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Draft of 24/10/05

INDEPENDENT STATE OF PAPUA NEW GUINEA

THE CONSTITUTION

ALTERATION TO THE CONSTITUTION

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

Draft of 24/10/05

INDEPENDENT STATE OF PAPUA NEW GUINEA

PROPOSED LAW TO ALTER THE CONSTITUTION

Constitutional Amendment (Electoral Review)

ARRANGEMENT OF CLAUSES

1. Compliance with Constitutional requirements.
2. Qualifications for and disqualifications from membership (Amendment of Section 103).

Draft of 24/10/05

INDEPENDENT STATE OF PAPUA NEW GUINEA

PROPOSED LAW TO ALTER THE CONSTITUTION

entitled

Constitutional Amendment (Electoral Review)

being

A Law to alter the Constitution by amending the provision relating to the qualifications and disqualifications of membership of members of the Parliament,

MADE by the National Parliament.

Proposed to Alter the Constitution:—continued**1. COMPLIANCE WITH CONSTITUTIONAL REQUIREMENTS.**

(1) This Law, 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 liberty of the person conferred by Section 42; and
- (b) the right to freedom of expression and publication conferred by Section 46; and
- (c) the right to peacefully assemble and associate and to form or belong to, or not to belong to, political parties, industrial organizations or other associations conferred by Section 47; and
- (d) the right to freedom of choice of employment in any calling for which a person has the qualifications (if any) lawfully required conferred by Section 48; and
- (e) the right to reasonable privacy in respect of his private and family life, his communications with other persons and his personal papers and effects conferred by Section 49; and
- (f) the right of reasonable access to official documents conferred by Section 51; and
- (g) the right to vote and stand for public office conferred by Section 50; and
- (h) the right of freedom of movement conferred by Section 52,

of the Constitution, is a law that is made (pursuant to Section 38 of the Constitution) taking account of the National Goals and Directive Principles for the purpose of giving effect to the public interest in public order and public welfare.

2. QUALIFICATIONS FOR AND DISQUALIFICATIONS FROM MEMBERSHIP (AMENDMENT OF SECTION 103).

Section 103 of the Constitution is amended in Subsection (3) by repealing Paragraph (e) and replacing it with the following new paragraph:—

“(e) he has been convicted under any law of:—

- (i) an indictable offence after the coming into operation of the *Constitutional Amendment No. 24 — Electoral Reforms*; or
- (ii) an offence for which disqualification from holding elective public office is provided under an Organic Law made in accordance with Section 126.”

Draft of 24/10/05

INDEPENDENT STATE OF PAPUA NEW GUINEA

THE CONSTITUTION

ORGANIC LAW ON NATIONAL AND LOCAL-LEVEL GOVERNMENT ELECTIONS

The Government proposes to introduce the *Organic Law on National and Local-level Government Elections (Amendment) Law* and, pursuant to Section 14(2) of the Constitution, I, Jeffrey Nape, Speaker of the National Parliament, hereby publish the proposed Law.

Draft of 24/10/05

INDEPENDENT STATE OF PAPUA NEW GUINEA

PROPOSED LAW TO ALTER THE ORGANIC LAW ON NATIONAL AND LOCAL-LEVEL GOVERNMENT ELECTIONS

Organic Law on Provincial and Local-level Government Elections (Amendment) Law

ARRANGEMENT OF CLAUSES

1. Compliance with Constitutional requirements.
2. Application of this Law.
3. Returning Officers (Amendment of Section 19).
4. Assistant Returning Officers (Amendment of Section 20).
5. Appointment in cases of emergency (Amendment of Section 21).

Proposed Law to Alter the Organic Law on National and Local-level Government Elections:—continued

6. Rolls (Amendment of Section 44).
7. New Division V.1.
 "Division 1 — Electoral Rolls."
8. Form of rolls (Amendment of Section 45).
9. New Division V.2.
 "Division 2 — New Rolls."
10. Repeal and replacement of Section 46.
 "46. New Rolls."
11. New Section 46A.
 "46A. Preparation of New Rolls."
12. New Division V.3.
 "Division 3 — Existing Rolls."
 "48A. Existing Rolls."
13. New Division V.4.
 "Division 4 — Printing and Inspection."
14. New Division V.5.
 "Division 5 — Voter Identification Systems."
 "51A. Voter Identification."
 "51B. Keeping of Voter Identification System."
15. New Division VII.1.
 "Division 1 — Application."
 "52A. Application of this Part."
16. New Division VII.2.
 "Division 2 — Officers."
17. Officers (Amendment of Section 53).
18. New Division VII.3.
 "Division 3 — Claims for enrolment and transfer."
19. Claims for enrolment (Amendment of Section 55).
20. Repeal and replacement of Section 56.
 "56. Provisional Enrolment."
21. Compulsory enrolment and transfer (Amendment of Section 57).
22. New Division VII.4.
 "Division 4 — Registration and rejection of claims."
23. Repeal and replacement of Section 60.
 "60. Penalty on Officer failing to enrol claimants."
24. New Division VII.5.
 "Division 5 — Alteration of Rolls."
25. Repeal and replacement of Section 61.
 "61. Time of Altering Rolls."
26. Alteration of rolls (Amendment of Section 62).
27. Repeal and replacement of Section 63.
 "63. Alterations to be initialed."
28. New Division VII.6.
 "Division 6 — Special provisions for certain candidates."

Proposed Law to Alter the Organic Law on National and Local-level Government Elections:—continued

29. Repeal and replacement of Section 64.
“64. Special Provisions for certain nominations.”.
30. Repeal and replacement of Section 65.
“65. Incorrect Enrolment.”.
31. Repeal and replacement of Part VIII.
“PART VIII.—OBJECTIONS.”.
“Division 1.—Normal objection.”.
“66. Names on Roll may be objected to.”.
“67. Objection.”.
“68. Notice of Objection.”.
Division 2.—Objection by enrolment agent.
“69. Objection by enrolment officer or other prescribed officer.”.
Division 3.—Determination of objections.
“70. Answer to Objection.”.
“71. Determination of Objection.”.
32. New Part VIIIA.
“Part VIII.—Voter Identification System.”.
“71A. Voter Identification System.”.
“71B. Maintenance and operation of voter Identification System.”.
“71C. Non-Disclosure of details of voter Identification System.”.
33. Appeal to District Court (Amendment of Section 72).
34. Form of writs (Amendment of Section 75).
35. Date of polling (Amendment of Section 79).
36. Date of return of writ (Amendment of Section 80).
37. General election to be held on the same day (Amendment of Section 81).
38. New Section 82B.
“82B. Failure to observe requirement under Part X.”.
39. Mode of nomination (Amendment of Section 85).
40. To whom nomination made (Amendment of Section 86).
41. Requisites for nomination (Amendment of Section 87).
42. Repeal and replacement of Section 91.
“91. Place of Nomination.”.
43. Withdrawal of nomination (Amendment of Section 94).
44. New Part XIA.
“Part XIA.—Election Cancellation and Failure.”.
“96A. Cancellation of an Election.”.
“96B. Disqualification from holding Elective Office.”.
“96C. Election Advisory Committee.”.
45. Certified list of voters (Amendment of Section 123).
46. Repeal and replacement of Section 124.
“124. Ballot-Papers.”.
47. Repeal and replacement of Section 125.
“125. Candidate Posters.”.

Proposed Law to Alter the Organic Law on National and Local-level Government Elections:—*continued*

48. The polling (Amendment of Section 130).
49. Elections at which electors are entitled to vote (Amendment of Section 131).
50. Repeal and replacement of Section 132.
“132. Where Electors may vote.”.
51. Repeal and replacement of Section 133.
“133. Persons claiming to vote to give name and other particulars.”.
52. Questions to be put to voter (Amendment of Section 134).
53. Right of elector to receive ballot-paper (Amendment of Section 136).
54. Repeal and replacement of Section 139.
“139. Method of Marking Ballot-Paper.”.
55. Assistance to certain voter (Amendment of Section 140).
56. Adjournment of polling on account of riot (Amendment of Section 146).
57. Counting centres (Amendment of Section 148).
58. Repeal and replacement of Section 153.
“153. Informal Ballot-Papers.”.
59. New Section 153A.
“153A. Excluding Ballot Box from Scrutiny.”.
60. Scrutiny of ordinary votes in elections (Amendment of Section 154).
61. Scrutiny of votes in elections (Amendment of Section 168).
62. Re-count (Amendment of Section 170).
63. Return of writs (Amendment of Section 175).
64. Repeal and replacement of Section 177.
“177. Extension of Time.”.
65. Illegal practices (Amendment of Section 178).
66. Deposit as security for costs (Amendment of Section 209).
67. Rolls (Amendment of Section 242).
68. Form of writs (Amendment of Section 273).
69. Date of polling (Amendment of Section 277).
70. Date of return of writ (Amendment of Section 278).
71. Repeal and replacement of Section 280.
“280. General Election to be held on same day.”.
72. New Section 280A.
“280A. Failure to Observe requirements.”.
73. Nominations (Amendment of Section 281).
74. Repeal and replacement of Section 282.
“282. Polling.”.
75. Repeal and replacement of Section 283.
“283. Scrutiny.”.
76. Repeal of Section 283A.
77. Institution of proceedings for offences (Amendment of Section 289).
78. New Section 289A.
“289A. Civil Claims against the Electoral Commission.”.

