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[1996

THE CONSTITUTION

The Organic Law on Provincial Governments and Local-level Governments

ALTERATIONS TO THE ORGANIC LAW ON PROVINCIAL GOVERNMENTS AND LOCAL-LEVEL GOVERNMENTS

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, Ben Okorro, Acting Speaker of the National Parliament, hereby publish the Proposed Law:—

Draft of 29/1/96.

INDEPENDENT STATE OF PAPUA NEW GUINEA

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

ARRANGEMENT OF CLAUSES

1. System of Committees (Amendment of Section 33).
2. Repeal and replacement of Section 33A
"33A. JOINT DISTRICT PLANNING AND BUDGET PRIORITIES COMMITTEE."
3. Provincial and District Administrators (Amendment of Section 73).
4. New Section 95A
"95A. DISTRICT SUPPORT GRANTS."
5. Financial responsibility (Amendment of Subdivision IV.3.K).
6. New Section 105A
"105A. FINANCIAL RESPONSIBILITY."
7. Repeal and replacement of Section 141
"141. COMMENCEMENT OF PROVINCIAL LAWS AND LOCAL-LEVEL LAWS."
8. Amendment of Schedule 1.

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

Draft of 29/1/96

INDEPENDENT STATE OF PAPUA NEW GUINEA

PROPOSED LAW TO ALTER THE ORGANIC LAW ON PROVINCIAL GOVERNMENTS AND LOCAL-LEVEL GOVERNMENTS*entitled**The 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. SYSTEM OF COMMITTEES (AMENDMENT OF SECTION 33).

Section 33 of the *Organic Law on Provincial Governments and Local-level Governments* is amended by repealing the words "A Local-level Government may" and replacing them with the following:—

"In addition to the Joint District Planning and Budget Priorities Committee established in and for each District by Section 33A, a Local-level Government may".

2. REPEAL AND REPLACEMENT OF SECTION 33A.

Section 33A of the *Organic Law on Provincial Governments and Local-level Governments* is repealed and replaced with the following:—

"33A. JOINT DISTRICT PLANNING AND BUDGET PRIORITIES COMMITTEE.

(1) A Joint District Planning and Budget Priorities Committee is hereby established in and for each District.

"(2) The Committee shall consist of:—

(a) the member of the Parliament representing the open electorate who shall be the Chairman of the Committee; and

(b) the Member of the Parliament representing the province; and

(c) the heads of Local-level Governments in the district or their nominees; and

(d) any other members not exceeding three in number appointed by the Member of the Parliament representing the Open Electorate in consultation with the heads of the Local-level Governments in the District.

"(3) The Joint District Planning and Budget Priorities Committee shall have the following functions:—

(a) to oversee, co-ordinate and make recommendations as to the overall district planning, including budget priorities, for consideration by the Provincial Government and the National Government; and

(b) to determine and control the budget allocation priorities for the Local-level Government in the district; and

(c) to approve the Local-level Government budgets for presentation to the Local-level Government and make recommendations concerning them; and

(d) to draw up a rolling five year development plan and annual estimates for the districts; and

(e) to conduct annual reviews of the rolling five-year development plan; and

(f) to manage and administer the District Support Grants as provided for in Subsection (5).

"(4) the Joint District Planning and Budget Priorities Committee shall have all the necessary powers to carry out its functions as defined by this Organic Law or by any other Law.

"(5) The National Government shall make payment during the first quarter of each fiscal year through the Provincial and District Treasury of all the monies lawfully available for the purpose of the District Support Grants as stipulated in Section 95A to the Joint District Planning and Budget Priorities Committee for the Committee to perform its functions under Subsection (3).

Organic Law on Provincial Government and Local-level Government (Amendment)—continued

"(6) The District Administrator shall be the Chief Executive Officer of the Committee.

"(7) An Act of the Parliament shall make provisions for other functions and powers of, and the administrative arrangements for, the Committee."

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

Section 73(3) of the *Organic Law on Provincial Governments and Local-level Governments* is repealed and is replaced with the following:-

"(3) A District Administrator shall be appointed in the manner and following the same procedure as is applicable to the appointment of officers of the Public Service."

4. NEW SECTION 95A.

The *Organic Law on Provincial Governments and Local-level Governments* is amended by inserting after Section 95 the following new section:-

"95A DISTRICT SUPPORT GRANTS.

(1) For each fiscal year the National Government shall out of the monies lawfully available for the purpose, make a District Support Grant to the Joint District Planning and Budget Priorities Committee in each Open Electorate, for the purpose of funding -

- (a) the rural action programme; and
- (b) the urban rehabilitation programme.

"(2) The minimum amount of District Support Grant shall not be less than K300,000.00 per Open Electorate and shall be determined by the National Economic and Fiscal Commission in consultation with the Departmental Head of the Department responsible for finance matters and the Departmental Head of the Department responsible for planning matters.

