

## **INDEPENDENT STATE OF PAPUA NEW GUINEA.**

### ***Local-level Governments Administration Act 1997,***

Being an Act to implement the *Organic Law on Provincial Governments and Local-level Governments* insofar as an Act of the Parliament is required to make provision for a system of Local-level Governments and for their administration.

#### **PART I.—PRELIMINARY.**

##### **1. Compliance with Constitutional Requirements.**

(1) This Act, 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) the right to privacy conferred by Section 49 of the *Constitution*; and
- (e) the right to vote and stand for public office conferred by Section 50 of the *Constitution*; and
- (f) the right to freedom of information conferred by Section 51 of the *Constitution*,

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

(2) The purposes of Local-level Government and of a Local-level Government are public purposes for the purpose of Section 53 (*unjust deprivation of property*) of the *Constitution*.

##### **2. Interpretation.**

In this Act, unless the contrary intention appears—

"Adviser" means an Adviser appointed under Section 54;

"associate member" means an associate member of a Ward Development Committee elected or appointed under Section 28;

"Authority" means a Local-level Government Special Purposes Authority established under Section 42;

"deputy head of a Local-level Government" means—

- (a) a Deputy Lord Mayor; or
- (b) a Deputy Mayor; or
- (c) a Deputy President;

"head of a Local-level Government" means—

- (a) a Lord Mayor; or
- (b) a Mayor; or

- (c) a President;
- "Joint District Planning and Budget Priorities Committee" means the Joint District Planning and Budget Priorities Committee required to be established in each district by Section 33A(1) of the *Organic Law*;
- "Local-level Government" means a Local-level Government established in accordance with Sections 26 and 27 of the *Organic Law*;
- "Local-level Government Special Purposes Authority" means a Local-level Government Special Purposes Authority established under Section 42;
- "Local-level Government Gazette" means the Local-level Government Gazette published under Section 56;
- "member" means a member of a Local-level Government;
- "*Organic Law*" means the *Organic Law on Provincial Governments and Local-level Governments*;
- "Provincial Assembly" means a Provincial Assembly established by Section 10 of the *Organic Law*;
- "Provincial Executive Council" means a Provincial Executive Council established by Section 23 of the *Organic Law*;
- "Provincial Governor" means the person holding office as Provincial Governor in accordance with Section 17 or 21 of the *Organic Law*;
- "rural community" means a community that resides within an area other than an area declared to be an urban area under Section 4;
- "rural Local-level Government" means a Local-level Government established for a rural community;
- "this Act" includes the Regulations;
- "urban Local-level Government" means a community that resides within an area declared to be an urban area under Section 4;
- "Village Book" means a Village Book established under Section 57;
- "ward" means an electorate for an elected member of a Local-level Government (other than the head of a Local-level Government directly elected by the electors);
- "Ward Development Committee" means a Ward Development Committee established under Section 26, and in relation to a ward means the Ward Development Committee established for that ward.

(2) In this Act, unless the contrary intention appears, a reference, in relation to a district, Local-level Government or Local-level Government area, to a provincial office or body or to a Local-level office or body, is a reference to the provincial office or body or Local-level office or body established or appointed for or in relation to that district, Local-level Government or Local-level Government area.

- (3) In the case where a Province is an open electorate—
  - (a) a reference to the District Administrator shall be read as a reference to the Provincial Administrator; and
  - (b) all the powers and functions vested in a District Administrator are vested in the Provincial Administrator.

### **3. Application.**

*PNG National Legislation*

This Act applies to each Local-level Government in accordance with its provisions.

**4. Declaration of urban areas.**

The Minister may, in relation to an area of land, after taking into consideration—

- (a) the area of alienated land; and
- (b) the value of unimproved land; and
- (c) the concentration of people; and
- (d) whether there is adequate provision of water, electricity, communications, health, sanitation, education and other services,

by notice in the National Gazette, declare the area to be an urban area.

**5. Employee of a Local-level Government, etc., not eligible for election or appointment to Local-level Government.**

A person who is—

- (a) an employee of a Local-level Government; or
- (b) an officer or employee of a State Service; or
- (c) an employee of a body set up by statute or administrative act for government or official purposes,

is not eligible to be elected or appointed as a member of a Local-level Government.

**PART II.—LOCAL-LEVEL GOVERNMENT MEMBERS.**

**6. Woman representatives in Local-level Government.**

(1) The Provincial Council of Women for the province in which a Local-level Government area is contained, after consultation—

- (a) with women or women's groups in that area; or
- (b) where a Provincial Council of Women has a branch within that area, that branch,

shall, as and when required, nominate to the Local-level Government for that area—

- (c) where it is an urban area—one woman to be a representative of women's organizations on the Local-level Government as required by Section 29(1)(c)(iii) of the *Organic Law*; and
- (d) where it is a rural area—two women to be representatives of the women's organizations on the Local-level Government as required by Section 29(1)(d) of the *Organic Law*,

and such women nominated shall be appointed by the Local-level Government.

(2) Notification of the woman or women appointed shall be—

- (a) given to the Minister; and
- (b) published in the Local-level Government Gazette.

**7. Qualifications and disqualifications of appointed members of a Local-level Government.**

(1) A person who—  
(a) is eligible to stand for election—  
    (i) as a member of the Parliament for an electorate in the province; or  
    (ii) as a member of a Local-level Government in the province; and  
(b) is not already a member of the Provincial Assembly,  
is qualified to be appointed a member of the Local-level Government under Section 29(1)(c) or (d) of the *Organic Law*.

(2) A person who has been appointed as a member of a Local-level Government under Section 29(1)(c) or (d) of the *Organic Law* and whose membership has expired according to law, is, subject to the provisions of any Constitutional Law, eligible for re-appointment.

(3) Persons nominated for appointment under Section 29(1)(c) or (d) of the *Organic Law* shall be appointed by resolution of the Local-level Government in accordance with the nomination by the nominating body.

(4) A Local-level Government has no power to refuse to appoint a duly qualified person nominated under Section 29(1)(c) or (d) of the *Organic Law*.

