

Papua New Guinea National Gazette

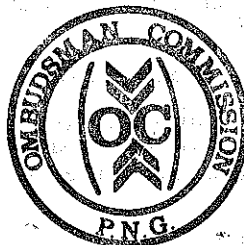
PUBLISHED BY AUTHORITY

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

No. G12]

PORT MORESBY, THURSDAY, 26th FEBRUARY

[1987



GUIDELINES FOR GIVING AND ACCEPTANCE OF ELECTION CAMPAIGN CONTRIBUTIONS AND OTHER RELATED MATTERS

These guidelines supersede those gazetted in the *National Gazette* No. G5 of the 28th of January, 1982.

These guidelines apply to all National, Provincial and By-Elections.

THE Ombudsman Commission, pursuant to Section 27(4) of the Constitution; Section 224 of the Constitution, Section 12(3) and Section 12(4) of the Organic Law on the Duties and Responsibilities of Leadership and all other powers it enabling, hereby issues the following Guidelines under which persons subject to the Leadership Code may be exempted from liability under Section 12(1)(c) of the Organic Law on the Duties and Responsibilities of Leadership.

PURPOSE

The Organic Laws on the "Integrity of Candidates" and the "Integrity of Political Parties" as required by Section 129 and Section 130 of the Constitution, have never been implemented. As stated in the Constitution, the purpose to be achieved by these Organic Laws was to—

"protect elections and to prevent candidates from being, or appearing to be or to have been improperly or unduly influenced by outside (especially foreign) or hidden influences . ." (Section 127 of the Constitution).

Section 12(1)(c) of the Organic Law on the Duties and Responsibilities of Leadership provides:

"(A Leader) who . . . accepts any gifts or other benefit or advantage from a person (including an unincorporated profit-seeking organization) or a foreign enterprise is guilty of misconduct in office."

The result of the failure to pass the Organic Laws, therefore, is that Leaders cannot accept campaign contributions while Non-Leader candidates are totally unrestricted. The Ombudsman Commission believes this is unfair and discriminatory against Leaders who are running for re-election.

Guidelines for Giving and Acceptance of Election Campaign Contributions and Other Related Matters—*continued*

The Ombudsman Commission has the power under Section 12(3) of the Organic Law to exempt a Leader from liability under Section 12(1) if, in its deliberate judgement, it is reasonable to do so having regard to the purpose of the gift or benefit. The Commission also is empowered by Section 12(4) to publish guidelines under which it may grant such exemptions.

Because of the absence of appropriate legislation, it is therefore the purpose of these "Guidelines" to establish principles and procedures for allowing Leaders to accept certain campaign contributions.

The Commission has, in addition, pursuant to Section 224 of the Constitution issued Guidelines for the Acceptance of Campaign Contributions by Political Parties. These Guidelines are voluntary, and Leaders are reminded that it is their duty under the Leadership Code (Section 27(3) of the Constitution) to ensure that the conduct of their associates does not allow their own integrity to be called into question, or give rise to doubt in the public mind as to whether they might be compromised (i.e. because they may be seen to be under obligation to deal favourably with respect to the interest of an individual or company which has made a substantial contribution to their political party).

THE POLICY UNDERLYING THESE GUIDELINES

If a Leader accepted a cash gift or other benefit from a company at a time when he was officially deciding a matter which affected that company's interests, it would be called bribery. Is there really any difference if the same company knowing the Leader is likely to be making official decisions affecting its interests in the future, makes a similar gift at election time?

Common sense tells us that it is a rare individual who gives something of value without expecting something in return. Indeed, in our own culture the acceptance of a gift traditionally implies an obligation to return an even bigger gift to the contributor.

In a democratic society our elected public officials, are duty bound to fairly represent the interests of all the people. If, however, they are seen by the public to be under obligation to a few, because of their substantial campaign contributions, confidence in our whole system of government will be seriously damaged.

