



National Gazette

PUBLISHED BY AUTHORITY

(Registered at the General Post Office, Port Moresby, for transmission by post as a Qualified Publication)

No. G20] PORT MORESBY, WEDNESDAY, 25th FEBRUARY, [1998

INDEPENDENT STATE OF PAPUA NEW GUINEA

CONSTITUTION

ORGANIC LAW ON PROVINCIAL GOVERNMENTS AND LOCAL-LEVEL GOVERNMENTS

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

Draft of 24/2/98.

INDEPENDENT STATE OF PAPUA NEW GUINEA

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

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

ARRANGEMENT OF CLAUSES

1. Joint District Planning and Budget Priorities Committee (Amendment of Section 33A).
2. District Support Grants (Amendment of Section 95A).
3. New Section 95B.

"95B. PROVINCIAL SUPPORT GRANTS."

Draft of 24/2/98.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

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

entitled

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

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

MADE by the National Parliament.

**1. JOINT DISTRICT PLANNING AND BUDGET PRIORITIES COMMITTEE
(AMENDMENT OF SECTION 33A).**

Section 33A of the *Organic Law on Provincial Governments and Local-level Governments* is amended -

- (a) in Subsection (2)(a), by repealing the words “who shall be the Chairman of the Committee”; and
- (b) by inserting after Subsection (2) the following new subsection:-

“(2A) The Member of the Parliament representing the open electorate in consultation with the heads of local-level Governments in the district shall appoint one of the members appointed under Subsection (2)(d) to be the Chairman of the Committee.”; and

- (c) by repealing Subsection (5); and
- (d) by repealing Subsection (6).

2. DISTRICT SUPPORT GRANTS (AMENDMENT OF SECTION 95A).

Section 95A of the *Organic Law on Provincial Governments and Local-level Governments* is amended -

- (a) by repealing Subsection (1) and replacing it with the following:-

“(1) For each year the National Government shall out of monies lawfully available for the purpose, make a District Support Grant in respect of each open electorate -

- (a) one half of which shall be made to the Joint District Planning and Budget Priorities Committee in the open electorate, for the purpose of funding -
 - (i) the rural action programme; and
 - (ii) the urban rehabilitation programme; and

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(Amendment) Law***

- (b) one half of which shall be made to the Member representing the open electorate to be used in accordance with an Act of the Parliament.”; and
- (b) by adding the following new subsections:-

“(4) The National Government shall, within the first month of each quarter of each fiscal year, make a payment of all monies due for the purposes of the District Support Grant for that quarter to the Joint District Planning and Budget Priorities Committee and to the Member representing the open electorate respectively.

- “(5) The monies referred to in Subsection (4) shall be -
- (a) paid through the District Treasury, where in existence, or otherwise through the Provincial Treasury; and
- (b) in the case of -
- (i) the Joint District Planning and Budget Priorities Committee, paid directly to that Committee by the District Treasury or Provincial Treasury, as the case may be; and
 - (ii) the Member representing the open electorate, paid on his behalf in accordance with the Act of the Parliament referred to in Subsection (6).

“(6) An Act of the Parliament shall make provision for the purposes for which the portion of a District Support Grant payable to the Member representing the open electorate may be used and for the manner in which it shall be disbursed and accounted for and for other administrative arrangements pertaining thereto.”.

3. NEW SECTION 95B.

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

“95B. PROVINCIAL SUPPORT GRANTS.

(1) For each fiscal year the National Government shall out of the monies lawfully available for the purpose, make a Provincial Support Grant to each Member representing a provincial electorate to be used in accordance with an Act of the Parliament.

“(2) The minimum amount of the Provincial Support Grant shall be not less than K300,000.00 per provincial electorate and shall be determined by the National Economic and Fiscal Commission in consultation with the Departmental Head of the Department responsible for finance matters and the Departmental

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(Amendment) Law*

Head of the Department responsible for planning matters.

