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[2002

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*, **BILL SKATE**, Speaker of the National Parliament, hereby publish the proposed Law –

Draft of 29/8/2002.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

PROPOSED LAW TO ALTER THE CONSTITUTION.

Constitutional Amendment (The State Services)

ARRANGEMENT OF CLAUSES.

1. Establishment of the Commission (Amendment of Section 190).
2. Appointment to certain offices (Amendment of Section 193).
3. Transitional and savings provisions.

Draft of 29/8/2002.
INDEPENDENT STATE OF PAPUA NEW GUINEA.

PROPOSED LAW TO ALTER THE CONSTITUTION

entitled

Constitutional Amendment (The State Services),

Being a Law to alter the *Constitution* by amending the provisions relating to appointments to the Public Services Commission and to certain offices,

MADE by the National Parliament, to come into operation in accordance with a notice in the National Gazette by the Head of State, acting with, and in accordance with, the advice of the Minister.

1. ESTABLISHMENT OF THE COMMISSION (AMENDMENT OF SECTION 190).

Section 190 of the *Constitution* is amended –

(a) by repealing Subsection (2) and replacing it with the following:-

“(2) The Commission shall consist of three members who shall be appointed for a term of five years by the Head of State, acting with, and in accordance with, the advice of a Public Services Commission Appointments Committee consisting of –

- (a) the Prime Minister, who shall be Chairman; and
- (b) the Chief Justice; and
- (c) the Leader of the Opposition; and
- (d) the Chairman of the appropriate Permanent Parliamentary Committee, or, if the Chairman is not a member of the Parliament who is recognized by the Parliament as being generally committed to support the Government in the Parliament, the Deputy Chairman of that Committee; and
- (e) the Chief Ombudsman.”; and

(b) by inserting after Subsection (2) the following new subsection:-

“(2A) The Head of State, acting with, and in accordance with, the advice of the Public Services Commission Appointments Committee, shall appoint one of the members of the Public Services Commission to be Chairman of the Public Services Commission.”; and

(c) in Subsection (4), by repealing the words “the appointment and conditions of employment of members of the Commission” and replacing them with the following:-

Constitutional Amendment (The State Services)

“acting appointments and conditions of employment of the Chairman and members of the Commission”.

2. APPOINTMENTS TO CERTAIN OFFICERS (AMENDMENT OF SECTION 193).

Section 193 of the *Constitution* is amended –

(a) by inserting after Subsection (1) of the following new subsections:-

“(1A) All substantive appointments to offices to which Subsection (1)(a), (g) and (h) apply shall be made by the Head of State, acting with, and in accordance with, the advice of the National Executive Council from a list of persons recommended by the Public Services Commission following procedures prescribed by or under an Act of the Parliament.

“(1B) All temporary appointments to offices to which Subsection (1)(a), (g) or (h) apply shall be made by the Head of State, acting with, and in accordance with, the advice of the National Executive Council in accordance with a recommendation by the Public Services Commission following procedures prescribed by or under an Act of the Parliament.

“(1C) The revocation of appointment of persons appointed under Subsection (1A) or (1B) shall be made by the Head of State, acting with, and in accordance with, the advice of the National Executive Council given in accordance with a recommendation by the Public Services Commission following procedures prescribed by or under an Act of the Parliament.

“(1D) The suspension from office of persons appointed under Subsection (1A) or (1B) shall be made by the Head of State, acting with, and in accordance with, a recommendation by the Public Services Commission following procedures prescribed by or under an Act of the Parliament.”. and

(b) in Subsection (2), by repealing the reference to “Subsection (1)(b), (c), (e) and (h)” and replacing it with the following:-

“Subsection (1)(b), (c), and (e)”

(c) in Subsection (3), by repealing the reference to “Subsection (1)(a), (d), (f) and (g)” and replacing it with the following:-

“Subsection (1)(d), and (f)”.

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3. TRANSITIONAL AND SAVINGS PROVISIONS.

(1) A member of the Public Services Commission, validly appointed and holding office as such member immediately before the coming into operation of this Law, shall, on that coming into operation, be deemed to have been validly appointed in accordance with Section 190 (*establishment of the Commission*) of the *Constitution* as amended by Section 1 of this Law and shall continue to hold office as such member until the expiry of his term of appointment or until the cessation of his appointment otherwise according to law.

