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INDEPENDENT STATE OF PAPUA NEW GUINEA

THE CONSTITUTION

ALTERATION TO THE CONSTITUTION

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

Draft of 8/3/2001.
INDEPENDENT STATE OF PAPUA NEW GUINEA.

PROPOSED LAW TO ALTER THE CONSTITUTION.

Constitutional Amendment (Electoral Reforms)

ARRANGEMENT OF CLAUSES.

1. Disqualifications on dismissal (Amendment of Section 31)
2. Membership (Amendment of Section 101).
3. Qualifications for and disqualifications from membership (Amendment of Section 103).
4. Electorates (Amendments of Section 125)
5. Integrity of political parties (Amendment of Section 129).

INDEPENDENT STATE OF PAPUA NEW GUINEA

THE CONSTITUTION

ALTERATION TO THE CONSTITUTION

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

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INDEPENDENT STATE OF PAPUA NEW GUINEA.

PROPOSED LAW TO ALTER THE CONSTITUTION.

Constitutional Amendment (Electoral Reforms)

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1. Disqualifications on dismissal (Amendment of Section 31)
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3. Qualifications for and disqualifications from membership (Amendment of Section 103).
4. Electorates (Amendment of Section 125)
5. Integrity of political parties (Amendment of Section 129).

Draft of 8/3/2001.

INDEPENDENT STATE OF PAPUA NEW GUINEA**PROPOSED LAW TO ALTER THE CONSTITUTION.***entitled**Constitutional Amendment (Electoral Reforms),*

Being a Law to alter the *Constitution* by amending the provisions relating to the Leadership Code and to the Electoral System, and in respect of registration of political parties,

MADE by the National Parliament to come into operation –

- (a) in respect of Sections 1, 3, 4(a) and (b) and 5 – on certification; and
- (b) in respect of Sections 2 and 4(c) – on the date of issue of the writs for the first general election to be held after the general election scheduled for 2002.

1. DISQUALIFICATIONS ON DISMISSAL (AMENDMENT OF SECTION 31).

Section 31(1) of the *Constitution* is repealed and is replaced with the following:-

“(1) A person who has been dismissed from office under this Division for misconduct in office and whose dismissal is effected after the coming into operation of Section 1 of *Constitutional Amendment No. – Electoral Reforms* is not thereafter eligible –

- (a) to election to any elective public office; or
- (b) for appointment as Head of State or as a nominated member of the Parliament; or
- (c) to hold an office referred to in Section 26(1) (*Application of Division 2*).”.

2. MEMBERSHIP (AMENDMENT OF SECTION 101).

Section 101 of the *Constitution* is amended –

- (a) in Subsection (1), by repealing Paragraph (b); and
- (b) in Subsection (2), by repealing the words “and provincial”; and
- (c) in Subsection (4), by repealing the words “and of provincial electorates”.

Constitutional Amendment (Electoral Reforms)

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

Section 103(3) of the *Constitution* is amended by repealing Paragraph (d) and replacing it with the following:-

- “(d) he is adjudged insolvent under any law; or
- (e) he has been dismissed from office under Division III.2 (*Leadership Code*) for misconduct in office; or
- (f) he has been convicted under any law of an indictable offence committed after the coming into operation of the *Constitutional Amendment No. – Electoral Reforms*; or
- (g) he is otherwise disqualified under this *Constitution*.”

4. ELECTORATES (AMENDMENT OF SECTION 125).

Section 125 of the *Constitution* is amended –

- (a) by repealing Subsection (1) and replacing it with the following:-
 - “(1) The number of open electorates and their boundaries shall be determined –
 - (a) by the Parliament; or
 - (b) otherwise in accordance with an Organic Law, in accordance with recommendations from a Boundaries Commission –
 - (c) for the purposes of effecting changes following the abolition of provincial electorates - within 12 months of the passing by the Parliament of Constitutional Laws to abolish provincial electorates; and
 - (d) otherwise, from time to time, at intervals determined by or under an Organic Law, being intervals not more than 10 years.”; and
- (b) by repealing Subsection (3) and replacing it with the following:-
 - “(3) The Parliament may accept or reject, but may not amend, any recommendations of the Boundaries Commission under Subsection (1), but where such recommendations have been rejected by the Parliament and, following the procedure laid down by or under an Organic Law, have been resubmitted by the Boundaries Commission to the Parliament in a revised form, they shall have effect notwithstanding that the Parliament again rejects them.”; and
- (c) in Subsection (6), by repealing the words “and of provincial electorates”.

