

No. — of 1995.

**Organic Law on Provincial Governments and
Local-level Governments (Amendment No.1) Law.**

Certified on : 2 February 1996.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

*Organic Law on Provincial
Governments and Local-level Governments (Amendment No.1)
Law.*

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Local-level Governments (Amendment No.1 Law),*

Being a Law to alter the *Organic Law on Provincial Governments
and Local-level Governments*, and for related purposes,

MADE by the National Parliament.

1. GENERAL PRINCIPLES (AMENDMENT OF SECTION 1).

Section 1(2)(a) of the *Organic Law on Provincial Governments and Local-level Governments* is amended by repealing Subparagraph (i) and replacing it with the following:-

"(i) mainly elective (elected directly or indirectly) representative and participatory government; and".

2. SYSTEM OF PROVINCIAL GOVERNMENTS AND LOCAL-LEVEL GOVERNMENTS (AMENDMENT OF SECTION 5).

Section 5(2) of the *Organic Law on Provincial Governments and Local-level Governments* is amended by repealing the words "this Organic Law" and replacing them with the words "this Organic Law and an Act of the Parliament".

3. PROVINCIAL GOVERNMENT AND LOCAL-LEVEL GOVERNMENT SYMBOLS AND SEAT OF GOVERNMENT (AMENDMENT OF SECTION 9).

Section 9 of the *Organic Law on Provincial Governments and Local-level Governments* is amended -

(a) in Subsection (1) -

(i) by repealing the words "A provincial law" and replacing them with the words "An Act of the Parliament";
and

(ii) by repealing the words "the province" and replacing them with the words "each province".

(b) in Subsection (2) -

(i) by repealing the words "A local-level law" and replacing them with the words "An Act of the Parliament";
and

(ii) by repealing the words "the area to which the local-level law applies" and replacing them with the words "each Local-level Government Area".

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4. PROVINCIAL GOVERNMENT AND PROVINCIAL LEGISLATURE
(AMENDMENT OF SECTION 10).

Section 10 of the *Organic Law on Provincial Governments and Local-level Governments* is amended -

(a) in Subsection (3) by -

(i) repealing Paragraph (c) and replacing it with the following:-

"(c) one representative of the heads of urban Local-level Governments to represent the urban Local-level Governments in the Province; and"; and

(ii) repealing from Paragraph (d) the word "where" and replacing it with the words "subject to Subsection (6), where"; and

(iii) repealing Paragraph (e) and replacing it with the following:-

"(e) one woman representative nominated in accordance with an Act of the Parliament and appointed by the Provincial Executive Council; and"; and

(iv) adding after Paragraph (e) the following new paragraph:-

"(f) such other members, not exceeding three in number, as the Provincial Assembly may appoint from time to time"; and

(b) by repealing Subsection (5) and replacing it with the following:-

"(5) All members of a Provincial Assembly have full voting powers and shall be counted towards the quorum of a Provincial Assembly."; and

(c) by adding after Subsection (5) the following new subsection:-

"(6) Where there are more than one paramount chiefs in a district only one may be recommended for appointment.".

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5. VACATION OF OFFICE (AMENDMENT OF SECTION 13).

Section 13 of the *Organic Law on Provincial Governments and Local-level Governments* is amended -

(a) in Subsection (3) by repealing Paragraph (b) and replacing it with the following:-

"(b) becomes permanently incapable of performing his duties as certified by two medical practitioners appointed for the purpose by the National Authority responsible for the registration or licensing of medical practitioners; or"; and

(b) repealing Paragraph (d) and replacing it with the following:-

"(d) becomes of unsound mind within the meaning of any law relating to the protection of persons and property of persons of unsound mind; or".

6. PROCEDURES OF THE PROVINCIAL ASSEMBLY (AMENDMENT OF SECTION 15).

Section 15 of the *Organic Law on Provincial Governments and Local-level Governments* is amended -

(a) by repealing Subsection (2) and replacing it with the following:-

"(2) Subject to this Organic Law, the privileges and immunities of members of Provincial Assemblies and the procedures and proceedings, including the number of meetings and quorum for meetings of Provincial Assemblies shall be as determined by an Act of the Parliament."; and

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

"(3) The number of meetings of a Provincial Assembly shall be not less than four in each calendar year and shall not be held at the same time as the meetings of the National Parliament."

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7. REPEAL AND REPLACEMENT OF SECTION 16.

Section 16 of the *Organic Law on Provincial Governments and Local-level Governments* is repealed and is replaced with the following:-

"16. REMUNERATION AND ALLOWANCE.

"The salaries, allowances and other terms and conditions of the Provincial Governor, Deputy Provincial Governor, the Chairman and Deputy Chairman of a committee of the Provincial Assembly or the Provincial Executive Council and the other members of the Assembly, shall be as determined by the Salaries and Remuneration Commission."

8. NEW SECTION 16A.

The *Organic Law on Provincial Governments and Local-level Governments* is amended by inserting after Section 16 the following new section:-

"16A. PROVINCIAL ASSEMBLY COMMITTEES.

"(1) A Provincial Assembly may, in accordance with an Act of the Parliament -

- (a) establish such number of committees (including permanent committees) as the Assembly considers necessary to carry out its functions; and
- (b) determine all matters relating to such committees.

"(2) The committees of the Assembly shall consist only of members of the Assembly."

9. THE DEPUTY PROVINCIAL GOVERNOR (AMENDMENT OF SECTION 18).

Section 18 of the *Organic Law on Provincial Governments and Local-level Governments* is amended by adding at the end thereof the following subsections:-

"(3) If the Deputy Provincial Governor -

- (a) is dismissed from office in accordance with Section 20; or
- (b) resigns his office by written notice to the Governor; or
- (c) is otherwise disqualified by law or ceases to be -
 - (i) the head of a rural Local-level Government in the province; or

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- (ii) the representative of the urban Local-level Governments in the province, he shall be deemed to have vacated the office of Deputy Provincial Governor.