The history of other developing countries has shown that when the people no longer have confidence in the integrity of their Leaders, the soil becomes fertile for the seeds of revolution and military take-over to take root and grow.

We, therefore, believe that the policy underlying the acceptance of election campaign contributions should be to allow Leaders to accept small contributions from many different sources. In this way, it cannot be said that the Leader is especially obligated to any particular person or interest group. We believe that to do otherwise, and allow our Leadership to become dependent upon the financial support of a few is to take the first step down a road which is dangerous to both our freedom and independence.

PROCEDURE FOR OBTAINING AN EXEMPTION

To obtain an exemption from liability under Section 12(1)(c) of the Organic Law on Duties and Responsibilities of Leadership with respect to gifts and benefits received for the purpose of carrying on or meeting the expenses of the Leader's Election Campaign, the Leader must declare within three (3) months after the election (i.e. the day fixed for the return of the writs):—

1. The full name of each contributor; and
2. The amount (if the donation is in cash); or
3. The nature and estimated value (if a benefit).

NOTE

The Guidelines Do Not Revoke the Ombudsman Commission's Directive on Gifts and Benefits issued on 30th of July, 1979 and amended on the 17th of December, 1984. All gifts and benefits which are unrelated to the purpose of election campaigning must still be declared unless specifically exempted by that Directive. Those directives are set out hereinunder for information.

DIRECTIVE ON GIFTS AND BENEFITS

GIFTS TO BE DECLARED PRIOR TO ACCEPTANCE

The following gifts, benefits and advantages shall be declared to the Ombudsman Commission.

1. Free or substantially free travel inside or outside Papua New Guinea, excluding duty travel. (FOC travel).
2. Free or substantially free accommodation inside or outside Papua New Guinea, excluding accommodation on duty.
3. Loans of money from private individuals, companies, foreign enterprise, or any organization or group.
4. Guarantees for bank loans from private individuals, companies, foreign enterprise, or any organization or group.
5. Entering into a partnership with existing foreign or local businesses without equal capital outlay.
6. Gifts of a nature not prescribed in "Gifts not Necessary to be Declared" of a value of K100.00 or more.
7. Gifts of money or items of large value, i.e. television and video sets, stereo sets, radios, golf clubs, motor vehicles, etc.

Guidelines for Giving and Acceptance of Election Campaign Contributions and Other Related Matters—*continued*

Directive on Gifts and Benefits—*continued*

8. Excessive luncheon and dinner entertainment, particularly where there is little or no chance or need of returning the hospitality. (Three or more occasions would be considered excessive).
9. The acceptance of excessive free social entertainment or other services. (Three or more occasions would be considered excessive).
10. Items of a personal nature received from local leaders or foreign government representatives and which are valued at over K100.00. Items of a personal nature include items which are capable of being converted to cash, or which can be used by the leader in such a way as to avoid the expenditure of monies.
11. The opportunity to participate in investment proposals and the provision of investment facilities that would not be offered to an ordinary member of the public, or which are offered on terms more favourable than normal market rates.

GIFTS NOT NECESSARY TO BE DECLARED

The following gifts, benefits and advantages are allowable under the Leadership Code:

1. Items of a personal nature given on birthdays, anniversaries, or as wedding presents, etc. by personal friends where the value does not exceed K150.00.
2. All internal family gifts, traditional gifts and exchanges within tribal groups.
3. Gifts of any nature of a value of less than K100.00 irrespective of from whom they are received, provided that any such gift from any particular individual is not made at a frequency greater than two such gifts per year.
4. Normal bank loans, from Savings and Loans Societies, or hire purchase agreements, obtained on the same conditions as apply to other borrowers.
5. Occasional luncheon and dinner entertainment, whether from foreign enterprise or local companies.
6. Items of a non-personal nature received from foreign government representatives on occasions of State visits, etc.
7. Items of a non-personal nature received from local or tribal leaders on the occasion of ceremonial visits to various localities within Papua New Guinea.