INDEPENDENT STATE OF PAPUA NEW GUINEA
**PROPOSED LAW TO ALTER THE ORGANIC LAW ON NATIONAL AND LOCAL-LEVEL
GOVERNMENT ELECTIONS**

entitled

Organic Law on National and Local-level Government Elections (Amendment) Law

being

A Law to amend the *Organic Law on National and Local-level Government Elections*,
MADE by the National Parliament.

1. COMPLIANCE WITH CONSTITUTIONAL REQUIREMENTS.

- (1) 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 liberty of the person conferred by Section 42; and
- (b) the right to freedom of expression and publication conferred by Section 46; and
- (c) the right to peacefully assemble and associate and to form or belong to, or not to belong to, political parties, industrial organizations or other associations conferred by Section 47; and
- (d) the right to freedom of choice of employment in any calling for which a person has the qualifications (if any) lawfully required conferred by Section 48; and
- (e) the right to reasonable privacy in respect of his private and family life, his communications with other persons and his personal papers and effects conferred by Section 49; and
- (f) the right to stand and vote for public office conferred by Section 50; and
- (g) the right of reasonable access to official documents conferred by Section 51; and
- (h) the right of freedom of movement conferred by Section 52,

of the Constitution, is a law that is made pursuant to Section 38 of the Constitution taking account of the National Goals and Directive Principles for the purpose of giving effect to the public interest in public order and public welfare.

2. APPLICATION OF THIS LAW.

This law applies to and in respect of all Provinces except Bougainville Province.

3. RETURNING OFFICERS (AMENDMENT OF SECTION 19).

Section 19 of the *Organic Law on National and Local-level Government Elections* is amended:—

- (a) by inserting at the beginning of that section the following:—

“(1)”; and

- (b) by adding after Subsection (1) the following new subsections:—

“(2) A person may be appointed Returning Officer for more than one electorate and may perform the functions and duties of a Returning Officer for more than one electorate at the same time

“(3) A Returning Officer may, following consultations with the Electoral Commission, seek the assistance of such persons, both individuals and group of individuals including a committee, to plan for the preparation or updating of Rolls and the conduct of elections provided that the functions performed, or the powers exercised, by a Returning Officer under or in accordance with this Law remain the functions and powers of the Electoral Commission.

“(4) Regulations may make provisions for Committees to be established by a Returning Officer to assist him in the exercise of his powers and functions under Subsection (3).

“(5) The Electoral Commission may, on the nomination of a Returning Officer, appoint authorized enrolment agents in a Ward under the responsibility of that Returning Officer to undertake enrolment in that Ward and perform such other duties and responsibilities as are prescribed.

Propose Law to Alter the Organic Law on National and Local-level Government Elections:—continued

“(6) Regulations may make further provisions for the duties and responsibilities of authorized enrolment agents appointed under Subsection (5).

“(7) A direction from the Electoral Commission to a Returning Officer not to make a declaration of result shall bind the Returning Officer and if the Returning Officer or any other Electoral Officer makes a declaration despite the direction, that declaration is invalid.”.

4. ASSISTANT RETURNING OFFICERS (AMENDMENT OF SECTION 20).

Section 20 of the *Organic Law on National and Local-level Government Elections* is amended by inserting after Subsection (4) the following new subsection:—

“(5) The failure to publish a notice in the *National Gazette* under this section shall not be a ground for invalidating an election.”.

5. APPOINTMENT IN CASES OF EMERGENCY (AMENDMENT OF SECTION 21).

Section 21 of the *Organic Law on National and Local-level Government Elections* is amended by inserting after Subsection (4) the following new subsection:—

“(5) The failure to publish a notice in the *National Gazette* under this section shall not be a ground for invalidating an election.”.

6. ROLLS (AMENDMENT OF SECTION 44).

Section 44 of the *Organic Law on National and Local-level Government Elections* is amended:—

(a) by inserting at the beginning of that section the following:—

“(1)”; and

(b) by adding after Subsection (1) the following new subsections:—

“(2) A Roll of an electorate may be made up of a number of Ward Rolls in the case of an open electorate and a number of open electorate Rolls in the case of a provincial electorate.”.

7. NEW DIVISION V.1.

Part V of the *Organic Law on National and Local-level Government Elections* is amended by inserting after the heading the following:—

“Division 1. — Electoral Rolls.”.

8. FORM OF ROLLS (AMENDMENT OF SECTION 45).

Section 45 of the *Organic Law on National and Local-level Government Elections* is amended by inserting after Subsection (1) of the following new subsection:—

“(1A) A Roll determined by the Electoral Commission under Subsection (1) may be kept in electronic form.”.

9. NEW DIVISION V.2.

Part V of the *Organic Law on National and Local-level Government Elections* is amended by inserting immediately after Section 45 of the following:—

“Division 2. — New Rolls.”.

10. REPEAL AND REPLACEMENT OF SECTION 46.

Section 46 of the *Organic Law on National and Local-level Government Elections* is repealed and is replaced with the following new section:—

“46. New Rolls.

All persons who are entitled to be enrolled on a Roll shall, subject to this Law, be so enrolled.”.

11. NEW SECTION 46A.

Part V of the *Organic Law on National and Local-level Government Elections* is amended by inserting after Section 46 the following new section:—

Propose Law to Alter the Organic Law on National and Local-level Government Elections:—continued**“46A. Preparation of New Rolls.**

- “(1) A new Roll for an electorate shall be prepared whenever the Electoral Commission, by notice published in the *National Gazette*, directs.
- “(2) A notice under Subsection (1) may specify the manner in which the Rolls shall be prepared, and may require any person, or member of a class of persons, entitled to enrolment on a new Roll and whose name does not appear on it to sign and send to the proper officer a form of claim for enrolment and otherwise to comply with the provisions of this Law relating to compulsory enrolment.
- “(3) A new Roll may be prepared where:—
 - (i) a new electorate is created; or
 - (ii) there has been a major movement of people out of or into an existing electorate; or
 - (iii) the Electoral Commission considers that it is necessary for other reasons to create a new Roll.
- “(4) Subject to Subsection (5), no names on an existing Roll may be automatically transferred to a new Roll.
- “(5) The entries in an existing Roll may, at the discretion of the Electoral Commission, be transferred to a new Roll without the need for the persons whose names are in the transferred entries to make any further claim for enrolment.
- “(6) The Electoral Commission may appoint persons to assist in the compilation of a new Roll.
- “(7) The Electoral Commission shall, as soon as it is practicable to do so after the preparation of new Rolls, by notice published in the *National Gazette*, notify that the new Rolls have been prepared.”.

12. NEW DIVISION V.3.

Part V of the *Organic Law on National and Local-level Government Elections* is amended:—

- (a) by inserting immediately after Section 48 the following:—

“Division 3 — Existing Rolls.”; and

- (b) by inserting after the heading of Division 3 the following new section:—

“48A. Existing Rolls.

- “(1) A Returning Officer shall be responsible for the revision and compilation of the an existing Roll.
- “(2) A Returning Officer may revise or compile a ward Roll at such times as he considers necessary.
- “(3) A Returning Officer may obtain the assistance of any person as he considers necessary to revise an existing Roll.
- “(4) A Returning Officer shall follow such directions as are given by the Electoral Commission in the revision of an existing Roll.
- “(5) Where an elector is enrolled in respect of an address in an electorate for which he is entitled to be enrolled, he shall not be required to sign and send in any further claim for enrolment in connection with the compilation or revision of an existing Roll.”.

13. NEW DIVISION V.4.

Part V of the *Organic Law on National and Local-level Government Elections* is amended by inserting immediately after Section 48A of the following:—

“Division 4. — Printing and Inspection.”.

14. NEW DIVISION V.5.

Part V of the *Organic Law on National and Local-level Government Elections* is amended by inserting immediately after Section 51 the following new division:—

“Division 5. — Voter Identification Systems.”.