"(4) If the Deputy Provincial Governor vacates his office in accordance with Subsection (3), the Provincial Assembly shall elect another member referred to in Section 10(3)(b) or (c) to be the Deputy Governor."

10. VACATION OF OFFICE OF THE PROVINCIAL GOVERNOR (AMENDMENT OF SECTION 19).

Section 19 of the *Organic Law on Provincial Governments and Local-level Governments* is amended -

(a) in Subsection (1) -

- (i) by repealing Paragraph (c) and replacing it with the following:-

"(c) resigns his office by written notice to the Minister responsible for provincial government and local-level government matters; or"; and

- (ii) by adding after Paragraph (c) the following new paragraphs:-

"(d) is, in the opinion of two medical practitioners appointed for the purpose by the National Authority responsible for the registration or licensing of medical practitioners, unfit, by reasons of physical or mental incapacity, to carry out the duties of his office; or

"(e) is otherwise disqualified by law or ceases to be a member of the Provincial Assembly or of the National Parliament,"; and

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- (b) by repealing Subsections (2) and (3), and replacing them with the following:-

"(2) Where the Provincial Governor is a Member of the National Parliament, other than the Member of the Parliament representing the province, he shall be deemed to have vacated the office of the Governor, if he -

- (a) is dismissed from office in accordance with Section 20; or
- (b) resigns his office in accordance with Subsection 1(c); or
- (c) is, in the opinion of two medical practitioners appointed for the purpose by the National Authority responsible for the registration or licensing of medical practitioners, unfit, by reason of physical or mental incapacity, to carry out the duties of his office; or
- (d) is appointed to any of the offices referred to in Subsection (1)(b); or
- (e) is otherwise disqualified by law or ceases to be a member of the Provincial Assembly or of the National Parliament.

"(3) Where the Provincial Governor vacates his office in accordance with Subsection (1)(b) or (c), or Subsection (2)(a), (b), (c) or (d), he shall continue to hold office as a member of the Assembly, and is eligible to be re-appointed as, but does not automatically become, the Provincial Governor during the balance of his term of office in the Assembly."

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11. REPEAL AND REPLACEMENT OF SECTION 20.

Section 20 of the *Organic Law on Provincial Governments and Local-level Governments* is repealed and is replaced with the following:-

**"20. DISMISSAL OF PROVINCIAL GOVERNOR AND DEPUTY
PROVINCIAL GOVERNOR.**

"(1) Subject to this section, if the Provincial Governor or Deputy Provincial Governor -

- (a) deliberately and persistently frustrates or fails to comply with the resolutions of the Provincial Assembly; or
- (b) deliberately and persistently disobeys applicable laws, including the *Constitution*, an Organic Law (including this Organic Law) or any national legislation applying in the province; or
- (c) is negligent in exercising his powers or performing his functions, duties and responsibilities; or
- (d) does an act that is or is likely to bring into disrepute or call into question the integrity of his office,

the Provincial Assembly may, by a two-thirds absolute majority vote, dismiss the Provincial Governor or Deputy Provincial Governor.

"(2) The dismissal of the Provincial Governor or the Deputy Provincial Governor shall be by motion -

- (a) which shall be expressed to be a motion to dismiss the Provincial Governor or the Deputy Provincial Governor, as the case may be; and
- (b) of which not less than one week's notice signed by the number of members of the Provincial Assembly, being not less than one-quarter of the total number of seats in the Assembly, has been given in accordance with the procedures of the Assembly."

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**12. ELECTION OF THE PROVINCIAL GOVERNOR IN THE EVENT OF A
VACANCY (AMENDMENT OF SECTION 21).**

Section 21(3) of the *Organic Law on Provincial Governments and Local-level Governments* is amended by repealing Paragraph (b) and replacing it with the following:-

- "(b) all of the Members of the Parliament -
(i) are appointed to any of the offices referred to in Section 19(1)(b); or
(ii) are otherwise disqualified by law,".

13. REPEAL AND REPLACEMENT OF SECTION 22.

Section 22 of the *Organic Law on Provincial Governments and Local-level Governments* is repealed and is replaced with the following:-

**"22. POLITICAL AND EXECUTIVE RESPONSIBILITIES OF
THE PROVINCIAL GOVERNOR AND THE DEPUTY
PROVINCIAL GOVERNOR.**

- "(1) The Provincial Governor, or in his absence the Deputy Provincial Governor, shall -
(a) be politically responsible to the Provincial Assembly for the overall development and good government of the province; and
(b) be constitutionally responsible to the Minister responsible for provincial government and local-level government matters.

"(2) Subsection (1) does not affect the exercise, by a Member of the Parliament, of his functions, powers, duties and responsibilities as a Member of the Parliament."

14. PROVINCIAL EXECUTIVE COUNCIL (AMENDMENT OF SECTION 23).

Section 23 of the *Organic Law on Provincial Governments and Local-level Governments* is amended -

- (a) in Subsection (2) -
(i) by repealing Paragraph (b) and replacing it with the following:-

- "(b) the Chairman of each of the permanent committees of the Provincial Executive Council appointed by the Governor."; and
(ii) by repealing Paragraph (c); and

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- (b) by repealing Subsection (4) and replacing it with the following:-

"(4) The total membership of the Provincial Executive Council shall be five or one third (whichever is greater) of the total membership of the Provincial Assembly."

15. REPEAL AND REPLACEMENT OF SECTION 25.

Section 25 of the **Organic Law on Provincial Governments and Local-level Governments** is repealed and is replaced with the following:-

"25. PROVINCIAL EXECUTIVE COUNCIL COMMITTEES.