## **8. Declaration of office.**

Before entering upon the duties of, or exercising any of the powers of the office of member of a Local-level Government, a member of a Local-level Government shall make, on oath or affirmation—

- (a) if he has not already done so, the Declaration of Loyalty as set out in the form in Schedule 1; and
- (b) the Declaration of Office as set out in the form in Schedule 2.

## **9. Dismissal from office of head of a Local-level Government for neglect of duty.**

(1) Where the Minister, after such inquiry and consultation as he considers appropriate, is of the opinion that the head of a Local-level Government has neglected his duty, he may dismiss the head of the Local-level Government from office.

(2) The Minister shall not dismiss the head of a Local-level Government under Subsection (1) unless he has given to the head of the Local-level Government 21 days' written notice of his intention to do so and the reasons for so doing.

(3) Within 14 days of the receipt of a notice under Subsection (2) the head of the Local-level Government may reply in writing to the Minister who shall consider the reply and, where appropriate, dismiss him from office.

(4) Where the head of the Local-level Government does not, within 14 days of receipt of a notice under Subsection (2), reply in writing, the Minister shall dismiss him from office.

- (5) A dismissal from office under this section—
  - (a) shall be in writing; and

- (b) shall be sent to the person dismissed; and
- (c) shall be notified to—
  - (i) the Local-level Government concerned; and
  - (ii) in the case of the head of a Local-level Government in respect of which office a determination has been made under Section 234(2) of the *Organic Law on National and Local-level Elections*—the Electoral Commission.

#### **10. Dismissal from office of a member of a Local-level Government for neglect of duty.**

(1) Where the Minister, after such inquiry and consultation as he considers appropriate, is of the opinion that a member of a Local-level Government, other than the head of a Local-level Government, has neglected his duty, he may dismiss that member from office.

(2) The Minister shall not dismiss a member under Subsection (1) unless he has given to the member 21 days' written notice of his intention to do so and the reasons for so doing.

(3) Within 14 days of the receipt of a notice under Subsection (2), the member may reply in writing to the Minister who shall consider the reply and, where appropriate, dismiss the member from office.

(4) Where the member does not, within 14 days of receipt of a notice under Subsection (2), reply in writing, the Minister shall dismiss him from office.

- (5) A dismissal under this section—
  - (a) shall be in writing; and
  - (b) shall be sent to the person dismissed; and
  - (c) shall be notified to—
    - (i) the head of the Local-level Government concerned; and
    - (ii) in the case of an elected member, the Electoral Commission; and
    - (iii) in the case of an appointed member, the organization responsible for the nomination of that member.

#### **11. Duties of an elected member.**

An elected member shall—

- (a) ensure that the Village Book, relative to the ward which he represents, is maintained; and
- (b) prepare, in consultation with the Ward Development Committee, a rolling five-year development plan for the ward for submission to the Local-level Government.

#### **12. Election of head of a Local-level Government.**

- (1) The election of the head of a Local-level Government—
  - (a) in respect of which a determination has been made under Section 234(2) of

the *Organic Law on National and Local-level Government Elections*—shall be in accordance with that *Organic Law*; and

(b) in respect of which no such determination has been made—shall, subject to this section, be in accordance with the Standing Orders of the Local-level Government from amongst the elected members of the Local-level Government.

(2) A member appointed under Section 29(1)(c) or (d) of the *Organic Law* is not eligible to be elected as the head of the Local-level Government.

(3) The head of a Local-level Government elected under Subsection (1)(b) vacates office where—

(a) he ceases to be an elected member; or

(b) he is dismissed from office under Section 9 or 10; or

(c) he is dismissed from office if the Local-level Government, by a two thirds absolute majority (including the appointed members), passes a motion of no confidence in him in accordance with this section.

(4) A motion of no confidence referred to in Subsection (3)(c)—

(a) is a motion—

(i) that is expressed to be a motion of no confidence in the head of the Local-level Government; and

(ii) of which not less than 14 days' notice, signed by a number of members of the Local-level Government, being not less than one quarter of the total number of members of the Local-level Government, has been given in accordance with the Standing Orders of the Local-level Government; and

(iii) nominates another member of the Local-level Government, who is eligible to be elected head of the Local-level Government, to be the next head of the Local-level Government; and

(b) may not be moved—

(i) during the period of 18 months following the election of the head of the Local-level Government; or

(ii) during the period of six months before the fifth anniversary of the date fixed for the return of the writs of the previous general election of members of Local-level Governments.

(5) The procedures for a motion of no confidence referred to in Subsection (3)(c) shall be as set out in the Standing Orders of the Local-level Government.

### **13. Deputy head of a Local-level Government.**

(1) There shall be an office of deputy head of the Local-level Government.

(2) The deputy head of a Local-level Government shall be appointed by the head of the Local-level Government.

(3) A member appointed under Section 29(1)(c) or (d) of the *Organic Law* is eligible to be appointed deputy head of the Local-level Government.

- (4) A deputy head of a Local-level Government vacates office where—
  - (a) he ceases to be a member; or
  - (b) he is dismissed from office under Section 10; or
  - (c) his appointment is revoked by the head of the Local-level Government.

#### **14. Styles of head, deputy head and member of a Local-level Government.**

- (1) In this section "city" means an area declared to be a city under Section 2 of the *Cities Act 1971*.
- (2) The head of a Local-level Government—
  - (a) which is an urban Local-level Government which comprises or includes the whole of a city—shall be styled "Lord Mayor"; and
  - (b) which is an urban Local-level Government which does not include the whole of city—shall be styled "Mayor"; and
  - (c) which is a rural Local-level Government—shall be styled "President".
- (3) The deputy head of a Local-level Government—
  - (a) which is an urban Local-level Government which comprises or includes the whole of a city—shall be styled "Deputy Lord Mayor"; and
  - (b) which is an urban Local-level Government which does not include the whole of a city—shall be styled "Deputy Mayor"; and
  - (c) which is a rural Local-level Government—shall be styled "Deputy President".
- (4) A member of a Local-level Government (other than the head or deputy head of the Local-level Government) shall be styled "Councillor".

