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THE CONSTITUTION.

ALTERATION TO THE CONSTITUTION.

The Honourable Member for Kavieng, Mr Ben Micah, MP., proposes to alter the Constitution of Papua New Guinea and, pursuant to Section 14(2) (*making of alterations to the Constitution and the Organic Laws*) of the Constitution, I, **BILL SKATE**, the Speaker of the National Parliament, hereby publish the proposed Law—

INDEPENDENT STATE OF PAPUA NEW GUINEA.

PROPOSED LAW TO ALTER THE CONSTITUTION.

CONSTITUTIONAL AMENDMENT (PROVINCIAL AUTHORITIES AND LOCAL-LEVEL GOVERNMENTS)

ARRANGEMENT OF CLAUSES.

1. URGENT ALTERATIONS (AMENDMENT OF SECTION 15).
2. SPECIAL REFERENCES TO THE SUPREME COURT (AMENDMENT OF SECTION 19).
3. APPLICATION OF DIVISION 2 (AMENDMENT OF SECTION 26).
4. DISQUALIFICATION ON DISMISSAL (AMENDMENT OF SECTION 31).
5. ELECTORATES (AMENDMENT OF SECTION 125).
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"PART VIA — PROVINCIAL AUTHORITIES AND LOCAL-LEVEL GOVERNMENTS."

7. REPEAL AND REPLACEMENT OF SECTION 187A.

"187A.—PROVINCIAL AUTHORITIES AND LOCAL-LEVEL GOVERNMENTS SYSTEM."

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"187B.—PROVINCIAL AUTHORITIES AND LOCAL-LEVEL GOVERNMENTS."

Constitutional Amendments (Local-Level Governments)—continued

9. CONSTITUTION, FUNCTIONS, ETC, OF PROVINCIAL GOVERNMENTS (AMENDMENT OF SECTION 187C).
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INDEPENDENT STATE OF PAPUA NEW GUINEA.**PROPOSED LAW TO ALTER THE CONSTITUTION.**

entitled

CONSTITUTIONAL AMENDMENT (PROVINCIAL AUTHORITIES AND LOCAL-LEVEL GOVERNMENTS),

being

A Law to alter the Constitution by repealing the provisions relating to provincial governments and by providing for a system of Provincial Authorities and Local-level Governments, and for related purposes.

MADE by the National Parliament.

1. URGENT ALTERATIONS (AMENDMENT OF SECTION 15).

Section 15 of the *Constitution* is amended in Subsection 5 by repealing Paragraph (ka) and replacing it with the following:-

"(ka) Part VIA. (Provincial Authorities and Local-level Governments;)"

2. SPECIAL REFERENCES TO THE SUPREME COURT (AMENDMENT OF SECTION 19).

Section 19 of the *Constitution* is amended in Subsection (3) by repealing from Paragraph (ec) the words "Provincial Governments" and substituting "Provincial Authorities and Local-level Governments".

3. APPLICATION OF DIVISION 2 (AMENDMENT OF SECTION 26).

Section 26 of the *Constitution* is amended—

(a) in Subsection (1), by repealing paragraph (d) and replacing it with the following:—

"(d) Members of Provincial Authorities and Local-level Governments;"; and

(b) in Subsection (3) by repealing the words "Provincial Government or a Local-level body" and replacing them with the words "Provincial Authority or a Local-level Government"; and

(c) by adding the following Section:—

"(5) The provisions of this Division and of an Organic Law or an Act of the Parliament authorized by this Division continue to apply to a person who was a member of a provincial legislature in respect of his service as such a member, notwithstanding the abolition of the provincial government system."

4. DISQUALIFICATION ON DISMISSAL (AMENDMENT OF SECTION 31).

Section 31 of the *Constitution* is amended in Subsection (1) by repealing from Paragraph (c) the words "local government body" and replacing them with the words "Local-level Government".

Constitutional Amendments (Local-Level Governments)—continued**5. ELECTORATES (AMENDMENT OF SECTION 125).**

Section 125 of the *Constitution* is amended in Subsection (6) by repealing the words "provincial government" and substituting of "Provincial Authority and Local-level Government".

6. REPEAL AND REPLACEMENT OF HEADING TO PART VIA.

The heading to Part VIA of the *Constitution* is repealed and is replaced with the following:—

"Part VIA. Provincial Authorities and Local-Level Governments."

7. REPEAL AND REPLACEMENT OF SECTION 187A.

Section 187A of the *Constitution* is repealed and replaced with the following:—

"187A Provincial Authority and Local-Level Government System.

(1) There shall be a system of Provincial Authorities and Local-level Governments in accordance with this Part.

(2) An Organic Law shall provide for the form of Provincial Authorities and Local-Level Governments".

8. REPEAL AND REPLACEMENT OF SECTION 187B.

Section 187B of the *Constitution* is repealed and is replaced with the following:—

"187B. Provincial Authorities and Lower-Level Governments.

An Organic Law shall make a provision with respect to the extent to which Provincial Authorities and Local-level Governments may be granted to a Province.

9. CONSTITUTION, FUNCTIONS, ETC, OF PROVINCIAL GOVERNMENTS (AMENDMENT OF SECTION 187C).

Section 187C is amended—

(a) in the heading by repealing the words "Provincial Governments" and substituting "Provincial Authorities and Local-level Governments"; and

(b) in Subsection (1) by repealing the words "provincial government" and substituting "Provincial Authority and Local-level Government"; and

(c) in Subsection (2) by repealing the words "provincial government" and substituting "Provincial Authority and Local-level Government"; and

(d) in Subsection (3) by repealing the words "provincial legislature" and substituting "Provincial Authorities and Local-level Governments"; and

(e) in Subsection (4) by repealing the words "provincial government", twice occurring, and replacing them with the words "Provincial Authorities and Local-level Governments"; and

(f) in Subsection (5) by repealing the words "provincial government" and replacing them with the words "Provincial Authority and Local-level Government"; and

(g) in Subsection (6) by repealing the words "provincial governments" and replacing them with the words "Provincial Authorities and Local-level Governments".

10. INCONSISTENCY AND JUSTIFIABILITY OF PROVINCIAL LAWS (AMENDMENT OF SECTION 187D).

Section 187D of the *Constitution* is amended—

(a) in the heading by repealing the words "Provincial Laws" and substituting "Provincial Authority and Local-level Government Laws"; and

(b) in Subsections (1) and (2) by repealing the words "provincial law", appearing in each case, and replacing them with the words "Provincial Authority and Local-level Government law"; and

(c) in Subsection (3) by repealing the words "provincial government" and substituting "Provincial Authority and Local-level Government".

11. SUSPENSION OF PROVINCIAL GOVERNMENTS (AMENDMENT OF SECTIONS 187E AND 187F).

Sections 187E and 187F are repealed and are replaced by the following:—

"187E.—SUSPENSION OF PROVINCIAL AUTHORITIES AND LOCAL-LEVEL GOVERNMENTS.

(1) The National Executive Council may suspend a Provincial Authority or Local-level Government that cannot carry out its functions effectively because a war or a national emergency declared under Part X affecting the province or the whole of the country.

Constitutional Amendments (Local-Level Governments)—continued

"(2) While a Provincial Authority or a Local-level Government is suspended, its powers and functions are vested in and shall be exercised by or on behalf of the National Executive Council, in accordance with an Act of Parliament.

"(3) Where a Provincial Authority or a Local-level Government is suspended—

- (a) the Minister responsible for provincial affairs shall, as soon as practicable and in any event not later than the first meeting of the Parliament after the suspension, table in the Parliament a report on the suspension, the reasons for it and the circumstances of it; and
- (b) at each meeting of the Parliament during the suspension, the Minister responsible for provincial affairs shall report to the Parliament on the measures taken to re-establish the Provincial Authority and Local-level Government, as the case maybe.

"187F.—RE-ESTABLISHMENT OF PROVINCIAL AUTHORITIES OR LOCAL-LEVEL GOVERNMENTS.

"(1) Subject to Subsection (2) and (3), if a Provincial Authority or a Local-level Government is suspended arrangements shall be made to re-establish it and to hold fresh elections and make fresh appointments (if necessary) to the Provincial Authority or Local-level Government within nine months from the effective date of the suspension.

"(2) Subject to Subsection (3) and (4), where—

- (a) a Provincial Authority and Local-level Government is suspended under Section 187E (suspension of provincial authorities and local-level governments) as a result of a declaration of a national emergency under Section 228 (declaration of national emergency); and
- (b) The declaration is extended under Section 239(3) (parliamentary control), the period of nine months referred to in Subsection (1) runs from the end of the meeting (or) if there are more such extensions than on the last meeting) of the Parliament at which the declaration is so extended.

"(3) A period of nine months referred to in the preceding provisions of this Section may be extended by periods, each not exceeding six months, by the Parliament by an absolute majority vote.

"(4) Subject to Subsection (3), where a Provincial Authority is suspended under Section 187E (suspension of provincial authorities and local-level governments) the period of suspension, unless earlier terminated, ends at the end of nine months after the end of the war or national emergency concerned".

12. REPEAL AND REPLACEMENT OF SECTION 187G.

Section 187G of the *Constitution* is repealed and is replaced with the following:—

"187G—GRADATIONS OF PROVINCIAL AUTHORITIES AND LOCAL-LEVEL GOVERNMENTS.

Nothing in any law is inconsistent with this Part so far as it provides for the full status, powers or functions of Provincial Authorities and Local-level Governments to be acquired by a Provincial Authority and Local-level Government in stages, or provides for a gradation of Provincial Authorities and Local-level Governments."

13. INTER-GOVERNMENTAL RELATIONS (AMENDMENT OF SECTION 187H).

Section 187H of the *Constitution* is amended—

(a) in Subsection (1) by—

- (i) repealing the words "provincial governments", twice occurring, and replacing them with the words "Provincial Authorities and Local-level Governments"; and
- (ii) repealing the words "provincial governments" and replacing them with the words "Provincial Authorities and Local-level Governments"; and

(b) in Subsection (2)—

(i) by repealing Paragraph (b) and replacing it with the following:—

(b) the Chairman of a Provincial Executive Council, or a member of the Provincial Executive Council nominated by the Chairman of the Provincial Executive Council; and"; and

(ii) by repealing from Paragraph (c) the words "provincial government" and "provincial governments" and replacing them with the words "Provincial Authority" and "Provincial Authorities", respectively; and

Constitutional Amendments (Local-Level Governments)—continued

- (c) in Subsection (7), by repealing the words "provincial governments", twice occurring, and replacing them with the words "Provincial Authorities and Local-level Governments".