"(1) A Provincial Executive Council shall, in accordance with an Act of the Parliament -

- (a) establish a Joint Provincial Planning and Budget Priorities Committee; and
- (b) establish such number of committees (including permanent committees) as it considers necessary to carry out its functions; and
- (c) determine all matters relating to such committees.

"(2) The Joint Provincial Planning and Budget Priorities Committee shall consist of -

- (a) a member of the Provincial Executive Council appointed by the Governor, who shall be the Chairman; and
- (b) the Chairman (or his nominee) of each Joint District Planning and Budget Priorities Committee; and
- (c) any other members not exceeding three in number appointed, on an ad hoc basis, by the Provincial Executive Council.

"(3) The Joint Provincial Planning and Budget Priorities Committee shall have the following functions:-

- (a) to oversee, co-ordinate and make recommendations as to the overall planning in the province, including budget priorities, for consideration by the National Government; and
- (b) to determine and control budget allocation priorities for the Province; and
- (c) to approve Provincial Government Budgets for presentation to the Provincial Assembly; and

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- (d) to draw up a rolling five-year development plan and annual estimates for the province; and
- (e) to conduct annual reviews of the rolling five-year development plan.

"(4) The Provincial Administrator shall be the Chief Executive Officer of the Committee.

"(5) A Member of the Parliament who occupies an office referred to in Section 19(1)(b) is not eligible to be a member of a Committee under this section.

"(6) The Governor shall appoint a Chairman for each Committee under this section, but such appointments shall be made so as to ensure fair representation of the various electorates and districts within the province.

"(7) An Act of the Parliament shall make provision for other functions and powers of, and administrative arrangements for, the Committee."

16. LOCAL-LEVEL GOVERNMENT (AMENDMENT OF SECTION 26).

Section 26 of the *Organic Law on Provincial Governments and Local-level Governments* is amended by—

- (a) repealing Subsection (3) and replacing it with the following:-

"(3) A Local-level Government may be -

- (a) an urban Local-level Government; or
- (b) a rural Local-level Government; or
- (c) a traditional form of government structure; or
- (d) in such other form as is approved by the National Executive Council; or
- (e) a combination of one or more of the forms specified in Paragraphs (a) to (d) inclusive."; and

- (b) repealing Subsection (5) and replacing it with the following:-

"(5) The number of urban Local-level Governments shall not exceed one in each district but where special circumstances exist to justify the establishment of additional urban Local-level Governments, the Minister responsible for provincial government and local-level government matters may make a recommendation to this effect to the National

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Executive Council and the National Executive Council may authorize such additional Local-level Government or additional Local-level Governments, as it considers necessary."; and
(c) adding after Subsection (5) the following subsection:-

"(6) An Act of the Parliament shall make provision in respect of any transitional arrangements necessary in relation to the transition from the system of local-level governments which are replaced by Local-level Governments under this Organic Law."

17. ESTABLISHMENT OF LOCAL-LEVEL GOVERNMENT (AMENDMENT OF SECTION 27).

Section 27 of the *Organic Law on Provincial Governments and Local-level Governments* is amended by adding after Subsection (6) the following new subsection:-

"(7) If the Minister fails to bring the recommendations to the National Executive Council for consideration within the 90 days required under Subsection (6), the National Executive Council shall proceed with the recommendations as if they had been accepted by the Minister."

18. COMPOSITION OF LOCAL-LEVEL GOVERNMENTS (AMENDMENT OF SECTION 29).

Section 29(1) of the *Organic Law on Provincial Governments and Local-level Governments* is amended -

(a) by repealing Paragraph (c) and replacing it with the following:-

"(c) in the case of a Local-level Government in an urban area, three members of whom -

- (i) one shall be a representative of workers' organisations nominated by the Papua New Guinea Trade Union Congress; and
- (ii) one shall be a representative of employers' organisations nominated by the Employers Federation; and
- (iii) one shall be a representative of womens' organisations nominated in accordance with an Act of the Parliament,

appointed by the Local-level Government; and"; and

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(b) by adding after Paragraph (c) the following new paragraph:-

"(d) in the case of a Local-level Government in a rural area, two members who shall be representatives of women's organisations nominated in accordance with an act of the Parliament appointed by the Local-level Government."

19. VACATION OF OFFICE (AMENDMENT OF SECTION 30).

Section 30 of the **Organic Law on Provincial Governments and Local-level Governments** is amended by repealing Subsection (1) and replacing it with the following:-

"(1) Where a member of a Local-level Government -

- (a) is disqualified under Section 31; or
- (b) becomes permanently incapable of performing his duties; or
- (c) dies or resigns his office; or
- (d) fails to comply with the provisions of this Organic Law; or
- (e) becomes of unsound mind; or
- (f) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with creditors, or makes an assignment of his remuneration for their benefit; or
- (g) is convicted of a criminal offence punishable by law for which a term of imprisonment of not less than three months or death are prescribed as a penalty and as the result of that conviction is sentenced to imprisonment or is under sentence of death, or is under bond to appear for sentence if called on; or
- (h) is dismissed from office for misconduct in office; or
- (i) is dismissed from office for neglect of duty in accordance with an Act of the Parliament; or
- (j) is absent without leave of the Local-level Government during the whole of three consecutive meetings of the Local-level Government, unless the Local-level Government decides to waive this provision upon satisfactory reasons being given,

the member is deemed to have vacated his office and the Minister, acting with, and in accordance with, the advice of the Provincial Executive Council, shall terminate his membership."

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20. QUALIFICATIONS AND DISQUALIFICATIONS (AMENDMENT OF SECTION 31).