GENERAL GUIDELINES FOR GRANTING EXEMPTIONS TO LEADERS WHO RECEIVE CAMPAIGN CONTRIBUTIONS

The following guidelines will be used to determine exemptions from liability under Section 12(1)(c) of the Organic Law on Duties and Responsibilities of Leadership, with respect to gifts and benefits received by a Leader for the purpose of carrying on or meeting the expenses of his Election Campaign.

1. Individual Citizens—Total value of donation and or benefits—K100.00 maximum.

If the total value of all cash donations and/or benefits received from an individual citizen does not exceed K100.00, an exemption will be automatically allowed, provided, however, that the individual must be the true source of the cash or benefit (i.e. the individual must not himself have obtained the cash or benefit by way of gift or loan from any other source or otherwise appear to have been the agent of any other source).

2. Groups of Citizens—Total value of all donations or benefits—K100.00 maximum

If the total value of all cash donations and/or benefits received from a group of citizens does not exceed K100.00, an exemption will be automatically allowed, provided however, that the group must be the true source of the cash or benefit (i.e. the group must not have obtained the cash or benefit by way of gift or loan from any outside source or otherwise appear to have been the agent for any other source).

The term "group of citizens" includes a national company (i.e. a local enterprise as defined by the *National Investment Development Authority (NIDA Act)* but does not include any other group which has non-citizen members).

3. Political Parties—No Limitation

All donations and benefits received from a political party which has publicly endorsed the Leader as its candidate will be exempted. However, such an exemption does not relieve the Leader of any liability for any breach of his duties under Section 27(3) of the Constitution (see below "liability of Leaders for Actions of Their Political Parties")

4. NON-CITIZENS AND FOREIGN ENTERPRISES—NO EXEMPTION

No donation or benefit beyond the normal standard of hospitality received from a non-citizen or a foreign enterprise (as defined by the *National Investment Development Authority (NIDA Act)* or any group in which effective control is in the hands of non-citizens, can be exempted).

PLEASE NOTE: Section 130(1)(b) of the Constitution states:

"(1) An Organic Law shall make provision—

(b) prohibiting a candidate or former candidate for election to the Parliament from accepting from a non-citizen assistance (financial or other) in respect of his candidature . . ."

General Guidelines for Granting Exemptions to Leaders who Receive Campaign Contributions—continued

The Ombudsman Commission cannot grant an exemption where the Constitution has plainly and clearly called for that type of contribution to be prohibited.

5. All Other Cases

In any case in which the amount or value of a donation or benefit exceeds the automatic exemption limit, the Ombudsman Commission will grant an exemption only if, after considering the factors set forth below, it is clear that the acceptance of the donation or benefit does not place the Leader in a position in which it appears that he could have a conflict of interests or might be compromised in the discharge of his public duties.

The factors which will be considered include—

- (a) The extent to which the contributor (or the company or organization he is associated with) does business with or is regulated by a government department, agency or other government body.
- (b) The decision-making responsibilities (either individually or jointly with others) which the Leader has with respect to the contributor's interests.
- (c) The Leader's ability to influence government decisions affecting the contributor's particular interest.
- (d) The amount of the donation, or the nature and value of the benefit.
- (e) The circumstances in which the donation or benefit was obtained, including whether the contribution was solicited.

GUIDELINES FOR LEADERS RELATING TO THE ACCEPTANCE OF CAMPAIGN CONTRIBUTIONS WHICH EXCEED THE AUTOMATIC EXEMPTION LIMITS

Before a Leader accepts any campaign donation, or benefit, he should ask himself the following questions:

1. Does the contributor (or the company or organization he is associated with) do business with the government (i.e. tender for government contracts, supply goods and services, provide consultant services, etc)?
2. Do I have the powers (whether individually or jointly with others) to make official decisions with respect to the particular interests of the contributor (or the company or organization he is associated with)?
3. Am I in a position in which I could influence government decisions which affect the particular interests of the contributor (or the company or organization he is associated with)?
4. Is it likely that the public might think I was obligated in some way to the contributor (or the company or organization he is associated with) if they know I accepted this contribution?
5. Would I feel uncomfortable or embarrassed if the public knew I had accepted this contribution (either because of the amount involved or because of who the contributor was)?