#### **PART III.—LOCAL-LEVEL GOVERNMENT EXECUTIVE ARM.**

#### **15. Functions of Local-level Government Executive Arm.**

- The functions of a Local-level Government executive arm are—
- (a) to implement the laws and policies made or adopted by the Local-level Government; and
  - (b) to implement the laws and policies of the National Government and the Provincial Government applying to the Local-level Government area; and
  - (c) such other functions as are allocated to it by this Act or any other law.

#### **16. Exercise of powers, functions, etc., by executive arm.**

Except where the contrary intention appears, nothing in this Act or the Constitutional Laws prevents the powers, functions, duties or responsibilities of the executive arm of a Local-level Government from being exercised as determined by that executive arm.

#### **17. Procedures of executive arm.**

The procedures of an executive arm of a Local-level Government are as determined by that executive arm.

#### **PART IV.—PROCEDURES OF LOCAL-LEVEL GOVERNMENTS.**

## **18. Standing orders.**

(1) A Local-level Government shall make Standing Orders which shall, subject to the *Organic Law* and this Act, provide for—

- (a) the calling, regulating and conducting of the meetings of the Local-level Government and of the committees of the Local-level Government; and
- (b) the authentication of all documents required to be sealed with the seal of the Local-level Government; and
- (c) such other matters relative to the procedures of the Local-level Government and committees of the Local-level Government as are necessary or convenient or as are directed by the Minister.

(2) The head of a Local-level Government shall cause a copy of the Standing Orders made by the Local-level Government (and of any amendments to the Standing Orders), certified under the hand of the head of the Local-level Government and the executive officer, to be forwarded to the Minister.

(3) The Minister may draw up and have published in the Local-level Government Gazette model Standing Orders, which may be adopted, with or without modification, by a Local-level Government.

## **19. Quorum and voting at meetings.**

(1) Subject to Subsection (2), the quorum for a meeting of the Local-level Government is half the total membership of the Local-level Government.

(2) Where—

- (a) at the time determined for the commencement of a meeting of the Local-level Government a quorum is not present, the meeting stands adjourned for one hour; and
- (b) at the expiry of the period of one hour referred to in Paragraph (a)—
  - (i) a quorum is present—the meeting shall proceed; or
  - (ii) a quorum is not present—the meeting stands adjourned for such period as the person presiding determines, being a period of not less than one day nor more than one week, and at the same time and place as was determined for the meeting adjourned and at the time and place to which the meeting was so adjourned the members then and there present are a quorum.

(3) All questions before a meeting of a Local-level Government shall be decided in accordance with a majority of the members present at the meeting and voting, and the person presiding at the meeting has a deliberative vote and, in the event of an equality of votes on a matter, also a casting vote.

## **20. Vacancy in membership of Local-level Government.**

No act or proceedings of a Local-level Government or of a committee of a Local-level Government or of any person acting as a member of a Local-level Government or of a committee of a Local-level Government is invalid by reason of there being a vacancy in

the number of members of the Local-level Government or committee of the Local-level Government at the time of the act or proceedings.

## **21. Minutes.**

Minutes of all meetings of a Local-level Government and of a committee of a Local-level Government shall be taken, preserved and made available as provided in the Standing Orders.

## **22. Disclosure of interest.**

(1) A person presiding over a meeting of a Local-level Government or a committee of a Local-level Government who—

- (a) has any direct or indirect pecuniary interest in any contract or proposed contract or other matter, the terms of which or a decision on which is a subject for consideration at the meeting; or
- (b) holds any office or appointment that is likely to lead to a conflict of duty or interest in the performance of his duty and functions as the person presiding,

shall immediately disclose that fact, specifying the interest, office or appointment, and shall not continue to preside over the meeting.

(2) A member of a Local-level Government or of a committee of a Local-level Government who—

- (a) has any direct or indirect pecuniary interest in any contract or proposed contract or any other matter with the Local-level Government; and
- (b) is present at a meeting of the Local-level Government or a committee of the Local-level Government or of a board or Authority established by the Local-level Government at which the terms of the contract or a decision on the matter is the subject of consideration,

shall disclose the interest at the meeting and, without the permission of the Local-level Government or committee, as the case may be, given by resolution, shall not take part in any consideration or discussion of or vote on, any question relating to the contract or matter.

(3) In a case to which Subsection (2) applies, where the person presiding at the meeting so directs, the member concerned shall withdraw from the meeting during the consideration, discussion or voting.

(4) This section does not apply to a pecuniary interest that a member may have as a rate-payer or tax-payer only, or as a member of the community in which he resides, and that is common to all or most other members of that community.

(5) A person who fails to comply with Subsection (1), (2) or (3) is guilty of misconduct in office and the provisions of the Leadership Code shall apply.

## **23. Meetings of a Local-level Government.**

(1) A Local-level Government shall meet within 15 days of the day fixed for the return of the writs following a general election to Local-level Governments.

- (2) A Local-level Government shall meet at least once in each period of three months.
- (3) Unless otherwise provided, a meeting of a Local-level Government shall be called by the head of that Local-level Government.
- (4) A Local-level Government shall have additional meetings—
  - (a) where not less than one third of the total number of members of the Local-level Government make written request to the head of the Local-level Government; or
  - (b) where the head of the Local-level Government gives notification; or
  - (c) in accordance with the provisions of the Standing Orders.
- (5) Unless the Minister gives written authority to the contrary a meeting of a Local-level Government shall not be held at the same time as a meeting of the Parliament or of the Provincial Assembly.
- (6) A meeting of a Local-level Government is open to the public and to representatives of the media unless the Local-level Government for a special reason otherwise resolves at the meeting.
- (7) The person presiding at a meeting of a Local-level Government may—
  - (a) exclude from the meeting a person who, in his opinion, is behaving in a disorderly manner, or may require such person to withdraw from the meeting; and
  - (b) call on a member of the Police Force or a Local-level Government officer to eject any such person refusing to withdraw from the meeting or any other person who is present in contravention of a resolution referred to in Subsection (6).