Section 31 of the *Organic Law on Provincial Governments and Local-level Governments* is amended by repealing the words, numbers and letters "referred to in Section 29(1)(a) and (b)." and replacing them with the words "of Local-level Governments."

21. REPEAL AND REPLACEMENT OF SECTION 32.

Section 32 of the *Organic Law on Provincial Governments and Local-level Governments* is repealed and is replaced with the following:-

"32. PROCEDURES OF LOCAL-LEVEL GOVERNMENTS.

(1) The head of a Local-level Government shall preside at all meetings of the Local-level Government at which he is present.

"(2) Subject to this Organic Law, the privileges and immunities of members of Local-level Governments, including the number of meetings and quorums for meetings of Local-level Governments, shall be as determined by an Act of the Parliament, but the number of meetings of a Local-level Government shall be not less than four in each calendar year, and the procedures shall be consistent with the procedures of a Provincial Assembly."

22. NEW SECTION 33A.

The *Organic Law on Provincial Governments and Local-level Governments* is amended by adding after Section 33 the following new section:-

"33A. JOINT DISTRICT PLANNING AND BUDGET PRIORITIES COMMITTEE.

(1) There shall be established, in each district, a Joint District Planning and Budget Priorities Committee...

"(2) The Committee shall consist of -

- (a) the Member of the Parliament representing the open electorate who shall be the Chairman of the Committee; and
- (b) the Member of the Parliament representing the province; and
- (c) the heads of Local-level Governments in the district or their nominees; and

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- (d) any other members not exceeding three in number appointed by the Member of the Parliament representing the open electorate in consultation with the heads of the Local-level Governments in the district.

"(3) The Joint District Planning and Budget Priorities Committee shall have the following functions:-

- (a) to oversee, co-ordinate and make recommendations as to the overall district planning, including budget priorities, for consideration by the Provincial Government and the National Government; and
- (b) to determine and control the budget allocation priorities for the Local-level Governments in the district; and
- (c) to approve the Local-level Government budgets for presentation to the Local-level Government and make recommendations concerning them; and
- (d) to draw up a rolling five year development plan and annual estimates for the district; and
- (e) to conduct annual reviews of the rolling five-year development plan.

"(4) The District Administrator shall be the Chief Executive Officer of the Committee.

"(5) An Act of the Parliament shall make provision for other functions and powers of, and the administrative arrangements for, the Committee."

23. REPEAL AND REPLACEMENT OF SECTION 35.

Section 35 of the *Organic Law on Provincial Governments and Local-level Governments* is repealed and is replaced with the following:-

"35. REMUNERATION AND ALLOWANCES.

The salaries, allowances and other terms and conditions of the members of Local-level Governments shall be as are determined by the Salaries and Remuneration Commission."

24. PRINCIPLES OF DISTRIBUTION OF POWERS (AMENDMENT OF SECTION 40).

Section 40 of the *Organic Law on Provincial Governments and Local-level Governments* is amended -

- (a) in the heading, by repealing the words "DISTRIBUTION OF POWERS" and replacing them with the following:-

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"DIVISION OF LAW-MAKING POWERS"; AND

b) in Subsection 1: -

(i) by repealing the words "The division of powers" and replacing them with the following:-

"The division of law-making powers";
and

(ii) by repealing Paragraph (a) and replacing it with the following:-

"(a) the National Government,
Provincial Governments and
Local-level Governments shall
respectively have specific
powers;"

25. REPEAL AND REPLACEMENT OF SECTION 41.

Section 41 of the *Organic Law on Provincial Governments and Local-level Governments* is repealed and is replaced with the following:-

"41. LAW-MAKING POWERS OF THE NATIONAL PARLIAMENT, ETC."

(1) A law-making power that is not specified in Section 42 or 44 remains with the National Parliament.

"(2) Subject to this section, the National Parliament may make an Act of the Parliament on a matter specified in Section 42 or 44 only where the matter is of national interest.

"(3) Subject to Subsection (4), the National Parliament shall not make an Act to which Subsection (2) applies unless there has been consultation between the Minister responsible for provincial government and local level government matters, and the Provincial Government or the Local-level Government concerned.

"(4) Subsection (3) does not apply in respect of -
(a) emergency laws within the meaning of Section 226 (**definition for the purposes of Part X**) of the *Constitution*; or
(b) any Act of the Parliament dealing with a matter of urgent national importance when it is in the national interest that the Act be made without delay.

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"5) In a case to which Subsection (4)(b) applies, the Minister responsible for provincial government and local-level government matters shall, as soon as practicable, advise any Provincial Government or Local-level Government concerned of the Act and of the reason for urgency.

"6) An Act of the Parliament on a matter specified in Section 42 or 44 shall prevail over any law made under Section 42 or 44, whether such law is made before or after the date of the making of the Act of the Parliament, to the extent of any inconsistency with the Act of the Parliament.

"(7) A question -
(a) whether an Act of the Parliament complies with Subsection (2); or
(b) whether the provisions of this section have otherwise been complied with,
is non-justiciable."

26. LAW-MAKING POWERS OF THE PROVINCIAL LEGISLATURES (AMENDMENT OF SECTION 42).

Section 42 of the *Organic Law on Provincial Governments and Local-level Governments* is amended by adding the following subsections:-

"(2) Subsection (1)(l), (s) and (t) do not apply to large-scale mining, petroleum, forestry, fishing and marine resource ventures declared by the Head of State, acting on advice, to be ventures to which this subsection refers.

"(3) A law made under Subsection (1) shall have effect so far as it is not inconsistent with an Act of the Parliament made -

- (a) before the coming into operation of this Organic Law; or
- (b) in accordance with Section 41.