(2) The member of the Public Services Commission validly appointed and holding office as Chairman of the Public Services Commission immediately before the coming into operation of this Law, shall, on that coming into operation, be deemed to have been validly appointed as Chairman of the Public Services Commission in accordance with Section 190 (*establishment of the Commission*) of the *Constitution* as amended by Section 1 of this Law and shall continue to hold office as such Chairman until the expiry of the his term of appointment or until the cessation of his appointment otherwise according to law.

(3) A person who –

(a) was, before the coming into operation of this Law, validly appointed (whether substantively or temporarily) to an office referred to in Section 193 (1)(a), (g) and (h) (*appointment to certain offices*) of the *Constitution*; and

(b) immediately before that coming into operation held such office (whether substantively or temporarily),

shall, on that coming into operation, be deemed to have been validly appointed (substantively or temporarily, as the case may be) under Section 193 (*appointment to certain offices*) of the *Constitution* as amended by Section 2 of this Law and shall continue to hold office (substantively or temporarily, as the case may be) until the expiry of his term of appointment or until the cessation of his appointment otherwise according to law, whichever shall first happen.

(4) A person who-

(a) was, before the coming into operation of this Law, validly suspended from an office referred to in Section 193(1)(a), (g) and (h) (*appointments to certain offices*) of the *Constitution*; and

(b) immediately before that coming into operation was so suspended from that office,

shall, on that coming into operation, be deemed to have been validly suspended from that office in accordance with Section 193 (*appointment to certain offices*) of the *Constitution* as amended by Section 2 of this Law and shall continue to be so suspended from that office until the suspension is lifted or until he ceases to hold such office according to law.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

THE CONSTITUTION.

ORGANIC LAW ON PROVINCIAL GOVERNMENTS AND LOCAL-LEVEL GOVERNMENTS (AMENDMENT) LAW.

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

Draft of 29/8/2002.

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. Provincial and District Administrators (Amendment of Section 73).
2. Transitional and savings provisions.

Draft of 29/8/2002.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

A 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, to come into operation in accordance with a notice in the National Gazette by the Head of State, acting with, and in accordance with, the advice of the Minister.

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

Section 73 of the *Organic Law on Provincial Governments and Local-level Governments* is amended –

(a) by repealing Subsection (2) and replacing it with the following:-

“(2) All substantive appointments to offices of Provincial Administrator shall be made by the National Executive Council from a list of three persons submitted by the Provincial Executive Council concerned from a list of persons recommended to the Provincial Executive Council by the Public Services Commission following procedures prescribed by or under an Act of the Parliament.”; and

(b) by inserting after Subsection (2) the following new subsections:-

“(2A) All temporary appointments to offices of Provincial Administrator shall be made by the National Executive Council in accordance with a recommendation from the Provincial Executive Council concerned made in accordance with a recommendation from the Public Services Commission following procedures prescribed by or under an Act of the Parliament.

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“(2B) The revocation of appointment of Provincial Administrators appointed under Subsection (2) or (2A) shall be by the National Executive Council, given in accordance with a recommendation from the Provincial Executive Council concerned in accordance with a recommendation from the Public Services Commission following procedures prescribed by or under an Act of the Parliament.

“(2C) The suspension from office of Provincial Administrators appointed under Subsection (2) or (2A) shall be by the National Executive Council in accordance with a recommendation by the Provincial Executive Council concerned in accordance with a recommendation from the Public Services Commission following procedures prescribed by or under an Act of the Parliament.”

2. TRANSITIONAL AND SAVINGS PROVISIONS.

(1) All Provincial Administrators validly appointed (whether substantively or temporarily) under Section 73(2) of the *Organic Law on Provincial Governments and Local-level Governments* and holding office immediately prior to the coming into operation of this Law, shall continue to hold office in the capacity in which they were appointed as if appointed under Section 73 of the *Organic Law on Provincial Governments and Local-level Governments* as amended by Section 1 of this Law until the expiry of their term of appointment or until the cessation of their appointment otherwise according to law.

(2) A person who —

(a) was, before the coming into operation of this Law, validly suspended from an office of Provincial Administrator under Section 73(2) of the *Organic Law on Provincial Governments and Local-level Governments*; and

(b) immediately before that coming into operation was so suspended from that office,

shall, on that coming into operation, be deemed to have been validly suspended from that office in accordance with Section 73(2C) of the *Organic Law on Provincial Governments and Local-level Governments* as amended by Section 1 of this Law and shall continue to be so suspended from that office until the suspension is lifted according to law or until he ceases to hold such office according to law, whichever shall first happen.

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