14. LOCAL AND VILLAGE GOVERNMENT (AMENDMENT OF SECTION 187I)

Section 187I of the *Constitution* is amended—

- (a) in Subsection (1) by repealing the words "provincial law of a province makes provision for government at the local-level", and substituting "Provincial Authority and Local-level Government law of a province makes provision for government at the local-level"; and
- (b) in Subsection (2) by repealing the words "provincial governments" and substituting "Provincial Authorities and Local-level Governments"; and
- (c) in Subsection (3) by repealing the words "provincial government" and substituting "Provincial Authority and Local-level Government"; and
- (d) in Subsection (4) by repealing the words "provincial government" and substituting "Provincial Authority and Local-level Government".

15. REPORTS ON PROVINCIAL AND LOCAL-LEVEL GOVERNMENTS (AMENDMENT OF SECTION 187J).

Section 187J of the *Constitution* is amended by repealing the words "provincial government" and substituting "Provincial Authorities".

THE CONSTITUTION.

REPEAL OF THE ORGANIC LAW ON PROVINCIAL GOVERNMENTS AND ENACTMENT OF AN ORGANIC LAW ON PROVINCIAL AUTHORITIES AND LOCAL-LEVEL GOVERNMENTS.

The Honourable Member for Kavieng, Mr Ben Micah, proposes to alter the *Organic Law on Provincial Government* and, pursuant to the requirements of Section 14(2) (*making of alterations to the Constitution and Organic LAWS*) of the Constitution, I, BILL SKATE, the Speaker of the National Parliament, hereby publish the proposed law —

THE INDEPENDENT STATE OF PAPUA NEW GUINEA.

THE CONSTITUTION.

PROPOSED LAW TO REPEAL THE ORGANIC LAW ON PROVINCIAL GOVERNMENT AND ENACTMENT OF AN ORGANIC LAW ON PROVINCIAL AUTHORITIES AND LOCAL-LEVEL GOVERNMENTS.

entitled

ORGANIC LAW ON PROVINCIAL AUTHORITIES AND LOCAL-LEVEL GOVERNMENTS.

ARRANGEMENT OF CLAUSES.

THE CONSTITUTION.

REPEAL OF THE ORGANIC LAW ON PROVINCIAL GOVERNMENT AND ENACTMENT OF AN ORGANIC LAW ON PROVINCIAL AUTHORITIES AND LOCAL-LEVEL GOVERNMENTS.

The Honourable Member for Kavieng, Mr Ben Micah, proposes to alter the *Organic Law on Provincial Government* and, pursuant to the requirements of Section 14(2) (*making of alterations to the Constitution and Organic LAWS*) of the Constitution, I, Bill Skate, the Speaker of the National Parliament, hereby publish the proposed law —

Constitutional Amendments (Local-Level Governments)—continued

THE INDEPENDENT STATE OF PAPUA NEW GUINEA

THE CONSTITUTION.

PROPOSED LAW TO ALTER THE ORGANIC LAW ON PROVINCIAL GOVERNMENT AND ENACTMENT OF AN ORGANIC LAW ON PROVINCIAL AUTHORITIES AND LOCAL-LEVEL GOVERNMENTS.

ARRANGEMENT OF CLAUSES.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.**THE CONSTITUTION.****THE ORGANIC LAW ON PROVINCIAL AUTHORITIES AND LOCAL-LEVEL GOVERNMENTS.****PREAMBLE.**

We, the representatives of our People in the National Parliament in responding to nationwide call of our people to bring about substantive reforms to our Provincial Government system, have resolved to make such changes as are necessary now contained in their Organic Law for purposes of –

- (a) maintaining our identity as a sovereign united nation; and
- (b) promoting equal opportunity and popular participation in Government at all levels; and
- (c) providing especially the basic human needs for decent water, health, education, transportation, communication, accommodation and social order through economic self-reliance; and
- (d) promoting responsible citizenship through self-management, control and accountability for one's actions; and
- (e) for establishing Provincial Authorities and Local-level Governments in order to achieve these goals.

Being an Organic Law –

- (a) to implement Part VIA (Provincial Authorities and Local-level Government) of the Constitution by making provision for and in respect of Provincial Authorities and Local-level Governments system for the provinces pursuant to goal number 2 of the National Goals on equal participation; and
- (b) to repeal the Organic Law on Provincial Government,

and for related purposes.

MADE by the National Parliament.

PART I. – PRELIMINARY.***Division 1. – General Principles of Provincial Authorities and Local-level Governments.*****1. GENERAL PRINCIPLES.**

(1) Subject to the Constitution, in exercising any power vested by this Organic Law or by any other Law, all Provincial Authorities and Local-level Governments shall observe the general principles stated in this Division.

(2) Subject to the Constitution, each Provincial Authorities and Local-level Governments or its agent, or public authority or its agent, created by Law, shall in carrying out its functions, duties and responsibilities comply with:–

- (a) the principle of mainly, elective representative and participatory government; and
- (b) the principle of appointment on merit to all public offices; and
- (c) the principle of efficient and effective government; and
- (d) the duty to ensure proper use and care of all public properties; and
- (e) the principle of accountability in the use of both public finances, properties as well as public power; and
- (f) the principle of Human Rights as recognized and enforced by Papua New Guinea law; and
- (g) the duty to treat all persons as human beings; and
- (h) duty to act honestly and fairly and to uphold respect and dignity of government; and
- (i) the principle of participatory government; and
- (j) to comply with national directive number 4 to protect the environment for Papua New Guinea.

Constitutional Amendments (Local-Level Governments)—continued

(3) Any Government may delegate any of its powers and functions (except this power of delegation) to any other Government or Governments in Papua New Guinea.

(4) A Public Authority shall be adequately resourced in order to perform any of its public functions conferred by law.

(5) In principle, the elected leaders are responsible for formulation of policies and public servants are responsible for implementation of those policies and in any case the two shall work together for the benefit of the rural majority.

(6) The annual appropriation to Provincial Authorities and Local-level Governments is hereby guaranteed.

(7) The wealth generated by lawful exploitation of any natural resources must be equitably distributed by the National Government and the Provincial Authorities for the benefit of resource owners and all levels of Governments but may be used by courts in the interpretation of this Organic Law.

(8) The general principles in this part are non-justiciable.

Division 2. – Grant of Provincial Authorities and Local-level Governments.**2. SYSTEM OF PROVINCIAL AUTHORITIES AND LOCAL-LEVEL GOVERNMENTS.**

(1) A system of Provincial Authorities and Local-level Government is hereby established.

(2) Subject to this Constitution, the system of Provincial Authorities and Local-level Governments established by Subsection (1), shall be implemented in accordance with this Organic Law.

Division 3. – Legal Status of Provincial Authorities and Local-level Governments.**Subdivision A. – Legal Capacity of Provincial Authorities and Local-level Governments.****3. LEGAL CAPACITY.**

A Provincial Authority and Local-level Governments –

(a) may acquire, hold and dispose of property of any kind; and

(b) may sue and be sued,

and a Provincial or Local-level law may make provision for and in respect of the manner and form in which either respective government may do so.

4. SERVICE OR PROCESS.

Any notice, summons, writ or other process required to be served on the Provincial Authority or Local-level Government may be served on the Legal Officer or an officer designated for that purpose.

Subdivision B. – Recognition of Provincial Authority and Local-level Governments.**5. RECOGNITION OF PROVINCIAL LAWS, JUDICIAL NOTICE ETC.**

Full faith and credit shall be given throughout Papua New Guinea to the laws, the public acts and records and judicial proceedings of all Provincial Authority and Local-level Governments.

PART II. – INSTITUTIONAL STRUCTURE OF PROVINCIAL AUTHORITIES AND LOCAL-LEVEL GOVERNMENTS LEGISLATIVE AND EXECUTIVE ARMS OF LOCAL-LEVEL GOVERNMENTS**Division 1. – Institutional Structure of Legislative Arm of Provincial Authorities.****6. PROVINCIAL AUTHORITIES.**

(1) There shall be a Provincial Authority consisting of mainly elective members whose primary role shall be to facilitate the governing of local communities by Local-level Governments in accordance with an Act of the Parliament.

(2) The Provincial Authority shall comprise –

(a) all members of the National Parliament from the Province; and

(b) heads of Local-level Governments; and

(c) heads of Urban Authorities; and

Constitutional Amendments (Local-Level Governments)—continued

(d) five nominated members of whom –

- (i) two shall be women representing women appointed by the Provincial Executive Council after consultation with the Provincial Council of Women; and
- (ii) one shall represent churches appointed by the Provincial Executive Council in consultation with the Papua New Guinea Council of Churches and the Evangelical Alliance; and
- (iii) one shall represent youth appointed by Provincial Executive Council in consultation with the Provincial Youth Council; and
- (iv) one shall represent workers appointed by the Provincial Executive Council in consultation with the Papua New Guinea Trade Union Congress; and
- (v) any other members as the Provincial Authority may determine from time to time by law.

(3) Failure to consult as required by Subsection (2) shall render appointments under this Section invalid.

(4) The qualifications of nominated member of the Provincial Authority shall be as determined by an Act of Parliament.

(5) The Provincial Authority shall be primarily responsible for facilitating the formulation and implementation of both national and local-level governments policies relating to the improvement of life and development in accordance with an Act of the Parliament.

(6) The nominated members shall have no voting power.

7. CHAIRMAN OF PROVINCIAL AUTHORITY.

(1) Subject to the Constitution and this Organic Law, the Provincial Member of the National Parliament shall become the Chairman of the Provincial Authority in a Province.

(2) The terms and conditions of the Chairman shall be determined by the Salaries and Remunerations Commission.

8. DISQUALIFICATION OF CHAIRMAN.

(1) The Chairman of a Provincial Authority shall be deemed to have vacated his position as Chairman, but not as an ordinary member of the Provincial Authority, if he is appointed –

- (a) a Minister in the National Government; or
- (b) the Speaker or Deputy Speaker of the National Parliament; or
- (c) the Leader or Deputy Leader of the Opposition.

(2) Subject to this Organic Law and any other law, if the Chairman vacates his position as Chairman in accordance with this Section, he is ineligible for reappointment as Chairman for the balance of his term of office.

(3) Where Chairman vacates his position as Chairman in accordance with Subsection (1) he shall appoint another member of Parliament to be Chairman of the Provincial Authority.

