.

The Commencement Clause of *Constitutional Amendment No. 17 - Further Provisions relating to Provincial Governments and Local-level Governments* is amended by repealing Paragraph (b) and replacing it with the following:-

"(b) in so far as relating to Bougainville Province - on 1 January 1998; and

(c) in so far as relating to the National Capital District - in accordance with a notice published in the National Gazette by the Head of State, acting with, and in accordance with, the advice of the Minister."

INDEPENDENT STATE OF PAPUA NEW GUINEA.**CONSTITUTION.****PROPOSED LAW TO ALTER AN ORGANIC LAW.**

The Government proposes to alter the *Organic Law on Provincial Governments and Local-level Governments* and, pursuant to Section 14(2) (*Making of alterations to the Constitution and Organic Laws*) of the *Constitution*, I, RABBIE NAMALIU, Speaker of the National Parliament, hereby publish the proposed Law -

Draft of 20/6/96.

INDEPENDENT STATE OF PAPUA NEW GUINEA.**PROPOSED LAW TO ALTER THE ORGANIC LAW ON PROVINCIAL GOVERNMENTS AND LOCAL-LEVEL GOVERNMENTS.*****Organic Law on Provincial Governments and Local-level Governments
(Amendment) Law*****ARRANGEMENT OF CLAUSES.**

1. Amendment of Commencement Clause.
2. Interpretation (Amendment of Section 3)
3. Repeal and replacement of Section 9.
4. Provincial Government and Provincial Legislature (Amendment of Section 10).
5. Establishment of Local-level Governments (Amendment of Section 27).
6. Provincial and District Administrators (Amendment of Section 73).
7. Exclusively Provincial Taxes (Amendment of Section 85).
8. Kinds of Provincial Government taxes and fees (Amendment of Section 86).
9. Provincial Planning and Data System (Amendment of Section 106).
10. Continuity of Government (Amendment of Section 131).

Draft of 20/6/96.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

**PROPOSED LAW TO ALTER THE ORGANIC LAW ON PROVINCIAL
GOVERNMENTS AND LOCAL-LEVEL GOVERNMENTS**

entitled

Organic Law on Provincial Governments and Local-level Governments (Amendment) Law,

Being a Law to amend the *Organic Law on Provincial Governments and Local-level Governments,*

MADE by the National Parliament.

1. AMENDMENT OF COMMENCEMENT CLAUSE.

The Commencement Clause of the *Organic Law on Provincial Governments and Local-level Governments* is amended by repealing Paragraph (b) and replacing it with the following:-

- "(b) in so far as relating to Bougainville Province - on 1 January 1998; and
- (c) in so far as relating to the National Capital District - in accordance with a notice published in the National Gazette by the Head of State, acting with and in accordance with, the advice of the Minister."

2. INTERPRETATION (AMENDMENT OF SECTION 3).

Section 3(1) of the *Organic Law on Provincial Governments and Local-level Governments* is amended -

- (a) in the definition of "Interim Deputy Chairman", by repealing the reference to "Section 125(5)" and replacing it with the following:-
"Section 125(5) or (5A)"; and
- (b) in the definition of "Interim Deputy Governor", by repealing the reference to "Section 125(5)" and replacing it with the following:-
"Section 125(5) or (5A)"; and

***Organic Law on Provincial Governments and Local-level Governments
(Amendment)***

(c) by adding the following new definition:-

"urban Local-level Government' means a Local-level Government for an area declared as an urban area under the *Local-level Government Administration Act 1996*."

3. REPEAL AND REPLACEMENT OF SECTION 9.

Section 9 of the *Organic Law on Provincial Governments and Local-level Governments* is repealed and is replaced with the following:-

'9. PROVINCIAL GOVERNMENT AND LOCAL-LEVEL GOVERNMENT SYMBOLS AND SEAT OF GOVERNMENT.

(1) Subject to Subsection (3), a provincial law may make provision for and in respect of -

- (a) the seat of government; and
- (b) a Provincial Government flag; and
- (c) a Provincial Government emblem; and
- (d) a Provincial Government motto; and
- (e) a Provincial Government seal,

for the Province.