5. INTEGRITY OF POLITICAL PARTIES (AMENDMENT OF SECTION 129).

Section 129(1)(a) of the *Constitution* is amended by repealing the words “the Electoral Commission” and replacing them with the following:-

“an appropriate body established by an Organic Law”.

INDEPENDENT STATE OF PAPUA NEW GUINEA***THE CONSTITUTION*****ORGANIC LAW ON THE DUTIES AND RESPONSIBILITIES OF LEADERSHIP
(AMENDMENT) LAW**

The Government proposes to introduce the *Organic Law on the Duties and Responsibilities of Leadership (Amendment) Law* and, pursuant to Section 14(2) (*Making of alterations to the Constitution and Organic Laws*) of the *Constitution*, I, BERNARD NAROKOBI, Speaker of the National Parliament, hereby publish the proposed Law —

Draft of 8/3/2001

INDEPENDENT STATE OF PAPUA NEW GUINEA.**PROPOSED LAW TO ALTER THE ORGANIC LAW ON THE DUTIES AND
RESPONSIBILITIES OF LEADERSHIP.*****Organic Law on the Duties and Responsibilities of Leadership
(Amendment) Law.*****ARRANGEMENT OF CLAUSES.**

1. Acceptance etc., of loans, etc., (Amendment of Section 12).
2. Tribunals (Amendment of Section 27).

Draft of 8/3/2001

INDEPENDENT STATE OF PAPUA NEW GUINEA

A PROPOSED LAW TO ALTER THE ORGANIC LAW ON THE DUTIES AND RESPONSIBILITIES OF LEADERSHIP.

*entitled**Organic Law on the Duties and Responsibilities of Leadership
(Amendment) Law,*Being a Law to amend the *Organic Law on the Duties and Responsibilities of Leadership*,

MADE by the National Parliament.

1. ACCEPTANCE, ETC., OF LOANS ETC., (AMENDMENT OF SECTION 12).Section 12(2) of the *Organic Law on the Duties and Responsibilities of Leadership* is repealed and is replaced with the following:-

“(2) Subsection (1) does not apply to –

- (a) 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; and
- (b) a contribution made in accordance with Division V.1 of the *Organic Law on the Integrity of Political Parties and Candidates.*”.

2. TRIBUNALS (AMENDMENT OF SECTION 27).Section 27 of the *Organic Law on the Duties and Responsibilities of Leadership* is amended –

- (a) by inserting before Subsection (1) the following new Subsection:-

“(1A) The –

- (a) Ombudsman Commission; and
- (b) Public Prosecutor; and
- (c) appropriate authority,

shall continue to retain the powers and jurisdiction given to them by this section in respect of a person to whom this Law applies for a period of 10 years after the person has vacated office, and where a matter has, within that period of 10 years, been referred to a tribunal, until the tribunal has made and announced its decision and the decision has been effected.”; and

- (b) in Subsection (1), by repealing the words “if the Ombudsman Commission” and replacing them with the following:-

“Subject to Subsection (1A), if the Ombudsman Commission”.

INDEPENDENT STATE OF PAPUA NEW GUINEA***THE CONSTITUTION*****ORGANIC LAW ON PROVINCIAL GOVERNMENTS AND LOCAL-LEVEL GOVERNMENTS (AMENDMENT) LAW.**

The Government proposes to introduce the *Organic Law on Provincial Governments and Local-level Governments (Amendment) Law* and, pursuant to Section 14(2) (*Making of alterations to the Constitution and Organic Laws*) of the *Constitution*, I, BERNARD NAROKOBI, Speaker of the National Parliament, hereby publish the proposed Law —

Draft of 8/3/2001

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. The Provincial Governor (Amendment of Section 17).
2. Vacation of office of the Provincial Governor (Amendment of Section 19).
3. Joint District Planning and Budget Priorities Committee (Amendment of Section 33A).

Draft of 8/3/2001

INDEPENDENT STATE OF PAPUA NEW GUINEA**A 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 on the date fixed for the first meeting of the Parliament following the general election first held after the general election scheduled to take place in 2002.

1. THE PROVINCIAL GOVERNOR (AMENDMENT OF SECTION 17).

Section 17 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 Provincial Assembly shall, from amongst the members of the Provincial Assembly who are Members of the Parliament, elect the Provincial Governor.”; and
- (b) by adding the following new Subsection:-
“(3) Where all the Members of the Parliament –
 - (a) are appointed to any of the offices referred to in Section 19(1)(b); or
 - (b) are otherwise disqualified by law,the Provincial Assembly shall, from amongst the members referred to in Section 10(3)(b) and (c), elect the Provincial Governor.”