(4) If the member appointed by the Chairman vacates his position as Chairman, the members other than the members referred to in paragraph (b), (c) and (d) of Section 6(2) shall elect a member amongst their own number to be Chairman.

9. DEPUTY CHAIRMAN.

There shall be a Deputy Chairman of the Provincial Authority to be appointed by the Chairman from amongst the members, other than the members referred to in Section 6(2) (a), (c) and (d) of the Authority.

10. POLITICAL AND EXECUTIVE RESPONSIBILITIES OF THE CHAIRMAN AND DEPUTY CHAIRMAN.

The Chairman, or in his absence the Deputy Chairman, of a Provincial Authority shall –

- (a) be politically responsible to both the Provincial Authority and the National Parliament for the government of the Province; and
- (b) be responsible to the National Minister responsible for Provincial Authority and Local-level Government matters.

Constitutional Amendments (Local-Level Governments)—continued**11. QUALIFICATION AND DISQUALIFICATION OF ELECTED MEMBERS.**

The qualification and disqualification of elected members of a Provincial Authority shall be as those presently prescribed by law relating to members of the National Parliament and elected members of Local-level Governments respectively.

12. FUNCTIONS OF THE PROVINCIAL AUTHORITY.

An Act of Parliament shall make provision for and in respect of functions of Provincial Authorities.

13. PROCEDURES OF PROVINCIAL AUTHORITY

A Provincial Authority shall determine its own procedures including number of meetings and quorum in accordance with an Act of the Parliament.

14. PROVINCIAL EXECUTIVE COUNCIL.

(1) There shall be an executive arm of the Provincial Authority to be known as the Provincial Executive Council.

(2) The role of the Provincial Executive Council shall be to implement laws and policies made or adopted by the Provincial Authority.

(3) The Provincial Executive Council shall consist of —

(a) the Chairman and the Deputy Chairman of the Provincial Authority; and

(b) the Committee Chairman or his Deputy of any of the Committees of the Provincial Executive Council; and

(c) any other members of the Provincial Executive Council appointed by the Chairman.

(4) The membership of the Provincial Executive Council shall not exceed two-thirds of the total membership of the Provincial Authority.

15. PROCEDURES OF PROVINCIAL EXECUTIVE COUNCIL.

A Provincial Executive Council shall determine its own procedures in accordance with an Act of the Parliament.

16. SYSTEM OF COMMITTEES.

The Provincial Executive Council may determine such number of and other matters relating to its committees (including permanent Committees) as it considers necessary to carry out its functions in accordance with an Act of the Parliament.

Division 2. — Form of Local-level Governments.**17. FORM OF LOCAL-LEVEL GOVERNMENTS.**

(1) Subject to the Constitution and this Organic Law, a system of Local-level Government covering urban and rural areas may be in the form of —

(a) Commission; or

(b) Urban and rural Authorities; or

(c) Community Government; or

(d) Councils; or

(e) traditional forms of governmental structures; or

(f) a combination of the above forms and others.

(2) A National or Provincial Law shall provide for or make provisions in respect of granting of Local-level Governments after consultation with Provincial Authorities and Local-level Governments.

(3) The Legislative and Executive Arms of the Local-level Government shall consist of the members of the legislative arm.

Division 3. — Institutional Structures of Legislative Arm of Local-level Government.**18. LOCAL-LEVEL GOVERNMENT.**

Subject to this Organic Law, there shall be Local-level Governments comprising in principle elective members, whose role is to make local-level laws for purposes of governing local communities according to capacity.

19. COMPOSITION OF LOCAL-LEVEL GOVERNMENTS.

(1) Subject to this Organic Law, the members of a Local-level Government shall consist of —

(a) head of Local-level government who is duly elected; and

(b) elected members; and

(c) five other nominated members of whom —

(i) two shall be women representing women appointed by the Local-level Government in consultation with the Provincial Council of Women; and

(ii) one shall represent churches appointed by the Local-level Government in consultation with the Papua New Guinea Council of Churches and the Evangelical Alliance; and

Constitutional Amendments (Local-Level Governments)—continued

- (iii) one shall represent Youth appointed by the Local-level Government in consultation with the Provincial Youth Council; and
- (iv) one shall represent the workers appointed by the Local-level Government in consultation with the Papua New Guinea Trade Union Congress, and other members as the Local-level Government may determine from time to time by law.

(2) Failure to consult as required by Subsection (1) shall render appointments under this Section invalid.

(3) The nominated members shall have no voting power.

(4) An Act of the Parliament may make provision for and in respect of entitlements, privileges, retirement benefits, and other benefits relating to Local-level Government members.

20. VACATION OF OFFICE.

(1) Where a member of a Provincial Authority and Local-level Government —

(a) becomes permanently incapable of performing his duties; or

(b) dies or resigns his office; or

(c) fails to comply with certain provisions of this Organic Law; or

(d) becomes bankrupt, applies to take the benefits of any law for the relief of bankrupt or insolvent debtors, compounds with creditors, or makes an assignment of his remuneration for their benefit; or

(e) becomes of unsound mind; or

(f) is convicted of a criminal offence punishable by law for which a term of imprisonment of not less than nine months is prescribed as a penalty or longer or by death, and as the result of that conviction is subject to be sentenced to imprisonment or is under sentence of death, or is under bond to appear for sentence if called on; or

(g) found guilty of misconduct in Office by the Leadership Code Tribunal, the member is deemed to have vacated his office and the Head of State, acting on advice, shall terminate his membership.

(2) Where a member of a Provincial Authority and Local-level Government —

(a) has his appointment or membership terminated under this Section; or

(b) dies while holding office,

the vacancy shall be filled as soon as is practicable.

(3) The exercise or performance of a power or function of or by the Local-level government is not invalidated by reason only of a vacancy in the membership of the government.

21. QUALIFICATION AND DISQUALIFICATION.

In addition to the qualifications and disqualifications prescribed by this Organic Law, other qualifications and disqualifications are as prescribed by existing law.

22. ROLE OF LOCAL-LEVEL GOVERNMENT.

A Local-level Government shall formulate, enact and implement laws for its community either on its own or through its committees in accordance with an Act of the Parliament.

23. INTERNAL ORGANISATION AND PROCEDURES.

A Local-level Government shall determine its own internal organisation and procedures including number of meetings and quorum in accordance with an Act of the Parliament.

24. SYSTEM OF COMMITTEES.

A Local-level Government may determine such number of Local-level Government Committees (including permanent committees) as it considers necessary to carry out its functions in accordance with an Act of the Parliament.

Division 4. — Local-Level Government Electoral System.**25. ELECTION OR NOMINATION OF MEMBERS.**

(1) Members of Local-level Governments shall be elected or nominated in accordance with the Organic Law on Elections and any other laws on elections.

(2) There shall be one simultaneous election for both National Government and Local-level Governments.

(3) The election is to be conducted in accordance with the Organic Law on Elections.

(4) An Act of the Parliament may determine methods of selecting non-elective form of a Local-level Government.

26. QUALIFICATION OF CANDIDATES.

(1) Only citizens and their dependents can contest election.

Constitutional Amendments (Local-Level Governments)—continued

(2) A person shall not stand for election unless —

(a) the person has either —

(i) born in the Local-level Government area; or

(ii) lived in the Local-level Government area for a period of not less than two (2) years continuously; or

(b) is a descendent of a parent who was born in the Local-level Government area; and

(c) he is able to speak one of the languages, namely —

(i) english; or

(ii) pidgin; or

(iii) motu; or

(iv) one of the indigenous languages of the local-level government area.

27. DISQUALIFICATION.

In addition to the qualification requirements referred to in Section 26, a person is disqualified to contest election or remain as a member if he is —

(a) undischarged bankrupt or insolvent; or

(b) insane; or

(c) medically certified alcoholic; or

(d) convicted of an indictable criminal offence; or

(e) physically or mentally incapable of performing his functions, duties and responsibilities; or

(f) a person whose conduct is unbecoming of the public office he holds.

28. DEATH OF MEMBER NOT TO DISRUPT ELECTION.

A death of a member shall not in any way affect the holding of an election referred to in this Part.

29. DURATION.

(1) The term of a Local-level Government shall be for the period of five (5) years.

(2) The term of office of a member duly elected or appointed, as the case may be, begins at the end of the day on which the election of the member is declared, or in the case of the appointed member the day on which he is appointed and, unless sooner ended by resignation, disqualification, death or by whatever cause, ends on the polling day for the next general election, or when next appointment is made.

PART III. — LAW MAKING POWERS OF NATIONAL PARLIAMENT, PROVINCIAL AUTHORITIES AND LOCAL-LEVEL GOVERNMENTS.***Division 1. — Powers of National Government.*****30. 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 lawmaking) of the National Constitution, to make laws for the peace, order and good government of Papua New Guinea.

Division 2. — Powers and Functions of Local-Level Governments.**31. POWERS OF LOCAL-LEVEL GOVERNMENTS.**

(1) Subject to the Constitution, Local-level Governments may make laws for peace, order and good government of local community in relation to —

(a) local and rural industries; and

(b) self-help schools; and

(c) rural and urban cemeteries; and

(d) tokples schools (except curriculum); and

(e) community airstrips and maintenance (except standards); and

(f) rural and urban community roads and their maintenance; and

(g) rural and urban waters; and

(h) control over local renewable and non-renewable resources; and

(i) cottage industries; and

(j) village and urban social services; and

(k) village and urban hygiene and sanitation; and

(l) rural communication; and

(m) customary laws and practices; and

(n) general licences; and

(o) village and local courts (except jurisdiction); and

(p) sports and recreation; and

Constitutional Amendments (Local-Level Governments)—continued

- (q) local environment; and
- (r) local development and planning; and
- (s) compensation and bride price; and
- (t) marine resources and facilities; and
- (u) customary mediation dispute settlement; and
- (v) youth and women affairs; and
- (w) rural housing; and
- (x) control of domestic animals; and
- (y) control of consumption of alcohol and drugs; and
- (z) community day programmes; and
- (za) census by Council; and
- (zb) traditional currencies and local barter system; and
- (zc) traditional copy right;
- (zd) and any other subject matters that are essentially of local character or concern.

(2) The Local-level Government may delegate any of its powers and functions (except this power of delegation), to any other Government or Governments to exercise or perform on its behalf.

(3) The Provincial Authority may exercise any of these powers in Subsection (1) only if provincial interest so requires.