(2) Subject to Subsection (3), a local-level law may make provision for and in respect of -

- (a) the seat of government; and
- (b) a Local-level Government flag; and
- (c) a Local-level Government emblem; and
- (d) a Local-level Government motto; and
- (e) a Local-level Government seal,

for the area to which the local-level law applies.

"(3) The Minister may, where he considers it is in the national interest so to do, disallow any Provincial or Local-level Government flag, emblem or motto."

**4. PROVINCIAL GOVERNMENT AND PROVINCIAL LEGISLATURE
(AMENDMENT OF SECTION 10).**

Section 10(3)(d) of the *Organic Law on Provincial Governments and Local-level Governments* is repealed and is replaced with the following:-

"(d) subject to Subsection (6), where the chieftaincy system is in existence and is accepted in a province, paramount chiefs from the province -

- (i) not exceeding three in number; or

***Organic Law on Provincial Governments and Local-level Governments
(Amendment)***

(ii) where the Minister responsible for provincial government and local-level government matters considers that particular circumstances justify it, not exceeding four in number, or their duly appointed nominees, who shall be appointed by the Minister responsible for provincial government and local-level government matters on the recommendation of the Provincial Executive Council; and".

5. ESTABLISHMENT OF LOCAL-LEVEL GOVERNMENTS (AMENDMENT OF SECTION 27).

Section 27 of the *Organic Law on Provincial Governments and Local-level Governments* is amended -

(a) in Subsection (1), by repealing the reference to "Section 26(3) and (4)" and replacing it with the following:-

"Section 26(3), (4) and (5)"; and

(b) by inserting after Subsection (1) the following new subsection:-

"(1A) In principle, an area in respect of which a Local-level Government will apply will be contained within one open electorate, but an area may extend beyond one or more electoral boundaries where the Head of State, acting on the advice of the National Executive Council, given after considering a recommendation by the Minister, is of the opinion that such an extension is -

- (a) in the interests of administrative convenience due to remoteness or geographic location; and
- (b) to the benefit of the people in the area."; and

(c) by repealing Subsection (4) and replacing it with the following:-

"(4) A recommendation under Subsection (3) shall contain particulars of -

- (a) the area in respect of which the Local-level Government will apply; and
- (b) where the area extends beyond one or more open electorate boundaries, the reasons for the recommendation of the area; and
- (c) the form of Local-level Government recommended; and
- (d) such other particulars as are considered relevant."

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(Amendment)***

6. PROVINCIAL AND DISTRICT ADMINISTRATORS (AMENDMENT OF SECTION 73).

Section 73(5) of the *Organic Law on Provincial Governments and Local-level Governments* is repealed and is replaced with the following:-

"(5) An Act of the Parliament shall make provision for -
(a) the selection criteria and procedures of appointment; and
(b) acting appointments; and
(c) terms and conditions of employment,
of Provincial Administrators and District Administrators."

7. EXCLUSIVELY PROVINCIAL TAXES (AMENDMENT OF SECTION 85).

Section 85(2) of the *Organic Law on Provincial Governments and Local-level Governments* is amended by adding the following:-

"or for those taxes or fees specified in Section 86 as taxes and fees in respect of which the National Government has concurrent power."

8. KINDS OF PROVINCIAL GOVERNMENT TAXES AND FEES (AMENDMENT OF SECTION 86).

Section 86 of the *Organic Law on Provincial Governments and Local-level Governments* is amended by inserting after Subsection (1) the following new subsection:-

"(1A) The National Government has concurrent power to impose sales and services taxes."

9. PROVINCIAL PLANNING AND DATA SYSTEM (AMENDMENT OF SECTION 106).

Section 106(3) of the *Organic Law on Provincial Governments and Local-level Governments* is repealed and is replaced with the following:-

"(3) There shall be a census or the count of all natural persons in each province in the year proceeding a general election, other than -
(a) the general election held next after certification of this Organic Law; and
(b) a general election following a dissolution of Parliament under Section 105(1)(b) or (c) (*General Elections*) of the *Constitution*."

10. CONTINUITY OF GOVERNMENT (AMENDMENT OF SECTION 131).

Section 131(3) of the *Organic Law on Provincial Governments and Local-level Governments* is amended by repealing the reference to "Section 26(4)" and replacing it with the following:-

"Section 26(4) and (5)."

