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THE INDEPENDENT STATE OF PAPUA NEW GUINEA

CONSTITUTION

ALTERATION OF AN ORGANIC LAW

THE Member for Manus Open, Mrs Nahau Rooney, proposes to alter the *Organic Law on National Elections* and pursuant to the requirements of Section 14(2) (*Making of alterations to the Constitution and Organic Laws*) of the Constitution, I, Timothy Bonga, the Speaker of the National Parliament, hereby publish the proposed Law—

THE INDEPENDENT STATE OF PAPUA NEW GUINEA

PROPOSED LAW TO ALTER THE ORGANIC LAW ON NATIONAL ELECTIONS

*Organic Law on National Elections (Preferential voting) Amendment*

ARRANGEMENT OF CLAUSES

1. Interpretation—  
"the Principal Law".
2. Repeal and replacement of Section 89.
3. Repeal and replacement of Section 139.
4. Repeal and replacement of Section 154.
5. Scrutiny of ordinary votes in election (Amendment of Section 155).
6. Repeal and replacement of Section 169.

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PROPOSED LAW TO ALTER THE ORGANIC LAW ON NATIONAL ELECTIONS

entitled

*Organic Law on National Elections (Preferential voting) Amendment*

being

A Law to alter the Organic Law on National Elections by providing for a system of preferential voting and for related purposes,

MADE by the National Parliament.

1. INTERPRETATION.

In this Law "the Principal Law" means the *Organic Law on National Elections*.

2. REPEAL AND REPLACEMENT OF SECTION 89.

Section 89 of the Principal Law is repealed and is replaced by the following:—

"89. DEPOSIT TO BE FORFEITED IN CERTAIN CASES.

The deposit made by or on behalf of a candidate at an election, shall be retained pending the election, and after the election shall be—

- (a) returned to the candidate, or to some person authorised by him in writing to receive it, if he is elected;
- or
- (b) forfeited to the State if he is not elected."

3. REPEAL AND REPLACEMENT OF SECTION 139.

Section 139 of the Principal Law is repealed and is replaced by the following:—

"139. METHOD OF MARKING BALLOT-PAPER.

Subject to this Law, an elector shall record his vote 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 all the remaining candidates by placing the numerals "1", "3", "4" (and so on as the case requires) in the squares opposite their respective names so as to indicate the order of his preference for them."

4. REPEAL AND REPLACEMENT OF SECTION 154.

Section 154 of the Principal Law is repealed and is replaced by the following:—

"154. INFORMAL BALLOT-PAPERS.

(1) Subject to this section, and to the provisions of Divisions 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 first preference for one candidate and his contingent votes for all the other candidates; or
- (c) it has on it any mark or writing (not authorized by the Law to be put on it) by which, in the opinion of the officer conducting the scrutiny, the voter can be identified.

"(2) Where the voter has indicated his first preference for one candidate and his contingent votes for all the remaining candidates except one and the square opposite the name of that 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 the order of his preference for all the candidates.

"(3) Where there are two candidates only and the voter has indicated his vote by placing the numeral "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 all candidates.

Proposed Law to Alter the Organic Law on National Elections—*continued*4. Repeal and Replacement of Section 154—*continued*

“(4) Where the voter has clearly shown—

- (a) his first preference; or
- (b) a consecutive order of preferences for some candidates,

but has not shown a consecutive order of preferences for all other candidates, the ballot-paper shall not be informal but effect shall be given to it according to the voter's intention in so far as that intention is clear and can be given effect to.

“(5) Subsection (1)(a) 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.

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

## 5. SCRUTINY OF ORDINARY VOTES IN ELECTION (AMENDMENT OF SECTION 155).

Section 155(2) of the Principal Law is amended by—

- (a) in paragraph (b) by repealing “votes” and substituting “first preference votes”; and
- (b) in paragraph (c) by repealing “votes” and substituting “first preference votes”; and
- (c) in paragraph (d) by repealing “votes” and substituting “first preference votes”; and
- (d) in paragraph (f) (i) by repealing “votes” and substituting “first preference votes”.

## 6. REPEAL AND REPLACEMENT OF SECTION 169.

Section 169 of the Principal Law is repealed and is replaced by the following:—

“169. SCRUTINY OF VOTES IN ELECTION.

(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 shall, if that number constitutes an absolute majority of votes, be elected;
- (c) if no candidate has received an absolute majority of votes, a second count shall be made;
- (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 the order of the voter's preference;
- (e) if a candidate then has an absolute majority of votes he shall be deemed to be elected, but if no candidate then has an absolute majority of votes the process of excluding the candidate who has the fewest votes and counting each of his 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 referred to in Section 154(4) 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.

“(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 this slip enclosed in the envelope taken from the ballot-box is elected.

“(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 the count under subsection (2)).”