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THE CONSTITUTION

ALTERATION TO THE CONSTITUTION

Constitutional Amendment (Independent Commission Against Corruption) Law 2013

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, Theodore Zurenuoc, Speaker of the National Parliament, hereby publish the following proposed Law:—

Draft of 6/9/2013

PROPOSED LAW TO ALTER THE CONSTITUTION

Constitutional Amendment (Independent Commission Against Corruption) Law 2013

ARRANGEMENT OF CLAUSES

1. New Division VIII.3 of the Constitution.

“Division 3 - The Independent Commission Against Corruption.

220A. Interpretation.

“Appointments Committee”

“Commission”

“corrupt conduct”

“member”

“Oversight Committee”

220B. The Independent Commission Against Corruption.

220C. Purposes of the Commission.

220D. Functions of the Commission.

220E. Powers of the Commission.

220F. Independence of the Commission.

220G. Oversight of the Commission.

220H. Reports by the Commission.

2. Amendments to Section 177 of the Constitution.

Proposed Law to Alter the Constitution—*continued*

PROPOSED LAW TO ALTER THE CONSTITUTION

entitled

Constitutional Amendment (Independent Commission Against Corruption) Law 2013,

being

A Law to alter the Constitution by making provision for the establishment of an Independent Commission Against Corruption and for related purposes,

MADE by the National Parliament to come into operation in accordance with a notice in the *National Gazette* by the Head of State, acting with, and in accordance with, the advice of the Minister.

1. NEW DIVISION VIII. 3 OF THE CONSTITUTION.

Part VIII of the Constitution is amended by adding, after Division 2, the following new division:

“Division 3 - The Independent Commission Against Corruption.”

220A. INTERPRETATION.”

“For the purposes of this Division, unless the contrary intention appears—

“Appointments Committee” means the Appointments Committee established under Section 220B(2);

“Commission” means the Independent Commission Against Corruption established under Section 220B(1);

“corrupt conduct” means any conduct, act or omission defined in an Organic Law as a corrupt conduct”

“member” means a member of the Commission”

“Oversight Committee” means the Committee prescribed under Section 220G.

“220B. THE INDEPENDENT COMMISSION AGAINST CORRUPTION.”

“(1) There shall be an Independent Commission Against Corruption consisting of a Commissioner and two Deputy Commissioners.

(2) There shall be an Independent Commission Against Corruption Appointments Committee.

(3) The members of the Commission shall be appointed by the Head of State, acting on, and in accordance with, the advice of the Appointments Committee.

(4) An Organic Law shall make further provision for —

(a) the composition of the Appointments Committee; and

(b) members of the Appointments Committee (including but not limited to qualifications, selection process, terms and conditions, length of appointment, cessation of appointment and termination of appointment); and

(c) the functions and powers of the Appointments Committee; and

(d) the operations and procedures of the Appointments Committee; and

(e) any other matters concerning or relating to the Appointments Committee.

(5) An Organic Law shall make further provision for —

(a) the qualifications, terms and conditions, length of appointment, cessation of appointment and termination of appointment of the members of the Commission; and

(b) any other matters concerning or relating to the Commission.”

Proposed Law to Alter the Constitution—*continued***“220C. PURPOSES OF THE COMMISSION.”**

“The purposes of the Commission are to contribute, in cooperation with other agencies, to preventing, reducing and combating corrupt conduct.”

“220D. FUNCTIONS OF THE COMMISSION.”

“Subject to any Organic Law made for the purposes of Section 220E, the functions of the Commission are —

- (a) to receive and consider complaints regarding alleged or suspected corrupt and investigate such of those complaints as it considers appropriate; and
- (b) to investigate, on its own initiative or on complaints received, alleged or suspected corrupt conduct; and
- (c) to exchange information regarding alleged or suspected corrupt conduct and cooperate with other law enforcement, integrity and regulatory agencies, both within Papua New Guinea and internationally; and
- (d) to refer complaints regarding alleged or suspected corrupt conduct to other agencies for investigation; and
- (e) to accept the referral from other agencies of matters regarding alleged or suspected corrupt conduct for investigation; and
- (f) where the Commission, after conducting an investigation, is of the opinion that a person has committed an offence involving corrupt conduct, to refer the matter to the Public Prosecutor or the Police Force together with a statement of reasons for its opinion; and
- (g) to exercise such prosecution powers concerning or relating to corrupt conduct as may be prescribed by or under an Organic Law; and
- (h) to encourage, cooperate and coordinate with other public and private sector agencies in —
 - (i) research regarding corrupt conduct and anti-corruption strategies, policies, practices and procedures; and
 - (ii) the development, implementation and review of anti-corruption strategies, policies, practices and procedures; and
 - (iii) training, education and awareness regarding corrupt conduct and anti-corruption strategies, policies, practices and procedures.”

“220E. POWERS ETC OF THE COMMISSION.”

- “(1) An Organic Law shall make further provision for the functions, structure, powers, procedures, operations, protections and immunities of the Commission and its staff.
- (2) Without limiting the scope of Subsection (1), an Organic Law may —
 - (a) make provision for the Commission to have access to all available relevant information to carry out its functions; and
 - (b) impose reasonable restrictions on the availability of information held by the Commission; and
 - (c) make provision to ensure the secrecy or confidentiality of secret or confidential information made available to the Commission; and
 - (d) make provision for the bodies with which the Commission may share secret or confidential information; and
 - (e) make provision for and in respect of publicity for the proceedings, reports and recommendations of the Commission; and
 - (f) provide for certain penalties to automatically apply to a person who has been convicted of an offence involving corrupt conduct.”