Propose Law to Alter the Organic Law on National and Local-level Government Elections:—continued**“51A. Voter Identification.**

- “(1) The Electoral Commission may, in addition to maintaining a Roll, establish any of the following types of systems, whether alone or in combination, for the purposes of identifying a person whose name is on a Roll to vote .
- (a) manual finger print system;
 - (b) computer recorded and recognized finger print system;
 - (c) computer recorded and recognized palm recognition system; or
 - (d) computer or other photographic or electronic system.
- “(2) Regulations may make detailed provisions on how the system of voter identification is kept and used.”.

“51B. Keeping of Voter Identification System.

- “(1) An identification system established and maintained under Section 51A may be kept by the Electoral Commission or it may be kept by a person (whether corporate or unincorporated) authorized in writing by the Electoral Commission.
- “(2) Where the identification system is kept by a person other than the Electoral Commission by authorization in accordance with Subsection (1), such authorization:—
- (a) may, at the first instance, be for a period of 15 years; and
 - (b) is subject to cancellation for a breach of the provisions of this Section; and
 - (c) may be further extended for a period of not less than 5 years at a time for as many times as the Electoral Commission considers necessary.
- “(3) If the identification system is kept by a person other than the Electoral Commission by authorization, there shall be one such person keeping on such system at a time.
- “(4) The Electoral Commission or the person authorized to keep the identification system shall not divulge information, images or other details kept in the system except for election related purposes and for the identification of persons suspected or alleged to have committed criminal offences with a penalty of imprisonment of up to a maximum of four years or fines not exceeding K2,000.00.
- “(5) If the identification system is kept by a person other than the Electoral Commission, the person may charge a fee for its use.”.

15. NEW DIVISION VII.1.

Part VII of the *Organic Law on National and Local-level Government Elections* is amended by inserting after the heading the following new division:—

“Division 1. — Application.**“52A. Application of this Part.**

- “(1) This Part applies to the preparation of a new Roll and the revision and compilation of an existing Roll.”.

16. NEW DIVISION VII.2.

Part VII of the *Organic Law on National and Local-level Government Elections* is amended by inserting after Section 52A the following:—

“Division 2. — Officers.”.**17. OFFICERS (AMENDMENT OF SECTION 53).**

Section 53 of the *Organic Law on National and Local-level Government Elections* is amended:—

- (a) in Subsection (1) by inserting after the words “assist in the” the following:—
“preparation,”; and
- (b) by adding after Subsection (2) the following new subsections:—
 - “(3) Notwithstanding Subsections (1) and (2), the Electoral Commission may, on the recommendation of a Returning Officer, appoint enrolment agents to assist in the preparation, compilation or revision of a Roll.
 - “(4) Regulations may provide for the duties to be performed by the enrolment agents and for the publication of their names either in the *National Gazette* or in other documentation released to the area in which the appointments relate.

Propose Law to Alter the Organic Law on Naitonal and Local-level Government Elections:—continued

“(5) A person appointed enrolment agent under Subsection (4) who deliberately:—

- (a) completes a claim for enrolment for an ineligible person; or
- (b) completes a claim for enrolment for a person who is already enrolled on a Roll or who has already completed and enrolment form; or
- (c) includes in any list the name of a person referred to in Paragraphs (a) or (b) with the purpose of having the persons name included on a Roll, is guilty of an offence.

Penalty:—

- (i) a fine not exceeding K1,000.00; and
- (ii) ineligibility to hold elective public office, whether at National, Provincial or Local-level Government Level; and
- (iii) ineligibility for employment as a Public Servant in the Public Service or in the provincial service including a Provincial Government and a Local-level Government.

“(6) A person, who encourages, procures, aids or abets an enrolment agent to commit the offence referred to in Subsection (5), is guilty of an offence.

Penalty:—

- (i) a fine not exceeding K1,000.00; and
- (ii) ineligibility to hold elective public office, whether at National, Provincial or Local-Level Government Level; and
- (iii) ineligibility for employment as a Public Servant in the Public Service or in the provincial service including a Provincial Government and a Local-level Government.

18. NEW DIVISION VII.3.

Part VII of the *Organic Law on National and Local-level Government Elections* is amended by inserting after Section 53 the following:—

“Division 3.— *Claims for enrolment and transfer.*”.

19. CLAIMS FOR ENROLMENT (AMENDMENT OF SECTION 55).

Section 55 of the *Organic Law on National and Local-level Government Elections* is amended by repealing Subsection (4) and replacing it with the following new subsections:—

“(4) The Electoral Commission may, in relation to a person or class of persons, direct that a claim for enrolment be in the prescribed form and shall be signed:—

- (a) by the claimant and attested by a person who shall sign his name as witness in his own handwriting; or
- (b) by an authorized enrolment agent.

“(5) Regulations may prescribe when a claim for enrolment may be rejected for irregularities in the form including the rejection of claims for enrolment without serial numbers or with wrong serial numbers.

“(6) It is an offence:—

- (a) for a person whose name is on an existing Roll to make another claim for enrolment; or
- (b) for a person to make multiple claims for enrolment in his own name or in the names of others; or
- (c) for a person to make claims for enrolment in the name of ineligible persons or non-existent persons; or
- (d) for a person, other than enrolment agent who is duly appointed, to make a claim for enrolment of another person.

“(7) A person witnessing a claim for enrolment or transfer of enrolment shall, before he affixes his signature to it, satisfy himself, by inquiry from the claimant or otherwise, that the statements contained in the claim are true, unless he knows that the statements contained in the claim are true.

Penalty:— A fine not exceeding K400.00.”.

20. RPEAL AND REPLACEMENT OF SECTION 56.

Section 56 of the *Organic Law on National and Local-level Government Elections* is repealed and is replaced with the following new section:—

Propose Law to Alter the Organic Law on National and Local-level Government Elections:—continued**“56. Provisional Enrolment.**

- “(1) A person who is not yet eligible to be on the Roll but who will become eligible to be on the Roll before the issue of a writ for the next planned election in the electorate may be provisionally placed on the Roll.
- “(2) A person who is provisionally enrolled shall not vote in an election held earlier than an election to which he was provisionally enrolled under this section.
- “(3) A Returning Officer may, at any time, remove the name of a person who is provisionally on a Roll if the person does not become entitled to remain on the Roll.
- “(4) Regulations may make other provisions on provisional enrolments including how names are entered on a Roll.”.

21. COMPULSORY ENROLMENT AND TRANSFER (AMENDMENT OF SECTION 57).

Section 57 of the *Organic Law on National and Local-level Government Elections* is amended:—

(a) by inserting after Subsection (1) the following new subsection:—

“(1A) The Electoral Commission or a Returning Officer may publish a notice in the *National Gazette* and a newspaper circulating in the electorate concerned that the Returning Officer is ready to accept claims for enrolment or transfer of enrolment in the whole of the electorate or a part of the electorate and shall state the period within which he is so available and where he is available.

(b) by repealing Subsection (2) and replacing it with the following:—

“(2) A person, who is entitled to have his name placed on the Roll for an electorate, whether by way of enrolment or transfer of enrolment, and whose name is not on that Roll during the period referred to in Subsection (1A) and fails to lodge a claim for enrolment and is not entered on a Roll, is guilty of an offence unless he proves that his non-enrolment is not in consequence of his failure to comply with the provisions of Subsection (1).

(c) in Subsection (5):—

- (i) in Paragraph (a) by repealing the figure “K10.00” and replacing it with the following:—
“K50.00”; and
- (ii) in Paragraph (b) by repealing the figure “K25.00” and replacing it with the following:—
“K100.00”; and

(d) by repealing Subsection 6.

22. NEW DIVISION VII.4.

Part VII of the *Organic Law on National and Local-level Government Elections* is amended by inserting after Section 57 the following:—

“Division 4. — Registration and rejection of claims.”.

23. REPEAL AND REPLACEMENT OF SECTION 60.

Section 60 of the *Organic Law on National and Local-level Government Elections* is repealed and is replaced with the following:—

“60. Penalty on Officer failing to Enrol Claimants.

An officer, who receives a claim for enrolment or transfer of enrolment and who, without just excuse, the burden of proof of which lies upon him, fails to do everything necessary on his part to be done to secure the enrolment of the claimant in pursuance of the claim, is guilty of an offence.

Penalty:— A fine not exceeding K1,000.00.”.

Propose Law to Alter the Organic Law on National and Local-level Government Elections:—continued**24. NEW DIVISION VII.5.**

Part VII of the *Organic Law on National and Local-level Government Elections* is amended by inserting after Section 60 the following:—

“Division 5. — Alteration of Rolls.”.