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

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

- (a) in Subsection (2), by repealing the words “other than the Member of the Parliament representing the Province.”; and
- (b) in Subsection (3), by repealing the words “but does not automatically become.”.

Organic Law on Provincial Governments and Local-level Governments (Amendment) Law.

3. JOINT DISTRICT PLANNING AND BUDGET PRIORITIES COMMITTEE (AMENDMENT OF SECTION 33A).

Section 33A (2)(b) of the *Organic Law on Provincial Governments and Local-level Governments* is repealed.

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) (*Making of alterations to the Constitution and Organic Laws*) of the *Constitution*, I, BERNARD NAROKOBI, Speaker of the National Parliament, hereby publish the proposed Law –

Draft of 8/3/2001

INDEPENDENT STATE OF PAPUA NEW GUINEA.

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

ORGANIC LAW ON NATIONAL AND LOCAL-LEVEL GOVERNMENT ELECTIONS (AMENDMENT) LAW.

ARRANGEMENT OF CLAUSES.

1. Compliance with Constitutional requirements.
2. Interpretation (Amendment of Section 3).
3. Repeal and replacement of Section 16.
 “16. STAFF TO BE MADE AVAILABLE BY CERTAIN BODIES”.
4. Boundaries Commission (Amendment of Section 26).
5. Repeal of Section 34.
6. Open electorates (Amendment of Section 35).
7. Size of open electorates (Amendment of Section 36).
8. Repeal and replacement of Section 37.
 “37. NOTIFICATION OF PROPOSED REDISTRIBUTION”.
9. Repeal and replacement of Section 38.
 “38. PUBLIC INQUIRY”.
10. Report of Boundaries Commission (Amendment of Section 39).

11. Repeal and replacement of Section 41.
 “41. DETERMINATION OF NEW ELECTORATES”.
12. Persons entitled to enrolment (Amendment of Section 52).
13. New Section 82A.
 “82A. USE OF SPECIAL PROCEDURES IN ELECTIONS”.
14. Vote to be marked in private (Amendment of Section 138).
15. Repeal and replacement of Section 139.
 “139. METHOD OF MARKING BALLOT-PAPER”.
16. Repeal and replacement of Section 153.
 “153. INFORMAL BALLOT-PAPERS”.
17. Scrutiny of ordinary votes in elections (Amendment of Section 154).
18. Repeal and replacement of Section 168.
 “168. SCRUTINY OF VOTES IN ELECTIONS”.
19. Repeal and replacement of Section 216.
 “216. COURT TO REPORT, ETC., CASES OF OFFENCES”.
20. Interpretation (Amendment of Section 235).
21. Polling (Amendment of Section 282).
22. New Section 282A.
 “282A. VOTE TO BE MARKED IN PRIVATE”.
23. New Section 282B.
 “282B. METHOD OF MARKING BALLOT-PAPER”.
24. Repeal and replacement of Section 283.
 “283. SCRUTINY”.
25. New Section 283A.
 “283A. INFORMAL BALLOT-PAPERS”.
26. New Section 283B.
 “283B. SCRUTINY OF ORDINARY VOTES IN ELECTIONS”.
27. New Section 283C.
 “283C. SCRUTINY OF VOTES IN ELECTIONS”.

Draft of 8/3/2001

INDEPENDENT STATE OF PAPUA NEW GUINEA

A 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 to come into operation -

- (a) in respect of Sections 1, 3, 4, 8, 9, 10, 11, 13 and 19 – on certification; and
- (b) in respect of Sections 14, 15, 16, 17, 18, 20, 21, 22, 23, 24, 25, 26 and 27 – on the day after the date fixed for the return of the writs in the general election scheduled for 2002; and
- (c) in respect of Sections 2, 5, 6, 7 and 12 – on the date of issue of writs for the general election first held after the general election scheduled for 2002.

1. COMPLIANCE WITH CONSTITUTIONAL REQUIREMENT.

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) freedom from arbitrary search and entry conferred by Section 44 of the *Constitution*; and
- (b) freedom of conscience, thought and religion conferred by Section 45 of the *Constitution*; and
- (c) freedom of expression conferred by Section 46 of the *Constitution*; and
- (d) freedom of assembly and association conferred by Section 47 of the *Constitution*; and
- (e) the right to privacy conferred by Section 49 of the *Constitution*,

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

2. INTERPRETATION (AMENDMENT OF SECTION 3).

Section 3(1) of the *Organic Law on National and Local-level Government Elections* is amended by repealing the definition of “electorate” and replacing it with the following:-

“‘electorate’ means an open electorate;”.