Proposed Law to Alter the Constitution—continued**“220F. INDEPENDENCE OF THE COMMISSION.”**

- “(1) In the performance of its functions and powers, the Commission is not subject to the direction and control of any person or authority.
- (2) The proceedings and decisions of the Commission are not subject to review in any way, except by the Supreme Court or the National Court on the ground that it has exceeded its jurisdiction.
- (3) The salary and other conditions of employment of the Commissioner shall not be less than or inferior to the salary and other conditions of employment of a Judge other than the Chief Justice or Deputy Chief Justice without taking into account any conditions of employment personal to that Judge.
- (4) The salary and other conditions of a Deputy Commissioner shall not be less than or inferior to the salary and other conditions of employment of the Public Prosecutor, without taking into account any conditions of employment personal to any particular Public Prosecutor.”

“220G. OVERSIGHT OF THE COMMISSION.”

“An Organic Law shall make provision for an Independent Commission Against Corruption Oversight Committee, whose role shall be to monitor, review and report on the Commission’s functions, operations and exercise of powers.”

“220H. REPORTS BY THE COMMISSION.”

- “(1) By 31st March each year, the Commission shall present to the Speaker of Parliament an annual report for presentation to Parliament, and shall provide a copy of the annual report to the Minister and the Oversight Committee.
- (2) The Speaker of Parliament shall present the Commission’s annual report to Parliament at the next meeting of Parliament following the receipt of the report.
- (3) Once the annual report has been presented to Parliament, the Commission shall publish the report.
- (4) An Organic Law may make provision for —
 - (a) any particular matters which the Commission shall be obliged to report on in its annual report; and
 - (b) the role of the Oversight Committee to —
 - (i) reviewing the Commission’s annual report; and
 - (ii) reporting on the Commission’s annual report; and
 - (iii) reviewing and making recommendations on matters within the scope of its role under Section 220G as part of its reports; and
 - (c) the publication of the Oversight Committee’s reports.
- (5) Nothing in this section prevents the Commission or the Oversight Committee from making any other reports relating to any aspect of the Commission’s operations, functions or powers.”

2. AMENDMENT TO SECTION 177 OF THE CONSTITUTION.

Section 177 of the Constitution is amended in Subsection (1), Paragraph (a), by adding the following words before the words “in accordance with an Act of Parliament”:

“subject to Division 3 of Part VIII of this Constitution and.”

THE ORGANIC LAW PROVINCIAL AND LOCAL-LEVEL GOVERNMENT

ALTERATION TO THE PRINCIPLE ORGANIC LAW

The Government proposes to alter the *Organic Law on Provincial Governments and Local-level Government*, and pursuant to the requirement of Section 14(2) (making of alterations to the Constitution) of the Constitution, I, Theodore Zurenuoc, Speaker of the National Parliament, hereby publish the proposed Law:—

Draft of 14/8/2013

PROPOSED LAW TO AMEND THE ORGANIC LAW ON PROVINCIAL GOVERNMENTS AND LOCAL-LEVEL GOVERNMENTS

*Organic Law on Provincial Governments and Local-Level Governments (District Development Authority)
Law 2013,*

ARRANGEMENT OF CLAUSES

1. Insertion of Definition in Section 3.
2. Repeal of Section 33A and Substitution of new section.
 “33A. DISTRICT DEVELOPMENT AUTHORITY.
3. Provincial and Local-level Administrative System (Amendment of Section 72).
4. Functions of the Provincial and District Administrator (Amendment of Section 74).
5. Financial Responsibility (Amendment of Section 105A).

Draft of 14/8/2013

PROPOSED LAW TO AMEND THE ORGANIC LAW ON PROVINCIAL GOVERNMENTS AND LOCAL-LEVEL GOVERNMENTS

entitled

*Organic Law on Provincial Governments and Local-Level Governments (District Development Authority)
Law 2013,*

being

A Law to alter the *Organic Law on Provincial Governments and Local-Level Governments*,
MADE by the National Parliament.

1. INSERTION OF DEFINITION IN SECTION 3.

The Principal Organic Law is amended in Section 3 by inserting before “Electoral Development Authority” the following new definition:

“District Development Authority” means a District Development Authority established by Section 33A”;

2. PROVINCIAL EXECUTIVE COUNCIL COMMITTEES (AMENDMENT OF SECTION 25).

The Principal Organic Law is amended in Section 25 by repealing the words “Joint District Planning and Budget Priorities Committee” in subparagraph (b) of Subsection (2) and replacing them with the following words:

“District Development Authority”.

3. REPEAL AND REPLACEMENT OF NEW SECTION 33A.

The Section 33A of Organic Law is repealed and is replaced with the following new section:

“33A. DISTRICT DEVELOPMENT AUTHORITIES.

Proposed Law to amend the Organic Law on Provincial Governments and Local-level Governments—*continued*

- (1) A District Development Authority is established in each District.
- (2) An Act of Parliament shall make provisions for the functions and powers of, and other matters relating to, District Development Authorities.”.

4. **PROVINCIAL AND LOCAL-LEVEL ADMINISTRATIVE SYSTEM (AMENDMENT OF SECTION 72).**

The Principal Organic Law is amended in Section 72 by repealing Subparagraph (iv) of Subsection (2) Paragraph (a) and replacing it with the following new subparagraph:

“(iv) the District Development Authority; and”.

5. **FUNCTIONS OF THE PROVINCIAL AND DISTRICT ADMINISTRATOR (AMENDMENT OF SECTION 74).**

The Principal Organic Law is amended in Section 74 by repealing paragraph (c) of Subsection (3) and replacing it with the following new paragraph:

“(c) Policy directions from the District Development Authority.”.

6. **FINANCIAL RESPONSIBILITY (AMENDMENT OF SECTION 105A).**

The Principal Organic Law is amended in Section 105A by repealing Subsections (2) and (3).