#### **24. Privileges of a Local-level Government.**

- (1) Subject to the Constitutional Laws and this Act, the powers (other than the legislative powers), privileges and immunities of a Local-level Government and its members and committees are as specified in this section.
- (2) There shall be freedom of speech and of debate and of proceedings in a Local-level Government and the exercise of those freedoms shall not be questioned in any court or proceedings (other than proceedings in the meeting of the Local-level Government or before a committee of the Local-level Government).
- (3) No member of a Local-level Government is subject to the jurisdiction of any court in respect of the exercise of his powers or the performance of his functions as such, but this subsection does not affect the operation of Section 27 (*responsibilities of office*) of the *Constitution*.
- (4) No member of a Local-level Government is liable to civil or criminal proceedings, arrest, imprisonment, fine, damages or compensation by reason of any matter or thing that he has brought by petition, bill, question, resolution or motion, or otherwise, or has said or submitted, to or before a meeting of the Local-level Government or a committee of the Local-level Government.

(5) No process of any court in the exercise of its civil jurisdiction shall be served or executed through the head of the Local-level Government or through an officer of the Local-level Government or within the precincts of a Local-level Government while the Local-level Government is sitting.

(6) The powers and privileges that may be conferred by or under this section do not include the power to impose or provide for the imposition of a fine, imprisonment, forfeiture of property or other penalty as for an offence of a criminal nature, but this section does not prevent the creation of offences for the purposes of this section that are triable in the ordinary way by the courts.

## **PART V.—COMMITTEES.**

### ***Division 1.—General.***

#### **25. Local-level Government committees.**

- (1) A Local-level Government may—
  - (a) establish such committees as it considers necessary to assist in carrying out its functions; and
  - (b) appoint members of the Local-level Government to be members of a committee.
- (2) The chairman of a committee shall be a member of the Local-level Government and shall be—
  - (a) appointed as chairman by the Local-level Government; or
  - (b) in the absence of such an appointment, elected by the members of the committee from amongst their member.
- (3) The members of a committee may appoint a deputy chairman from amongst their own number.
- (4) A Local-level Government may delegate to a committee established under Subsection (1) any power conferred on the Local-level Government by the *Organic Law* or this Act, other than—
  - (a) the power to make Local-level laws; or
  - (b) the power to impose or levy rates, taxes, charges or fees; or
  - (c) the power to borrow money; or
  - (d) the power to enter into contracts; or
  - (e) any other power that by this Act or any other law may not be delegated to a committee; or
  - (f) this power of delegation.
- (5) No act of a committee of a Local-level Government is binding on the Local-level Government until it has been submitted to and approved by the Local-level Government, except where a Local-level Government has, by resolution, authorized a committee to manage, regulate or conclude a matter.
- (6) The number of members of a committee of a Local-level Government and their term of office and the functions and part of the Local-level Government area within which the committee may exercise authority are as fixed by the Local-level Government.

(7) The quorum of a meeting of a committee shall be half of the total membership of the committee.

(8) Meetings of a committee shall be held at such times and places as the Local-level Government or the chairman of the committee determines, and may otherwise be convened by the chairman of the committee as required.

(9) Subject to this Act, a committee shall determine its own procedures.

(10) A meeting of a committee is not open to the public or to representatives of the media unless the Local-level Government otherwise directs.

(11) A member of a committee shall be entitled to such remuneration for the performance of his duties as a member of the committee as is determined by the Salaries and Remuneration Commission.

(12) A committee may resolve to seek advice from a person who is not a member of the committee and such person may attend a meeting of the committee, but shall not—

(a) count towards a quorum; or

(b) have voting rights; or

(c) receive remuneration for his attendance at a meeting of the committee.

### ***Division 2.—Ward Development Committee.***

#### **26. Establishment of Ward Development Committees.**

There shall be a Ward Development Committee for each ward in a Local-level Government area.

#### **27. Composition of Ward Development Committees.**

A Ward Development Committee shall consist of—

(a) the member elected for the ward, who shall be chairman of the Ward Development Committee; and

(b) up to a maximum of five associate members (of whom at least two shall be women) elected or appointed in accordance with this Division.

#### **28. Election or appointment of associate members of Ward Development Committees.**

(1) An associate member may be appointed or elected in accordance with the manner determined by the residents of the ward.

(2) A Local-level Government shall keep a register of the associate members.

#### **29. Tenure of office of associate member.**

Subject to Sections 30 and 32, the tenure of office of an associate member is concurrent with the tenure of office of the Local-level Government member for the ward.

#### **30. Resignation of associate member.**

(1) An associate member may resign his office by written notice to the chairman.

(2) The resignation of an associate member takes effect on the date on which notice is received by the chairman.

### **31. Casual vacancies in Ward Development Committees.**

(1) Where a casual vacancy in the membership of a Ward Development Committee—

- (a) if the vacancy occurs more than six months before the date on which the tenure of office of the former associate member expires—the vacancy shall be filled in accordance with the procedures specified in Section 28; and
- (b) if the vacancy occurs less than six months before the date on which the tenure of office of the former associate member expires—the elected member for the ward may, in consultation with the residents, appoint a person to fill the vacancy.

(2) An associate member elected or appointed in accordance with this section holds office for the balance of the term of office of the former associate member.

(3) For the purposes of this section, "former associate member" means the person whose vacation of office of associate member gave rise to the casual vacancy in the Ward Development Committee.

### **32. Dismissal of associate member.**

(1) Where the chairman of a Ward Development Committee is satisfied that an associate member of that Ward Development Committee—

- (a) is not able to assist the Ward Development Committee; or
- (b) is, for any other reason, not a fit and proper person to continue to be an associate member,

he shall put the matter to the community and where it resolves on the removal of the associate member from the Ward Development Committee, the chairman shall dismiss the associate member from the Ward Development Committee.

(2) The dismissal of an associate member under Subsection (1) takes effect from the date on which he is notified by the chairman of this dismissal.

### **33. No remuneration of associate member.**

An associate member shall not be paid any remuneration for his services on a Ward Development Committee.

### **34. Functions, etc., of Ward Development Committee.**

(1) The functions of a Ward Development Committee are—

- (a) to be the principal community advisory unit for the ward to the Local-level Government; and
- (b) to determine the needs of the ward in relation to services, programmes and infrastructure.

(2) A Ward Development Committee may consult with one or more other Ward Development Committees in relation to common services, programmes and

infrastructure.