Organic Law on National and Local-level Government Elections (Amendment) Law**3. REPEAL AND REPLACEMENT OF SECTION 16.**

Section 16 of the *Organic Law on National and Local-Level Government Elections* is repealed and is replaced with the following:-

“16. STAFF TO BE MADE AVAILABLE BY CERTAIN BODIES.

Where so requested by the Electoral Commission –

- (a) the Department responsible for personnel matters; and
- (b) any governmental body,

shall make available to the Electoral Commission and to each Returning Officer such staff as may be necessary for the discharge of the functions conferred on the Electoral Commission.”.

4. BOUNDARIES COMMISSION (AMENDMENT OF SECTION 26).

Section 26 of the *Organic Law on National and Local-level Government Elections* is amended –

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

“(d) three persons, other than officers, (one of whom being a person with experience in conducting an inquiry), appointed by the Head of State, acting with, and in accordance with, the advice of the Electoral Commission.”. and

- (b) by adding the following new subsection:-

“(2) Where there is no substantive holder of any of the offices referred to in Subsection (1)(a), (b) or (c), an acting holder of the office may, in relation to his position as a member of the Boundaries Commission, exercise all the powers and privileges of and perform the functions of a substantive holder of the office.”.

5. REPEAL OF SECTION 34.

Section 34 of the *Organic Law on National and Local-level Government Elections* is repealed.

6. OPEN ELECTORATES (AMENDMENT OF SECTION 35).

Section 35(1) of the *Organic Law on Provincial Governments and Local-level Governments* is amended –

- (a) in Subsection (1), by repealing the words and figures “81 or more than 91” and replacing them with the following:-

“110 or more than 120”; and

- (b) by adding the following new subsection:-

“(3) The Boundaries commission may –

- (a) determine the name of a new open electorate; or
- (b) inquire into and, where it considers that the name of an open electorate does not appropriately describe the electorate as a whole or for any other reason a name is considered inappropriate at any time, change the name of that open electorate.”.

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

7. SIZE OF OPEN ELECTORATES (AMENDMENT OF SECTION 36).

Section 36(2)(b) of the *Organic Law on National and Local-level Government Elections* is amended by repealing the word “provincial electorate” and replacing them with the following:-

“province”

8. REPEAL AND REPLACEMENT OF SECTION 37.

Section 37 of the *Organic Law on National and Local-level Government Elections* is repealed and is replaced with the following:-

“37. NOTIFICATION OF PROPOSED REDISTRIBUTION.

(1) In accordance with Section 125 (*Electorates*) of the *Constitution* or otherwise where the Boundaries Commission, after its own initial investigation, is of the opinion that a redetermination of boundaries is required, it shall -

(a) give public notification of its intention to redetermine boundaries in -

(i) the National Gazette; and

(ii) a national newspaper circulating throughout the country; and

(b) cause a map with a description of the boundaries of the proposed electorates to be exhibited at such National, Provincial and Local-level Government offices as will give the people of the country a reasonable opportunity of seeing it.

“(2) A notification under Subsection (1)(a) shall -

(a) invite public attention to the map referred to in Subsection (1)(b) and state the places and times at which the map may be inspected; and

(b) fix a date (being a date not less than two months following the date of publication of the notification under Subsection (1)(a)) on which and a place at which a public inquiry into the proposed redistribution will be heard; and

(c) invite any of the following to attend the public inquiry and make representations or objections or to make written representations or objections on the proposed redistribution:-

(i) any member of the Parliament affected by the proposed redistribution;

(ii) the members of the Provincial Government and of any Local-level Government Council of the area affected by the proposed redistribution;

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

- (iii) the officers of the National Public Service employed in the area affected by the proposed redistribution;
- (iv) any cultural or land groups in the area affected by the proposed redistribution;
- (v) any other person whom the Boundaries Commission considers relevant.

“(3) Any written representations or objections referred to in Subsection (2)(c) may be lodged with the Chairman of the Boundaries Commission at any time before the date fixed for a public inquiry under Subsection (2)(b).”

9. REPEAL AND REPLACEMENT OF SECTION 38.

Section 38 of the *Organic Law on National and Local-Level Government Elections* is repealed and is replaced with the following:-

“38. PUBLIC INQUIRY.