If the answer to any of the above questions is "yes", then the Leader should not accept the contribution.

Dated this 16th day of February, 1987.

C. M. AOAE,
Chief Ombudsman.

J. RIDGES,
Ombudsman.

A. WANGATAU,
Ombudsman.

GUIDELINES FOR ACCEPTANCE OF CAMPAIGN CONTRIBUTIONS BY POLITICAL PARTIES AND ORGANIZATIONS**Liability of Leaders for Actions of Their Political Parties**

Leaders have a duty under the Leadership Code to take reasonable steps to ensure that persons and organizations they are associated with do not conduct themselves in a way that might give rise to doubt in the public mind as to whether the leader has been placed in a position in which he could have conflicting interests or might be compromised in the discharge of his public or official duties.

Section 27(3) of the Constitution provides:

"(3) It is the further duty of a person to whom this Division applies—

- (a) to ensure, as far as is within his lawful power, that his spouse and children and any other persons for whom he is responsible (whether morally, legally, or by usage), including nominees, trustees and agents do not conduct themselves in a way that might be expected to give rise to doubt in the public mind as to his complying with his duties under this section; and
- (b) if necessary, to publicly disassociate himself from any activity or enterprise of any of his associates, or a person referred to in paragraph (a), that might be expected to give rise to such a doubt."

Section 16 of the Organic Law on the Duties and Responsibilities of Leadership also makes a Leader liable for actions of his associates which violate the Leadership Code, if the Leader has allowed such actions to take place with his consent (expressed or implied) and has not disassociated himself from them.

Guidelines for Acceptance of Campaign Contributions by Political Parties and Organizations—*continued*

It is, therefore, clear that if a Leader's political party accepted a substantial campaign contribution from a person or group which, if the Leader had accepted it personally, would call his integrity into question or place him in a position where he might have conflicting interests or could be compromised in the discharge of his public or official duties, the Leader would be in violation of the Leadership Code.

To provide guidance to Leaders in view of the uncertainty arising because the Organic Law on the Integrity of Political Parties has not been implemented, the Ombudsman Commission, therefore, suggests the following voluntary guidelines for the acceptance of contributions by political parties. These guidelines are voluntary. However, we urge all Leaders to advise their respective political parties to follow these guidelines and we encourage all Leaders to control the activities of their parties in keeping with the spirit of the National Leadership Code.

GUIDELINES

1. A political party or organization should not accept any cash donation or other form of financial assistance or benefit from an individual citizen or a group of citizens which exceeds K1 000.
2. A political party or organization should not accept any cash donation or other form of financial assistance or benefit whatsoever from a non-citizen, a group of non-citizens, or a group of both citizens and non-citizens in which effective control is in the hands of non-citizens.
3. A political party or organization should not accept a donation or benefit from any source where such acceptance could give rise to doubt in the public mind that one or more of the members of that party might be placed in a position in which they could have conflicting interests or might be compromised in the discharge of their public or official duties.

Dated this 16th day of February, 1987.

C. M. AOAE,
Chief Ombudsman.

J. RIDGES,
Ombudsman.

A. WANGATAU,
Ombudsman.

MOREOVER pursuant to Sections 224 and 129(b) and (f) of the Constitution and all other powers us enabling, the Ombudsman Commission, hereby provides the following duties and obligations with respect to Contributions, Contributors and Recipients of such Contributions, in relation to Elections to the National Parliament. These duties and obligations are *mandatory* and a failure to comply with them may render those concerned to possible prosecution under Section 23 of the Constitution the penalty for which is a maximum of ten (10) years imprisonment or K10 000.00 fine. The duties and obligations provided are as follows:—