(3) The chairman of a Ward Development Committee shall refer any concerns of the Ward Development Committee to a meeting of the Local-level Government in order to facilitate the planning and co-ordination of services, programmes and infrastructure by the Local-level Government for the Local-level Government area.

### **35. Delegation to Ward Development Committee.**

(1) A Local-level Government may delegate to a Ward Development Committee any power, function or duty of the Local-level Government except—

- (a) the power to make laws; and
- (b) the power to impose or levy rates, taxes, charges or fees; and
- (c) the power to borrow money; and
- (d) the power to enter into contracts; and
- (e) any other power that by this Act or any other law may be delegated to or exercised by a Ward Development Committee.

(2) An act of a Ward Development Committee does not bind the Local-level Government until it is approved by the Local-level Government, except where the Local-level Government has, by resolution, previously authorized the Ward Development Committee to do the act.

### **36. Procedures of Ward Development Committee.**

A Ward Development Committee shall make provision for the calling and conduct of and procedures at its meetings.

### **37. Legal proceedings.**

- (1) A Ward Development Committee may not sue or be sued.
- (2) Any legal proceedings that, but for this section, might be brought by or against a Ward Committee may be brought by or against the Local-level Government.

## **PART VI.—ADMINISTRATIVE FUNCTIONS OF LOCAL-LEVEL GOVERNMENTS.**

### **38. Administrative functions.**

- (1) Subject to—
  - (a) the *Constitution*; and
  - (b) the *Organic Law*; and
  - (c) any overall policy directions by the National Government or the Provincial Executive Council,

a Local-level Government shall, in addition to its other functions, in relation to the Local-level Government area, be responsible for—

- (d) preparing corporate plans and estimates; and
- (e) preparing a rolling five year development plan taking into account rolling five year development plans for the wards as prepared by the elected ward

- members; and
- (f) preparing an annual plan taking into account the rolling five year development plan; and
- (g) preparing annual budgets based on the annual plans, to which shall be applied the—
  - (i) *Organic Law* grants to be paid directly to the Local-level Government; and
  - (ii) Local-level Government's own resources; and
  - (iii) revenues from any other sources; and
- (h) keeping or causing to be kept proper accounts and records of its transactions and affairs as required by Section 102 of the *Organic Law*; and
- (i) ensuring necessary arrangements and participation at forums on renewable natural resources; and
- (j) granting appropriate approval or entering into dealings in relation to the resources referred to in Paragraph (i), including recommendations to relevant bodies or authorities; and
- (k) constructing and maintaining infrastructure and facilities that are the responsibility of a Local-level Government; and
- (l) initiating and implementing youth and women programmes; and
- (m) providing support and assistance to the Provincial Government to enable it to carry out its functions effectively; and
- (n) performing such other functions as are given to it or as are prescribed.

(2) The Minister may direct a Local-level Government to perform any other administrative function and it is the duty of the Local-level Government to comply with any such direction.

### **39. Exercise by Local-level Government of delegated power or function.**

A legislative power or function of the National Government or power or function of the National Government under an Act delegated to a Local-level Government under Section 50 of the *Organic Law* shall be exercised and performed as prescribed.

### **40. Administrative Arrangements.**

- (1) Except as provided in the *Organic Law* and in this Act, the administrative arrangements for a Local-level Government shall, in relation to—
- (a) financial matters, be in accordance with the *Public Finances (Management) Act 1995*; and
  - (b) auditing matters, be in accordance with the *Audit Act 1989*; and
  - (c) personnel, support services and other staff matters, be in accordance with the *Public Services (Management) Act 1995*; and
  - (d) other matters, be in accordance with the appropriate law.

(2) The Minister may, by notice in the National Gazette and in the Local-level Government Gazette, specify other Acts of the Parliament relative to the administrative arrangements for a Local-level Government.

#### **41. Joint exercise of powers of Local-level Governments.**

- (1) With the consent of the Minister, two or more Local-level Governments may enter into an agreement for the joint exercise of any of their functions within the area in respect of which the agreement applies.
- (2) An agreement under Subsection (1) may provide for—
  - (a) the appointment of a Joint Committee; and
  - (b) the delegation to that Joint Committee of any of the powers, functions and authority of the Local-level Government concerned, other than—
    - (i) the power to make laws; or
    - (ii) the power to impose or levy rates, taxes, charges or fees; or
    - (iii) the power to borrow money; or
    - (iv) the power to enter into contracts; or
    - (v) any other power that by or under this Act or any other law may not be exercised by a Joint Committee; and
  - (c) the appointment, powers and functions of trustees.

### **PART VII.—LOCAL-LEVEL GOVERNMENT SPECIAL PURPOSES AUTHORITIES.**

#### **42. Establishment of Authorities.**

- (1) The Head of State, acting on advice, may, by proclamation, establish a Local-level Government Special Purposes Authority in and for an area of one or more Local-level Governments.
- (2) A proclamation under Subsection (1) shall specify the purposes for which the Authority is established and such other matters as may be necessary.

#### **43. Recommendation for Establishment of an Authority .**

- (1) The National Executive Council may advise the Head of State under Section 42 after considering a recommendation to establish an Authority submitted by the Minister—
  - (a) on his own initiative, after consultation with the Local-level Governments concerned; or
  - (b) otherwise in accordance with the provisions of this section.
- (2) Where one or more Local-level Governments is or are of the opinion that an Authority should be established to assist the implementation of one or more Local-level Government functions, the Local-level Government or Local-level Governments concerned shall so recommend to the Minister.
- (3) A recommendation under Subsection (1)(a) or (2) shall be in writing and shall contain particulars of—
  - (a) the general purpose; and
  - (b) the management; and
  - (c) the funding; and

- (d) the staffing,
- of the recommend Authority, and the requirements for—
- (e) the particular function or functions to be implemented; and
  - (f) the area or areas to which it should apply; and
  - (g) such other particulars as are considered relevant.

(4) The Minister shall consider a recommendation made under Subsection (2) and where he considers the establishment of the Authority desirable shall submit the recommendation to the National Executive Council for consideration as to whether the Head of State should be advised to make the proclamation.