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

“(4) The National Government shall, within the first month of each quarter in each fiscal year make a payment of all the monies available for the purpose of the Provincial Support Grant under Subsection (1) for that quarter to the Member representing the provincial electorate.

“(5) The monies referred to in Subsection (4) shall be -
(a) paid through the Provincial Treasury; and
(b) paid on behalf of the Member representing the provincial electorate in accordance with the Act of the Parliament referred to in Subsection (6).

“(6) An Act of the Parliament shall make provision for the purposes for which a Provincial Support Grant may be used and for the manner in which it shall be disbursed and accounted for and for other administrative arrangements pertaining thereto.”.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

THE CONSTITUTION.

ALTERATION TO THE CONSTITUTION.

The Government proposes to alter the *Constitution* and, pursuant to Section 14(2) (*Making of alterations to the Constitution and Organic Laws*) of the *Constitution*, I, JOHN PUNDARI, Speaker of the National Parliament, hereby publish the proposed Law -

Draft of 9/2/98.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

PROPOSED LAW TO ALTER THE CONSTITUTION.

Constitutional Amendment (Prime Minister).

ARRANGEMENT OF CLAUSES.

1. General Elections (Amendment of Section 105).
2. Repeal and replacement of Section 142.

“142. THE PRIME MINISTER”.

3. Other Ministers (Amendment of Section 144).
4. Repeal and replacement of Section 145.

“145. DISCHARGE OF GOVERNMENT CAUCUS COMMITTEE.”.

5. Transitional.

Draft of 9/2/98.
INDEPENDENT STATE OF PAPUA NEW GUINEA.

A PROPOSED LAW TO ALTER THE CONSTITUTION

entitled

Constitutional Amendment (Prime Minister),

Being a Law to alter the *Constitution* by making provision for the appointment of the Prime Minister and for related purposes,

MADE by the National Parliament.

1. GENERAL ELECTIONS (AMENDMENT OF SECTION 105).

Section 105 of the *Constitution* is amended -

(a) by repealing Subsection (1) and replacing it with the following:-

- “(1) A general election to the Parliament shall be held -
- (a) within the period of three months before the fifth anniversary of the day fixed for the return of the writs for the previous general election; or
 - (b) if a motion to discharge the Government Caucus Committee is passed by the Parliament in accordance with Section 145; or
 - (c) if, during the last 12 months before the fifth anniversary of the day fixed for the return of the writs for the previous general election the Government is defeated on the vote on a question that the Prime Minister has declared to the Parliament to be a question of confidence; or
 - (d) if the Parliament, by an absolute majority vote, so decides; or
 - (e) if the Prime Minister, acting on the advice of the Government Caucus Committee, so advises the Head of State.”; and
- (b) in Subsection (3)(b), by repealing the reference to “Subsection (1)(b) or (c)” and replacing it with the following:-

“Subsection (1)(b), (c), (d) or (e)”.

2. REPEAL AND REPLACEMENT OF SECTION 142.

Section 142 of the *Constitution* is repealed and is replaced with the following:-

“142. THE PRIME MINISTER.

(1) An office of Prime Minister is hereby established.

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“(2) At the first meeting of the Parliament after a general election, the first matter for consideration, after any formal business and any nomination of a Governor-General or appointment of a Speaker, shall be the election by members of the Parliament of a Government Caucus Committee consisting of a Chairman, Deputy Chairman and four members who shall be members of the Parliament.

“(3) The Prime Minister shall be the Chairman of the Government Caucus Committee and shall be appointed, at the first meeting of the Parliament after a general election, by the Head of State, acting in accordance with the resolution of the Parliament which appointed the Government Caucus Committee.

“(4) Within two weeks of the date of his appointment under Subsection (3), the Prime Minister shall inform the Speaker of the names of members generally supporting the Government and such members shall form the Government caucus.

“(5) The Prime Minister may, from time to time as circumstances arise, inform the Speaker of the names of members who -

- (a) no longer are in the Government caucus; or
- (b) have been accepted into the Government caucus.