(4) The National Parliament may exercise any of these powers in Subsection (1) only if national interest so requires.

Division 3. – Powers and Functions of Provincial Authorities.**32. POWERS OF PROVINCIAL AUTHORITY.**

(1) Subject to the Constitution, a Provincial Authority shall, have and may exercise the power of law-making in relation to –

- (a) the Provincial Budget; and
- (b) supervision, monitoring and control of the implementation of local-level and national governments policies in relation to rural and urban development; and
- (c) alcohol licensing; and
- (d) lower-level education facilities and services; and
- (e) tourism; and
- (f) libraries, museums and cultural centres of provincial interest and concern; and
- (g) local-level health centres and aid posts; and
- (h) any other powers which have been delegated to it by law.

(2) The Provincial Authority may delegate any of its powers and functions (except this power of delegation), to any other other Government or Governments to exercise or perform on its behalf.

(3) Notwithstanding Subsection (1), the National Parliament may exercise any of these powers referred to in Subsection (1) only if national interest so requires.

33. EXTRATERRITORIALITY.

Except as provided in this Organic Law, a Provincial law is presumed to apply throughout the geographical area of that province over which the provincial legislature has jurisdiction and shall have effect only in and in relation to that province.

34. INTERPRETATION OF LOCAL-LEVEL AND PROVINCIAL LAWS.

All Provincial and Local-level laws (including the constitution 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 4. – Judicial Matters**Subdivision A. – Village Courts****35. VILLAGE COURTS.**

(1) Subject to Subsection (2), a Provincial Authority and Local-level Government law may, as permitted by and subject to this Part, may make provision for and in respect of the establishment and administration of village courts of civil or criminal jurisdiction, or both.

Constitutional Amendments (Local-Level Governments)—continued

(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.

Subdivision B. – Other Provincial Courts.

36. OTHER PROVINCIAL COURTS.

As permitted by, and in accordance with, this Part, a Provincial and Local-level Law may make provision for and in respect of the establishment jurisdiction and administration of courts and tribunal of civil or criminal jurisdiction, or both.

Subdivision C. – Court Fees, Fines, Etc.

37. COURT FEES, FINES, ETC.

The powers of Provincial Authorities and Local-level Governments under this Part in relation to courts and tribunal extend to matters relating to the imposition of fees in, and the disposition of fines, penalties and forfeitures imposed by, such courts and tribunals.

Division 5. – Delegated Powers

Subdivision A. – Application of Division.

38. APPLICATION OF DIVISION.

This Part does not –

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

Subdivision B. – Delegations of powers and functions.

39. 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 Authority and Local-level Government; or
- (b) as provided by a Provincial and Local-level law not inconsistent with any Act of the Parliament, by or by direction of the Provincial Executive or a member of the Provincial Authority,

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 6) 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 Authority and Local-level 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 Authority, including a power to make subsidiary legislation; or
- (b) any power or function under a Provincial and Local-level law.

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

Subdivision C. – Alterations to delegating laws.

40. ALTERATIONS OF DELEGATE LAWS.

(1) A law repealing or otherwise altering a provision of a law made for the purposes of Subdivision B 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 instances of the delegate government.

Constitutional Amendments (Local-Level Governments)—continued**PART IV. – INSTITUTIONAL STRUCTURE OF THE ADMINISTRATIVE SYSTEM OF PROVINCIAL AUTHORITY AND LOCAL-LEVEL GOVERNMENT.*****Division 1. – Administrative Institutional Structure of Provincial Authority and Local-level Government.*****41. COMPOSITION OF ADMINISTRATIVE STRUCTURE.**

(1) The administrative structure of Provincial Authority and Local-level Government shall comprise the Office of the Administrator and such other offices within the provincial and district administration as determined in accordance with an Act of the Parliament.

(2) An Act of the Parliament shall provide for the administrative machinery including departments and the deployment of staff and other employees within that machinery.

(3) The boundaries of the administrative units for purposes of this Organic Law shall be determined by an Act of the Parliament.

Division 2. – Provincial Public Service.**42. PROVINCIAL PUBLIC SERVICES.**

(1) There shall be established in each province a Provincial Public Service.

(2) The terms and conditions of provincial public servants and other staff of Provincial Authorities and Local-level Governments shall be determined by an Act of the Parliament.

43. FUNCTIONS AND RESPONSIBILITIES.

A Provincial Public Service is responsible, in accordance with an Act of the Parliament, for –

- (a) implementing the plans and policies of the Provincial Authorities and Local-level Governments; and
- (b) implementing the policies of the National Government; and
- (c) managing public resources in accordance with law.

44. INTERNAL ORGANISATION AND PROCEDURES.

An Act of the Parliament shall make provision for the internal organisation and procedures of the Provincial Public Service.

45. OFFICE OF THE ADMINISTRATOR.

(1) An Office of the the Administrator is hereby established.

(2) The Office of the Administrator shall comprise –

- (a) the Administrator; and
- (b) the Deputy Administrators; and
- (c) the District Managers; and
- (d) other officers and staff.

46. POWERS AND FUNCTIONS.

An Act of the Parliament shall determine the powers and functions of the Provincial Administrator, the Deputy Administrators, District Managers and officers and staff and their terms and conditions of employment.

47. REMOVAL FROM OFFICE.

An Act of the National Parliament shall provide for grounds of removal of the Administrator, Deputy Administrators, District Managers and the Officers and staff referred to in Section 47.

Division 3. – Assign Members.**48. ASSIGNMENT OF MEMBERS OF THE NATIONAL PUBLIC SERVICE TO PROVINCIAL PUBLIC SERVICE**

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

(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 their services available to provincial authority, shall be borne by the National Government.

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

(4) The members of the Chairman's staff hold office on such terms and conditions, as determined by the Salaries and Conditions Monitoring Committee in consultation with the Provincial Executive Council.

Constitutional Amendments (Local-Level Governments)—continued**Division 4. — Teaching Staff as members of the Provincial Public Service.****49. MEMBERS OF THE TEACHING SERVICE IN PROVINCIAL SCHOOLS.**

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

- (a) incorporation of teaching staff as members of the Provincial Public Service; and
- (b) the continued availability of members of the Teaching Service as members of Provincial Public 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 authority; and
- (c) the transfer to the provincial executive of control over members of the Teaching Service in and for schools referred to in Paragraph (a).

Division 5. — Fiscal Regime.**Subdivision A. — Provincial Authorities and Local-level Governments Finances.****50. PROVINCIAL AUTHORITY AND LOCAL-LEVEL GOVERNMENT FINANCES**

(1) The finances of a Provincial Authority and Local-level Government shall consist of —

- (a) receipts from taxation and fees imposed by Provincial Authority Local-level Government as provided under this Part and any other laws; and
- (b) grants from the National Government as provided for by Division 6, including grants on account of Local-level and Provincial staffing in accordance with Section 57; and
- (c) the proceeds of court fees, fines and penalties as provided for by Section 62 and 66, and other fees and charges under a law as provided for by Section 67; 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 owed by it in accordance with Section 72; and
- (f) such other moneys as are lawfully available to it under an Act of the Parliament or a local-level law.

(2) The provincial or district treasury is empowered under this Organic Law and other relevant Act of the Parliament to collect any revenue as are imposed by the National Government, or a Lower-level Government as are specified under this Organic Law.

Subdivision B. — Grants and Aid from National Government.**51. GRANTS GENERALLY.**

The National Government may make the following grants to a Local-level Government, in accordance with this Division: —

- (a) minimum unconditional administrative grants in accordance with Schedule 2; and
- (b) minimum provincial rural infrastructure development grants in accordance with Schedule 3; and
- (c) minimum rural local-level government and village services grants in accordance with Schedule 5; and
- (d) minimum town and urban services grants in accordance with Schedule 4; and
- (e) minimum staffing grants in accordance with Schedule 6; and
- (f) derivation grants in accordance with Schedule 7; and
- (g) the share of national taxation referred to in this Part.

52. MINIMUM UNCONDITIONAL ADMINISTRATION GRANTS.

(1) For each fiscal year, the National Government shall, out of moneys lawfully available for the purpose, make unconditional grants to local-level grants through Provincial Treasury.

(2) The minimum amount of the unconditional grant to Provincial Authority in respect of a fiscal year shall be as calculated in accordance with Schedule 2 and Schedule 6.

53. CONDITIONAL GRANTS.

(1) The National Government shall out of moneys lawfully available for the purpose to make conditional grants to Local-level Government through provincial treasury, for any purpose agreed on by the National Government and Local-level Government.

(2) The amount of the minimum conditional grant to the Local-level Government in respect of a fiscal year shall be as calculated in accordance with the following:—

- (a) for Provincial Rural Infrastructure Development Grant — in Schedule 3; and
- (b) for Local-level Government and Village Services Grants — in Schedule 5; and
- (c) for Town and Urban Services Grants — in Schedule 4.

Constitutional Amendments (Local-Level Governments)—continued

(3) A grant under Subsection (1) and (2).

(a) may be subject to such conditions as are agreed on by the National Government; and

(b) shall be expended only as for the purpose for which it was made and in accordance with the conditions agreed on.

54. DERIVATION GRANTS.

(1) For each fiscal year, the National Government shall, out of moneys lawfully available for the purpose, pay to Local-level Governments through Provincial Treasury, a conditional amount equal to 5% of the export value derived from the province of goods produced during the preceding fiscal year.

(2) The goods as mentioned in Subsection (1) shall exclude mining and petroleum export products.

(3) For the purposes of Subsection (1), (2) and the value derived from a province shall be calculated in accordance with Schedule 7.

(4) For the purpose of this Section, no account shall be taken of –

(a) goods exported as passengers baggage or personal effects; or

(b) ship's or aircrafts 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.

55. GRANTS ON ACCOUNT OF PROVINCIAL STAFFING.

(1) In addition to any other grants and assistance provided or that may be provided under this Organic Law or other, the National Government shall in respect of each fiscal year, grant unconditionally to each Provincial Authority and Local-level Government an amount equal to the sum of the salaries and allowances, and the cost of other conditions of employment, of members of the Provincial Public Service and Provincial Authority and Local-level Government staff as set out in Schedule 6.

(2) Such scale and range of salaries or conditions shall in for practical purposes commensurate with the National Public Service.

(3) This section does not limit the right of a Local-level Government to apply any amount granted under this Section in such manner as it thinks to be in the best interest of the province or the local area.