DUTIES AND OBLIGATIONS OF POLITICAL PARTIES OR ORGANIZATIONS WISHING TO ACCEPT CONTRIBUTIONS

1. A Political Party or Organization, (which includes branches in provinces and regions) shall disclose to the Ombudsman Commission in writing:—
 - (a) on the 28th of February, 1987 and annually thereafter commencing on and within two months of, 31st December, 1987.
 - (i) a detailed inventory of all assets in excess of K500.00, showing the description and location of such assets and the source of supply, i.e. purchase, donation or loan and from whom obtained and the disposal of any such assets.
 - (ii) details of the total income for the reporting period together with the source of all receipts of income which in aggregate total is in excess of K1 000 from the same source showing the address and date of receipt.
 - (iii) copies of all bank statements.
 - (b) on the 28th of February, 1987 and within three (3) months after the return of writs of a National Election or by-election as the case may be;

details of all expenditure on or connected with the election or the support of a candidate including:

 - Date and amount of all donations to candidates and the electorate concerned,
 - Assets purchased exceeding K500.00 in value,
 - Election materials purchased,
 - Date and amount of all donations to district, provincial or regional party organizations,
 - Charter or hire of all vehicles, boats or aircraft,
 - Other travel costs,
 - Accommodation costs,
 - All overseas payments,
 - Advertising,
 - Other (detailing expenditures over K500),
 - Outstanding liabilities.

Duties and Obligations of Political Parties or Organizations Wishing to Accept Contributions—*continued*

2. A Contributor, being a natural person, a corporate or an unincorporated organization, shall disclose to the Ombudsman Commission in writing.

(a) All contributions to a political party or organization of any type including direct financial assistance or benefits in kind, including any gift, loan or service (whether or not it has a monetary value) where such contributions in aggregate from the same contributor exceeds K1 000 and the circumstances in which the contribution was made.

(i) All contributions already made to a political party or organization for the purposes of the 1987 National Election campaign shall be disclosed to the Ombudsman Commission by the 28th of February, 1987.

(ii) All contributions made to a political party or organization after the 1st of March, 1987 shall be disclosed to the Ombudsman Commission within fourteen (14) days (two weeks).

Note: For the purposes of the foregoing Guidelines and the Duties and Obligations provided by the Ombudsman Commission a "political party or organization" includes the following:—

League for National Advancement

Papua Party

Melanesian Alliance

People's Action Party

Morobe Independence Group

Peoples Democratic Movement

National Party

People's Progress Party

Pangu Party

United Party

Papua Besena

Wantok Party

and any others established, having political aims and desiring to nominate a candidate for election to the Parliament.

Dated this 16th day of February, 1987.

C. M. AOAE,
Chief Ombudsman.

J. RIDGES,
Ombudsman.

A. WANGATAU,
Ombudsman.

FOR the benefit of (general) education and information of leaders, political parties and candidates and the general public the Ombudsman Commission has included the relevant provisions of the relevant laws that have been cited in the guidelines.

CONSTITUTIONAL PROVISIONS**23. Sanctions.**

(1) Where any provision of a Constitutional Law prohibits or restricts an act, or imposes a duty, then unless a Constitutional Law or an Act of the Parliament provides for the enforcement of that provision the National Court may—

(a) impose a sentence of imprisonment for a period not exceeding 10 years or a fine not exceeding K10 000; or

(b) in the absence of any other equally effective remedy under the laws of Papua New Guinea, order the making of compensation by a person (including a governmental body) who is in default,

or both, for a breach of the prohibition, restriction or duty, and may make such further order in the circumstances as it thinks proper.

(2) Where a provision of a Constitutional Law prohibits or restricts an act or imposes a duty, the National Court may, if it thinks it proper to do so, make any order that it thinks proper for preventing or remedying a breach of the prohibition, restriction or duty, and Subsection (1) applies to a failure to comply with the order as if it were a breach of a provision of this Constitution.

