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INDEPENDENT STATE OF PAPUA NEW GUINEA

CONSTITUTION

ALTERATION TO THE CONSTITUTION

THE Government proposes to alter the Constitution and, pursuant to the requirements of Section 14(2) (*making of alterations to the Constitution and Organic Laws*) of the Constitution, I, Timothy Bonga, the Speaker of the National Parliament, hereby publish the proposed Law—

Draft of 23/9/83.

INDEPENDENT STATE OF PAPUA NEW GUINEA

PROPOSED LAW TO ALTER THE CONSTITUTION

*Constitutional Amendment (Public Services Management Board)*

ARRANGEMENT OF CLAUSES

1. Repeal and replacement of Division VII. 2.

"Division 2.—*Public Services Management Board.*

"190.—Establishment of the Public Services Management Board.

"191.—Functions of the Public Services Management Board.

"192.—Independence of the Public Services Management Board.

"193.—Appointments to certain offices.

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2. Establishment of the office of Auditor-General (Amendment of Section 213).

3. The Ombudsman Commission (Amendment of Section 217).

4. Definition of Constitutional Office-Holder (Amendment of Section 221).

5. Repeal and replacement of Section 254.

"254.—Filling of offices, etc.,"

6. New Section 276.

"276.—Transitional provisions on the abolition of the Public Services Commission and the establishment of the Public Services Management Board."

INDEPENDENT STATE OF PAPUA NEW GUINEA  
PROPOSED LAW TO ALTER THE CONSTITUTION

entitled  
*Constitutional Amendment (Public Services Management Board)*  
being

A Law to alter the Constitution by repealing the provisions relating to the Public Services Commission and by providing for the establishment, constitution and powers of a Public Services Management Board, and for related purposes, MADE by the National Parliament to come into operation 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.

1. REPEAL AND REPLACEMENT OF DIVISION VII. 2.

Division 2 of Part VII of the Constitution is repealed and is replaced by the following:—

*"Division 2.—The Public Services Management Board.*

**"190.—ESTABLISHMENT OF THE PUBLIC SERVICES MANAGEMENT BOARD.**

- "(1) A Public Services Management Board is hereby established.
- "(2) The Public Services Management Board shall consist of—
  - (a) a person, who shall be a citizen, who shall be appointed as Chairman by the Head of State, acting with, and in accordance with the advice of the National Executive Council given after consultation with any appropriate Permanent Parliamentary Committee; and
  - (b) the following persons who shall be *ex officio* members:—
    - (i) the Head of the Prime Minister's Department; and
    - (ii) the Head of the Department responsible for Public Service matters; and
    - (iii) the Head of the Department responsible for financial matters; and
    - (iv) the Head of the Department responsible for provincial affairs; and
    - (v) the Head of the Office or Department responsible for national planning matters; and
  - (c) two persons, who shall be citizens, who shall be appointed by the Head of State, acting with, and in accordance with, the advice of the National Executive Council by notice in the *National Gazette*, of whom one shall represent the Statutory Authorities and the other shall represent the private sector; and
  - (d) such other persons, who shall be citizens, who are co-opted by the Chairman and members appointed under Paragraphs (a) and (b) to serve on the Public Services Management Board.
- "(3) An officer of the Public Service may be co-opted under Subsection (1)(c) to serve on the Public Services Management Board.
- "(4) Subject to this Constitution, an Act of the Parliament may make provision for and in respect of—
  - (a) the appointment and terms and conditions of employment of the Chairman, members and co-opted members of the Public Services Management Board; and
  - (b) the powers and procedures of the Public Services Management Board.