#### **44. Incorporation of Authorities.**

An Authority—

- (a) is a corporation; and
- (b) has perpetual succession; and
- (c) shall have a seal; and
- (d) has power—
  - (i) to acquire, hold, dispose of, mortgage or pledge property; and
  - (ii) to enter into contracts; and
  - (iii) to borrow money; and
  - (iv) to invest funds; and
  - (v) to institute and defend actions, suits and other legal proceedings; and
  - (vi) to do all things necessary for the effective exercise and performance of its powers and functions.

#### **45. Management and operations, etc., of Authorities.**

- (1) The affairs of an Authority shall be conducted by a managing body.
- (2) In principle, the membership of a managing body shall not include members of a Local-level Government.
- (3) The operations of an Authority shall be at arms length from a Local-level Government.
- (4) The membership, manner of appointment and terms and conditions of appointment of members of a management body are as prescribed.

#### **46. Variation, etc., of Authorities.**

- (1) The Head of State, acting on advice, may, by proclamation—
  - (a) vary the general purpose; or
  - (b) vary the composition of membership of the management; or
  - (c) vary the funding; or
  - (d) vary the staffing; or
  - (e) vary the particular function or functions to be implemented; or
  - (f) vary the area or areas; or

- (g) change the name; or
- (h) vary such other particulars as are considered relevant and as might be provided for in the proclamation being varied,

of or by an Authority or

- (i) amalgamate, in whole or in part, two or more Authorities.

(2) In a proclamation under Subsection (1) or by a subsequent proclamation, the Head of State, acting on advice, may make provision for the taking over by—

- (a) the State; or
- (b) another Authority; or
- (c) a Local-level Government or Local-level Governments,

of the whole or part of the assets and liabilities of the Authority.

#### **47. Dissolution of Authorities.**

(1) The Head of State, acting on advice, may, by proclamation dissolve an Authority.

(2) A proclamation under Subsection (1) may only be made following consideration by the National Executive Council of a recommendation to dissolve the Authority in a manner similar to that set out in Section 43.

(3) A proclamation under Subsection (1) shall make provision for the taking over by—

- (a) the State; or
- (b) another Authority; or
- (c) a Local-level Government or Local-level Governments,

of the assets and liabilities of the Authority.

#### **48. Powers and functions of Authorities.**

(1) Subject to this section, the Head of State, acting on advice, may by proclamation vest in an Authority any of—

- (a) the powers, other than—
  - (i) the power to make Local-level laws; or
  - (ii) the power to impose or levy rates, taxes, charges or fees; or
  - (iii) executive powers; or
  - (iv) a power, which any other law may forbid an Authority from exercising, of a Local-level Government; and
- (b) the duties and responsibilities of a Local-level Government.

(2) The powers which may be vested under Subsection (1) shall not exceed the powers of a Local-level Government.

(3) No power may be vested in an Authority so as to have the effect of divesting a Local-level Government of that power.

(4) An Authority may, and where the Head of State, acting on advice, so directs, shall, act as agent for the National Government in relation to any matter within its purposes, and the State shall fully and effectively indemnify and hold safe the Authority against all claims that may be made or taken against the Authority as a result of its acting as agent.

(5) The Head of State, acting on advice, may direct an Authority to exercise and perform a power, authority, function, duty or responsibility vested in it and it is the duty of the Authority to comply with such a direction.

(6) An Authority has no power or function over a Ward Committee.

#### **49. Advisory functions of Authorities.**

An Authority may, and if so directed by the Minister shall, tender advice to the Minister or to any officer or authority of the National Government, on—

- (a) a matter falling within its purposes; or
- (b) a matter relating to its constitution or variation; or
- (c) any other matter or class of matters referred to it by the Minister or by the officer or authority.

#### **50. Annual Report.**

(1) An Authority shall, at least once in each year at such time as is directed by the Minister after consultation with the Local-level Government or Local-level Governments concerned, present to—

- (a) the Local-level Government or Local-level Governments concerned; and
- (b) the Minister,

a report reviewing the operations of the Authority during the period since the last report (if any).

(2) A report under Subsection (1) shall be in such format and contain such information as is determined by the Minister after consultation with the Local-level Government or Local-level Governments concerned.

(3) A copy of the report under Subsection (1) shall be distributed as the Minister may direct.

#### **51. Report on implementation by an Authority.**

In addition to the report under Section 50, an Authority shall present to the Local-level Government or Local-level Governments concerned a report—

- (a) at such time; and
- (b) containing such information,

as may be determined by the Local-level Government or Local-level Governments concerned.

### **PART VIII.—MISCELLANEOUS.**

#### **52. Annual Reports.**

- (1) Each Local-level Government shall, before 31 March in each year, furnish to—
  - (a) the Minister; and
  - (b) the Provincial Administrator,

a report for the year ending 31 December preceding on the affairs of the Local-level Government.

(2) A report under Subsection (1) shall be in the format and contain such information as is determined by the Minister or as is prescribed.

### **53. Inspection.**

- (1) The Minister, or an officer authorized by him for the purpose, may at any time—
  - (a) inspect and take extracts from any book, accounts or records kept or held by a Local-level Government; and
  - (b) enter on and inspect any land, building, premises or machinery or thing controlled by a Local-level Government or in which a Local-level Government has an interest.

(2) The powers of entry, inspection and taking extracts under Subsection (1) are in addition to and do not derogate from any such powers under the *Organic Law* or any other Act.

(3) Where, as a result of the exercise of the powers under Subsection (1), it appears to the Minister that any practices require to be amended or matters require to be remedied or further investigated he may—

- (a) issue appropriate instructions to the Local-level Government concerned; or
- (b) refer the matter to any other agency for further action.

### **54. Advisers.**

- (1) The Minister may—
  - (a) at the request of a Local-level Government; and
  - (b) on the advice of the District Administrator, after consultation with the Provincial Administrator,

by notice in the Local-level Government Gazette, appoint a person to be—

- (c) an Administrative Adviser; or
- (d) such specialist adviser as is necessary,

to assist the Local-level Government and the District Administrator in matters relating to the Local-level Government.