The Boundaries Commission shall hold a public inquiry on the date and at the place fixed under Section 37 (2) and shall consider all representations and objections made at the public inquiry or previously submitted to the Chairman of the Boundaries Commission.”

10. REPORT OF BOUNDARIES COMMISSION (AMENDMENT OF SECTION 39).

Section 39(1) of the *Organic Law on National and Local-level Government Elections* is amended by repealing the words “after the expiration of the period of two months” and replacing them with the following:-

“after the completion of the public inquiry”.

11. REPEAL AND REPLACEMENT OF SECTION 41.

Section 41 of the *Organic Law on National and Local-level Government Elections* is repealed and is replaced with the following:-

“41. DETERMINATION OF NEW ELECTORATES.

(1) The Parliament shall consider a report presented under Section 40 and shall, subject to Subsection (2), by resolution made within two months of the date of presentation of the recommendations -

- (a) accept the recommendations of the Boundaries Commission for a proposed redistribution; or
- (b) reject the recommendations of the Boundaries Commission for a proposed redistribution; or
- (c) reject the recommendations of the Boundaries Commission for a proposed redistribution and refer back to the Boundaries Commission specific matters relating to the recommendations for reconsideration.

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

“(2) The Parliament may refer a report presented under Section 40 to an appropriate Parliamentary Committee to consider and report back to Parliament, and where Parliament makes such a referral, the period of two months referred to in Subsection (1) shall be read as four months.

“(3) Where the Parliament —

- (a) by resolution under Subsection (1)(a) accepts the recommendations of the Boundaries Commission for a proposed redistribution; or
- (b) fails to make a resolution under Subsection (1)(a), (b) or (c) on the recommendations of the Boundaries Commission for a proposed redistribution,

the recommendations of the Boundaries Commission for a proposed redistribution constitute a determination of the open electorates and their boundaries and those electorates until altered shall, subject to Subsection (5), be the open electorates for the purposes of election of members to the Parliament.

“(4) The Minister shall cause the number of open electorates and their boundaries determined in accordance with Subsection (3) or (9) to be published in the National Gazette.

“(5) Until —

- (a) in the case of a determination under Subsection (3) or (9) in respect of a redistribution in pursuance of Section 125 (*Electorates*) of the *Constitution* — the dissolution or expiration of the Parliament scheduled to be elected in 2002; and
- (b) in the case of any other determination under Subsection (3) or (9) — the dissolution or expiration of the Parliament next following the determination,

the redistribution shall not affect the election of a new member to fill a vacancy happening in the Parliament, but for the purposes of any such election the electorates as previously existing, and the Rolls in respect of these electorates, shall continue to have full force and effect, notwithstanding that new Rolls for the new electorates may have been prepared.

“(6) Where the Parliament —

- (a) by resolution under Subsection (1)(b) rejects the recommendations of the Boundaries Commission for a proposed redistribution; or

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

(b) by resolution under Subsection (1)(c) rejects the recommendations of the Boundaries Commission for a proposed redistribution and refers back to the Boundaries Commission specific matters relating to the recommendations for reconsideration,

the Boundaries Commission shall, within 40 days of the date of the resolution –

(c) in a case to which Paragraph (a) applies, reconsider the recommendations in the report submitted under Section 40; and

(d) in a case to which Paragraph (b) applies reconsider the specific matters referred to it,

and shall submit a further report making new recommendations or confirming its previous recommendations and shall forward to the Minister a copy of the further report, together with, in the case of any new recommendations, a map signed by not less than three members of the Boundaries Commission showing the boundaries of each proposed open electorate.

“(7) The report and any map forwarded to him under Subsection (6) shall be presented by the Minister to the Parliament within seven sitting days after its receipt by him.

“(8) The Parliament shall consider a report presented under Subsection (9) and may, by resolution made within 40 days of such presentation, accept or reject the recommendations of the Boundaries Commission for a proposed redistribution.

“(9) Where –

(a) a resolution under Subsection (8) accepts the recommendations of the Boundaries Commission for a proposed redistribution; or

(b) the period of 40 days referred to in Subsection (8) has expired,

the recommendations of the Boundaries Commission for a proposed redistribution shall, notwithstanding any resolution under Subsection (8) rejecting the recommendations, constitute a determination of the open electorates and their boundaries and those electorates until altered shall, subject to Subsection (5), be the open electorates for the purposes of election of members to the Parliament.”