**"191.—FUNCTIONS OF THE PUBLIC SERVICES MANAGEMENT BOARD.**

- "(1) Subject to this Constitution, the Public Services Management Board shall be responsible, in accordance with an Act of the Parliament, for—
  - (a) the efficient management and control of the National Public Service in compliance with the policy of the National Executive Council; and
  - (b) all personnel matters connected with—
    - (i) officers below the position of level 1 or its equivalent in the National Public Service; and
    - (ii) officers, not in an executive or administrative category, who, by reason of professional or technical qualification, are above level 1 or its equivalent in the National Public Service; and
  - (c) such other matters in relation to the other State Services, the provincial services and the services of other governmental bodies as are prescribed by Constitutional Laws or Acts of the Parliament; and
  - (d) such other functions as are given or delegated to the Public Services Management Board by the National Executive Council.
- "(2) It is a special function of the Public Services Management Board to keep under continuous review the State Services (other than the Defence Force), the provincial services and the services of other governmental bodies, and to advise, either on its own initiative or on request, the National Executive and any authority responsible for any of those services on organizational matters and the co-ordination of effort, and in particular on conditions of employment, with a special view to avoiding wasteful duplication of effort and competition.
- "(3) Nothing in Subsection (2) gives the Public Services Management Board any powers of direction or control.

**Proposed Law to Alter the Constitution—continued****“192.—INDEPENDENCE OF THE PUBLIC SERVICES MANAGEMENT BOARD.**

The Public Services Management Board is responsible to the National Executive Council, but, subject to Section 193 (*appointments to certain offices*), in personnel matters connected with—

- (a) officers below the position of level 1 or its equivalent in the National Public Services; and
- (b) officers, not in an executive or administrative category, who, by reason of professional or technical qualification, are above level 1 or its equivalent in the National Public Service, it shall—
- (c) comply with any general directions as to policy from the Head of State, acting with, and in accordance with, the advice of the National Executive Council; and
- (d) otherwise not be subject to direction or control by any person or authority.

**“193.—APPOINTMENTS TO CERTAIN OFFICES.**

“(1) This section applies to and in respect of the following offices and positions:—

- (a) all offices in the National Public Service the occupants of which are directly responsible to the National Executive Council or to a Minister; and
- (b) the offices of the members of the Boundaries Commission; and
- (c) the office the occupant of which is responsible for the administration of the Government broadcasting service, or, if that responsibility rests with a board or commission, the chairman or president of the board or commission; and
- (d) the offices of the persons (including members of boards or commissions) responsible for the administration of any of the State Services; and
- (e) the office of Commissioner of Police; and
- (f) the office of Commander of the Defence Force; and
- (g) the office of Secretary to the National Executive Council; and
- (h) the office of Secretary to the National Co-ordination Secretariat; and
- (i) such other offices and positions as are prescribed by an Act of the Parliament for the purpose,

other than the offices of the Chairman or appointed or co-opted members of the Public Services Management Board.

“(2) All appointments (whether temporary or substantive) to offices to which Subsection (1) (b), (c), (e) and (i) apply shall be made by the Head of State, acting with, and in accordance with, the advice of the National Executive Council given after consultation with—

- (a) the Public Services Management Board; and
- (b) any appropriate Permanent Parliamentary Committee,

and a report concerning each of them shall be given to the Parliament by the responsible Minister as soon as possible after it has been made.

“(3) All appointments (whether temporary or substantive) to which Subsection 1 (a), (d), (f), (g) and (b) apply and such other offices as are prescribed by an Act of the Parliament for the purpose of this subsection, shall be made by the Head of State, acting with, and in accordance with, the advice of the National Executive Council given after consultation with the Public Services Management Board.

“(4) An Act of the Parliament may make provision for and in respect of a temporary appointment to an office to which this section applies until such time as it is practicable to make an appropriate substantive appointment in accordance with Subsection (2).

**“194.—PERSONNEL MATTERS.**

In this Division, “personnel matters” means decisions and other service matters concerning an individual whether in relation to his appointment, promotion, demotion, transfer, suspension, disciplining or cessation or termination of employment (except cessation or termination at the end of his normal period of employment as determined in accordance with law), or otherwise.”

**2. ESTABLISHMENT OF THE OFFICE OF AUDITOR-GENERAL (AMENDMENT OF SECTION 213).**

Section 213(2) of the Constitution is amended by omitting the words “the Public Services Commission” and substituting “the Public Services Management Board”.

**3. THE OMBUDSMAN COMMISSION (AMENDMENT OF SECTION 217).**

Section 217(2) of the Constitution is amended by repealing Paragraph (e) and substituting the following:—

“(e) the Chairman of the Public Services Management Board.”