25. REPEAL AND REPLACEMENT OF SECTION 61.

Section 61 of the *Organic Law on National and Local-level Government Elections* is repealed and is replaced with the following:—

“61. Time of Altering Rolls.

Notwithstanding anything in this Law:—

- (a) claims for enrolment or transfer of enrolment which are received after 4.00 p.m. on the day of the issue of the writ for an election shall not be registered until after the end of the polling period for the election; and
- (b) except by direction of the Returning Officer, no name shall be removed from a Roll under a notification of transfer of enrolment received after 4.00 p.m. on the day of the issue of the writ for an election and before the end of the polling period for the election.”.

26. ALTERATION OF ROLLS (AMENDMENT OF SECTION 62).

Section 62 of the *Organic Law on National and Local-level Government Elections* is amended:—

- (a) in Subsection (1) by inserting after Paragraph (h) the following new paragraph:—

“(i) removing a name from the Roll where he is reasonably satisfied that the name is not the name of a person entitled to be on the Roll.”; and

- (b) by inserting after Subsection (2) the following new subsection:—

“(2A) A name removed under this Part by an honest mistake shall not be the basis of any claim against the Electoral Commission, a Returning Officer or an enrolment agent who has made a recommendation for the name to be removed.”.

27. REPEAL AND REPLACEMENT OF SECTION 63.

Section 63 of the *Organic Law on National and Local-level Government Elections* is repealed and is replaced with the following:—

“63. Alterations to be initialed.

“(1) Every alteration of a printed Roll shall be made in such manner that the original entry shall not be obliterated, and the reason for each alteration and the date of the alteration shall be set against the alteration, together with the initials of the Returning Officer or of the person who makes the alteration on behalf of the Returning Officer.

“(2) Where a Roll is kept electronically, an alteration shall be clearly indicated with the original entry noted and the date and person authorizing the alteration noted against the entry.”.

28. NEW DIVISION VII.6.

Part VII of the *Organic Law on National and Local-level Government Elections* is amended by inserting after Section 63 the following:—

“Division 6. — Special provisions for certain candidates.”.

29. REPEAL AND REPLACEMENT OF SECTION 64.

Section 64 of the *Organic Law on National and Local-level Government Elections* is repealed and is replaced with the following:—

“64. Special Provisions for Certain Nominations.”

“(1) Notwithstanding anything in this Law but subject to this section, where a person who is entitled to do so has nominated for an electorate other than the electorate for which he is enrolled:—

- (a) the Returning Officer for the electorate for which he nominates shall place his name on the Roll for that electorate and notify the Returning Officer for the electorate for which he is enrolled who shall remove his name from the Roll for that electorate; and

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- (b) if the nomination is withdrawn, the Returning Officer for the electorate for which he was nominated shall remove his name from the Roll for that electorate and notify the Returning Officer for the other electorate who shall (unless he has in the meantime nominated for some other electorate) restore his name to the Roll for that other electorate; and
- (c) if he fails to be elected, the Returning Officer for the electorate for which he was nominated shall remove his name from the Roll for that electorate and notify the Returning Officer for the other electorate who shall restore his name to the Roll for that other electorate; and
- (d) if he is elected and later ceases to be the member for the electorate, the Returning Officer for the electorate for which he was the member shall remove his name from the Roll for that electorate and notify the Returning Officer for the other electorate who shall restore his name to the Roll for that other electorate unless he has ceased to be eligible for enrolment in that electorate and has been enrolled in another electorate.

“(2) Where a person who is entitled to do so nominates for an electorate and his name is not already on a Roll for the electorate he nominates, on the acceptance of his nomination for the electorate, the person shall be deemed to be on the Roll and he shall so nominate and vote in the electorate.”.

30. REPEAL AND REPLACEMENT OF SECTION 65.

Section 65 of the *Organic Law on National and Local-level Government Elections* is repealed and is replaced with the following:—

“65. Incorrect Enrolment.

Where a person whose name has been placed on the Roll for an electorate is not entitled to enrol for that electorate and that person secured enrolment under a claim in which he made a false statement, the Returning Officer may, at any time between the date of the issue of the writ for an election for that electorate and before the end of the polling period for that election, remove the name of that person from that Roll.”.

31. REPEAL AND REPLACEMENT OF PART VIII.

Part VIII of the *Organic Law on National and Local-level Government Elections* is repealed and is replaced with the following new Part:—

“PART VIII.—OBJECTIONS.

Division 1.—Normal objection.

“66. Names on Roll may be Objected to.

- (1) A person may, by written notice to the Returning Officer, object to a name on the Roll.
- (2) A sum of K10.00 shall be deposited in respect of each objection lodged by a person other than an electoral officer or authorized agent, to be forfeited to Papua New Guinea if the objection is held by the Returning Officer to be frivolous.

“67. Objection.

An objection under Section 66 shall be in the prescribed form, and shall be signed by an elector enrolled on the same Roll as the person objected to, or by the Returning Officer or by an authorized agent.

“68. Notice of Objection.

- (1) When an objection is made by or lodged with a Returning Officer, the Returning Officer shall, subject to Subsection (3), give notice as soon as practicable of the objection to the person objected to.
- (2) A notice under Subsection (1) may be in the prescribed form, and may be served by being posted or delivered to the last-known place of abode or place of work of the person objected to.
- (3) Where the Returning Officer is satisfied that the ground of objection stated in an objection is not a good ground of objection or is frivolous, he may dismiss the objection, in which case no notice of the objection need be given to the person objected to.

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- (4) Any objection on the ground that a person does not reside in the electorate for which he is rolled shall be deemed not to be good unless it alleges that the person objected to has not resided in the electorate for the period necessary to qualify him for enrolment for that electorate.

*Division 2.—Objection by enrolment agent.***“69. Objection by Enrolment Officer or other prescribed Officer.**

- (1) An enrolment agent may, during the time of his appointment to conduct enrolment in a ward, object to a class of persons or a group of people in a prescribed list by providing such list to the Returning Officer.
- (2) Upon receipt of a prescribed list under this section, the Returning Officer may give notice of the objection in the prescribed form:—
 - (a) by forwarding it to the area where the persons reside; or
 - (b) by providing it to the village elder, councillor, village court magistrate or other reliable person who, in the opinion of the Returning Officer, is likely to bring the objection to the notice of the persons named in the notice.
- (3) A person, who knowingly encourages or procures an authorized agent to include in a prescribed list names of persons who should not be in the list and which results in the removal of the name of any person from a Roll, is guilty of an offence and is liable to the same penalties under Section 53(5).
- (4) A person, who encourages or procures an authorized enrolment agent to cause a fraudulent deletion, is guilty of an offence and is liable to the same penalties as those applying to fraudulent enrolment.

*Division 3.—Determination of objections.***“70. Answer to Objection.**

A person objected to under this Part may, orally or in writing in the prescribed manner, answer the objection.

“71. Determination of Objection.

- (1) Subject to Subsection (2), the Returning Officer shall determine an objection under this Part as soon as practicable after receipt by him of the answer of the person objected to, or, if no answer is received within a period of one month after the posting or delivery of the notice referred to in Section 68(1) and if it appears that the person objected to is not entitled to be enrolled on the Roll in respect of which the objection has been made, the Returning Officer shall:—
 - (a) remove the name of the person from the Roll; and
 - (b) cause a copy of the notice of determination to be posted to or served on the objector and the person objected to.
- (2) No name shall be removed from a Roll under this Section after 4.00 p.m. on the day of issue of the writ for an election and before the end of the polling period for the election.”

32. NEW PART VIIIA.

The *Organic Law on National and Local-level Government Elections* is amended by inserting after Part VIII the following new Part:—

“Part VIIIA. — Voters Identification System.”

“71A. Voter Identification System

- (1) The Electoral Commission may establish and manage a system to identify voters entitled to vote.
- (2) A system of identification established under Subsection (1) may take any one or more of the following forms:—
 - (a) manual finger print system;
 - (b) computer recorded and recognized finger print system;
 - (c) computer recorded and recognized palm recognition system; or
 - (d) computer, electronic or other photograph system.

Propose Law to Alter the Organic Law on National and Local-level Government Elections:—continued**44. NEW PART XIA.**

The *Organic Law on National and Local-level Government Elections* is amended by inserting after Section 96 the following new Part:—

“Part XIA.—Election Cancellation and Failure.**“96A. Cancellation of an Election.**

- “(1) Notwithstanding any provision in this Law, the Head of State may, acting on the advice of the Electoral Commissioner given in accordance with Subsection (2), withdraw a writ issued for an election.
- “(2) Where the Electoral Commission, acting only on the recommendation of the Election Advisory Committee, and between the issue of a writ and the declaration of result, if the circumstances prevailing in an electorate are such that a proper conduct of elections in that electorate is not practicable, the Electoral Commission may advise the Head of State to withdraw a writ.
- “(3) Where a writ is withdrawn under this section, a supplementary election shall be held as soon as the circumstances resulting in the withdrawal of writ have changed and, in the opinion of the Electoral Commission, it is practical to conduct an election.