“(6) The Prime Minister shall be appointed, on occasions for appointment other than those to which Subsection (3) applies, by the Head of State, acting in accordance with the recommendation of the Government Caucus Committee given after consultation with the Government caucus.

“(7) The Prime Minister -

- (a) subject to Subsection (8), shall be dismissed from office by the Head of State, where the Government Caucus Committee, after consultation with the Government caucus, so recommends to the Head of State; and
- (b) may be dismissed from office in accordance with Division III.2 (*Leadership Code*); and
- (c) may be removed from office by the Head of State, acting in accordance with a decision of the Parliament, if the Speaker advises the Parliament that two medical practitioners appointed by the National Authority responsible for the registration or licensing of medical practitioners have jointly reported in accordance with an Act of the Parliament that, in their professional opinions, the Prime Minister is unfit, by reason of physical or mental incapacity, to carry out the duties of his office.

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- “(8) The Prime Minister may be suspended from office -
- (a) by the tribunal appointed under an Organic Law made for the purposes of Section 28 (*further provisions*) pending an investigation into a question of misconduct in office within the meaning of Division III.2 (*Leadership Code*), and any resultant action; or
 - (b) in accordance with an Act of the Parliament, pending an investigation for the purposes of Subsection (7)(c) and any resultant action by the Parliament.

“(9) The procedures of the Government caucus shall be determined by the Government caucus and shall be notified in writing by the Prime Minister to the Speaker from time to time.”.

3. **OTHER MINISTERS (AMENDMENT OF SECTION 144).**

Section 144(4) of the *Constitution* is repealed and is replaced with the following:-

- “(4) A Minister, other than the Prime Minister, may be dismissed from office
- (a) by the Head of State, acting with, and in accordance with, the advice of the Prime Minister; or
 - (b) in accordance with Division III.2 (*leadership code*).”.

4. **REPEAL AND REPLACEMENT OF SECTION 145.**

Section 145 of the *Constitution* is repealed and is replaced with the following:-

“145. **DISCHARGE OF GOVERNMENT CAUCUS COMMITTEE.**

(1) Subject to this section a motion to discharge the Government Caucus Committee may be moved in the Parliament.

“(2) A motion to discharge the Government Caucus Committee shall not be moved unless not less than one week’s notice, signed by a number of members of the Parliament being not less than one-tenth of the total number of seats in the Parliament, has been given in accordance with the Standing Orders of the Parliament.

“(3) Where a motion to discharge the Government Caucus Committee in accordance with this section is passed by the Parliament, the Government Caucus Committee is discharged and a general election to the Parliament shall be held.”.

5. **TRANSITIONAL.**

(1) The Ministers holding office as such immediately before the coming into

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operation of this Law -

- (a) shall continue to hold such office as if appointed in accordance with the *Constitution* as amended by this Law; and
 - (b) are deemed to be the Government Caucus Committee notwithstanding that their numbers exceed the number of members of that Committee,
- until they cease to be Ministers in accordance with the *Constitution* as amended by this Law.

“(2) The Prime Minister holding office as such immediately before the coming into operation of this Law -

- (a) shall continue to hold such office as if appointed in accordance with the *Constitution* as amended by this Law; and
 - (b) is deemed to be the Chairman of the Government Caucus Committee,
- until he ceases to be the Prime Minister in accordance with the *Constitution* as amended by this Law.

“(3) The Minister holding office of Deputy Prime Minister immediately before the coming into operation of this Law -

- (a) shall continue to hold such office as if appointed in accordance with the *Constitution* as amended by this Law or otherwise according to law; and
 - (b) is deemed to be the Deputy Chairman of the Government Caucus,
- until he ceases to be the Deputy Prime Minister in accordance with the *Constitution* as amended by this Law or otherwise according to law.

“(4) Within two weeks of the coming into operation of this Law, the Prime Minister shall inform the Speaker of the names of members generally supporting the Government and such members are deemed to form the Government caucus in accordance with the *Constitution* as amended by this Law.”.