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[2012

THE CONSTITUTION

ALTERATION TO THE CONSTITUTION

Constitutional Amendment (Independent Commission Against Corruption) Law

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 Jeffery Nape, Speaker of the National Parliament, hereby publish the following proposed Law:—

Draft of 21/10/2011.

PROPOSED LAW TO ALTER THE CONSTITUTION

Constitutional Amendment (Independent Commission Against Corruption) Law

ARRANGEMENT OF CLAUSES

NEW DIVISION VIII. 3

“Division 3.—The Independent Commission Against Corruption.”.

“220A. The Independent Commission Against Corruption.

“220B. Purposes of the Commission.

“220C. Functions of the Commission.

“220D. Reports by The Independent Commission Against Corruption.

PROPOSED LAW TO ALTER THE CONSTITUTION

entitled

Constitutional Amendment (Independent Commission Against Corruption) Law

being

A Law to alter the Constitution by making provision for the establishment of an Independent Commission Against Corruption and for related purposes,

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

“NEW DIVISION VIII. 3.

Part VIII of the Constitution is amended by adding after Division 3 the following new division:

“Division 3.—The Independent Commission Against Corruption.”

“220A. THE INDEPENDENT COMMISSION AGAINST CORRUPTION.

(1) There shall be an Independent Commission Against Corruption consisting of a Commissioner and two Deputy Commissioners of whom at least one member shall be a female.

(2) The members of the Commission shall be appointed by the Head of State, acting with, and in accordance with, the advice of an Appointments Committee consisting of—

- (a) the Prime Minister, who shall be Chairman; and
- (b) the Chief Justice; and
- (c) the Leader of the Opposition; and
- (d) the Commissioner of Police; and
- (e) two persons of standing in the community, of whom one shall be a female, appointed by the Head of State, acting with, and in accordance with, the advice of the National Executive Council, by notice in the *National Gazette*.

(3) The attendance of all members at a meeting of the Appointments Committee, shall constitute a quorum and the Committee may determine its own procedures.

(4) In the performance of its functions under Section 220C (functions of the Commission) the Commission:—

- (a) shall be assisted by an Advisory Committee consisting of—
 - (i) the Commissioner who shall be Chairman; and
 - (ii) the Chief Executive Officer; and
 - (iii) the Chief Ombudsman; and
 - (iv) the Police Commissioner; and
 - (v) the Public Prosecutor; and
 - (vi) two persons of standing in the community, of whom one shall be a female, appointed by the Head of State, acting with, and in accordance with, the advice of the National Executive Council, by notice in the *National Gazette*; and
- (b) is not subject to direction or control by any person or authority.

Constitutional Amendment (Independent Commission Against Corruption) Law—continued

(5) An Organic Law shall make further provisions in respect of—

- (a) the qualification and the terms and conditions of the appointment of the members of the Commission and of the powers, procedures and immunity of the Commission; and
- (b) the functions of the Appointment Committee and Advisory Committee.

“220B. PURPOSES OF THE COMMISSION.

The purpose of the Independent Commission Against Corruption is to help achieve the National Goals and Directive Principles and other development plans of Papua New Guinea by endeavouring to strengthen anti-corruption measures and eliminate corrupt conduct.

“220C. FUNCTIONS OF THE COMMISSION.

(1) Subject to any Organic Law or an Act of Parliament made for the purposes of Subsection (2), the functions of the Independent Commission Against Corruption are:—

- (a) to receive and consider complaints against corrupt conduct and investigate such of those complaints as it considers practicable; and
- (b) to investigate, on its own initiative or on complaint by a person affected, any case of an alleged or suspected corrupt conduct within the meaning of a Law prohibiting such conduct; and
- (c) to encourage and support public and private sector organization in the:—
 - (i) development, establishment and review;
 - (ii) establishment, application or the coordination of the implementation, of practices and procedures for the elimination of corruption; and
- (d) to promote greater awareness of and educate the people of Papua New Guinea against the evils and the prevention of corrupt conduct; and
- (e) any other functions conferred on it by or under an Organic Law or an Act of Parliament.

(2) An Organic Law or an Act of Parliament shall make provision in respect of the powers and procedures of the Independent Commission Against Corruption and in particular:—

- (a) shall, subject to Paragraph (b), make provision for the Commission to have access to all available information; and
- (b) may impose reasonable restrictions on the availability of information; and
- (c) shall make provision to ensure the secrecy or confidentiality of secret or confidential information made available to the Commission or to a member of the Commission or to a member of the staff of the Commission; and
- (d) shall make provision for and in respect of publicity for the proceedings, reports and recommendations of the Commission.

(3) Without limiting the generality of the expression “corrupt conduct” for the purposes of Section 220C (Functions of the Commission) “corrupt conduct” is such conduct, act or omission defined in an Organic Law or an Act of Parliament as a corrupt conduct.

Constitutional Amendment (Independent Commission Against Corruption) Law—continued

“220D. REPORTS BY THE INDEPENDENT COMMISSION AGAINST CORRUPTION.

(1) As soon as practicable after 31st December each year, the Advisory Committee referred to in Section 220B shall, after receiving from the Commission a copy of the Report of the Commission for the year preceeding the report for its comments give to the Minister with any comments the Committee may make, for presentation to the Parliament, a report on the functions and workings of the Commission, with such recommendations as to improvement as the Commission or the Committee thinks proper.

“(2) Nothing in Subsection (1) prevents the Commission from making on its own initiative, other reports on any aspect of the functions and workings of the Commission.”.