“96B. Disqualification from Holding Elective Office.

- “(1) A person who is convicted of an offence under this Law or other offence (including an accessory, aiding or being a party in other way provided by law) that relates to or which offence contributed to the creation of the circumstances responsible for resulting in the withdrawal of a writ shall be, in addition to any other penalty provided for that offence, disqualified from nominating for an elective public office.
- “(2) A court hearing a criminal prosecution brought against an accused person in relation to an offence referred in Subsection (1) may impose the penalty specified therein in addition to any other penalty.

“96C. Election Advisory committee.

- “(1) An Election Advisory Committee is hereby established.
- “(2) The functions of the Election Advisory Committee are to provide recommendations and advice to the Electoral Commission:—
 - (a) on matters provided in this Law; and
 - (b) on any other matters relating to elections as are referred to it by the Electoral Commission.
- “(3) The members of the Election Advisory Committee are:—
 - (a) the Chief Ombudsman (or his nominee); and
 - (b) two other persons of whom:—
 - (i) one shall be nominated by the Board of the Transparency International (PNG) Inc.; and
 - (ii) one shall be a retired judge or lawyer qualified to be appointed a judge nominated by the Electoral Commissioner after consulting the Chief Ombudsman the Chairman of Transparency International Inc.,
appointed by the Head of State, acting on advice of the Electoral Commission.
- “(4) The Election Advisory Committee shall make recommendations or advice the Electoral Commission only.
- “(5) The Election Advisory Committee shall meet as often as required and shall adopt its own procedures to regulate its proceedings.
- “(6) The Electoral Commission may pay the reasonable expenses of the members of the Election Advisory Committee incurred in the performance of the functions under this section but they shall not be paid any remuneration.”.

Propose Law to Alter the Organic Law on National and Local-level Government Elections:—continued**45. CERTIFIED LIST OF VOTERS (AMENDMENT OF SECTION 123).**

Section 123 of the *Organic Law on National and Local-level Government Elections* is amended:—

(a) by inserting at the beginning of that section the following:—

“(1)”; and

(b) by adding at the end of that section the following new Subsection:—

“(2) The list of voters referred to in Subsection (1) may be provided in electronic form instead of, or in addition to, a hard copy.”.

46. REPEAL AND REPLACEMENT OF SECTION 124.

Section 124 of the *Organic Law on National and Local-level Government Elections* is repealed and is replaced with the following:—

“124. Ballot-Papers.

“(1) Ballot-papers to be used in an election shall be in the prescribed form.

“(2) A ballot-paper shall have:—

(a) three spaces or boxes for a voter to indicate his preferences — 1, 2 and 3 — either by the prescribed candidate identification number or by candidate name; and

(b) any other feature as the Electoral Commission determines is necessary to be included.

“(3) Regulations may make detailed provisions on the form, content and manner of use of ballot papers and on any other matters considered necessary.

47. REPEAL AND REPLACEMENT OF SECTION 125.

Section 125 of the *Organic Law on National and Local-level Government Elections* is amended is repealed and is replaced with the following:—

“125. Candidate Posters.

“(1) The Electoral Commission shall make available at a polling place candidate posters containing the prescribed particulars of candidates to be displayed for voters to identify candidates for the purposes of marking their ballot papers.

“(2) Candidate posters to be used in an election shall be in the prescribed form.

“(3) Regulations may make detailed provisions on the form, content and manner of use of candidate posters and on any other matter considered necessary.

“(4) With the approval of the Electoral Commission given in writing and subject to such conditions as the Electoral Commission prescribes in writing (which may include a fee), a candidate may print the candidate posters for his use in his election.”.

48. THE POLLING (AMENDMENT OF SECTION 130).

Section 130 of the *Organic Law on National and Local-level Government Elections* is amended by repealing Subsection (3):—

49. ELECTIONS AT WHICH ELECTORS ARE ENTITLED TO VOTE (AMENDMENT OF SECTION 131).

Section 131 of the *Organic Law on National and Local-level Government Elections* is amended:—

“(a) in Subsection (1) by repealing the words “Subject to Division (3)” and replacing them with the following:—

“Subject to this Section and Division 3”; and

“(b) by repealing Subsection (2) and replacing it with the following:—

“(2) A candidate is entitled to vote in the electorate for which he is a candidate whether or not his name is on the Roll for that electorate.”.

Propose Law to Alter the Organic Law on National and Local-level Government Elections:—continued**50. REPEAL AND REPLACEMENT OF SECTION 132.**

Section 132 of the *Organic Law on National and Local-level Government Elections* is repealed and is replaced with the following:—

“132. Where Electors may Vote.

- “(1) Subject to this section, an elector is entitled to vote at any prescribed polling place for the electorate for which he is enrolled while that polling place is open.
- “(2) The Electoral Commission may, by notice in the *Natinal Gazette*, require an elector in an electorate or a part of an electorate to vote only in the part of the electorate where his name appears on the Roll.
- “(3) Where a notice is given under Subsection (2), an elector shall vote only in that part of the electorate where his name appears on the Roll.
- “(4) Nothing in this section authorizes an elector to vote more than once at an election.”.

51. REPEAL AND REPLACEMENT OF SECTION 133.

Section 133 of the *Organic Law on National and Local-level Government Elections* is repealed and is replaced with the following:—

“133. Persons claiming to vote to give name and other particulars.

- “(1) A person claiming to vote at a polling booth shall:—
 - (a) state his full name or names; and
 - (b) if so directed by the presiding officer for the purpose of identifying him, his finger or palm print is to be placed on the ballot paper, electronic pad or system or other material; and
 - (c) if so desired by the presiding officer for the purpose of identifying the name under which the vote is claimed, give any other particulars necessary to be stated in the Roll or to enable him to be identified in the Roll.
- “(2) For the purposes of Subsection (1)(b), the Electoral Commission may establish a finger, palm or other identification system, whether manually or electronically, for the purposes of identifying a voter and his entitlement to vote and to prevent multiple voting.
- “(3) Where the Electoral Commission establishes an identification system referred to in Subsection (2), the manner and the way the system is established are as prescribed.
- “(4) Regulations made under Subsection (3) shall ensure that the way a voter votes is not immediately disclosed.
- “(5) The Electoral Commission may itself establish and administer the ID system or it may authorize another person to do so and the same provisions as those applying to identification systems relating to enrolment on a Roll shall apply.
- “(6) Regulations may make detailed provisions for:—
 - (a) an identification system to be used may be administered and managed by the Electoral Commission or by any other person; and
 - (b) the use of manual finger printing or electronic identification system to verify entitlement to vote; and
 - (c) the Electoral Commission to use such system where it considers necessary; and
 - (d) the discretion of the Electoral Commission to use any identification system to the whole of the country, a part of the country, an electorate or a part any electorate; and
 - (e) where the Electoral Commission decides to use an identification system only for electorates in a part of the country or for a part of an electorate, notification is to be made in the *National Gazette*; and
 - (f) the systems to be used may include one or more of the following:—
 - (i) a manual finger print system;
 - (ii) computer or electronic recorded and recognized finger print system;
 - (iii) computer or electronic recorded and recognized palm print system; or
 - (iv) computer or electronic or other photographic system; and

Propose Law to Alter the Organic Law on National and Local-level Government Elections:—continued

- (g) a voter may be required:—
 - (i) to put his finger print on the ballot paper or any other document; or
 - (ii) to place his finger on any instrument that records the print, whether or not it checks the data base; or
 - (iii) a combination of Paragraphs (i) and (ii); or
 - (iv) a combination of Paragraphs (i) and (ii) with other features; or
 - (v) a combination of Paragraphs (i) and (ii) with other features; and
- (h) where a finger print is required to be impressed on a ballot paper making it possible to establish or identify a person and the way the person has voted:—
 - (i) the finger print is to be checked only for the purposes of verifying a vote and not to identify who the voter has voted; and
 - (ii) any system used is to ensure that the system does not reveal to any unauthorized person how a voter has voted,and a breach of this provision is to incur penalty of a term of imprisonment.”.