56. PRE-APPROPRIATION OF CERTAIN GRANTS.

(1) Any amount payable by the National Government to a Provincial Authority and Local-level Government through a Provincial Treasury –

(a) as the minimum amount of unconditional grant payable in accordance with Section 52; or

(b) by way of a derivation grant in accordance with Section 54; or

(c) as conditional grant in accordance with Section 53; or

(d) by way of share of the national taxation provided for by this Part,

shall be paid out of the consolidated revenue fund 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 (d), in the absence of proof to the contrary, is a proof that the amount is to be payable.

57. GUARANTEE OF ANNUAL BUDGET.

Subject to the Constitution, the grants as are set out in Schedule 1 to 7 made to the Provincial Authorities and Local-level Governments shall be guaranteed annually.

Subdivision C. – Taxation Generally.**58. LOCAL-LEVEL GOVERNMENTS TAXATION GENERALLY.**

A Local-level 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 this Organic Law.

59. EXCLUSIVE LOCAL-LEVEL TAXES.

Subject to the Organic Law, a Local-level law may impose or provide for the imposition of taxation of all or any kind referred to in this Part.

Constitutional Amendments (Local-Level Governments)—continued**60. POWER TO IMPOSE TAXATION AND FEES.**

(1) A Provincial Authority and Local-level Government has power to impose the following taxes and fees for the purposes of raising its revenues –

- (a) goods and services tax; and
- (b) taxes on public entertainments for which admission is charged, and on places kept for the purposes of such entertainment; and
- (c) fees for licences for general trading (other than banks within the meaning of the Banks and Financial Institutions Act; and
- (d) fees for the licensing of places where intoxicating liquor is sold; and
- (e) fees for licensing to operate or carry on gambling, lotteries and games of chance; and
- (f) developed property tax; and
- (g) community services taxes for provision of direct services; and
- (h) book-makers tax; and
- (i) project tax; and
- (j) motor vehicle registration & licences; and
- (k) road-users tax; and
- (l) court fees and fines; and
- (m) environment tax; and
- (n) any taxes and fees having been imposed immediately before the commencement of this Organic Law.

(2) A Provincial Authority and Local-level Government may impose other taxation by virtue of a delegation from the National Government under this Organic Law.

(3) Subject to this Section, the National Government shall not impose the taxes as referred to in Subsection (1) and (2).

(4) The details of all taxes to be imposed shall be outlined in accordance with an Act of the Parliament.

61. SHARING OF NATIONAL GOVERNMENT REVENUES RAISED IN PROVINCES.

(1) The National Government shall share with Provincial Authorities and Local-level Governments the revenues generated by the following taxation and fees as imposed by its authorised agents:—

- (a) duty and excise taxes; and
- (b) timber resource taxes; and
- (c) seaport and airport revenues; and
- (d) water service revenues; and
- (e) mining resource taxes; and
- (f) marine resource taxes; and
- (g) any other revenue tax that would be to the extent be shared with the National Government as would be in accordance with the decision by the National Executive Council or the National Parliament.

(2) The National Parliament by an Act of the Parliament or by contract shall share its revenue referred to in Subsection (1) with Provincial Authorities and Local-level Governments.

62. OTHER GENERAL TAXES.

(1) For the purposes of Section 61, the imposition of any other tax and revenue raising measures is subject to the specific by-laws and regulations of Provincial Authorities and Local-level Governments.

(2) Imposition of general taxes, as referred to in Subsection (1) shall first be referred to the provincial treasury who shall consult with the Internal Revenue Commission for approval.

63. 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 Authority or Local-level Government.

(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 Authority or Local-level Government is exempt from taxation; and
- (b) property imported or otherwise obtained by a Provincial Authority or Local-level 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 Authority or Local-level Government is exempt from taxation under any Act of the Parliament; and
- (d) a Provincial Authority or Local-level Government is exempt from stamp duties or similar charges under any Act of the Parliament; and
- (e) the National Government and other Provincial Authorities or Local-level Governments are exempt from goods and services tax imposed under a Provincial or Local-level law so far as goods purchased by the National Government or other Provincial Authorities or Local-level Governments for its own use and not for sale are concerned.

Constitutional Amendments (Local-Level Governments)—continued

(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 Authority or Local-level Government; and
- (b) an instrumentality of the National Government or a Provincial Authority or Local-level Government.

(4) This Section does not limit the power of the National Government or a Provincial Authority or a Local-level Government to grant any exemption from taxation imposed by it.

64. COURT FEES AND FINES.

(1) Where a lower-level law made for the purposes of Section 39 provides for the imposition of fines or penalties, or of forfeiture, for any offence against any lower-level law, the amount of the fines or penalties shall be paid, or the forfeiture shall be made, as the case may be, to the Provincial Authority or Local-level Government.

(2) Where a Provincial or Local-level law made for the purposes of Section 39 provides for a fee to be payable in any court, the amount of the fee shall be paid to the Provincial Authority or a Local-level Government.

65. OTHER FEES, CHARGES, ETC.

A Provincial or Local-level 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 or a Local-level law.

Subdivision D. – Avoidance of Discrimination.**66. DISCRIMINATION.**

A Provincial or Local-level law that imposes a tax to the extent that it –

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

is invalid.

Subdivision E. – Accounting Records and Internal Audits.**67. ACCOUNTING RECORDS.**

(1) Provincial Authority and Local-level Government shall keep or 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) a registry of assets is kept and adequate control is maintained over its assets in its custody and over the incurring of expenses by it; and
- (c) all other expenditure incurred but unpaid, and all other revenues earned but unreceived and currently made are properly authorised and provided for in the formal accounts.
- (d) all moneys received are correctly recorded.

(2) Annual financial and other reports shall be submitted to the Provincial Treasurer not later than 30th March each fiscal year.

(3) The internal organisation, accounting procedures, financial reports and financial management shall be regulated by an Act of the Parliament.

68. INTERNAL AUDITS.

(1) A Provincial Authority shall set up an internal audit unit to ensure that –

- (a) financial control mechanism are in place; and
- (b) proper records are kept for receipts and payments of money and all other revenue earned but unreceived; and
- (c) formulate control procedures to ensure proper records are kept; and
- (d) there shall be continuous consultation between Internal Auditor, Provincial Auditor and Provincial Treasury to the extent as to safeguard funds and conduct proper audit by the Provincial Auditor.

(2) The Internal Audit Unit in the Provincial Authority shall provide internal audit services to Local-level Governments.

Constitutional Amendments (Local-Level Governments)—continued**Subdivision F. – Borrowing and Guarantees.****69. BORROWING BY PROVINCIAL AUTHORITIES AND LOCAL-LEVEL GOVERNMENTS.**

Provincial Authority and Local-level Government may borrow internally or externally in accordance with an Act of the Parliament.

Subdivision G. – Investments.**70. INVESTMENT BY PROVINCIAL AUTHORITIES AND LOCAL-LEVEL GOVERNMENTS.**

Investment by Provincial Authority and Local-level Government shall be determined in accordance with an Act of the Parliament.

PART V. – CONSTITUTIONAL SUPERVISION, CONTROL AND ACCOUNTABILITY.**Division 1. – Fiscal Control.****Subdivision A. – Provincial and District Treasuries.****71. ESTABLISHMENT OF LOWER-LEVEL TREASURY.**

(1) There shall be Provincial and District Treasuries.

(2) Subject to this Organic Law and to the constitution, powers of control of fiscal matters shall be vested in and exercised by the provincial and district treasuries and other power as determined by an Act of the National Parliament.

72. APPOINTMENT OF PROVINCIAL TREASURER.

(1) The Provincial Treasurer shall be appointed by the Minister responsible for financial matters on the recommendation of the Provincial Executive Council after receiving recommendations from the Departmental Head of the Department responsible for financial matters.

(2) The Provincial Treasurer shall be responsible for the operations of the provincial and district treasuries.

(3) The Provincial Treasurer may be removed from office in accordance with an Act of the Parliament.

73. FUNCTIONS OF THE PROVINCIAL AND DISTRICT TREASURY.

Without limiting the generality of this Section, the functions and duties of the Provincial and District Treasuries shall be similar to the functions and duties of the Department responsible for financial matters of the Internal Revenue Commission, and in particular, shall be—

- (a) to advise the formulation of financial policies for the Provincial Authorities and Local-level Governments in line with the National Government policies and priorities; and
- (b) to set local economic and fiscal strategies for Provincial Authorities and Local-level Government in line with the National Government economic and fiscal policies; and
- (c) to assist with the formulation of the annual budget estimates for the Provincial Authorities and Local-level Governments in accordance with the provincial development priorities; and
- (d) to collect revenues in accordance with Provincial and Local-level laws; and
- (e) to collect on behalf of the Provincial Authorities and Local-level Governments the relevant grants, taxes and fees, and to collect other lawful monies; and
- (f) to collect on behalf of the National Government and Internal Revenue Commission the taxes and fees and other lawful monies; and
- (g) to act as custodian and hold in its trust all public and lawful moneys in its possession; and
- (h) to maintain the provincial data system; and
- (i) to act as an agent of the National Economic and Fiscal Commission, National Treasury and Internal Revenue Commission to facilitate the performance of their functions.

74. INDEPENDENCE OF THE PROVINCIAL TREASURER.

(1) An Act of the Parliament shall make provision for and in respect of the independence of the Provincial Treasurer.

(2) The Provincial Treasurer shall release funds strictly only in accordance with law.

75. ADMINISTRATIVE STRUCTURE OF PROVINCIAL AND DISTRICT TREASURY.

(1) There –

(a) shall be a Provincial Treasurer; and

(b) may be a District Treasurer,

who shall be professionally qualified accountants with sufficient or substantial experience in both commercial and government accounting.

Constitutional Amendments (Local-Level Governments)—continued

(2) The Department responsible for financial matters shall oversee the affairs of the Provincial and District Treasuries.

(3) The Provincial Treasurer shall employ other officers and employees as considers necessary for purposes of performing the functions of Provincial and District Treasuries under this Part.

(4) The District and Sub-district Finance Office shall be required to provide monthly cash receipts or payment summary and reports of the net assets to the provincial treasurer no later than 30 days after the closure of business for the preceding month.

(5) The District and Sub-district Finance Office shall carry out some delegated functions of the provincial treasury both on a permanent basis or on an adhoc basis as is required from time to time.

Subdivision B. – National Economic and Fiscal Commission.**76. ESTABLISHMENT OF THE COMMISSION.**

As required by Section 187H (1) (inter-governmental relations) of the National Constitution, a National Economic and Fiscal Commission is hereby established.