(3) Where the National Court considers it proper to do so, it may include in an order under Subsection (2) an anticipatory order under Subsection (1).

27. Responsibilities of office.

(1) A person to whom this Division applies has a duty to conduct himself in such a way, both in his public or official life and his private life, and in his associations with other persons, as not—

(a) to place himself in a position in which he has or could have a conflict of interests or might be compromised when discharging his public or official duties; or

(b) to demean his office or position; or

(c) to allow his public or official integrity, or his personal integrity, to be called into question; or

(d) to endanger or diminish respect for and confidence in the integrity of government in Papua New Guinea.

(2) In particular, a person to whom this Division applies shall not use his office for personal gain or enter into any transaction or engage in any enterprise or activity that might be expected to give rise to doubt in the public mind as to whether he is carrying out or has carried out the duty imposed by Subsection (1).

Constitutional Provisions—*continued*

- (3) It is the further duty of a person to whom this Division applies—
- (a) to ensure, as far as is within his lawful power, that his spouse and children and any other persons for whom he is responsible (whether morally, legally or by usage), including nominees, trustees and agents, do not conduct themselves in a way that might be expected to give rise to doubt in the public mind as to his complying with his duties under this section; and
 - (b) if necessary, to publicly disassociate himself from any activity or enterprise of any of his associates, or of a person referred to in paragraph (a), that might be expected to give rise to such a doubt.
- (4) The Ombudsman Commission or other authority prescribed for the purpose under Section 28 (further provisions) may, subject to this Division and to any Organic Law made for the purposes of this Division, give directions, either generally or in a particular case, to ensure the attainment of the objects of this section.
- (5) A person to whom this Division applies who—
- (a) is convicted of an offence in respect of his office or position or in relation to the performance of his functions or duties; or
 - (b) fails to comply with a direction under Subsection (4) or otherwise fails to carry out the obligations imposed by Subsection (1), (2) and (3);
- is guilty of misconduct in office.

127. Purpose of Subdivision H.

The purpose of this Subdivision is to protect elections and to prevent candidates from being, or appearing to be or to have been, improperly or unduly influenced by outside (especially foreign) or hidden influences, and an Organic Law may make provision, in addition to the provisions expressly referred to in this Subsection, for achieving that purpose.

129. Integrity of political parties.

- (1) An Organic Law shall make provision—

- (a) requiring any political party or organization having political aims and desiring to nominate a candidate for election to the Parliament, or to publicly support such a candidate as representing its views, to register with the Electoral Commission such reasonable particulars as are prescribed by Organic Law; and
- (b) requiring any such party or organization to disclose to the Ombudsman Commission or some other authority prescribed by the law in such manner, at such times and with such details as are prescribed in or under the law—
 - (i) its assets and income, and their sources; and
 - (ii) its expenditure on or connected with an election or the support of a candidate; and
- (c) prohibiting non-citizens from membership of, and from contributing to the funds of, any such party or organization; and
- (d) defining the corporations and organizations that are to be regarded as non-citizens for the purposes of a provision made for the purposes of paragraph (c); and
- (e) limiting the amount of contributions that such a party or organization may receive from any source or sources; and
- (f) requiring persons who have made, or may have made, contributions to any such party or organization to give to the Ombudsman Commission, or some other authority, details of any such contribution.

- (2) Where another authority is prescribed by the law under Subsection (1) (b), that authority—

- (a) shall be composed of a person or persons who are declared under paragraph (i) of the definition of "constitutional office-holder" in Section 221 (definitions) to be a constitutional office-holder; and
- (b) is not subject to direction or control by any person or authority.

- (3) An Organic Law made for the purposes of Subsection (1) may provide that the value of any assistance given otherwise than in cash shall be taken into account as expenditure or contributions for any purpose of that Subsection or of that law.