52. QUESTIONS TO BE PUT TO VOTER (AMENDMENT OF SECTION 134).

Section 134 of the *Organic Law on National and Local-level Government Elections* is amended by repealing Subsection (3) and replacing it with the following:—

- “(3) Where a person claiming to vote refuses to give a finger or palm print or fails to pass a finger print or the prescribed palm identification system, his claim to vote shall be rejected.”.

53. RIGHT OF ELECTOR TO RECEIVE BALLOT-PAPER (AMENDMENT OF SECTION 136).

Section 136 of the *Organic Law on National and Local-level Government Elections* is amended in Subsection (1) by inserting after Paragraph (b) the following new paragraph:—

- “(ba) if he passes the identification system established under Section 134; or”.

54. REPEAL AND REPLACEMENT OF SECTION 139.

Section 139 of the *Organic Law on National and Local-level Government Elections* is repealed and is replaced with the following:—

“139. Method of Marking Ballot-Paper.

- “(1) Subject to this Law, an elector shall record his votes on his ballot-paper:—

- (a) where there are three or more candidates:—
 - (i) by placing in the three square brackets on the ballot-paper, in the order of preference from 1, 2 and 3, the identification numbers appearing beside the name of the candidate on the candidate poster; or
 - (ii) by writing in the three line spaces on the ballot-paper the names of the candidates in the order of preference from 1, 2 and 3; or
- (b) where there are two candidates:—
 - (i) by placing in the first two of the square brackets on the ballot-paper, in the order of preference of 1 and 2, the identification numbers appearing beside the name of the candidate on the candidate poster; or
 - (ii) by writing in the first two line spaces on the ballot-paper the names of the candidate in the order of preference of 1 and 2.

- “(2) Where a voter inserts the name of a candidate on a ballot-paper, the misspelling of the name shall not render a vote informal if the intention of the voter is clear.

- “(3) Where a voter completes on the ballot-paper both the identification number of a candidate in a square box and states the name of the candidate in a line space, if there is inconsistency between the two as to who the voter intended to vote, the preference indicated by the name shall be accepted as valid and not the identification number.”.

Propose Law to Alter the Organic Law on National and Local-level Government Elections:—continued**55. ASSISTANCE TO CERTAIN VOTER (AMENDMENT OF SECTION 140).**

Section 140 of the *Organic Law on National and Local-level Government Elections* is amended by inserting after Subsection (1) the following new subsection:—

“(1A) A voter may present to a Presiding Officer or other polling officer a list indicating the candidates the voter wants to vote for and upon receipt of such a list and in the presence of another polling official, the Presiding Officer or polling officer shall read to the voter the candidate named on the list and confirm if the voter wishes to mark votes for these candidates and in the order of preference so indicated and only after this can the Presiding Officer or other polling officer complete a ballot paper for the voter in accordance with the voters instructions.”.

56. ADJOURNMENT OF POLLING ON ACCOUNT OF RIOT (AMENDMENT OF SECTION 146).

Section 146 of the *Organic Law on National and Local-level Government Elections* is amended in Subsection (2) by repealing the words “but in no event beyond the end of the polling period”.

57. COUNTING CENTRES (AMENDMENT OF SECTION 148).

Section 148 of the *Organic Law on National and Local-level Government Elections* is amended:—

(a) by inserting at the beginning of that section the following:—

“(1”;

(b) by adding at the end of that section the following new subsections:—

“(2) The counting centre shall be within the electorate where the election was held.

“(3) Where circumstances make it difficult for the counting centre to be located within the electorate, the Returning Officer may appoint a place outside the electorate to be the counting center.”.

58. REPEAL AND REPLACEMENT OF SECTION 153.

Section 153 of the *Organic Law on National and Local-level Government Elections* is repealed and is replaced with the following:—

“153. Informal Ballot-Papers.

“(1) Subject to this section, and to Division 3 and 4 and the Regulations, a ballot-paper is informal where:—

(a) it is not authenticated by the initials of the presiding officer or by an official mark as prescribed; or

(b) subject to Subsections (2) and (3), it has no vote indicated on it or it does not have the voter's first preference for one candidate and his contingent votes for two other candidates or where there are less than two other candidates, for the remaining candidate; or

(c) subject to Subsection (4), it has on it any mark or writing (not authorized by this Law or Regulations made under this Law to be put on it) by which, and on the face of the ballot paper alone, in the opinion of the officer conducting the scrutiny, the voter can be identified.

“(2) Where there are two candidates only and the voter has indicated his vote by inserting the identification numbers and/or the name of one candidate for the first preference and left the other two squares and lines blank, the voter shall be deemed to have indicated the order of his preference for both candidates.

“(3) Where there are three candidates only and the voter has indicated his vote by inserting the identification numbers and/or the names of two candidates for the first and second preferences, and the square and line for the third preference has been left blank, the voter's preference shall be deemed to have indicated his preferences for all candidates.

“(4) Subsection (1)(c) does not apply to a mark or writing placed on a ballot-paper by an officer, notwithstanding that the placing of the mark or writing on the ballot-paper is a contravention of this section.

“(5) Subject to Divisions 3 and 4, a ballot paper shall not be informal for any reason other than a reason specified in this section.”.

Propose Law to Alter the Organic Law on National and Local-level Government Elections:—continued**59. NEW SECTION 153A.**

The *Organic Law on National and Local-level Government Elections* is amended by inserting after Section 153 the following new section:—

“153A. Excluding Ballot Box from Scrutiny.

- “(1) Subject to this section, a Returning Officer may refuse to admit to scrutiny a ballot box containing marked ballot-papers where he is of the opinion that:—
- (a) the ballot-papers in it were not lawfully casted; or
 - (b) the ballot box was tampered with and the integrity of the ballot-papers in it were compromised.
- “(2) Where objection is taken to a ballot box being admitted to scrutiny by a scrutineer or by a polling officer who polled with the ballot box, the Returning Officer may require the objection and the grounds of the objection to be reduced into writing and may require any responses from a scrutineer to be in writing and for the relevant Presiding Officer and other polling officers as are available at the scrutiny to comment on the objections and the responses given before making a decision on such objection.
- “(3) A ballot box that is damaged but its contents have not been disturbed is not to be rejected for the reason of the damage.
- “(4) A decision of a Returning Officer under this section may not be challenged other than by way of petition.”.

60. SCRUTINY OF ORDINARY VOTES IN ELECTIONS (AMENDMENT OF SECTION 154).

Section 154 of the *Organic Law on National and Local-level Government Elections* is amended:—

- (a) in Subsection (1) by inserting after the words “Division 3 and 4” the following:—
“and Regulations”; and
- (b) by inserting after Subsection (2) the following new subsection:—
“(3) The Regulations may provide for the counting of votes to be done electronically following the opening of the ballot boxes and after rejecting informal ballot-papers and ballot boxes not admitted to scrutiny.”.

61. SCRUTINY OF VOTES IN ELECTIONS (AMENDMENT OF SECTION 168).

Section 168 of the *Organic Law on National and Local-level Government Elections* is amended:—

- (a) in Subsection (1):—
 - (i) by inserting at the beginning of that section the following:—
“Subject to this section and the Regulations,”; and
 - (ii) by repealing Paragraph (g) and replacing it with the following:—
“(g) if, in any count, two or more candidates have an equal number of votes and one of them has to be excluded, the candidate who received the lowest number of votes in the immediately preceding count shall be excluded and if the same candidates or some of them received the same number of lowest votes in the immediately preceding count, the candidate who received the lowest number of votes in the count preceding the immediately preceding count shall be excluded and this process shall continue as far back as is necessary”; and
 - (iii) by inserting after Paragraph (g) the following new paragraphs:—
“(h) if, and only if, in the situation referred to under Paragraph (g), there is no further preceding count to determine elimination of candidates on equal votes, the candidate who is lowest on the candidate poster shall be excluded;

Propose Law to Alter the Organic Law on National and Local-level Government Elections:—continued

- “(i) if, in the final count, two candidates have an equal number of votes, the candidate who received the highest number of votes in the immediately preceding count shall be elected and if the same two candidates received the same number of votes in the immediately preceding count, the candidate who received the highest number of votes in the count preceding the immediately preceding count shall be elected and this process shall continue as far back as is necessary; and
- “(j) if, in the final count, in a situation referred to in paragraph (i), there is no further preceding count to determine elimination of candidates on equal votes, the candidate who is highest on the candidate poster shall be elected.”; and

(b) by repealing Subsection (3) and replacing it with the following:—

- “(3) The Regulations may provide for the scrutiny to be done electronically under such electronic system as approved by the Electoral Commission but which electronic system shall be programmed to follow the scrutiny rules in this section.”.