77. COMPOSITION OF THE COMMISSION.

(1) The National Economic and Fiscal Commission shall consist of nine members, all of whom must be citizens.

(2) The members of the Commission shall be appointed by the Head of State, acting on advice of the National Executive Council.

(3) The National Economic and Fiscal Commission shall consist of –

(a) a qualified accountant nominated by the Papua New Guinea accounting profession; and

(b) an economist nominated by a national educational institute; and

(c) a lawyer nominated by Papua New Guinea legal profession; and

(d) a banker from the Papua New Guinea bankers institute; and

(e) a social researcher from a leading National research institution; and

(f) the Head of the Bank of Papua New Guinea or his nominee; and

(g) the Departmental Head of the Department responsible for financial matters; and

(h) two Provincial Treasurers.

(4) The Head of State acting on advice shall appoint one of the Commissioners in paragraph (3) to be the Chairman of the Commission, who shall be a working Chairman.

(5) The Commission shall have the power to summon persons to provide information, reports and other documents for the purposes of the Commission.

(6) The functions and duties of the Commission shall be determined by an Act of the Parliament

(7) The Commission shall meet not less than three times a year in accordance with an Act of the Parliament.

78. INDEPENDENCE OF THE COMMISSION.

In the exercise and performance of its powers, functions, duties and responsibilities, the National Economic and Fiscal Commission is not subject to direction or control by any person or authority.

79. FUNCTIONS OF THE COMMISSION.

(1) In addition to any other functions, duties and responsibilities under this Organic Law or any other law, the National Economic and Fiscal Commission has, without limiting the generality of this Section, the following functions, duties and responsibilities:–

(a) to provide broad view of the macro economic factor and assessment of the development of the Provincial Authorities and Local-level Governments and National Government; and

(b) to assess the policy and planning mechanism within the Provincial Authorities and Local-level Government and provide the Minister responsible for financial matters with such information; and

(c) to assess the suitability for loan applications from Provincial Authorities and Local-level Governments and advise the Minister responsible for financial matters; and

(d) to ensure that the Provincial Authorities and Local-level Government get fair share of national wealth; and

(e) to consider, and to make recommendations to the National Executive Council on the allocation of grants to Provincial Authorities and Local-level Governments and between National Government and Provincial Authorities and Local-level Governments; and

(f) to ensure major local participation in business in both rural and urban centres; and

(g) to monitor and control foreign investment in ensuring that the control of the economy must be in the hands of Papua New Guineans; and

(h) to monitor and publish yearly reports relating to the economic activities of the Provinces.

Constitutional Amendments (Local-Level Governments)—continued

(2) The Commission shall in each year prepare and furnish to the Minister responsible for financial matters, by the first sitting of the Parliament during the next fiscal year, a report on the working of the Commission.

(3) The Minister shall cause a copy of the report furnished under Subsection (2) to be laid before Parliament within 15 sitting days of the National Parliament after the day on which the Minister receives the reports.

(4) Copies of the report may be made available to other relevant Ministries and Provincial Authorities.

80. 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 terms and conditions of members of the National Fiscal Commission; and
- (b) the procedures, powers, functions and duties of the Commission.

81. THE SECRETARIAT.

(1) An Act of the National Parliament shall establish an Office of the Secretariat to the National Economic and Fiscal Commission.

(2) The functions and duties of the Office of the Secretariat shall be determined by an Act of the Parliament.

Subdivision C. – Provincial Auditor.**82. PROVINCIAL AUDITOR.**

(1) There shall be Provincial Auditor for Provincial Authority and Local-level Government.

(2) The Provincial Auditor is responsible to the Provincial Executive Council for operation of the Public Accounts in the Province but in the exercise of his constitutional powers and functions he shall be independent from any direction or control from any authorities or persons except the Auditor-General.

83. STAFFING.

(1) The Provincial Auditor shall be a registered accountant or qualified auditor with sufficient experience in both commercial and government audits.

(2) The Provincial Auditor may employ such number of qualified auditors and any other persons as he considers necessary for the purposes of adequately carrying out audit functions under this Organic Law and in accordance with an Act of the National Parliament.

84. FUNCTIONS OF THE PROVINCIAL AUDITOR.

The functions of the Provincial Auditor are:-

- (a) to inspect and audit the Provincial Authority and Local-level Government accounts, assess financial reports and make his findings regularly to the Provincial Executive Council and the Auditor-General; and
- (b) To carry out effective and efficient audit of the Provincial Public Service and report its findings regularly to the Provincial Executive Council and the Administrator.

85. APPOINTMENT OF AUDITOR.

(1) The Provincial Auditor shall be appointed by the Head of State acting on advice after receiving recommendation of the Auditor-General.

(2) A Provincial Auditor may be removed in accordance with an Act of the National Parliament.

Subdivision D. – Provincial Accounts.**86. SUBMISSION OF PROVINCIAL ACCOUNTS.**

(1) Each Provincial Authorities and Local-level Government shall submit to the Minister responsible for Provincial Authorities and Local-level Governments 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 other information, as the Minister requires by the first sitting of the Parliament during the next fiscal year.

(2) Non-compliance with Subsection (1) shall entitle the Minister to withhold half of the funds appropriated for that fiscal year for the province until compliance is secured.

87. CONTROL AND AUDIT OF PROVINCIAL ACCOUNTS.

(1) Subject to Subsection (2), 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 authority.

(2) The Provincial Auditor shall audit the accounts of Provincial Authorities and Local-level Governments annually and may inspect the accounts at any time without notice.

Constitutional Amendments (Local-Level Governments)—continued

(3) The report of the Auditor-General shall be given to —

- (a) the Minister responsible, for Provincial Authority and Local-level Governments who shall table the report in Parliament at its meeting immediately following the receipt of the report; and
- (b) Provincial Authorities and Local-level Governments concerned.

Subdivision E. — Provincial Data System**88. PROVINCIAL DATA SYSTEM.**

For the purposes of determining the minimum grants and relevant revenue figures, Provincial Authorities and Local-level Governments, including Urban Councils and authorities, and District Manager shall be required to maintain a provincial data system through the Provincial Treasury which shall include all or any, but not limited to —

- (a) annual population figures of their province, district or local-level government areas; and
- (b) export values of products from their areas; and
- (c) physical boundaries of a province, district and Local-level government areas; and
- (d) basic information on their infrastructures and properties; and
- (e) relevant economic and social data.

Division 2. — Administrative Controls.**Subdivision A. — Provincial Public Service Board.****89. ESTABLISHMENT OF THE PROVINCIAL PUBLIC SERVICE BOARD.**

- (1) A Nationally based Provincial Public Service Board is hereby established.
- (2) The Board shall consist of —
 - (a) departmental head of the department responsible for Public Service matters; and
 - (b) the chairman of the Public Services Commission or his nominee; and
 - (c) four administrators who have had substantial experience in Public Service who are currently serving in provincial administration to represent the four regions in Papua New Guinea; and
 - (d) a representative of the National Training Council.
- (3) All of the members of the Commission must be citizens.
- (4) The Head of State acting on advice shall appoint the members referred to Subsection (2)(c) and (d).
- (5) An Act of the Parliament may provide for such powers, internal organisations and procedures of the Board.

90. FUNCTIONS OF THE BOARD.

The Board shall be responsible —

- (a) for ensuring appropriate training of the officers of the Provincial Public Service Board for the purpose of proper carrying out the functions and duties of the Provincial Public Service; and
- (b) for co-ordinating and monitoring inter-relationship between the Provincial Public Service and National Public Service; and
- (c) for reviewing of personnel matters of the Provincial Public Service and to provide continuous review of the Organisation in accordance with an Act of the Parliament; and
- (d) for monitoring the deployment of officers of the Provincial Public Service throughout the provinces or the country; and
- (e) for continuous review of State Services and other governmental bodies; and
- (f) for advising the Provincial Executive Council on matters relating to the Provincial Public Service; and
- (g) to liaise with other relevant organisations for training of Provincial Public Servants; and
- (h) such other functions as may be assigned to it by the Provincial Executive Council.

Subdivision B. — Administrative Review Tribunal.**91. ADMINISTRATIVE REVIEW TRIBUNAL.**

- (1) An Administrative Review Tribunal is hereby established.
- (2) An Act of Parliament shall make provisions for and in respect of —
 - (a) composition of the Tribunal; and
 - (b) qualification of members of the Tribunal; and
 - (c) such other matters relating to the functions of the Tribunal.

Constitutional Amendments (Local-Level Governments)—continued

(3) The purposes of the Tribunal is hear appeals from members of the Provincial Public Service and others in accordance with an *Act* of the Parliament.

(4) The Tribunal shall be headed by a judge of the National Court and other members appointed in accordance with an *Act* of the National Parliament.

Division 3. — Application of Leadership Code and Disclosure of Interest.

92. LEADERSHIP CODE.

Pursuant to Section 26(3) of the Constitution (Application of Division (2), the office of member of Provincial Authority and Local-level Government is declared to be a public office to and in relation to which Division III. 2 (Leadership Code) of the Constitution applies.

93. DISCLOSURE OF INTEREST BY MEMBERS OF THE LOCAL-LEVEL GOVERNMENTS.

(1) A member of the Local-level Government who is, or a member of the Local-level Government whose immediate family is in any way directly or indirectly interested —

(a) in a contract made or proposed to be made by the Provincial Authority and Local-level Government, or under consideration by the Provincial Authority and Local-level Government; or

(b) in any other matter whatsoever which falls to be considered by the Provincial Authority and Local-level Government,

shall disclose the nature of the interest at a meeting of the Provincial Authority and Local-level Government.

(2) A disclosure under Subsection (1) shall be recorded in the minutes of the Local-level Government, and the member shall not —

(a) in the case of contract referred to in Subsection (1)(a), shall not take part after the disclosure in the deliberation or decision of the Provincial Authority and Local-level Government with respect to that contract; and

(b) in the case of any other matters referred to in Subsection (1)(b), take part in any deliberation or decision of the Provincial Authority and Local-level Government with respect to the matter if the Provincial Authorities and Local-level Governments decides that the interest in question might affect prejudicially the members interest or consideration of the matter.

PART VI. — MISCELLANEOUS.

Division 1. — Tabling of Reports.