"(4) For the purposes of Subsection (2), a question -
(a) whether or not a law made under Subsection (1) is a law with respect to a matter specified in that subsection; or
(b) whether or not a law made under Subsection (1) is inconsistent with an Act of the Parliament,
is non-justiciable except at the instance of the National Government or of a Provincial Government."

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27. REPEAL AND REPLACEMENT OF SECTION 43.

Section 43 of the *Organic Law on Provincial Governments and Local-level Governments* is repealed and is replaced with the following:-

"43. PRINCIPAL ADMINISTRATIVE FUNCTIONS OF PROVINCIAL GOVERNMENTS.

Subject to the *Constitution* and this Organic Law, the principal administrative functions of Provincial Governments shall be as provided for in an Act of the Parliament."

28. LAW-MAKING POWERS OF THE LOCAL-LEVEL GOVERNMENTS (AMENDMENT OF SECTION 44).

Section 44 of the *Organic Law on Provincial Governments and Local-level Governments* is amended by adding the following subsections:-

"(2) A law made under Subsection (1) shall have effect so far as it is not inconsistent with an Act of the Parliament made -

- (a) before the coming into operation of the Organic Law; or
- (b) in accordance with Section 41.

"(3) For the purposes of Subsection (2), a question -

- (a) whether or not a law made under Subsection (1) is a law with respect to a matter specified in that subsection; or
 - (b) whether or not a law made under Subsection (1) is inconsistent with an Act of the Parliament,
- is non-justiciable except at the instance of the National Government or of a Local-level Government."

29. REPEAL AND REPLACEMENT OF SECTION 45.

Section 45 of the *Organic Law on Provincial Governments and Local-level Governments* is repealed and is replaced with the following:-

"45. PRINCIPAL ADMINISTRATIVE FUNCTIONS OF LOCAL-LEVEL GOVERNMENTS.

Subject to the *Constitution* and this Organic Law, the principal administrative functions of a Local-level Government shall be as provided for in an Act of the Parliament."

30. DELEGATION OF POWERS (AMENDMENT OF SECTION 50).

Section 50(2) of the *Organic Law on Provincial Governments and Local-level Governments* is amended by repealing from Paragraph (b) the words "or a member of the Provincial Executive Council".

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31. NATIONAL INVESTIGATION COMMITTEE (AMENDMENT OF SECTION 61).

Section 61(2) of the *Organic Law on Provincial Governments and Local-level Governments* is amended by adding at the end thereof the following new paragraph:-

"(e) the Departmental Head of the Department responsible for finance matters."

32. REPEAL AND REPLACEMENT OF SECTION 67.

Section 67 of the *Organic Law on Provincial Governments and Local-level Governments* is repealed and is replaced with the following:-

**"67. EXERCISE OF EXECUTIVE POWERS, ETC., OF SUSPENDED
PROVINCIAL GOVERNMENTS.**

(1) While a Provincial Government is suspended, the National Executive Council has and may exercise and perform all the executive powers, functions, duties and responsibilities of that Provincial Government.

"(2) The power conferred by Subsection (1) may be exercised -

- (a) by the Head of State, acting with, and in accordance with, the advice of the National Executive Council; or
- (b) subject to Subsection (3), and any decision or direction of the National Executive Council, by a Minister authorized by the National Executive Council for the purpose, acting on behalf of the Council.

"(3) In performing his functions and responsibilities under Subsection (2)(b), the Minister shall be assisted -

- (a) in the case of a province which is also an open electorate, by a Member of the Parliament from the province concerned appointed by the National Executive Council; and
- (b) in any other case, by two Members of the Parliament from the province concerned, selected by the Members of the Parliament from that province and appointed by the National Executive Council."

33. NEW SECTION 67A.

**"67A. EXERCISE OF EXECUTIVE POWERS, ETC., OF SUSPENDED
LOCAL-LEVEL GOVERNMENTS.**

(1) While a Local-level Government is suspended, the Head of State, acting on advice, has and may exercise and perform all the executive powers, functions, duties and responsibilities of that Local-level Government.

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"(2) The power conferred by Subsection (1) may be exercised -

- (a) by the Head of State, acting with, and in accordance with, the advice of the National Executive Council; or
- (b) subject to any decision or direction of the National Executive Council, by -
 - (i) the Minister responsible for provincial government and local-level government matters; or
 - (ii) the Provincial Executive Council; or
 - (iii) the Member of the Parliament representing the open electorate in which the suspended Local-level Government is situated, acting on behalf of the National Executive Council."

34. PROVINCIAL AND DISTRICT ADMINISTRATORS (AMENDMENT OF SECTION 73).

Section 73 of the *Organic Law on Povincial Governments and Local-level Governments* is amended in Subsection (1) by repealing the number in brackets "(6)" and replacing it with "(5)".

35. FUNCTIONS OF PROVINCIAL AND DISTRICT ADMINISTRATORS (AMENDMENT OF SECTION 74).

Section 74 of the *Organic Law on Povincial Governments and Local-level Governments* is amended -

- (a) in Subsection (1)-
 - (i) by repealing from Paragraph (d) the words "direct supervision and control" and replacing them with the words "overall supervision and direction"; and
 - (ii) by repealing from Paragraph (e) the words "and carry out" and replacing them with the words "and monitor"; and
 - (iii) by repealing from Paragraph (g) the words "implementation of policies" and replacing them with the words "implementation of policies as required by Sections 25 and 106"; and
 - (iv) by repealing Paragraph (h) and replacing it with the following:-

"(h) shall liaise with the Provincial Government and Local-level Government support services on the overall functions of the

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Provincial Assembly and the
Provincial Executive Council;
and"; and

(v) by inserting after Paragraph (h) the
following Paragraphs:-

"(i) shall liaise and consult with
the Provincial Treasurer on
budget and treasury matters; and

(j) shall perform such other
functions as are prescribed by
this Organic Law or by an Act
of the Parliament."; and

(b) in Subsection (2) -

(i) by repealing Paragraph (f) and replacing
it with the following:-

"(f) shall coordinate policy
formulation, planning and
implementation of Local-level
Government policies and plans
as required by Sections 33A
and 106; and"; and

(ii) by inserting after Paragraph (f) the
following paragraphs:-

"(g) shall liaise and consult with
the District Treasurer on budget
and treasury matters; and

(h) shall perform such other
functions as are prescribed by
this Organic Law or by an Act
of the Parliament."; and

(c) in Subsection (3), by repealing Paragraph (a) and
replacing it with the following:-

"(a) policy directions from the Provincial
Governments and Local-level Governments;
and".

