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PORT MORESBY, TUESDAY, 13th AUGUST

[2013

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

Draft of 13/06/2013

PROPOSED LAW TO ALTER THE CONSTITUTION

Constitutional Amendment (Citizenship) Law 2013

ARRANGEMENT OF CLAUSES

1. Liberty of person (Amendment of Section 42).
2. Right to vote and stand for public office (Amendment of Section 50).
3. Right to freedom of information (Amendment of Section 51).
4. Other rights and privileges of citizens (Amendment of Section 56).
5. Dual citizenship (Amendment of Section 64).
6. Citizenship by naturalisation (Amendment of Section 67).
7. Automatic loss of citizenship (Amendment of Section 70).
8. Meaning of certain expressions (Amendment of Schedule 1.2).

PROPOSED LAW TO ALTER THE CONSTITUTION

entitled

Constitutional Amendment (Citizenship) Law 2013

being

A Law to amend the Constitution by amending the provisions relating to Citizenship, 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. LIBERTY OF PERSON (AMENDMENT OF SECTION 42).

Section 42 of the Constitution is amended in Subsection (1) by adding a new paragraph after Paragraph (g) as follows:

“(ga) for the purposes of holding a foreign national under arrangements made by Papua New Guinea with another country or with an international organisation that the Minister responsible for immigration matters, in his absolute discretion, approves; or”.

2. RIGHT TO VOTE AND STAND FOR PUBLIC OFFICE (AMENDMENT OF SECTION 50).

Section 50 of the Constitution is amended in Subsection (1)—

(a) by deleting the coma at the end of Paragraph (b) and substituting it with “; or”; and

(b) by adding a new paragraph after Paragraph (b) as follows:

“(ba) has dual citizenship of another country,”

3. RIGHT TO FREEDOM OF INFORMATION (AMENDMENT OF SECTION 51).

Section 51 of the Constitution is amended in Subsection (1) by inserting, after the word “citizen” and before the word “has”, the words “other than citizens who have dual citizenship”.

4. OTHER RIGHTS AND PRIVILEGES OF CITIZENS (AMENDMENT OF SECTION 56).

Section 56 of the Constitution is amended—

(a) in Subsection (1), by inserting, after the word “citizen” and before the word “may”, the words “other than citizens who have dual citizenship”; and

(b) in Subsection (3), by deleting the full stop after the word “citizen” and inserting the words “other than citizens who have dual citizenship.”.

5. DUAL CITIZENSHIP (REPEAL AND REPLACEMENT OF SECTION 64).

Section 64 of the Constitution is repealed and replaced with the following:

“64. Dual Citizenship.

(1) Except as provided by this section, no person who has a real foreign citizenship shall be or become a citizen.”

(2) A citizen may apply to the Minister responsible for citizenship matters to be a citizen of a prescribed country, and the Minister may, if he is satisfied as to the matters referred to in Subsection (4), in his deliberate judgement (but subject to Division 4 (Citizenship Advisory Committee)), grant or refuse the application.”

(3) A citizen of a prescribed country who would otherwise be qualified to be a citizen under Sections 65, 66 or 67, of the Constitution may apply to the Minister responsible for citizenship matters to be a citizen, and the Minister may, if he is satisfied as to the matters referred to in Subsection (6), in his deliberate judgement (but subject to Division 4 (Citizenship Advisory Committee)), grant or refuse the application.”

Proposed Law to Alter the Constitution—continued

- (4) To be eligible to hold citizenship of a prescribed country under Subsection (2)—
- (a) the citizen must demonstrate that a prescribed country will grant him citizenship; and
 - (b) the reasons why he wants to be a citizen of a prescribed country.
- (5) To be eligible to be a citizen under Subsection (3)—
- (a) a person must be qualified to be a citizen—
 - (i) under Section 65 (automatic citizenship); or
 - (ii) under Section 66 (citizenship by descent); or
 - (iii) under Section 67 (citizenship by naturalization); and”
 - (b) the person must specify the reasons why he wants to be a citizen of Papua New Guinea while still holding the citizenship of the prescribed country.
- (6) An Act of Parliament may make provisions on matters that the Minister Should, or should not take into account under Subsections (2), (3), (4) and (5).
- (7) Constitutional regulations shall prescribe the countries to which persons will be permitted to hold citizenship under this section.
- (8) The Minister responsible for citizenship matters may, in his deliberate Judgement, but subject to Division 4 (Citizenship Advisory Committee), recall and cancel an approval given under Subsections (4) or (5) if, at any time after granting of approval, circumstances exist—
- (a) which were not known at the time; or
 - (b) which are new as a result of change occurring since approval was given, that if these were known or existed at the time approval was granted, approval would not have been granted.”
- (9) Subsection (1) does not apply to a person who has not yet reached the age of 19 years, provided that, before he reaches that age and in such manner as is prescribed by or under an Act of the Parliament, he renounces his other citizenship and makes the Declaration of Loyalty.”
- (10) A person who has a real foreign citizenship and fails to comply with Subsection (2) ceases to be a citizen of Papua New Guinea when he reaches the age of 19 years.”
- (11) For the purposes of this section, a person who—
- (a) was, immediately before Independence Day, an Australian citizen or an Australian Protected Person by virtue of—
 - (i) birth in the former Territory of Papua; or
 - (ii) birth in the former Territory of New Guinea and registration under Section 11 of the *Australian Citizenship Act 1948-1975* of Australia; and
 - (b) was never granted a right (whether revocable or not) to permanent residence in Australia, has no real foreign citizenship.”.

6. CITIZENSHIP BY NATURALISATION (AMENDMENT OF SECTION 67).

Section 67 of the Constitution is amended in Subsection (2) by inserting, immediately before the words “renounce” in Paragraph (g), the words and figure “subject to Section 64”.

Proposed Law to Alter the Constitution—*continued*

7. AUTOMATIC LOSS OF CITIZENSHIP (AMENDMENT OF SECTION 70).

Section 70 of the Constitution is amended in Subsection (1) by —

- (a) inserting, before the words “A citizen”, the words and figure “Subject to Section 64,”; and
- (b) deleting the capital “A” and substituting it with “a”.

8. MEANING OF CERTAIN EXPRESSIONS (AMENDMENT OF SCHEDULE 1.2).

Schedule 1.2 of the Constitution is amended in Subsection (1) by inserting a new definition after the definition of “principles of natural justice” as follows:

“public office” means —

- (a) an office of any State Service or of a provincial service; or
- (b) any other constitutional office; or
- (c) an office or position established by statute for administrative or governmental purposes; or
- (d) any other office or position declared by a statute to be a public office other than an elective public office;”.