94. TABLING OF REPORTS.

(1) Provincial Authorities and Local-level Governments shall in each year prepare and furnish to the Minister responsible for Provincial Authorities and Local-level Governments, by the first sitting of the Parliament during the next fiscal year, a report on the working of the Provincial Authorities and Local-level Governments.

(2) The Minister shall cause a copy of the report furnished under Subsection (1), to be laid before the Parliament within 15 sitting days of the Parliament after the day in which the Minister receives the report.

(3) A copy of the report may be furnished to the Minister responsible for Financial matters, the Department responsible for financial matters and any other relevant Public Bodies.

(4) The form and contents of the report shall be determined by an *Act* of the Parliament.

(5) Nothing in this Subsection(1) prevents the Provincial Authorities and Local-level Governments from making on its own initiative or at the request of the National Parliament or of the National Executive Council, other periodic reports of the Provincial Authority and Local-level Government.

Division 2. — Repeal.

95. REPEAL.

(1) Subject to this Part, the Organic Law on Provincial Government is repealed.

(2) The Repeal of the Organic Law does not —

(a) revive anything (including a statute or any part of the under-lying law) that was not in force or existing immediately before the repeal took effect; or

(b) affect the previous operation of the repealed provisions or anything duly done or suffered under them; or

Constitutional Amendments (Local-Level Governments)—continued

- (c) affect any right, privilege, obligation or liability acquired or incurred under the repealed provisions; or
- (d) affect any penalty, forfeiture or punishment incurred in respect of an offence committed against the repealed provision; or
- (e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment,

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and the penalty, forfeiture or punishment may be imposed, as if the repealed provisions had continued in force.

(3) In particular, the repeal of the Organic Law does not –

- (a) affect any liability under Division III. 2 (Leadership Code); or
 - (b) prevent the Ombudsman Commission or any other tribunal established for the purpose of that Division from investigating any Act,
- to which the repealed provisions were relevant.

(4) Where an Organic Law is repealed and re-enacted (with or without modification), references in any other law to any of the repealed provisions shall, unless the contrary intention appears, be read as reference to the amended or replacing provision.

Division 3. – Savings and Transitional.**Subdivision A. – Interim Provincial Authority.****96. INTERIM PROVINCIAL AUTHORITY.**

There shall be established an Interim Provincial Authority for a province for purposes of governing that province until the next National Elections.

97. COMPOSITION.

(1) Subject to this Section, an Interim Provincial Authority of a Province shall comprise –

- (a) all members of the National Parliament from that province; and
- (b) a reasonable number of Presidents or their equivalents of Local-level Governments appointed by the Head of State on the advice of the Minister as determined by the Open Member in consultation with the Presidents or their equivalents in his Electorate; and
- (c) three other nominated members who may be appointed by the Head of State acting on the advice of National Executive Council after consultation with the Chairman of the Provincial Authority; and
- (d) The total number of members of an Interim Provincial Authority shall not exceed the total membership of the former Provincial Assembly.

(2) The Provincial Member of the National Parliament shall be the Chairman of the Interim Provincial Authority in accordance with Sections 7 and 8 of this Organic Law.

(3) In all Provinces, whether or not the Provincial Government is suspended the seat of each member of the Provincial Assembly shall cease to exist upon the coming into force of this Organic Law and to that extent the members of that seat shall be fully compensated for loss of office for the balance of this uncompleted term of office.

(4) The remunerations, privileges and other benefits of office of other members of the Interim Provincial Authority shall be as determined by the Salaries and Remunerations Commission.

(5) Nothing in this Organic Law affects the continued existence and operation of the National Capital District Commission.

(6) Nothing in this Organic Law affects the system of Local-level Governments in the Province of North Solomons except to the extent that the compositions of the Interim Provincial Authority for purposes of Subsection (1)(b) may include the Chairman of each Interim Authority in that Province.

(7) The Interim Authority shall determine its own procedures, quorums and number of meetings of the Authority.

98. POWERS.

(1) The Interim Provincial Authority shall exercise all the powers of the former Provincial Assembly until the next National Elections.

(2) The Interim Provincial Assembly shall exercise in particular all the powers that are necessary for the purpose of establishing administrative base to facilitate the operation of this Organic Law when the Organic Law comes into full operation.

Constitutional Amendments (Local-Level Governments)—continued**99. MEETING.**

The Head of State, acting on advice, shall call the first meeting of the Interim Provincial Authority within three (3) months immediately following the coming into force of this Organic Law, and there shall be not less than four meetings of the Interim Provincial Authorities in each calendar year.

100. ADMINISTRATIVE SYSTEM.

(1) Subject to this Section, the Administrative System which provides professional and technical services to the former Provincial Government shall continue to provide the same services to the Interim Provincial Authority.

(2) The Administrative System shall cease to operate after one year following the coming into force of this Organic Law.

101. PROVINCIAL GOVERNMENT PROPERTIES, ASSETS AND LIABILITY.

Subject to this Organic Law, all assets held by, and obligations and liabilities of the Provincial Government established under the Organic Law on Provincial Government (repealed) immediately before the coming into operation of this Organic Law on that date of coming into operation are transferred to and become assets, obligations and liabilities of the Interim Provincial Authority, and thereafter shall vest in the Provincial Authority and Local-level Governments immediately on the date the Provincial Authority and Local-level Government is duly established in accordance with law.

102. CONTINUITY OF GOVERNMENT.

(1) For all intent and purposes, the Interim Provincial Authority continues to operate as a successor of the former Provincial Government as if the latter body had been constituted as the former body in accordance with the provisions of this Organic Law.

(2) Subject to the Constitution and this Organic Law, an Interim Provincial Authority may determine the appropriate form of a Local-level Government for the interim period.

103. CONTINUITY OF PROVINCIAL AND OTHER LAWS.

Subject to the Constitution and this Organic Law, laws of the former Provincial Governments, Local-level Governments, and the National Government to the extent that they are concerned with and relate to the former system of provincial government and Local-level Governments shall continue to apply as if they had been enacted by those authorities respectively for purposes of giving effect to this Organic Law.

Subdivision B. – Savings.**104. SAVING OF CONTRACTS.**

All contracts and agreements, other than contracts of employment, entered into, made with or addressed to the Provincial Government are, to the extent that they were made immediately before the commencement date of this Organic Law binding on and enforceable against the Provincial Government binding on and or full force and effect against or in favour of the Provincial Authority and Local-level Government as fully and effectually as if the Provincial Authority and Local-level Government has been a party to them or bound by them or entitled to the benefit of them.

105. REGISTRATION OF TITLE OF LAND.

(1) Where any property vested in the Provincial Government is land registered under the *Land Registration Act* (Chapter 191), the Registrar of Titles shall, without formal transfer, on application in that behalf by the provincial Authority and Local-level Government enter the Provincial Authority and Local-level Government on the register kept under that Act, and on entry or registration, grant a certificate of title, lease or other instrument evidencing title to the land within that Act.

(2) No stamp duty or other duty, tax or fee is payable on a registration made under Subsection (2).

106. PENDING LEGAL PROCEEDINGS.

Where, immediately before the commencement date, any arbitration, action or proceeding was pending or existing by, against or in favour of the Provincial Government it does not, on the commencement date, abate or discontinue but it may be prosecuted, continued or enforced by, against or in favour of the Provincial Authority and Local-level Government.

PART VII. – FACILITATIVE PROVISIONS.**Division I. – Introduction.****Subdivision A. – Meaning of Certain Expressions.****107. GENDER AND NUMBER.**

(1) In this Organic Law –

Constitutional Amendments (Local-Level Governments)—continued

- (a) words importing the male gender includes females; and
- (b) words in the singular includes the plural and words in the plural includes the singular.

(2) Unless the contrary intention appears, where an expression is defined for any purpose in this Organic Law, then for that purpose all grammatical variations and cognate and related expressions are to be understood in the same sense.

Subdivision B.— General Legislative Powers of the National Parliament.**108. GENERAL LEGISLATIVE POWERS OF THE NATIONAL PARLIAMENT.**

(1) Except as expressly provided by Part III, that Part (Part III) does not affect the power of the National Parliament, under Section 109 (General Constitution), to make laws for the peace, order and good government of Papua New Guinea.

(2) Subject to the constitution, the National Parliament shall exercise any of the powers in Part III only if the National interest so requires.

Subdivision C. — General Legislative Powers of Provincial Authorities and Local-level Governments.**109. GENERAL LEGISLATIVE POWERS OF PROVINCIAL AUTHORITIES AND LOCAL-LEVEL GOVERNMENTS.**

(1) Within the limits allowed or imposed by this Organic Law and the other National Constitutional Laws, Provincial Authorities and Local-level Governments have 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 Laws, makes specific provision for an Act of the Parliament as to any matter, a Local-level Government 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 Authority and Local-level Government laws may be made -

- (a) on any subject provision for which by way of a Provincial and Local-level laws is expressly authorized by a provision of this Organic Law other than this Part, or by any other National Constitutional Law; and
- (b) in the field of Local-level competence, as provided for by Division III; and
- (c) in the field of competence shared with that of the National Parliament, in this Organic Law; and
- (d) in any other field in which there is no competing National legislation, as provided for in this Organic Law; and
- (e) in relation to judicial matters, as provided for by Part III; and
- (f) under delegation by the National Government as provided for in this Organic law; and
- (g) in relation to taxation, as provided for by Part IV.

110. APPLICATION OF PUBLIC FINANCES (MANAGEMENT) ACT.

Part VIII. of the Public Finance (Management) Act 1986 shall apply to and in relation to this Part in relation to the province unless is determined otherwise by the Interim Provincial Authority.

Subdivision D.— Interpretation of Provincial and Local-level Laws.**111. INTERPRETATION OF PROVINCIAL AND LOCAL-LEVEL LAWS.**

All Provincial and Local-level laws 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.

Subdivision E.— Exhaustive laws.**112. 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,

Constitutional Amendments (Local-Level Governments)—continued

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.

Subdivision F.— Consultation Generally.**113. 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 Authority and Local-level Government 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 subjects to which Part III applies.

Subdivision G.— Notice of Acts of the Parliament.**114. NOTICES 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 Authorities and Local-level Governments shall, as soon as practicable, advise the Provincial Authority and Local-level Government concerned of the law or proposed law and of the reason for the urgency.

(3) If -

- (a) the Minister responsible for Provincial Authority and Local-level Government 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 Authorities and Local-level Governments shall give to each provincial Authority 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 authority.