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36. FUNCTIONS OF THE ASSIGNED, ETC., PERSONNEL (AMENDMENT OF SECTION 79).

Section 79 of the *Organic Law on Provincial Governments and Local-level Governments* is amended by repealing the heading to the section and replacing it with the following:-

"GENERAL DUTIES OF THE ASSIGNED ETC., PERSONNEL".

37. REPEAL AND REPLACEMENT OF SECTION 81.

Section 81 of the *Organic Law on Provincial Governments and Local-level Governments* is repealed and is replaced with the following:-

**"81. PROVINCIAL GOVERNMENT AND LOCAL-LEVEL GOVERNMENT
SUPPORT SERVICES.**

(1) An Act of the Parliament may make provision for the establishment of support services for Provincial Governments and Local-level Governments.

(2) The functions of the support services established under Subsection (1) shall be to provide professional and executive support services to the Provincial Governments and Local-level Governments.

(3) An Act of the Parliament shall make provision for the extent to which the Provincial Administrator and District Administrator may exercise control over the support services."

38. GOVERNMENT EXEMPTIONS (AMENDMENT OF SECTION 84).

Section 84(2) of the *Organic Law on Provincial Governments and Local-level Governments* is amended by repealing from Paragraph (a) the words "provincial law" and replacing them with the words "provincial law or local-level law".

39. REPEAL AND REPLACEMENT OF SECTION 91.

Section 91 of the *Organic Law on Provincial Governments and Local-level Governments* is repealed and is replaced with the following:-

"91. TYPES OF PROVINCIAL AND LOCAL-LEVEL GRANTS.

(1) The National Government shall make the following grants, in accordance with this Organic Law, to Provincial Governments and Local-level Governments in the form of -

- (a) administrative support grants in accordance with Section 92; and
- (b) development grants in accordance with Section 93; and
- (c) town and urban services grants in accordance with Section 94; and

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(d) economic grants as provided for in Section 97.

"(2) The grants specified under Subsection (1) are guaranteed annually to the Provincial Governments and Local-level Governments."

40. ADMINISTRATION SUPPORT GRANTS (AMENDMENT OF SECTION 92).

Section 92(1) of the *Organic Law on Provincial Governments and Local-level Governments* is amended by repealing Paragraph (c).

41. DERIVATION GRANTS (AMENDMENT OF SECTION 97).

Section 97 of the *Organic Law on Provincial Governments and Local-level Governments* is amended -

(a) by repealing the heading to the section and replacing it with the following:-

"ECONOMIC GRANTS."; AND

(b) by repealing Subsections (1), (2) and (3) and replacing them with the following:-

"(1) For each fiscal year the National Government shall pay to a Provincial Government or a Local-level Government, through the Provincial and District Treasury, conditional economic grants in the form of -

- (a) derivation grants; and
- (b) portion of the Special Support Grants as are provided for in the existing agreements relating to the development of natural resources; and
- (c) any other funds established or appropriated for that purpose.

"(2) Derivation grants shall be calculated in accordance with Schedule 6 and the rate shall not exceed 5% of the export value of goods calculated at the Free on Board (F.O.B.) price.

"(3) The goods included in the calculation of derivation grants shall exclude royalty products and those products from which the development levies and other grants are paid."

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42. BENEFITS DERIVED FROM NATURAL RESOURCES (AMENDMENT OF SECTION 98).

Section 98 of the *Organic Law on Provincial Governments and Local-level Governments* is amended -

- (a) in Subsection (2), by repealing from Paragraph (b) -
- (i) the words "National Government" and replacing them with the words "National Government, Provincial Governments or Local-level Governments,"; and
 - (ii) the word "royalties" and replacing it with the words "land owners benefits"; and
- (b) by repealing Subsection (3) and replacing it with the following:-

"(3) The development levies shall be controlled through a trust fund which shall be managed and administered in accordance with an Act of the Parliament."; and

- (c) by repealing Subsection (4) and replacing it with the following:-

"(4) A developer shall provide to the National Government, Provincial Governments and Local-level Governments, expertise and professional support as to the use of the development levies."; and

- (d) by repealing Subsection (5) and replacing it with the following:-

"(5) All land owners benefits in the form of royalties, land owners premiums, compensation and other assistance, established by law or in accordance with an agreement, shall be paid to the land owners less deduction only for nominal tax (if applicable) and any recoveries for the cost incurred by the National Government, Provincial Governments or Local-level Governments, as the case may be."

43. REPEAL AND REPLACEMENT OF SUBDIVISION IV.3.L.

The *Organic Law on Provincial Governments and Local-level Governments* is amended by repealing Subdivision IV.3.L and replacing it with the following:-

"Subdivision L. - Planning and Data System.

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"106. PROVINCIAL PLANNING AND DATA SYSTEM.

(1) There shall be established in each province an extended service of the Department responsible for planning matters and of the National Statistical Office.

"(2) The functions of these services are to establish and maintain an effective and efficient provincial and local-level planning and data system.