"(3) In determining the amount to which Subsection (1) and (2) refer, the National Economic and Fiscal Commission shall take into consideration the details of other grants made available to the Provincial Governments and Local-level Governments."

5. FINANCIAL RESPONSIBILITY (AMENDMENT OF SUBDIVISION IV.3.K).

The heading of Subdivision IV.3.K of the *Organic Law on Provincial Governments and Local-level Governments* is repealed and replaced with the following:-

"Financial autonomy and responsibility".**6. NEW SECTION 105A.**

The *Organic Law on Provincial Governments and Local-level Governments* is amended by inserting in Subdivision IV.3.K after Section 105 the following new section:-

"105A FINANCIAL RESPONSIBILITY.

"(1) For each fiscal year there shall be a Provincial Government and a Local-level Government Budget comprising -

- (a) estimates of -
 - (i) finances proposed to be raised; and
 - (ii) expenditure proposed for the provincial and district administration; and
 - (iii) expenditure proposed for the rural services; and
 - (iv) expenditure proposed for the urban services; and
- (b) appropriation for the services of that year in respect of Subsection (1); and
- (c) such other supplementary Budgets and Appropriations as are necessary.

"(2) For the purposes of Subsection (1), the Chairman of each Joint District Planning and Budget Priorities Committee shall, before 30 November in each year, submit to the Head of Local-level Government and the Governor of the Province, estimates of:-

- (a) the expenditure for district administration; and
- (b) the expenditure for the rural action programme; and
- (c) the expenditure for the urban-rehabilitation programme.

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

"(3) Before any Budget or any appropriation is proposed for submission to the Provincial Assembly, the Provincial Executive Council shall, through the Joint Provincial Planning and Budget Priorities Committee, consult with any appropriate Provincial Permanent Committees, but this subsection does not confer any right or impose any duty of consultation after the initial stages of the preparation of the Budget or Appropriation by the Provincial Executive Council.

"(4) If, at the beginning of a fiscal year, the Provincial Government and Local-level Government have not made provision for public expenditure for their respective services for that year, the Provincial Executive Council and Local-level Government, as the case may be, may, without authorization other than this section but in accordance with an Act of the Parliament, expend amounts appropriated out of the General Revenue Fund for the purpose not exceeding in total one-third of its respective budgeted expenditure during the immediately preceding fiscal year.

"(5) The authority conferred by Subsection (3) lapses when the Provincial Government and Local-level Government has made provision for the public expenditure for the fiscal year in question, and any amounts expended by virtue of that subsection are a charge against the expenditure so provided for and shall be properly brought to account accordingly.

"(6) An Act of the Parliament shall make provision for the details of the financial responsibility of a Provincial Government and Local-level Government."

7. REPEAL AND REPLACEMENT OF SECTION 141.

Section 141 of the *Organic Law on Provincial Governments and Local-level Governments* is repealed and is replaced with the following:—

"141. COMMENCEMENT OF PROVINCIAL LAWS AND LOCAL-LEVEL LAWS.

(1) For the purposes of this section, "law relating to fiscal matters" means a law authorizing the appropriation of monies.

"(2) Notwithstanding anything in any provincial law or local-level law, a Provincial Government or a Local-level Government has full powers to make laws as provided for in this Organic Law.

"(3) The—

- (a) Provincial Government, in the case of a provincial law; and
 - (b) Local-level Government, in the case of a local-level law,
- shall serve a copy of the law, physically, on—
- (c) the Minister—
 - (i) responsible for provincial government and local-level government matters in the case of a law not relating to fiscal matters; or
 - (ii) responsible for finance matters in the case of a law relating to fiscal matters; or
 - (d) the Attorney-General; or
 - (e) both the appropriate Minister under Paragraph (c) and the Attorney-General.

"(4) Subject to Subsection (5), a provincial law or a local-level law shall not take effect until it is approved—

- (a) in the case of a provincial law or local-level law not relating to fiscal matters—by the Minister responsible for provincial government and local-level government matters; or
- (b) in the case of a provincial law or local-level law relating to fiscal matters—by the Minister responsible for finance matters.

"(5) Where:—

- (a) in the case of a provincial law or local-level law not relating to fiscal matters—the Minister responsible for provincial government and local-level government matters; or
- (b) in the case of a provincial law or local-level law relating to fiscal matters—the Minister responsible for finance matters,

has not made a decision as to whether or not to approve a provincial law or local-level law within 60 days on and from the date on which the law was served on him or on the Attorney-General, the law shall be deemed to have been approved by him."

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

8. . AMENDMENT OF SCHEDULE 1.

Schedule 1.1 of the *Organic Law on Provincial Governments and Local-level Governments* is amended in the definition of "the effective sea area" by repealing the words "the smallest sea of a province within the maritime provinces" and replacing them with the following:—

"25,000 square kilometres".

Dated this 29th day of January, 1996.

**B. OKORRO, MP.,
Acting Speaker of the National Parliament.**