12. PERSONS ENTITLED TO ENROLMENT (AMENDMENT OF SECTION 52).

Section 52(3) of the *Organic Law on National and Local-level Government Elections* is repealed:

Organic Law on National and Local-level Government Elections (Amendment) Law**13. NEW SECTION 82A.**

Part X of the *Organic Law on National and Local-level Government Elections* is amended by inserting after Section 82 the following new section:-

“82A. USE OF SPECIAL PROCEDURES IN ELECTIONS.

(1) An Act of the Parliament may define circumstances which amount to special circumstances for the purposes of this section and where the Electoral Commission is of the opinion that such special circumstances exist or may exist in relation to an election, it may within seven days of the date of issue of the writ under Section 73 or 74 for that election, by notice in the National Gazette, declare that special procedures shall be used in that election in relation to all or any of the following:-

- (a) the polling;
- (b) the voting;
- (c) the scrutiny.

“(2) In the case of a general election the special procedures may apply to all or any of the electorates and the special procedures to be used may differ from one electorate to another.

“(3) The special procedures referred to in this section –

- (a) shall –
 - (i) be such as to ensure that the principles of democratic elections prescribed by Section 126 (*Elections*) of the *Constitution* are observed and upheld; and
 - (ii) be within the spirit of this Law; and
 - (iii) be used only where special circumstances so require; and
- (b) may include, but are not limited to, all or any of the following:-
 - (i) finger-printing to identify voters and their entitlement to vote;
 - (ii) identity cards to identify voters and their entitlement to vote;
 - (iii) alteration of polling;
 - (iv) modification of scrutiny procedures.

“(4) A declaration under Subsection (1) shall specify –

- (a) the election to which it applies; and
- (b) in the case of a general election, the electorates to which it applies; and
- (c) the special procedures to be used; and
- (d) the special circumstances that exist or may exist which give rise to the declaration.

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

“(5) A Constitutional Regulation or an Act of the Parliament may prescribe the manner in which finger-printing and identity cards may be used for the purposes of identifying voters and their entitlement to vote.”

14. VOTE TO BE MARKED IN PRIVATE (AMENDMENT OF SECTION 138).

Section 138 of the *Organic Law on National and Local-level Government Elections* is amended –

- (a) in the heading, by repealing the word “VOTE” and replacing it with the following:-
“VOTES”; and
- (b) in Paragraph (a), by repealing the words “mark his vote” and replacing them with the following:-
“mark votes for three candidates in order of preference or, where there are less than three candidates for each candidate in order of preference”; and
- (c) in Paragraph (b), by repealing the word “vote” and replacing it with the following:-
“votes”

15. 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 MAKING BALLOT-PAPER.

Subject to this Law, an elector shall record his votes on his ballot-paper by placing the numeral “1” in the square opposite the name of the candidate for whom he votes as his first preference and shall give contingent votes for two other candidates (or where there are less than two other candidates for the remaining candidate) by placing the numerals “2” and “3” in the squares opposite their respective names so as to indicate the order of his preference for them.”

16. 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 Divisions 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 indicate 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

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

(c) it has on it any mark or writing (not authorized by this Law to be put on it) by which, 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 placing “1” in the square opposite the name of one candidate and has left the other square 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 first preference for one candidate and his contingent votes for one other candidate only, and the square opposite the name of the remaining candidate has been left blank, the voter’s preference for that candidate shall be deemed to be his last and accordingly he 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 Law.

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

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

Section 154(2) of the *Organic Law on National and Local-level Government Elections* is amended—

(a) in Paragraph (b), by repealing the word “vote” and replacing it with the following:-

“first preference vote”; and

(b) in Paragraph (c), by repealing the word “votes” and replacing it with the following:-

“first preference votes”; and

(c) in Paragraph (d), by repealing the word “votes” and replacing it with the following:-

“first preference votes”; and

(d) in Paragraph (f)(i), by repealing the word “votes” and replacing it with the following:-

“first preference votes”.

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

18. REPEAL AND REPLACEMENT OF SECTION 168.

Section 168 of the *Organic Law on National and Local-level Government Elections* is repealed and is replaced with the following:-

“168. SCRUTINY OF VOTES IN ELECTIONS.

