

No. 14 of 1995.

***Local-level Government System (Interim and Transitional Arrangements)
Act 1995.***

Certified on: / /20 .

INDEPENDENT STATE OF PAPUA NEW GUINEA.



No. 14 of 1995.

Local-level Government System (Interim and Transitional Arrangements)
Act 1995.

ARRANGEMENT OF SECTIONS.

PREAMBLE

1. Compliance with Constitutional requirements.
2. Interpretation.
 - “adopted Act”
 - “District Administrator”
 - “existing local-level government”
 - “existing provincial law”
 - “interim period”
 - “Local-level Government”
 - “*Organic Law*”
 - “this Act”
3. Application.
4. Transitional provision in relation to existing Local-level Governments.
5. Adoption of *Local Government Act* (Chapter 57) subject to exceptions and modifications, etc.
6. Regulations.

INDEPENDENT STATE OF PAPUA NEW GUINEA.



AN ACT

entitled

Local-level Government System (Interim and Transitional Arrangements)
Act 1995,

Being an Act to make—

- (a) interim arrangements for a system of Local-level Governments for rural and urban communities; and
- (b) transitional arrangements in relation to the transition from the system of local-level governments which are to be replaced by the system referred to in Paragraph (a),

as required by the *Organic Law on Provincial Governments and Local-level Governments* and to adopt the *Local Government Act* (Chapter 57) with certain amendments as a medium for achieving Paragraphs (a) and (b) and for related purposes,

Preamble

WHEREAS the *Organic Law on Provincial Governments and Local-level Governments* provides for a system of Local-level Governments and for an Act of the Parliament to make further provision for various matters relating to that system and for the transition from the system of local-level governments which is to be replaced;

AND WHEREAS detailed particulars relating to the new system have yet to be finalised;

AND WHEREAS the *Local Government Act* (Chapter 57) has for many years provided a sound foundation for the working of local-level governments throughout the country and its administrative provisions are well known at all levels of Government;

THEREFORE it has been decided that, as an interim measure, the *Local Government Act* (Chapter 57) shall be adopted, with such amendments and modifications as are necessary, as the Act of the Parliament to make further

s. 1.

Local-level Government System (Interim and Transitional Arrangements) 1995

provision for various matters relating to the new system and for the transition to the new system.

MADE by the National Parliament to come into operation in accordance with the coming into operation of the *Organic Law on Provincial Governments and Local-level Governments*.

1. COMPLIANCE WITH CONSTITUTIONAL REQUIREMENTS.

This Act, to the extent that it regulates or restricts a right or freedom referred to in Subdivision III.3.C (*qualified rights*) of the *Constitution*, namely—

- (a) the right to freedom from arbitrary search and entry conferred by Section 44 of the *Constitution*; and
- (b) the right to privacy conferred by Section 49 of the *Constitution*,

is a law that is made for the purpose of giving effect to the public interest in public order and public welfare.

2. INTERPRETATION.

(1) In this Act, unless the contrary intention appears—

“**adopted Act**” means the *Local Government Act* (Chapter 57); and Regulations thereunder;

“**District Administrator**” means a District Administrator appointed under Section 73(3) of the *Organic Law on Provincial Governments and Local-level Governments*;

“**existing local-level government**” means a local-level government, in whatever form and by whatever name known, established under the *Local Government Act* (Chapter 57) or by or under an existing provincial law, in existence immediately before the coming into operation of this Act;

“**existing provincial law**” means a provincial law in force immediately before the coming into operation of this Act;

“**interim period**” means the period on and from the date of coming into operation of the *Organic Law on Provincial Governments and Local-level Governments* until the date fixed for the return of the writs following the next general election held after that date of coming into operation;

“**Local-level Government**” means a Local-level Government established under Section 26 of the *Organic Law on Provincial Governments and Local-level Governments* and includes a Local-level Government deemed by Section 4 to have been so established.

“**Organic Law**” means the *Organic Law on Provincial Governments and Local-level Governments*;

“**this Act**” includes the adopted Act and the Regulations.

(2) In this Act, unless the contrary intention appears, a reference, in relation to a district or to a Local-level Government, to a provincial or local-level body or to a provincial or Local-level office, is a reference to the provincial or local-level body or provincial or local-level office established or appointed for or in relation to that district or Local-level Government.

(3) The definitions contained in Section 3(1) of the *Organic Law* shall apply in this Act.

3. APPLICATION.

This Act applies to all Local-level Governments during the interim period.

4. TRANSITIONAL PROVISION IN RELATION TO EXISTING LOCAL-LEVEL GOVERNMENTS.

(1) An existing local-level government is hereby deemed to be a Local-level Government and continues in existence as the same legal person.

(2) The members of a Local-level Government to which Subsection (1) applies are deemed to have been constituted as a Local Government Council under the adopted Act.

(3) Subject to Section 22 of the adopted Act, the term of office of a member of a Local-level Government to which Subsection (1) applies is deemed to expire on the day fixed for the return of the writs for the general election held next after certification of the *Organic Law*.

(4) The rules of a Local-level Government to which Subsection (1) applies in force immediately before the coming into operation of this Act, except where inconsistent with or exceeding the law-making powers of a Local-level Government as specified in Section 44 of the *Organic Law*, shall continue in force until their repeal or termination according to law.

5. ADOPTION OF LOCAL GOVERNMENT ACT (CHAPTER 57) SUBJECT TO EXCEPTIONS AND MODIFICATIONS, ETC.

(1) Subject to—

- (a) the *Constitution*; and
- (b) the *Organic Law*; and
- (c) this Act,

the *Local Government Act* (Chapter 57)—

- (d) is adopted to form part of this Act to make provision for the administration of Local-level Governments in accordance with the system of Local-level Governments provided for by the *Organic Law*; and

s. 6.

Local-level Government System (Interim and Transitional Arrangements) 1995

- (e) shall be read, interpreted and administered subject to the laws referred to in Paragraphs (a), (b) and (c) so as to make provision as required by Paragraph (d).

(2) Where a provision of the adopted Act is inconsistent with a provision of the *Organic Law* the provision of the *Organic Law* prevails to the extent of the inconsistency and in implement of, but without prejudice to, the generality of the foregoing and of Subsection (1)–

- (a) a reference in the adopted Act–
 - (i) to the Commissioner or a Deputy Commissioner–shall be read as a reference to the Departmental Head of the Department responsible for local-level government matters; and
 - (ii) to a Council–shall be read as a reference to a Local-level Government; and
- (b) Parts IV.1 and V.1 and 2 of the adopted Act shall not apply; and
- (c) Part VI of the adopted Act shall be read subject to Parts III.4 and IV.3 of the *Organic Law*.

6. REGULATIONS.

(1) The Head of State, acting on advice, may make Regulations not inconsistent with this Act, prescribing all matters that are required or permitted, or that are necessary or convenient, for carrying out or giving effect to this Act.

(2) Where any difficulty arises in respect of the operation of this Act (including the interpretation and administration of the adopted Act) the Head of State, acting on advice, may, by Regulation–

- (a) make such modifications to this Act (including the adopted Act) as may appear necessary to ensure that the aims and requirements of the *Organic Law* are met; and
- (b) make such incidental, consequential and supplementary amendments to this Act as may be necessary or expedient for the purpose of giving effect to the purposes of this Act,

and any such modifications or provisions have the same force and effect as if they had been enacted by way of amendment to this Act and on publication of the Regulation in the National Gazette, this Act shall be amended accordingly.