"(3) There shall be a census for the count of all natural persons in each province in the year preceding the national election, other than a national election following a dissolution of Parliament under Section 105(1)(b) or (c) (*General Elections*) of the *Constitution*.

"(4) An Act of the Parliament shall prescribe the types of records or data to be kept and details of the planning and data control system for the Provincial governments and Local-level Governments."

44. ESTABLISHMENT OF PROVINCIAL AND LOCAL-LEVEL SERVICE MONITORING AUTHORITY (AMENDMENT OF SECTION 110).

Section 110 of the *Organic Law on Provincial Governments and Local-level Governments* is amended -

(a) in Subsection (1) by adding the words "within the Department responsible for provincial government and local-level government matters"; and

(b) by repealing Subsection (5) and replacing it with the following:-

"(5) An Act of the Parliament may make provision for other functions and powers of, and the administrative arrangements for and other matters relating to the Authority and the Inspectorates."

45. ESTABLISHMENT OF PROVINCIAL AND DISTRICT TREASURY (AMENDMENT OF SECTION 112).

Section 112(3) of the *Organic Law on Provincial Governments and Local-level Governments* is amended by adding the words "or is considered by the Departmental Head of the Department responsible for finance matters to be a suitably qualified person."

46. SUBMISSION OF PROVINCIAL ACCOUNTS (AMENDMENT OF SECTION 114).

Section 114(1) of the *Organic Law on Provincial Governments and Local-level Governments* is amended by repealing "mid-year" and replacing it with "final year".

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47. NATIONAL ECONOMIC AND FISCAL COMMISSION (AMENDMENT OF SECTION 117).

Section 117(2) of the *Organic Law on Provincial Governments and Local-level Governments* is amended -

- (a) by repealing Paragraph (b) and replacing it with the following:-

"(b) a qualified accountant with a minimum of 10 years' experience"; and

- (b) by repealing Paragraph (c) and replacing it with the following:-

"(c) an economist; and"; and

- (c) by repealing from Paragraph (i) the words "Minister responsible for finance matters" and replacing them with the words "Minister responsible for the National Economic and Fiscal Commission".

48. REPORTS ON THE AFFAIRS OF PROVINCIAL GOVERNMENTS AND LOCAL-LEVEL GOVERNMENTS (AMENDMENT OF SECTION 119).

Section 119(1) of the *Organic Law on Provincial Governments and Local-level Governments* is amended by repealing the number and word "30 April" and replacing them with the number and word "30 June".

49. INTERPRETATION (AMENDMENT OF SECTION 121).

Section 121 of the *Organic Law on Provincial Governments and Local-level Governments* is amended by deleting from the definition of "interim period" the words "Bougainville Province" and substituting the words "Bougainville Province and the National Capital District".

50. COMPOSITION OF INTERIM PROVINCIAL GOVERNMENTS (AMENDMENT OF SECTION 125).

Section 125 of the *Organic Law on Provincial Governments and Local-level Governments* is amended -

- (a) in Subsection (1) -

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

- (b) such number of -

- (i) members of the previous Provincial Government;
or
(ii) heads of Local-level Governments; or

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(iii) prominent persons,
selected in accordance with
Subsection (2) and appointed by
the Head of State, acting on the
advice of the National Executive
Council; and"; and

(ii) by inserting immediately after
Paragraph (b) the following:-

"(ba) one representative of the
urban Local-level Governments,
nominated by the Papua New
Guinea Urban Authorities
Association, appointed by the
Head of State acting on the
advice of the National
Executive Council; and"; and

(b) in Subsection (2), by repealing Paragraph (a) and
replacing it with the following:-

"(a) the members of the previous Provincial
Government are heads of Local-level
Governments, the Open Member, in
consultation with the Member of Parliament
representing the province, shall select
such number from the members of the
previous Provincial Government to become
members of the Interim Provincial
Government; and"; and

(c) in Subsection (5), by repealing the words "The
Premier" and replacing them with the words and figures
"Subject to Subsection (5A), the Premier"; and

(d) by inserting after Subsection (5), the following new
subsection:-

"(5A) An Interim Provincial Assembly may, by a
two-thirds absolute majority vote, resolve
that the Premier of the previous Provincial
Government shall not continue to hold the
offices of Interim Deputy Governor and
Interim Deputy Chairman and where an
Interim Provincial Assembly so resolves
the Premier ceases to hold such offices
and the Interim Provincial Assembly shall
elect an Interim Deputy Governor, who
shall be Interim Deputy Chairman, from
amongst the members referred to in
Subsection (1)(a) and (b)."; and

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(e) by repealing Subsection (10).

51. INTERIM PROVINCIAL EXECUTIVE COUNCIL (AMENDMENT OF SECTION 128).

Section 128 of the *Organic Law on Provincial Governments and Local-level Governments* is amended -

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

"(1) An Interim Provincial Executive Council shall consist of -

- (a) the Interim Chairman; and
- (b) the Interim Deputy Chairman; and
- (c) the Chairman of each of the permanent committees of the Interim Provincial Executive Council; and
- (d) not less than two Open Members, who are not disqualified under Section 19(1)(b), elected by the Interim Provincial Assembly."; and

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

"(3) For the purposes of Subsection (2), the Interim Chairman and the Interim Deputy Chairman shall exercise and perform all the powers and functions of the Governor and Deputy Governor, respectively."

52. NEW SECTION 128A AND 128B.

The *Organic Law on Provincial Governments and Local-level Governments* is amended by inserting after Section 128 the following new sections:-

"128A. SYSTEM OF COMMITTEES FOR INTERIM PROVINCIAL EXECUTIVE COUNCILS.