**4. DEFINITION OF CONSTITUTIONAL OFFICE-HOLDER (AMENDMENT OF SECTION 221).**

Section 221 of the Constitution is amended by repealing Paragraph (g).

**5. REPEAL AND REPLACEMENT OF SECTION 254.**

Section 254 of the Constitution is repealed and is replaced by the following:—

**Proposed Law to Alter the Constitution—continued****"254.—FILLING OF OFFICES, ETC.,**

"(1) In principle—

- (a) no constitutional office shall be left unfilled on a substantive basis for longer than is necessary for it to be filled by an appropriate appointee; and
- (b) subject to Subsection (2), no person shall hold more than one public office at the same time except where one such office is so much associated with, or related to, another, or where the holding of one such office is so relevant to the holding of another, as to make it desirable that the offices be held jointly; and
- (c) public offices of similar importance or standing, and in particular offices in any statutory board or committee, should be filled by persons from the various areas of the country.

"(2) The provisions of Subsection (1) (b) shall not prevent—

- (a) the *ex officio* members of the Public Services Management Board under Section 190(2) (b) (*establishment of the Public Services Management Board*) from continuing also respectively to hold the offices by virtue of which the *ex officio* appointments were made; and
- (b) a person appointed as a member of the Public Services Management Board under Section 190(2) (c) (*establishment of the Public Services Management Board*) to represent the Statutory Authorities, from serving as such a member and at the same time holding an office in a Statutory Authority; and
- (c) a person co-opted to serve as a member of the Public Services Management Board under Section 190(2) (d) (*establishment of the Public Services Management Board*) from serving as such a member and at the same time holding any other public office; and
- (d) the same person holding at the same time the offices of Secretary to the National Executive Council and Secretary to the National Co-ordination Secretariat."

**6. NEW SECTION 276.**

The Constitution is amended by adding the following new Section:—

**"276.—TRANSITIONAL PROVISIONS ON THE ABOLITION OF THE PUBLIC SERVICES COMMISSION AND THE ESTABLISHMENT OF THE PUBLIC SERVICES MANAGEMENT BOARD**

- "(1) A reference in the Constitutional Laws to the Public Services Commission or to the Chairman of the Public Services Commission shall, on and after the date of coming into operation of the Constitutional Amendment (Public Services Management Board) be read respectively as a reference to the Public Services Management Board and the Chairman of the Public Services Management Board.
- "(2) An Organic Law may effect to various Constitutional Laws amendments consequential upon the coming into operation of the Constitutional Amendment (Public Services Management Board)."

**INDEPENDENT STATE OF PAPUA NEW GUINEA****ORGANIC LAW ON THE PUBLIC SERVICES COMMISSION****REPEAL OF THE ORGANIC LAW ON THE PUBLIC SERVICES COMMISSION**

THE Government proposes to repeal the Organic Law on the Public Services Commission and, pursuant to the requirements of Section 14(2) (*making of alterations to the Constitution and Organic Laws*) of the Constitution, I, Timothy Bonga, the Speaker of the National Parliament hereby publish the proposed Law—

Draft of 14/9/83.

**INDEPENDENT STATE OF PAPUA NEW GUINEA****PROPOSED LAW TO REPEAL THE ORGANIC LAW ON THE PUBLIC SERVICES COMMISSION**

*Organic Law on the Public Services Commission (Repeal)*

**ARRANGEMENT OF CLAUSES**

Repeal.

Draft of 14/9/83.

**INDEPENDENT STATE OF PAPUA NEW GUINEA****PROPOSED LAW TO REPEAL THE ORGANIC LAW ON THE PUBLIC SERVICES COMMISSION**

entitled

*Organic Law on the Public Services Commission (Repeal)*

being

A Law to repeal the Organic Law on the Public Services Commission,

MADE by the National Parliament to come into operation 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.

REPEAL.

The Organic Law on the Public Services Commission is repealed.

T. BONGA, M.P.,  
Speaker of the National Parliament.