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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, Bill Skate, Speaker of the National Parliament, hereby publish the proposed Law—

Draft of 4/02/2003.

INDEPENDENT STATE OF PAPUA NEW GUINEA

**PROPOSED LAW TO ALTER THE CONSTITUTION**

*Constitutional Amendment (Sales and Services Tax)*

ARRANGEMENT OF CLAUSES

1. Constitution, Functions, etc., of Provincial Governments and Local-level Governments (Amendment of Section 187C).
2. New Schedule 6.

Draft of 4/02/2003.

INDEPENDENT STATE OF PAPUA NEW GUINEA

**PROPOSED LAW TO ALTER THE CONSTITUTION**

entitled

*Constitutional Amendment (Sales and Services Tax)*

being

A Law—

- (a) to alter the Constitution by amending the provisions relating to the imposition and collection of taxation by the National Government and Provincial Governments and Local-level Governments; and
- (b) to validate the imposition and collection by the National Government of a sales and service tax (value added tax) on and from 1st July, 1999 and all matters relative thereto,

**Proposed Law to Alter the Constitution—continued**

MADE by the National Parliament—

- (a) in respect of Section 1—to be deemed to have come into operation on 19th July, 1995; and
- (b) in respect of Section 2—to come into operation on certification.

**1. CONSTITUTION, FUNCTIONS, ETC., OF PROVINCIAL GOVERNMENTS AND LOCAL-LEVEL GOVERNMENTS (AMENDMENT OF SECTION 187C).**

Section 187C of the Constitution is amended—

- (a) by repealing Paragraph (b) of Subsection (4) and replacing it with the following:—

“(b) subject to Subsection (4A), the imposition, collection and distribution of taxation by Provincial Governments and Local-level Governments;” and

- (b) by inserting after Subsection (4) the following new Subsections:—

“(4A) Where an Organic Law provides for the imposition, collection and distribution by Provincial Governments and Local-level Governments of sales and service tax, it may also provide that the National Government has concurrent power to impose, collect and distribute sales and service tax.

“(4B) An Act or Acts of the Parliament—

- (a) passed during the period between 19th July, 1995 and the date of certification of *Constitutional Amendment (Sales and Services)*; and

- (b) providing for the National Government to impose, collect and distribute a sales and services tax (by whatever name known),

are validated, to the extent that the provisions of the Act or Acts were in contravention of this Constitution, in accordance with Schedule 6.”

**2. NEW SCHEDULE 6.**

The Constitution is amended by adding the following new Schedule.

“SCHEDULE 6.

**Sch.6.1 Validation of certain matters relating to the *Value Added Tax Act 1999*.**

- (1) In Sch. 6.1—

“the Act” means the *Value Added Tax Act 1998*;

“the relevant period” means the period commencing on 1st July, 1999 and ending on the coming into operation of this section.

- (2) The imposition of—

- (a) value added tax; and
- (b) additional value added tax; and
- (c) further additional value added tax,

under and in accordance with the Act during the relevant period is hereby validated.

- (3) The assessment and collection of—

- (a) value added tax; and
- (b) additional value added tax; and
- (c) further additional value added tax,

under and in accordance with the Act during the relevant period are hereby validated.

**Proposed Law to Alter the Constitution—continued**

(4) The commissioner-General of Internal Revenue and all officers acting under his authority are, in respect of all actions taken by them, under and in accordance with the Act during the relevant period, indemnified against civil or criminal liability alleged on the grounds that the Act was, during the relevant period, declared unconstitutional.

(5) All proceedings, civil or criminal, initiated under and in accordance with the Act during the relevant period are not invalid by reason only of the fact that the Act was, during the relevant period, declared unconstitutional.

(6) All penalties (financial and otherwise) imposed under and in accordance with the Act during the relevant period are not invalid by reason only of the fact that the Act was, during the relevant period, declared unconstitutional.

(7) All—

- (a) objections to assessments; and
- (b) objections to decisions; and
- (c) decisions of the—

- (i) Commissioner-General of Internal Revenue; and
- (ii) Review Tribunal; and
- (iii) National Court,

in relation to objections referred to in Paragraph (a) or (b), under and in accordance with the Act during the relevant period are not invalid by reason only of the fact that the Act was, during the relevant period, declared unconstitutional.

(8) All—

- (a) exemptions from payment of value added tax; and
- (b) refunds of value added tax; and
- (c) set off of value added tax.

under and in accordance with the Act during the relevant period are not invalid by reason only of the fact that the Act was, during the relevant period, declared unconstitutional.

**Sch.6.2. Validation of certain matters relating to the Value Added Tax Revenue Distribution Act 1998.**

(1) In Sch. 6.2—

“the Act” means the *Value Added Tax Revenue Distribution Act 1998*;

“the relevant period” means the period commencing on 1st July, 1999 and ending on the date of coming into operation of this section.

(2) The establishment and operations of—

- (a) the National VAT Revenue Trust; and
- (b) the Provincial VAT Trust; and
- (c) the National VAT Trust Account; and
- (d) the trust accounts established in each province,

under and in accordance with the Act during the relevant period is hereby validated.

(3) The—

- (a) payments made into the Trust Accounts referred to in Subsection (2)(c) and (d); and
- (b) payments made out of the Trust Accounts referred to in Subsection (2)(c) and (d); and
- (c) the method of calculation of value added tax distribution to the provinces; and
- (d) the order of precedence of distributions from the Trust Accounts referred to in Subsection (2)(c) and (d),

under and in accordance with the Act during the relevant period are hereby validated.

**Proposed Law to Alter the Constitution—continued**

(4) The—

- (a) Commissioner-General of Internal Revenue ; and
- (b) officers acting under the authority of the Commissioner-General of Internal Revenue ; and
- (c) the trustees of the National VAT Revenue Trust; and
- (d) the trustees of each Provincial VAT Trust,

are, in respect of all actions taken by them under and in accordance with the Act during the relevant period, hereby indemnified against civil or criminal liability alleged on the grounds that the Act was, during the relevant period, declared unconstitutional.”

## 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, Bill Skate, Speaker of the National Parliament, hereby publish the proposed Law—

Draft of 4/02/2003.

## 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. Exclusively Provincial Taxes (Amendment of Heading to Section 85).
2. Kinds of Provincial Government Taxes and Fees (Amendment of Section 86).

Draft of 4/02/2003.

## 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 be deemed to have come into operation on 18th June, 1997.

**1. EXCLUSIVELY PROVINCIAL TAXES (AMENDMENT OF SECTION 85).**

The heading to Section 85 of the Organic Law on Provincial Governments and Local-level Governments is amended by adding the following words—

“AND TAXES IN RESPECT OF WHICH THE NATIONAL GOVERNMENT HAS CONCURRENT POWERS”.

**2. KINDS OF PROVINCIAL GOVERNMENT TAXES AND FEES (AMENDMENT OF SECTION 86).**

Section 86 of the Organic Law on Provincial Governments and Local-level Governments is amended—

(a) by adding to the heading the following words:—

“AND TAXES IN RESPECT OF WHICH THE NATIONAL GOVERNMENT HAS CONCURRENT POWERS”; and

(b) in Subsection (2), by repealing the reference to “Subsection (1)” and replacing it with the following:—

“Subsections (1) and (1A).”