(1) An Interim Provincial Executive Council may -

- (a) establish an Interim Joint Provincial Planning and Budget Priorities Committee; and
- (b) establish such number of other interim committees (including interim permanent committee) as it considered necessary to carry out its functions; and
- (c) determine all matters relating to such interim committees.

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"(2) The interim committees of the Interim Provincial Executive Council -

- (a) in the case of the Interim Joint Provincial Planning and Budget Priorities Committee - shall consist of the members referred to in Section 25 2; and
- (b) in any other case - shall consist of the members of the Interim Provincial Assembly.

"(3) Subject to any directions of the Interim Provincial Executive Council -

- (a) the Interim Joint Provincial Planning and Budget Priorities Committee, has and may exercise all or any of the powers and functions of the Joint Provincial Planning and Budget Priorities Committee; and
- (b) all the other interim committees of the Interim Provincial Executive Council have and may exercise all or any of the powers and the functions of the committees of the Provincial Executive Council,

constituted in accordance with Section 25."

"128B. INTERIM JOINT DISTRICT PLANNING AND BUDGET PRIORITIES COMMITTEE.

(1) There shall be established, in each district, an Interim Joint District Planning and Budget Priorities Committee.

"(2) The composition, functions and powers of an Interim Joint District Planning and Budget Priorities Committee shall be the same as the composition, functions and powers of a Joint District Planning and Budget Priorities Committee constituted in accordance with Section 33A".

53. ADMINISTRATIVE SYSTEM (AMENDMENT OF SECTION 129.

Section 129(2) of the *Organic Law on Provincial Governments and Local-level Governments* is amended by repealing the words "The existing administrative (including staff arrangements)" and replacing them with the words "The existing administrative and financial system (including staff and financial arrangements)".

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**54. PROVINCIAL GOVERNMENT PROPERTIES, ASSETS AND LIABILITIES
(AMENDMENT OF SECTION 130).**

Section 130 of the *Organic Law on Provincial Governments and Local-level Governments* is amended -

- (a) by repealing the heading to the section and replacing it with the following:-

**"PROVINCIAL GOVERNMENT AND LOCAL-LEVEL
GOVERNMENT PROPERTIES, ASSETS AND LIABILITIES";**
and

- (b) by adding the following subsection:-

"(2) Subject to this Organic Law, all assets and obligations and liabilities of a Local-level Government which was in existence under the *Local Government Act* (Chapter 57) or by or under a provincial law, are, on the coming into operation of this Organic Law, transferred to and become assets, obligations and liabilities of a Local-level Government continued in existence in accordance with the *Local-level Government System (Interim and Transitional Arrangements) Act 1995*."

55. CONTINUITY OF GOVERNMENT (AMENDMENT OF SECTION 131).

Section 131 of the *Organic Law on Provincial Governments and Local-level Governments* is amended by adding after Subsection (2) the following subsection:-

"(3) Notwithstanding Subsection (2), an Interim Provincial Assembly shall within the interim period, take all action necessary to ensure compliance with the requirements of Section 26(4)."

56. NEW SECTION 136A.

The *Organic Law on Provincial Governments and Local-level Governments* is amended by inserting after Section 136 the following new section:-

"136A. APPLICATION OF OTHER LAWS.

Where -

- (a) any Organic Law (other than this Organic Law), Act or subordinate enactment; or
(b) any instrument or document wherever made or executed,
contains a reference, express or implied, to -

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(c) a provision of; or
(d) an office established by or under, the
repealed laws,
that reference shall, except where the context otherwise
requires, be read as a reference to the equivalent
provision or office under this Organic Law."

57. AMENDMENT OF SCHEDULE 1.

Schedule 1 to the *Organic Law on Provincial Governments and
Local-level Governments* is amended -

(a) in Section 1, in the definition of "adjusted base
figure", by repealing the words "in the year
preceding the year of grant" and replacing them
with the following:-

"in the year two years before the year of grant";
and

(b) in Section 6, by repealing Subparagraph (iii) and
replacing it with the following:-

"(iii) monies paid into the Consolidated
Revenue Fund from the Mineral Resources
Stabilisation Fund in accordance with
the *Mineral Resources Stabilisation Act*
(Chapter 194);".

58. FURTHER AMENDMENTS.

The *Organic Law on Provincial Governments and Local-level
Governments* is amended further in accordance with the Schedule.

SCHEDULE .

Sec.58.

Provision

Amendment

3(1)

Repeal the definition "Provincial and Local-level
Monitoring Authority" and replace it with the
following:-

"Provincial and Local-level Service Monitoring
Authority' means the Provincial and
Local-level Service Monitoring Authority
established by Section 110;".

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72-2(a)(iii) Repeal Subparagraph (iii) and replace it with the following:-

"(iii) Provincial Government and Local-level Government support services; and";

74-2(e) Repeal from Paragraph (e) the words "Local-level Secretariat and executive services" and replace them with the following:-

"support services for the Local-level Governments within a district".

I hereby certify that the above is a fair print of the **Organic Law on Provincial Governments and Local-level Governments (Amendment No.1) Law** which has been made by the National Parliament.

Clerk of the National Parliament.

Constitution.

CERTIFICATE UNDER SECTION 14.

I, **RABBIE NAMALIU**, Speaker of the National Parliament, hereby certify that the requirements of Section 14(1), (2) and (3) of the **Constitution** were complied with in respect of the **Organic Law on Provincial Governments and Local-level Governments (Amendment No.1) Law** and that the law was made by the National Parliament as follows:-

- (a) the first vote was taken on 12 October 1995 when the number of seats in the National Parliament was 109 and those voting for the proposal were 84 and none voted against the proposal; and
- (b) the second vote was taken on 13 December 1995 when the number of seats in the National Parliament was 109 and those voting for the proposal were 82 and none voted against the proposal.

Speaker of the National Parliament.