62. RECOUNT (AMENDMENT OF SECTION 170).

Section 170 of the *Organic Law on National and Local-level Government Elections* is amended:—

(a) in Subsection (1) by inserting at the beginning of that section the following:—

“Subject to this Subsection (4) and (5),”; and

(b) by adding after Subsection (3) the following new subsections:—

- “(4) Where the scrutiny is conducted by the use of an electronic system, a candidate may request and the Returning Officer shall, subject to compliance with the provisions of Subsection (5), count the votes without the electronic system.
- “(5) The candidate demanding a recount shall be required to pay a deposit of an amount of money that the Returning Officer estimates will be the cost of conducting a recount and the candidate must pay the amount determined by the Returning Officer and agree to cover further costs of the recount before a recount is granted under Subsection (4).
- “(6) If a recount conducted under Subsection (4) produces a result different from the result produced by the electronic count, the Returning Officer shall refund to the candidate the deposit paid but if the result remains the same, the deposit shall be forfeited to cover the expenses of the recount and, if any excess cost is not covered by the recount, the Electoral Commission shall claim the excess from the candidate who demanded the recount as a debt but if there is a balance remaining in the deposit after deducting the cost of recount, the balance shall be paid to the candidate.”.

63. RETURN OF WRITS (AMENDMENT OF SECTION 175).

Section 175 of the *Organic Law on National and Local-level Government Elections* is amended:—

(a) in Subsection (1) by repealing the words “The Returning Officer shall,” and replacing them with the following:—

“Subject to this section, the Returning Officer or the Electoral Commission shall,”; and

(b) by inserting after Subsection (1) the following new subsection:—

“(1A) Where the Electoral Commission has directed the Returning Officer not to declare a result:—

- (a) unless the direction is withdrawn, the Returning Officer shall not declare a result and any result declared in contravention of a direction is invalid; and
- (b) in special circumstances, the Electoral Commission may declare the result based on information concerning scrutiny and other information provided by the Returning Officer or an Assistant Returning Officer.”.

Propose Law to Alter the Organic Law on National and Local-level Government Elections:—continued**64. REPEAL AND REPLACEMENT OF SECTION 177.**

Section 177 of the *Organic Law on National and Local-level Government Elections* is repealed and is replaced with the following:—

“177. Extension of Time.

- “(1) Notwithstanding any provisions of this Law but subject to this section, the Head of State, acting with, and in accordance with, the advice of the Electoral Commission, may, where special circumstances require and he is of the opinion that it is necessary to do so, extend such time as is necessary:—
- (a) for holding the election; or
 - (b) for taking of nominations; or
 - (c) for polling; or
 - (d) for returning the writ,
- and provision so made shall be valid and sufficient.
- “(2) In exercising the powers under this section to extend time, the Electoral Commission shall endeavour to ensure that the majority of the writs in a general election are returned at least five days before the anniversary of the term of the current Parliament.
- “(3) In the case of an extension of time under Subsection (1), public notice of the extension shall be immediately given in the electorate or the portion of the electorate for which the election is to be held.”.

65. ILLEGAL PRACTICES (AMENDMENT OF SECTION 178).

Section 178 of the *Organic Law on National and Local-level Government Elections* is amended:—

- (a) In Subsection (1) by adding after Paragraph (e) the following new paragraphs:—
- “(f) obstructs, damages or interferes with a public street or road with the intention to interfere with the conduct of an election;
 - “(g) assaulting or threatening to assault a Returning Officer, Assistant Returning Officer, Presiding Officer, other polling officer or police officer assisting in an election; and
 - “(h) inciting or encouraging, whether publicly or otherwise, disturbances to interfere in an election.”; and
- (b) by adding after Subsection (3) the following new subsection:—
- “(4) The Electoral Commission may prosecute an offence referred to in—
- (a) Sections 178, 191 and 195; and
 - (b) subject to the approval of the Public Prosecutor, Sections 99, 100, 102, 103, 108 and 110 of the *Criminal Code Act* (Chapter 262).”.

66. DEPOSIT AS SECURITY FOR COSTS (AMENDMENT OF SECTION 209).

Section 209 of the *Organic Law on National and Local-level Government Elections* is amended by repealing the amount “K2,500.00” and replacing it with the following:—

“K5,000.00”.

67. ROLLS (AMENDMENT OF SECTION 242).

Section 242 of the *Organic Law on National and Local-level Government Elections* is amended:—

- (a) by inserting at the beginning of that section the following:—
- “(1)”; and
- (b) by adding at the end of that section the following new subsection:—
- “(2) Notwithstanding any provisions in this Part, where a Roll for an open electorate is prepared in parts that conform to a Ward or other Local-level Government electorate, a Roll so prepared and kept for such open electorate is sufficient and may be used for an election to a Local-level Government.”.

Propose Law to Alter the Organic Law on National and Local-level Government Elections:—continued**68. FORM OF WRITS (AMENDMENT OF SECTION 273).**

Section 273 of the *Organic Law on National and Local-level Government Elections* is amended in Subsection (1)(b) by repealing the words “which period shall not exceed 14 days”.

69. DATE OF POLLING (AMENDMENT OF SECTION 277).

Section 277 of the *Organic Law on National and Local-level Government Elections* is amended:—

(a) by inserting at the beginning of that section the following:—

“(1)”; and

(b) by adding at the end of that section the following new subsection:—

“(2) Where special circumstances require, the Electoral Commission may, by notice in the *National Gazette*:—

(a) fix a date of commencement of polling on a day other than a Saturday; and

(b) determine that the period specified in Subsection (1) shall be reduced or extended.”.

70. DATE OF RETURN OF WRIT (AMENDMENT OF SECTION 278).

Section 278 of the *Organic Law on National and Local-level Government Elections* is amended:—

(a) by inserting at the beginning of that section the following:—

“(1)”; and

(b) by adding at the end of that section the following new subsection:—

“(2) Where special circumstances require, the Electoral Commission may, by notice in the *National Gazette*, extend the period specified in Subsection (1).”.

71. REPEAL AND REPLACEMENT OF SECTION 280.

Section 280 of the *Organic Law on National and Local-level Government Elections* is repealed and is replaced with the following:—

“280. General Election to be held on same day.

“(1) Subject to this section, in the case of a general election, the same day shall be fixed for the commencement of the polling period in each electorate, and all writs shall be made returnable on the same day.

“(2) Where special circumstances make it necessary for the Electoral Commission to fix different polling commencement dates for different electorates, the Commission may do so by notice in the *National Gazette*.

“(3) Where special circumstances make it necessary, the Electoral Commission may return a writ after the date fixed for the return of writs.”.

72. NEW SECTION 280A.

The *Organic Law on National and Local-level Government Elections* is amended by inserting after Section 280 the following new section:—

“280A. Failure to Observe Requirements.

A failure to observe a requirement under this Division shall not be a ground for invalidating an election.”.

73. NOMINATIONS (AMENDMENT OF SECTION 281).

Section 281 of the *Organic Law on National and Local-level Government Elections* is amended in Subsection (1) by inserting after the words “Part XI” the words “and Part XIA”.

74. REPEAL AND REPLACEMENT OF SECTION 282.

Section 282 of the *Organic Law on National and Local-level Government Elections* is repealed and is replaced with the following:—

Propose Law to Alter the Organic Law on National and Local-level Government Elections:—continued

“282. Polling.

“(1) Subject to Subsection (2), the provisions of Part XIII of this Law shall apply as the provisions of this Law relating to Local-level Government elections.

“(2) References in Part XIII to an ‘electorate’ shall be read as references to a ‘ward’.”.

75. REPEAL AND REPLACEMENT OF SECTION 283.

Section 283 of the *Organic Law on National and Local-level Government Elections* is repealed and is replaced with the following:—

“283. Scrutiny.

“(1) Subject to Subsection (2), the provisions of Part XIV of this Law shall apply as the provisions of this Law relating to Local-level Government elections.

“(2) References in Part XIV to an ‘electorate’ shall be read as references to a ‘ward’.”.

76. REPEAL OF SECTIONS 283A, 283B AND 283C .

Sections 283A, 283B and 283C of the *Organic Law on National and Local-level Government Elections* are repealed.

77. INSTITUTION OF PROCEEDINGS FOR OFFENCES (AMENDMENT OF SECTION 289).

Section 289 of the *Organic Law on National and Local-level Government Elections* is amended:—

(a) in Subsection (1) by adding at the end of that subsection the following:—

“and Sections 99, 100, 102, 103, 108 and 110 of the *Criminal Code Act* (Chapter 262)”; and

(b) by inserting after Subsection (1) the following new subsection:—

“(1A) A person convicted of an offence under this Section 191, (offences in table numbered 1, 4, 6, 7, 8, 9, 11, 13 and 14), Section 195 of this Law and Sections 99, 100, 102, 103, 108 and Section 110 of the *Criminal Code Act* (Chapter 262) shall be disqualified from voting, holding elective public office or being employed in the Public Service, in a provincial government or a local-level government.