(2) A notice of appointment under Subsection (1) shall define the subject matter of an Adviser in relation to the Local-level Government and an Adviser shall perform those duties and functions.

(3) An Adviser is not entitled to any remuneration for performance of his duties and functions as an Adviser.

(4) An Adviser is entitled to attend meetings of the Local-level Government but is not entitled to vote and shall not be counted towards a quorum.

(5) An Adviser shall furnish to the Minister, at least once in each year at such time as is directed by the Minister, a report reviewing the operations of the Local-level Government in relation to his subject matter since the last report (if any).

(6) Unless otherwise directed by the Minister, an Adviser's report under Subsection (5) shall be directed through—

- (a) the District Administrator; and
- (b) the Provincial Administrator.

#### **55. Compensation for death or injury to a member, etc., of a Local-level Government.**

For the purposes of the *Workers' Compensation Act* (Chapter 179)—

- (a) a member of a Local-level Government; or
- (b) an associate member of a Ward Development Committee; or
- (c) a person who receives an allowance paid by a Local-level Government for services provided to the community in the Local-level Government area,

is deemed to be a worker employed by that Local-level Government in relation to—

- (d) the time occupied in connection with activities of; and
- (e) work for which allowances or remuneration are paid by,

that Local-level Government.

#### **56. Local-level Government Gazette.**

(1) There shall be a Papua New Guinea Local-level Government Gazette, which shall be published as and when required.

(2) There shall be published in the Local-level Government Gazette—

- (a) all proclamations made under Section 27(1) of the *Organic Law*; and
- (b) notification of all Local-level laws; and
- (c) all appointments or other matters or things that are required by this or any other Act to be so published or that are directed by the Minister to be so published.

#### **57. Village Books.**

(1) A Local-level Government shall establish and maintain for each ward within the Local-level Government area a register to be known as the Village Book.

(2) A Village Book shall contain information as to—

- (a) the names, clans, ethnic groups and, where applicable, addresses of all persons within the ward; and
- (b) the particulars of village officials; and
- (c) such information on assets, facilities and other matters relating to the ward as the Minister directs.

(3) A person to whom Subsection (2)(a) applies shall provide information relevant to the compilation and maintenance of the Village Book.

- (4) A Village Book shall be in a format directed by the Minister.
- (5) The Village Book—
  - (a) is a public document; and
  - (b) shall be kept within the ward; and
  - (c) shall be available for inspection at reasonable times.
- (6) The Regulations may prescribe other matters relating to the format, contents, manner of maintaining and access to the Village Book.

#### **58. Personal liability.**

- (1) A member or officer of a Local-level Government is liable for any matter or thing done on behalf of the Local-level Government that is not within his duties.
- (2) Any expense incurred by a member of a Local-level Government in his capacity as such shall not be repaid to him unless that expense was authorized or incurred in the course of performing his duties.

#### **59. Making of Local-level laws.**

- (1) A Local-level law is effective where—
  - (a) it has been made by the Local-level Government; and
  - (b) it has been certified—
    - (i) by the executive officer to the effect that it is a true copy of the law made by the Local-level Government; and
    - (ii) by the Chairman that it was made by the Local-level Government; and
  - (c) it has been brought into operation in accordance with the *Organic Law*.
- (2) A Local-level law may have retrospective or retroactive effect.

#### **60. Service of Notices, etc.**

A summons or notice or a writ or other process, required to be served on a Local-level Government may be served by being given personally to the head of a Local-level Government or to the executive officer or such other person appointed for the purpose.

#### **61. Authentication of documents.**

It is sufficient authentication of—

- (a) an information, complaint or other legal process; or
- (b) an order, notice or direction,

issued by a Local-level Government under this Act or any other law, that is not impressed with the seal of the Local-level Government if it is signed by—

- (c) two members of the Local-level Government; or
- (d) the executive officer of the Local-level Government,

authorized by the Local-level Government for the purpose.

#### **62. Prejudicing a Local-level Government.**

A person who, by force, threats, fraud, misrepresentation, undue influence or in any other manner, prejudices or attempts or conspires to prejudice the free and effective exercise of the lawful powers and authority of a Local-level Government, is guilty of an offence.

Penalty: A fine not exceeding K500.00 or imprisonment for a term not exceeding six months, or both.

### **63. Legal proceedings.**

In all proceedings in a court—

- (a) the executive officer of the Local-level Government; or
- (b) a person appointed by writing for the purposes by the head of the Local-level Government,

may represent the Local-level Government.

### **64. Entry by officers.**

(1) A Local-level Government may authorize an officer of the Local-level Government to enter at all reasonable times during daylight hours into any building or land within the Local-level Government area for the purpose of executing any work or making any inspection authorized to be executed or made by the Local-level Government under any law.

(2) Where a Local-level Government authorizes an officer under Subsection (1) it shall issue to him an identification card containing the name of the Local-level Government and the name and a photograph of the officer.

- (3) Entry referred to in Subsection (1) shall not be effected unless and until—
- (a) 24 hours' notice in writing has been given to the occupier of the building or land; and
  - (b) the officer has displayed the identification card issued to him under Subsection (2).

### **65. Regulations.**

The Head of State, acting on advice, may make Regulations not inconsistent with this Act prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for giving effect to this Act.

## **PART IX.—REPEAL.**

### **66. Repeal.**

The following Acts are hereby repealed:—

- (a) *Local Government Act* (Chapter 57); and
- (b) *Local Government (Consolidation of Proclamations) Act* (Chapter 57A); and
- (c) *Local Government (Ratification and Validation) Act* (Chapter 57B); and
- (d) *Local Government (Change of Fiscal Year) Act* (Chapter 57C); and
- (e) *Local-level Government System (Interim and Transitional Arrangements) Act*

1995.

## **PART X.—SAVINGS AND TRANSITIONAL.**

### ***Division 1.—Transfer of Assets, etc.***

#### **67. Interpretation.**

(1) In this Division—

"former Local-level Government" means a Local-level Government (in whatever form and by whatever name known) established under the *Local Government Act* (Chapter 57) (*repealed*) or by a provincial law in force immediately before the coming into operation of the *Organic Law* and continued in existence by the *Local-level Government System (Interim and Transitional Arrangements) Act 1995 (repealed)*;

"successor Local-level Government" means, subject to Subsection (2), a Local-level Government established under the *Organic Law* for a Local-level Government area in respect of which or part of which there was a former Local-level Government.