Subdivision H.— Commencement of Provincial Laws.**115. COMMENCEMENT OF PROVINCIAL LAWS.**

(1) Notwithstanding anything in any provincial law, except with the consent of the Minister responsible for Provincial Authorities and Local-level Government, a provincial law shall not come into operation until the end of the period of 30 days after the Provincial Authority and Local-level Governments has sent 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 in the quickest practicable manner to the Minister responsible for Provincial Authority and Local-level Government.

Constitutional Amendments (Local-Level Governments)—continued

Subdivision I.— Disallowance of Provincial Laws.

116. DISALLOWANCE OF PROVINCIAL LAWS.

(1) Subject to Subsection (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 Authorities and Local-level Governments 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.

SCHEDULE 1.

MINIMUM GUARANTEED GRANTS.

Sch.1.1 Interpretation of Schedule 1.

In these Schedules relating to these grants -

"transferred activity" in relation to a province means an activity that was carried out by the National Government as of the preceding fiscal year; and was carried out by the provincial authority and local-level government at some time after that preceding fiscal year, or, is being carried out in the year of grant;

"the year of grant" means the fiscal year for which the minimum grants, under Part IV are to be calculated;

"Minimum base figure" for a transferred activity, means:-

(a) for the year of grant the cost to the National Government in the fiscal year of the transferred activities in the province;

(b) for any subsequent year of grant - the adjusted minimum or guaranteed base figure for the preceding year of grant;

"the preceding fiscal year" in relation to any later year of grant - means the fiscal year immediately preceding that year of grant;

"the cost to the National Government" shall be the minimum or guaranteed base figures as adjusted from time to time in accordance with the use of relevant schedules;

"the population figure" for purposes of calculating the minimum or guaranteed base grant shall be the most recent national, provincial, rural, urban, or local census on head count of natural persons carried out by the National Government;

"the square kilometre" for the purpose of calculating the minimum guaranteed base grant shall be the square kilometre of land mass in the urban and rural areas and provinces.

"Adjusted minimum base figures", for an activity in relation to a year of grant, means the adjusted figure calculated for that year in accordance with the following schedules:-

Schedule 2-Minimum Provincial Administration Grant.

Schedule 3-Minimum Provincial Rural Infrastructure Grant.

Schedule 4-Minimum Town and urban Services Grant.

Schedule 5-Minimum Rural Local-level Government and Village Services grant.

Schedule 6-Minimum Staffing grant.

Schedule 7-Derivation grant.

Sch.1.2. Determination of kina values of Formulas.

In determining the Adjusted Minimum or Guaranteed Base Figure, the kina values of the formulas of appropriate schedules can only be adjusted proportionate to the decrease or increase in the cost of living or the Consolidated Revenue Fund, by the Minister responsible for financial matters after due consultation with the National Economic and Fiscal Commission, and the total amount derived for each province shall not be less than the minimum or the guaranteed base figure.

Sch.1.3. Cost of Living.

The cost of living is obtained by averaging the Consumers 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.

Constitutional Amendments (Local-Level Governments)—continued**Sch.1.4 .Price Index.**

If the Consumers Price Index or the Statistician's Price Index is not available at any time, the Government Statistician shall calculate the increase in the cost of living for the purpose of providing information to the Minister responsible for financial matters and the National Economic and Fiscal Commission for the purpose of determining the minimum figure for the year grant.

Sch.1.5. Government Statistician not subject to Control.

The Government Statistician is not subject to the control by any person or authority as to the manner in which calculations are to be made for the purpose of determining the Adjusted Minimum or Guaranteed Base figure.

Sch.1.6. Payments to Consolidated Revenue Fund shall consist of -

- (i) income tax and corporate taxes; and
- (ii) customs and excise duties; and
- (iii) mineral resources stabilisation Fund established or any fund established in the place of that fund; and
- (iv) non-repayable grants (conditional and unconditional) from foreign governments.

SCHEDULE 2.**Secs 53(a), THE CALCULATION OF THE ADJUSTED BASE FIGURE FOR MINIMUM UNCONDITIONAL ADMINISTRATION GRANT****Sch.2.1. Adjusted base figure for Minimum Unconditional Administration Grant.**

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 amount calculated in accordance with the formula:-

$$=(AB + ABC)+(YZ + YZC); \text{ or}$$

$$=(AB + ABD)+(YZ + YZD),$$

Where—

A =Total population of the province; and

B=Minimum figure of not less than K20.00 per head of the total population of the province.

Y=Square kilometre of total land mass in the province; and

Z=Minimum figure of not less than K20.00 per square kilometre of the land mass in the province.

C=The percentage increase (if any) in the cost of living in the preceding year; and

D=The percentage increase or decrease (show 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.

Sch.2.2. Purpose of the Grant.

This grant shall be applied to the cost of provincial and district administration excluding the costs of salaries and allowances and other conditions of employment of staff.

Sch.2.3. Administration Cost.

For the purposes of fair distribution, the cost of maintaining provincial headquarters administration shall not exceed the averages cost of maintaining administrative service in all districts.

SCHEDULE 3.**Sec. 53(b), THE CALCULATION OF THE ADJUSTED BASE FIGURE FOR MINIMUM PROVINCIAL RURAL INFRASTRUCTURE GRANT****Sch.3.1. Base Figure for Minimum Provincial Rural Infrastructure Grant.**

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 amount calculated in accordance with the formula:-

$$=(AB + ABC)+(YZ + YZC); \text{ or}$$

$$=(AB + ABD)+(YZ + YZD),$$

Constitutional Amendments (Local-Level Governments)—continued

Where -

A = Total population of the province; and

B = Minimum figure of not less than K30.00 per head of the total population of the province; and

Y = Square kilometre of total land mass in the province; and

Z = Minimum figure of not less than K20.00 per square kilometre of the land mass in the province; and

C = The percentage increase (if any) in the cost of living in the preceding year; and

D = 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

Sch.3.2. Purpose of the Grant.

This grant shall be applied by a Provincial Authority according to the priorities of a province in the development of rural infrastructure according to the following:-

- (a) 50% to social services and administrative infrastructure; and
- (b) 50% to land and other physical infrastructure development.

SCHEDULE 4.**Sec. 53(d), THE CALCULATION OF THE ADJUSTED BASE FIGURE FOR MINIMUM TOWN AND URBAN SERVICES GRANT****Sch.4.1. Base figure for minimum urban and Town Authorities Grant.**

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 amount calculated in accordance with the formula:

- (AB + ABC); or
- (AB + ABD),

Where -

A = The population of the town or urban district; and

B = Minimum figure per head of the urban population being not less than K20.00 per head; and

C = The percentage increase (if any) in the cost of living in the preceding year; and

D = 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.

Sch.4.2. Purpose of the Grant.

The grant shall be applied by the urban Authorities according to its planned priorities and shall be distributed according to the following:-

- (a) 50% to social infrastructure development; and
- (b) 50% to land and physical infrastructure development.

SCHEDULE 5.**Sec. 53(c), THE CALCULATION OF THE ADJUSTED BASE FIGURE FOR MINIMUM RURAL LOCAL-LEVEL GOVERNMENT AND VILLAGE SERVICES GRANT****Sch.5.1. Base figure for minimum Rural Local-level Government and Village Services Grant.**

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 amount calculated in accordance with the formula:

- =(AB + ABC) + (YZ + YZC); or
- =(AB + ABD) + (YZ + YZD),

Where—

A = The rural population of the province; and

B = Minimum figure per head or not being less than K20.00 per head of rural population; and

Constitutional Amendments (Local-Level Governments)—continued

Y=Square kilometre of rural land mass in the province; and

Z=Minimum figure of not less than K20.00 per square kilometre of the rural land mass of the province; and

C=The percentage increase (if any) in the cost of living in the preceding year; and

D=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.

Sch.5.2. Application of the Grant.

This grant shall be applied by the Rural Local-level Government according to its planned priorities and shall be distributed according to the following:-

- (a) 50% village development and social services; and
- (b) 50% land and other physical infrastructure development.

SCHEDULE 6.

Sec. 53(c), THE CALCULATION OF THE ADJUSTED BASE FIGURE FOR STAFFING GRANTS.

Sch.6.1. Adjusted Base figure of Staffing Grants.

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 amount calculated in accordance with the formula:

$$=(AB + ABC) + (YZ + YZC); \text{ or}$$

$$=(AB + ABD) + (YZ + YZD),$$

Where—

A=Total population of the province; and

B=Minimum figure of not being less than K20.00 per head of the total population of the province.

Y=Square kilometre of land mass of the province; and

Z=Minimum figure of not less than K20.00 per square kilometre of the land mass in the province

C=The percentage increase (if any) in the cost of living in the preceding year; and

D=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.

Sch.6.2. Staffing Grants.

In accordance with Section 55, the relevant positions to qualify under this grant shall be as follows:-

- (a) Provincial Public Service; and
- (b) Assigned National Public Service; and
- (c) Provincial Administration consisting of one expert specialising in the following:-
 - (i) Legal Service; and
 - (ii) Accounting and Budget; and
 - (iii) Project and Works Management; and
 - (iv) Medical Service; and
 - (v) Provincial Planning and Policy Formulation; and
 - (vi) Economist; and
 - (vii) Social Welfare Service; and
 - (viii) Staff Development and Training; and
 - (vix) Education Service; and
 - (x) Primary Industry.
- (d) for Local-level Government Support Service:-
 - (i) Legal Officer; and
 - (ii) Accounting Officer; and
 - (iii) Executive Officer; and
 - (iv) Clerks and Secretarial Service.

Constitutional Amendments (Local-Level Governments)—continued**SCHEDULE 7.****Secs. 53(f), THE CALCULATION OF THE ADJUSTED BASE FIGURE FOR DERIVATION GRANTS.****Sch.7.1. Adjusted Base figure for derivation grants.**

Subject to the succeeding provision of this Section, the adjusted base figure for a transferred activity in relation to a province in a year of grant, means the amount calculated in accordance with the following formula:-

$$A=(C) \times 5\%$$

Where—

A=Total derivation grant to producing province

C=Total export value (f.o.b) of producing province.

The total derivation grant to each province shall be not less 5% of the total export (f.o.b) value of all commodities produced in each province excluding mining and petroleum products.

Sch.7.2. The origins of goods not identified

Where the origins of the goods can not be identified, the Minister responsible for financial matters shall decide on the origins and values of the goods exported.

Sch.7.3. Purpose of the Grant.

For the purposes of grant, the amount shall be used exclusively by the provinces for promoting the export base of their primary and secondary industries.