130. Integrity of candidates.

- (1) An Organic Law shall make provision—

- (a) requiring a candidate or former candidate for election to the Parliament to disclose to the Ombudsman Commission or some other authority prescribed by the law, in such manner, at such times and with such details as are prescribed by or under the law—
 - (i) any assistance (financial or other) received by him in respect of his candidature, and its source; and
 - (ii) the amount or value of his electoral expenses; and
- (b) prohibiting a candidate or former candidate for election to the Parliament from accepting from a non-citizen assistance (financial or other) in respect of his candidature; and
- (c) defining the corporations and organizations that are to be regarded as non-citizens for the purposes of a provision made for the purposes of paragraph (b); and
- (d) regulating or restricting the amount or kind of such assistance that may be received from any source other than a registered political party; and

Constitutional Provisions—*continued*

- (e) prohibiting a candidate for election to the Parliament from holding himself out as representing any party or organization other than a registered political party that has publicly adopted him as its candidate.
- (2) Where another authority is prescribed by the law under Subsection (1) (b), that authority—
- (a) shall be composed of a person or persons who are declared under paragraph (i) of the definition of "constitutional office-holder" in Section 221 (definitions) to be a constitutional office-holder; and
- (b) is not subject to direction or control by any person or authority.
- (3) An Organic Law made for the purposes of Subsection (1) may make provision for further defining what are to be regarded as assistance and electoral expenses for any purpose of that subsection or of that law, and in particular may provide that—
- (a) the value of hospitality (including meals, accommodation and transport) of a kind and to a degree recognised by custom in the country shall not be taken into account as assistance; and
- (b) the personal expenses of a candidate shall not be taken into account as electoral expenses.
- (4) In this section—
- "electoral expenses", in relation to a candidate, means expenses incurred (whether before, during or after an election to the Parliament, including expenses incurred before the issue of the writ for election) by him or on him or on his behalf on account of or in respect of the election;
- "personal expenses", in relation to a candidate, means any reasonable costs incurred by him personally for travel and for living away from his home for the purposes of the election.

224. Special provision for constitutional institutions.

- (1) Subject to this Constitution, Organic Laws and Acts of the Parliament shall provide, or shall make provision for, the powers and procedures of constitutional institutions, and generally for facilitating the performance of their functions, duties and responsibilities.
- (2) Subject to this Constitution, if no provision is made under Subsection (1) a constitutional institution—
- (a) may provide, to the extent of the deficiency, for its own procedures; and
- (b) has all reasonable powers that are necessary or convenient for the exercise and performance of its powers, functions, duties and responsibilities.

PROVISIONS FROM THE ORGANIC LAW ON DUTIES AND RESPONSIBILITIES OF LEADERSHIP
12.—ACCEPTANCE, ETC., OF LOANS, ETC.

- (1) Subject to Subsection (2), a person to whom this Law applies who, or whose spouse or child under voting age—
- (a) accepts any loan of moneys; or
- (b) holds any franchise; or
- (c) accepts any gift or other benefit or advantage,
- from a person (including an unincorporated profit-seeking organization) or a foreign enterprise is guilty of misconduct in office.
- (2) Subsection (1) does not apply to a normal bank loan, a loan from a Savings and Loans Society or a hire-purchase agreement obtained or entered into on the same or similar terms and conditions applicable to other borrowers or hirers, as the case may be.
- (3) The Ombudsman Commission may, by instrument in writing either absolutely or subject to such terms and conditions as is specified in the notice, exempt a person or a class of persons from any liability under Subsection (1) where, in its deliberate judgement, it is reasonable to do so having regard to the purposes for which the loan, franchise or other benefit or advantage was obtained.
- (4) The Ombudsman Commission may publish guidelines specifying the terms and conditions subject to which it will consider granting an exemption to a person or class of persons under Subsection (3).

C. M. AOAE,
Chief Ombudsman.

J. RIDGES,
Ombudsman.

A. WANGATAU,
Ombudsman.