(1) The result of an election shall be determined by scrutiny in the following manner:-

- (a) the Returning Officer shall ascertain the total number of first preference votes given for each candidate;
- (b) the candidate who has received the largest number of first preference votes, if that number be an absolute majority of votes, be elected;
- (c) if no candidate has received an absolute majority of votes, a second count shall be held;
- (d) on the second count the sealed parcels of ballot-papers shall be opened by the Returning Officer, the candidate who has received the fewest number of first preference votes shall be excluded and each ballot-paper counted to him shall be counted to the candidate next in order of the voter's preference;
- (e) where a candidate then has an absolute majority of votes he shall be deemed to be elected, but where no candidate then has an absolute majority of votes the process of excluding the candidate who has the fewest votes and counting each of the ballot-papers to the unexcluded candidate next in order of the voter's preference shall be repeated until one candidate has received an absolute majority of votes;
- (f) the candidate who has received an absolute majority of the votes is elected;
- (g) if, on any count, two or more candidates have an equal number of votes and one of them has to be excluded, the Returning Officer shall decide, by drawing lots, which shall be excluded, and if, in the final count, two candidates have an equal number of votes, the Returning Officer shall decide, by drawing lots, which shall be elected.

“(2) Where on any count being conducted in accordance with Subsection (1)(d) or (e), a ballot-paper shows no preference capable, in accordance with this Law, of being counted, in that count, to an unexcluded candidate, that ballot-paper-

- (a) shall be deemed to be exhausted ; and
- (b) shall be excluded from that count and any subsequent count; and
- (c) shall not be taken into account in the calculation of an absolute majority in relation to that count and any subsequent count.

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- “(3) The procedure for drawing lots is as follows:-
- (a) the Returning Officer shall immediately after the conclusion of the counting and before all persons present, make out in respect of each of the candidates having an equal number of votes a slip bearing the name of the candidate as shown on the ballot-paper, enclose the respective slips in separate blank envelopes of exact similarity and deposit the envelopes in a locked ballot-box; and
 - (b) the Returning Officer shall then thoroughly shake and rotate the ballot-box and shall permit any other person present, if he so desires, to do the same; and
 - (c) the ballot-box shall then be opened and an officer shall take out and open one of the envelopes; and
 - (d) the candidate whose name appears on the slip enclosed in the envelope taken from the ballot-box is excluded from the count or is elected, as the case may be.

“(4) In this section, “an absolute majority of votes” in relation to any count, means a greater number than one-half of the whole number of ballot-papers (other than informal ballot-papers and ballot-papers excluded from that count under Subsection (2)).”.

19. REPEAL AND REPLACEMENT OF SECTION 216.

Section 216 of the Organic Law on National and Local-level Government Elections is repealed and is replaced with the following:-

“216. COURT TO REPORT, ETC., CASES OF OFFENCES.

Where the National Court, in the trial of a Petition under this Part, finds that a person has committed an offence under this Law or any other law, the Registrar of the Court shall promptly –

- (a) report the finding to –
 - (i) the Speaker; and
 - (ii) the Electoral Commission; and
 - (iii) the Public Prosecutor; and
 - (iv) the Commissioner of Police; and
- (b) forward all papers relevant to the finding to the Commissioner of Police.”.

20. INTERPRETATION (AMENDMENT OF SECTION 235).

Section 235(1) of the *Organic Law on National and Local-level Government Elections* is amended by inserting after the definition of “roll” the following new definition:-

“‘ward’ means the electorate for an elected member of a Local-level Government;”.

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

21. POLLING (AMENDMENT OF SECTION 282).

Section 282(1) of the *Organic Law on National and Local-level Government Elections* is repealed and is replaced with the following:-

“(1) The provisions of –

(a) subject to Subsection (2), Part XIII (other than Sections 138 and 139); and

(b) Sections 282A and 282B,

shall apply as the provisions of this Law relating to Local-level Government elections.”.

22. NEW SECTION 282A.

Division XIX.9 of the *Organic Law on National and Local-level Government Elections* is amended by inserting after Section 282 the following new section:-

“282A. VOTE TO BE MARKED IN PRIVATE.

Except as otherwise prescribed, a voter upon receipt of a ballot-paper shall without delay –

(a) retire alone to some unoccupied compartment of the booth, and in there in private, mark his vote on the ballot-paper in the prescribed manner; and

(b) fold the ballot-paper so as to conceal his vote and to show clearly the initials of the presiding officer or the affixed mark and exhibit it so folded to the presiding officer, and then openly, and without unfolding it, deposit it in the ballot-box; and

(c) quit the booth.”.

23. NEW SECTION 282B.

Division XIX.9 of the *Organic Law on National and Local-level Government Elections* is amended by inserting after Section 282A the following new section:-

“282B. METHOD OF MARKING BALLOT-PAPER.

Subject to this Law, an elector shall record his vote on his ballot-paper by placing an “X” in the square opposite the name of the candidate for whom he wishes to vote in such a way as to indicate clearly his preference for that candidate only.”.