(2) Where a Local-level Government area covered by a Local-level Government established under the *Organic Law* was, prior to the coming into operation of this Part, covered by—

(a) a former Local-level Government; or

(b) former Local-level Governments,

which also covered another Local-level Government area or part thereof, which is now covered by another Local-level Government or Governments established under the *Organic Law*, the Minister responsible for finance matters shall determine the manner in which assets and liabilities shall be apportioned between the former Local-level Governments and the successor Local-level Government or Governments and such apportionment shall apply in respect of this Division.

#### **68. Transfer of assets, etc.**

All the assets, property, rights, obligations and liabilities, which, immediately before the coming into operation of this Act were vested in or imposed on a former Local-level Government are, on that coming into operation, deemed to have been transferred to and become the assets, property, rights, obligations and liabilities of its successor Local-level Government.

#### **69. Saving of contracts.**

All contracts, agreements, conveyances, deeds, leases, licences and other instruments and undertakings entered into by, made with or addressed to, a former Local-level Government, whether alone or with any other person, and in effect immediately before the coming into operation of this Act, are, on that coming into operation, to the same extent that they were previously binding on and enforceable by or against the former Local-level Government, binding and of full force in every respect against or in favour of the successor Local-level Government as if, instead of the former Local-level

Government, the successor Local-level Government had been a party to them or bound by them or entitled to the benefit of them.

#### **70. Actions, etc., not to abate.**

Where, immediately before the coming into operation of this Act, any action, arbitration or proceeding, or any cause of action, arbitration or proceeding, was pending or existing by, against or in favour of a former Local-level Government, it does not, on that coming into operation, abate or discontinue or be in any way affected by any provision of this Act, but it may be presented, continued and enforced by, against or in favour of the successor Local-level Government as and when it might have been enforced against or in favour of the former Local-level Government as of the *Organic Law* and this Act had not been made.

### ***Division 2.—Local Government Authorities.***

#### **71. Interpretation.**

In this Division, "Local Government Authority" means a Local Government Authority (by whatever name known) established under Part IX of the *Local Government Act* (Chapter 57) (*repealed*) or by a provincial law in force immediately before the coming into operation of the *Organic Law*, and in existence immediately before the coming into operation of this Act.

#### **72. Saving of Local Government Authorities.**

(1) A Local Government Authority in existence immediately before the coming into operation of this Act is, on that coming into operation, deemed to be a Local-level Government Special Purposes Authority established under Section 42 and shall continue in existence in accordance with this section.

(2) An Authority to which this section applies shall take immediate action to divest itself of any functions which are in conflict with the provisions of the *Organic Law*.

(3) The Head of State, acting on advice, may, within six months of the coming into operation of this Act, by proclamation, proclaim that an Authority to which this section applies is in conformity with Part VII.

(4) A proclamation under Subsection (3) shall not be made unless—

- (a) an Authority and the Local-level Government concerned make a joint submission to the Minister stating that the Authority—
  - (i) is desired for the implementation of one or more functions of the Local-level Government; and
  - (ii) has divested itself of functions in conflict with the *Organic Law*; and
  - (iii) has otherwise achieved compliance with the requirements necessary for establishing an Authority; and
- (b) the Minister, having considered the submission under Paragraph (a), has recommended to the National Executive Council that a proclamation be made.

(5) Unless a proclamation is made under Subsection (3) in respect of an Authority to which this section applies, that Authority will cease to exist on the expiry of six months from the date of coming into operation of this Act.

**Division 3.—Rules.**

**73. Rules to continue in force for limited period.**

Any Rules made by a former Local-level Government and in operation immediately before the coming into operation of this Act, shall, to the extent that they are not inconsistent with the *Organic Law* and this Act, continue in operation until—

- (a) they expire or are repealed according to law; or
- (b) the expiry of one year from the date of coming into operation of this Act,

whichever shall first happen.

**Division 4.—Validation.**

**74. Validation.**

(1) All acts, carried out by a Local-level Government in the performance of its functions, duties and responsibilities and in the exercise of its powers during the period from the day after the day fixed for the return of the writs for the 1997 general elections to Local-level Governments until the date of certification of this Act, substantially in compliance with the provisions of this Act, are deemed to have been carried out in compliance with this Act and are, to the extent of any minor variation from the provisions of this Act, hereby validated.

(2) For the purposes of Subsection (1), the Minister may determine what constitutes substantial compliance with the provisions of this Act.

**SCHEDULE 1.**

Sec. 8.

**DECLARATION OF LOYALTY.**

I, ....., realizing fully the responsibilities to which I am committing myself and the consequences of not living up to this Declaration and those responsibilities, freely and willingly declare my loyalty to the Independent State of Papua New Guinea and its People and to the Constitution of Papua New Guinea adopted by the Constituent Assembly on 15 August 1975, as altered from time to time in accordance with its provisions, and promise that I will uphold the Constitution and the laws of Papua New Guinea.

Sworn/affirmed at ..... this ..... day of ..... 20

**SCHEDULE 2.**

Sec. 8.

**INDEPENDENT STATE OF PAPUA NEW GUINEA.**

**DECLARATION OF OFFICE.**

**OATH AND AFFIRMATION BY A WARD MEMBER, APPOINTED MEMBER,  
HEAD, OF LOCAL-LEVEL GOVERNMENT.**

***Oath***

I, ..... do swear that I will render true and faithful service in the office of ward member\* / appointed member\* / head\* of the ..... Local-level Government.

So help me God!

***Affirmation***

I, ..... do solemnly and sincerely affirm and declare that I will render true and faithful service in the office of ward member\* / appointed member\* / head\* of the ..... Local-level Government.

\_\_\_\_\_  
Signature of ward member\* / appointed member\* / head\* of Local-level Government.

Sworn/Affirmed at ..... this ..... day of .....  
20 .

\* Delete as necessary.