78. NEW SECTION 289A.

The *Organic Law on National and Local-level Government Elections* is amended by inserting after Section 289 the following new section:—

“289A. Civil Claims Against the Electoral Commission.

No claim for damages may be maintained against the Electoral Commission, the Electoral Commissioner or an electoral officer for cancelling an election, breach of statutory duty, negligence or other claim under the underlying law for any act or omission with respect to the conduct of elections.”.

INDEPENDENT STATE OF PAPUA NEW GUINEA

THE 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) of the Constitution, I, Jeffrey Nape, Speaker of the National Parliament, hereby publish the proposed Law.

Draft of 26/09/05

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. Compliance with Constitutional requirements.
2. Repeal of and replacement of Division III.8.

“Division 8.—Withdrawal of Powers, Functions and Finances of Provincial Governments and Local-level Governments.

“51. Withdrawal of Powers, Functions and Finances.”

“52. Return of Powers and Functions.”

“53. Compliance with Certain Conditions.”

Draft of 26/09/05

INDEPENDENT STATE OF PAPUA NEW GUINEA

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 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.

1. COMPLIANCE WITH CONSTITUTIONAL REQUIREMENTS.

- (1) 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 liberty of the person conferred by Section 42 of the Constitution; and
- (b) the right to freedom of expression and publication conferred by Section 46 of the Constitution; and
- (c) the right to peacefully assemble and associate and to form or belong to, or not to belong to, political parties, industrial organizations or other associations conferred by Section 47 of the Constitution; and
- (d) the right to freedom of choice of employment in any calling for which a person has the qualifications (if any) lawfully required conferred by Section 48 of the Constitution; and
- (e) the right to reasonable privacy in respect of his private and family life, his communications with other persons and his personal papers and effects conferred by Section 49 of the Constitution; and
- (f) the right of reasonable access to official documents conferred by Section 51 of the Constitution; and
- (g) the right of freedom of movement conferred by Section 52 of the Constitution,

is a law that is made pursuant to Section 38 of the Constitution taking account of the National Goals and Directive Principles for the purpose of giving effect to the public interest in public order and public welfare.

2. ESTABLISHMENT OF LOCAL-LEVEL GOVERNMENTS (AMENDMENT OF SECTION 27).

Section 27 of the *Organic Law on Provincial and Local-level Governments* is amended:—

- (a) in Subsection (1A) by repealing the words “In principle” and replacing them with the following:—
“Subject to Subsection (1B), in principle,”; and
- (b) by inserting after Subsection (1A) the following new subsection:—
“(1B) The boundaries of a Ward or other local-level government electorate shall not overlap two or more open electorates.”.

Draft of 24/10/05

INDEPENDENT STATE OF PAPUA NEW GUINEA
CONSTITUTION

ORGANIC LAW ON THE INTERGRITY OF POLITICAL PARTIES AND CANDIDATES

The Government proposes to introduce the *Organic Law on the Integrity of Political Parties and Candidates (Amendment) Law* and, pursuant to Section 14(2)(making of alterations to the Constitution and Organic laws) of the Constitution, I, Jeffrey Nape, Speaker of the National Parliament, hereby publish the proposed Law.

Draft of 24/10/05

INDEPENDENT STATE OF PAPUA NEW GUINEA

**PROPOSED LAW TO ALTER THE ORGANIC LAW ON THE INTEGRITY OF POLITICAL PARTIES
AND CANDIDATES**

Organic Law on the Integrity of Political Parties and Candidates (Amendment) Law

ARRANGEMENT OF CLAUSES

1. Compliance with Constitutional requirements.
2. Application of this Law.
3. Interpretation (Amendment of Section 2).
4. General Provision (Amendment of Section 53).
5. Invitation to form Government (Amendment of Section 63).
6. Funding of female candidates (Amendment of Section 83).

Draft of 24/10/05

INDEPENDENT STATE OF PAPUA NEW GUINEA

**PROPOSED LAW TO ALTER THE ORGANIC LAW ON THE INTEGRITY OF POLITICAL PARTIES
AND CANDIDATES**

entitled

Organic Law on the Integrity of Political Parties and Candidates (Amendment) Law

being

A Law to amend the *Organic Law on the Integrity of Political Parties and Candidates*,
MADE by the National Parliament.

1. COMPLIANCE WITH CONSTITUTIONAL REQUIREMENTS.

- (1) 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 liberty of the person conferred by Section 42; and
- (b) the right to freedom of expression and publication conferred by Section 46; and
- (c) the right to peacefully assemble and associate and to form or belong to, or not to belong to, political parties, industrial organizations or other associations conferred by Section 47; and
- (d) the right to freedom of choice of employment in any calling for which a person has the qualifications (if any) lawfully required conferred by Section 48; and
- (e) the right to reasonable privacy in respect of his private and family life, his communications with other persons and his personal papers and effects conferred by Section 49; and
- (f) the right to vote and stand for public office conferred by Section 50; and
- (g) the right of reasonable access to official documents conferred to Section 51; and
- (h) the right of freedom of movement conferred by Section 52,

of the Constitution, is a law that is made pursuant to Section 38 of the Constitution taking account of the National Goals and Directive Principles for the purpose of giving effect to the public interest in public order and public welfare.

Proposed Law to Alter the Organic Law on the Integrity of Political Parties and Candidates:—continued**2. APPLICATION OF THIS LAW.**

This law applies to and in respect of all Provinces except Bougainville Province.

3. INTERPRETATION (AMENDMENT OF SECTION 2).

Section 2 of the *Organic Law on the Integrity of Political Parties and Candidates* is amended by repealing the definition of “endorsed candidate” and replacing it with the following:—

“endorsed candidate” means a candidate supported by a political party in accordance with Section 53; and “endorse” has a corresponding meaning;”.

4. GENERAL PROVISION (AMENDMENT OF SECTION 53).

Section 53 of the *Organic Law on the Integrity of Political Parties and Candidates* is amended:—

(a) by inserting at the beginning of that section the following:—

“1”; and

(b) by inserting at the end of that section the following new subsections:—

“(2) Subject to Subsection (3), a candidate is endorsed by a registered political party where:—

- (a) the candidate contests the election with the support of a registered political party; and
- (b) the Electoral Commission is notified of the endorsement; and
- (c) the name of the candidate is associated with the registered political party on the candidate poster or by other notice or announcement indicating to the electorate to which the candidate is contesting that he is endorsed by the political party; and
- (d) there is no other endorsement by another political party.

“(3) For the purposes of Subsection (2), a form completed by a candidate nominating to contest an election and submitted to the Electoral Commission and on which the name of the political party is stated is, unless it is validly withdrawn, conclusive evidence of the candidate being endorsed by the political party named therein.”.

5. INVITATION TO FORM GOVERNMENT (AMENDMENT OF SECTION 63).

Section 63 of the *Organic Law on the Integrity of Political Parties and Candidates* is amended by inserting after Subsection (8) the following new sections:—

“(9) For the purposes of Subsection (1), the last hour on which the Electoral Commission is to compute the number of candidates returned to a political party is forty-eight hours to the hour of mid-night of the day of the fifth anniversary of the Parliament.

“(10) For the purposes of Subsection (1), Regulations may prescribe the form of the advice from the Electoral Commission to the Head of State to be signed by the Electoral Commissioner or, in his absence, the Acting Electoral Commissioner, stipulating the following things:—

- (a) the names of political parties that contested the general election;
- (b) the number of writs issued for the general election;
- (c) the number of elections concluded and results received;
- (d) the number and names of elections yet to be concluded;
- (e) the number and names of elections cancelled or failed;
- (f) the number and names of candidates returned not endorsed by political parties (or independents);
- (g) the number and names of candidates returned as elected to each political party;
- (h) the name of the political party or political parties that returned the highest number of candidates elected;
- (i) the date on which the figures are computed; and
- (j) the name of the political party or political parties that the Head of State shall invite to form government.”.

Proposed Law to Alter the Organic Law on the Integrity of Political Parties and Candidates:—*continued*

6. FUNDING OF FEMALE CANDIDATES (AMENDMENT OF SECTION 83).

Section 83 of the *Organic Law on the Integrity of Political Parties and Candidates* is amended by inserting after Subsection (2) the following new subsection:—

“(3) The percentage of votes referred to in Subsection (1) includes both primary and preference votes.”.