24. 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) The provisions of –

(a) subject to Subsection (2), Part XIV (other than Sections 153, 154 and 168); and

(b) Sections 283A, 283B and 283C,

shall apply as the provisions of this Law relating to Local-level Government Elections.

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- “(2) References in Part XIV to –
- (a) “electorate” shall be read as references to a “ward”; and
 - (b) “Section 153” shall be read as references to “Section 283A”; and
 - (c) “Section 154” shall be read as references to “Section 283B”; and
 - (d) “Section 168” shall be read as references to “Section 283C”; and
 - (e) “this Division” shall be read as references to “Division XIX.10.”.

25. NEW SECTION 283A.

Division XIX.10 of the *Organic Law on National and Local-level Government Elections* is amended by inserting after Section 283 the following new section:-

“283A. INFORMAL BALLOT-PAPERS.

(1) Subject to this section, and to the provisions of Divisions XIV.3 and 4 and the Regulations, a ballot-paper is informal if -

- (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), (3) and (4) it has no vote indicated on it, or it does not indicate the voter’s intention; or
- (c) it has on it any mark or writing (not authorized by this Law to be put on it) by which, in the opinion of the officer conducting the scrutiny, the voter can be identified.

“(2) 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 law.

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

“(4) Notwithstanding the provisions of this section and of Section 128, where the Returning Officer is satisfied that any mark made on a ballot-paper clearly indicates the intention of the voter and the candidate for whom he has given his vote, the Returning Officer shall not determine that the vote is informal merely because the mark is not an “X”.”.

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26. NEW SECTION 283B.

Division XIX.10 of the *Organic Law on National and Local-level Government Elections* is amended by inserting after Section 283A the following new section:-

“283B. SCRUTINY OF ORDINARY VOTES IN ELECTIONS.

(1) In an election the scrutiny shall, subject to the provisions of Divisions XIV.3 and 4 be conducted in accordance with the succeeding provisions of this section.

“(2) The electoral officer conducting the scrutiny shall, in the presence of a presiding officer, poll clerk or an officer and of such authorized scrutineers as choose to attend and any other person approved by the Returning Officer –

(a) open all ballot-boxes received from polling places within the ward; and

(b) reject all informal ballot-papers, and arrange the unrejected ballot-papers under the names of the respective candidates by placing in a separate parcel all those on which a vote is indicated for the same candidate; and

(c) count the votes given for each candidate on all unrejected ballot-papers; and

(d) make out and sign a statement (which may be counter-signed by the presiding officer, poll clerk or officer present and, if they so desire, by such scrutineers as are present) setting out the number of votes given for each candidate, and the number of informal ballot-papers; and

(e) place in a separate parcel all the ballot-papers which have been rejected as informal; and

(f) where an Assistant Returning Officer conducts the scrutiny, transmit the following information, by electronic advice or in some other expeditious manner, to the Returning Officer:-

(i) the number of votes given for each candidate; and

(ii) the total number of ballot-papers rejected as informal; and

(g) seal up the parcels and endorse on each parcel a description of the contents of it, and permit any scrutineers present, if they so desire, to counter-sign the endorsement; and

(h) where an Assistant Returning Officer conducts the scrutiny, transmit the parcels to the Returning Officer with the least possible delay, together with the statement referred to in Paragraph (d).”

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27. NEW SECTION 283C.

Division XIX.10 of the *Organic Law on National and Local-level Government Elections* is amended by inserting after Section 283B the following new section.

“283C. SCRUTINY OF VOTES IN ELECTIONS.

(1) The result of an election shall be ascertained by scrutiny in the following manner:-

- (a) the Returning Officer shall ascertain the total number of votes given for each candidates;
- (b) the candidate who has received the largest number of votes is elected;
- (c) if two or more candidates have an equal number of votes, the Returning Officer shall decide, by drawing lots, who shall be elected.

“(2) The procedure of drawing lots is as follows:-

- (a) the Returning Officer shall immediately after the conclusion of the counting and before all persons present, make out in respect of each of the candidates having an equal number of votes, a slip showing the name of the candidate as shown on the ballot-paper, enclose the respective slips in separate blank envelopes of exact similarity and deposit the envelopes in a locked ballot-box; and
- (b) the Returning Officer shall then thoroughly shake and rotate the ballot-box and shall permit any other person present, if he so desires, to do the same; and
- (c) the ballot-box shall then be opened and an officer shall take out and open one of the envelopes; and
- (d) the candidate whose name appears on the slip enclosed in the envelope taken from the ballot-box is elected.”.

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