

PART VIA.—PROVINCIAL GOVERNMENTS AND LOCAL-LEVEL GOVERNMENTS.

187A. Provincial Governments and Local-level Governments system.

There shall be a system of Provincial Governments and Local-level Governments for Papua New Guinea in accordance with this Part.

187B. Grant of Provincial Government and Local-level Government.

An Organic Law shall provide for, or make provision in respect of, the form and the manner of establishment of the Provincial Governments and the Local-level Governments.

187C. Constitution, functions, etc., of Provincial Governments and Local-level Governments.

(1) Subject to this Part, an Organic Law shall make provision in respect of the constitution, powers and functions of a Provincial Government or a Local-level Government.

(2) For each Provincial Government and Local-level Government, there shall be established—

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- (a) a mainly elective (elected directly or indirectly), legislature with such powers as are conferred by law; and
- (b) an executive; and
- (c) an office of head of the executive.

(3) An Organic Law shall provide for the minimum number of members for the Provincial Assemblies and Local-level Governments and the maximum number of members that may be appointed as nominated members of Provincial Assemblies and Local-level Governments.

(4) An Organic Law shall make provision for and in respect of—

- (a) grants by the National Government to Provincial Governments and Local-level Governments; and
- (b) the imposition and collection of taxation by Provincial Governments and Local-level Governments,

and may make other financial provisions for Provincial Governments and Local-level Governments, to an extent reasonably adequate for the performance of their functions.

(5) An Organic Law shall make provision for the devolution and delegation to each Provincial Government and Local-level Government of substantial powers of decision-making and substantial administrative powers in respect of matters of direct concern to the province and to the local-level government area.

(6) An Organic Law shall make provision in respect of the legislative powers of Provincial Governments and Local-level Governments.

(7) A question of the adequacy of provision made under Subsection (3), (4), (5) or (6) is non-justiciable.

ⁱⁱ(8) Elections to a Local-level Government shall be conducted, in accordance with an Organic Law, by the Electoral Commission.

187D. Inconsistency and justiciability of provincial laws and local-level laws.

(1) Subject to any Constitutional Law, the application by its own force of an Act of the Parliament is not affected by a provincial law or a local-level law.

(2) Nothing in this Part authorizes the making of a provincial law or a local-level law, or authorizes any other action, that is inconsistent with—

- (a) this *Constitution* (and in particular with Division 3 (*Basic Rights*)); or
- (b) an Organic Law,

and all questions as to such consistency are justiciable.

(3) In order to avoid fruitless controversy and litigation, an Organic Law may provide that a question as to the effect of Subsection (1) is non-justiciable either absolutely or to the extent or in the cases prescribed by the Organic Law, except in proceedings between the National Government and a Provincial Government or a Local-level Government, or between governments.

187E. Suspension of Provincial Governments and Local-level Governments.

(1) Where a Provincial Government or a Local-level Government undermines or attempts to undermine the authority of the National Parliament or the national unity, the National Executive Council may provisionally suspend the Provincial Government or the Local-level Government concerned subject to confirmation by an absolute majority vote of the Parliament.

(2) An Organic Law may make provision for and in respect of the procedures to be followed in the exercise of the powers under Subsection (1).

(3) An Organic Law may make provision for further defining any matter referred to in Subsection (1).

(4) The National Executive Council may suspend a Provincial Government or a Local-level Government that cannot carry out its functions effectively because of a war or a national emergency declared under Part X (*emergency powers*) affecting the province, local-level government area or the whole of the country.

(5) While a Provincial Government or a Local-level Government is suspended, its powers and functions are vested in and shall be exercised by or on behalf of the National Executive Council, in accordance with an Organic Law.

(6) Where a Provincial Government or a Local-level Government is suspended—

- (a) in the case of a suspension under Subsection (4), the Minister responsible for provincial government and local-level government matters, shall, as soon as practicable and in any event not later than the first meeting of the Parliament

after the suspension, table in the Parliament a report on the suspension, the reasons for it and the circumstances of it; and

- (b) at each meeting of the Parliament during the suspension, the Minister responsible for provincial government and local-level government matters shall report to the Parliament on the measures taken to re-establish the Provincial Government or the Local-level Government, as the case may be.

187F. Re-establishment of Provincial Governments and Local-level Governments.

(1) Subject to Subsections (2) and (3), if a Provincial Government or a Local-level Government is suspended, arrangements shall be made to re-establish it within nine months from the effective date of suspension.

(2) Subject to Subsections (3) and (4), where—

- (a) a Provincial Government or a Local-level Government is suspended under Section 187E(4) (*suspension of Provincial Governments and Local-level Governments*) as a result of a declaration of a national emergency under Section 228 (*declaration of national emergency*); and

(b) the declaration is extended under Section 239(3) (*Parliamentary control*),

the period of nine months referred to in Subsection (1) runs from the end of the meeting (or if there are more such extensions than one the last meeting) of the Parliament at which the declaration is so extended.

(3) A period of nine months referred to in the preceding provisions of this section may be extended by periods, each not exceeding six months, by the Parliament by a simple majority vote.

(4) Subject to Subsection (3), where a Provincial Government or a Local-level Government is suspended under Section 187E(4) (*suspension of Provincial Governments and Local-level governments*) the period of suspension, unless earlier terminated, ends at the end of nine months after the end of the war or national emergency concerned.

187G. Gradations of Provincial Governments and Local-level Governments.

Nothing in any law is inconsistent with this Part so far as it provides for the full status, powers or functions of Provincial Governments and Local-level Governments to be acquired by a Provincial Government and a Local-level Government in stages, or provides for a gradation of Provincial Governments and Local-level Governments or provides for Interim Provincial Governments.

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187H. National Economic and Fiscal Commission.

(1) An Organic Law shall make provision for and in respect of a National Economic and Fiscal Commission.

(2) The Commission, in addition to any other functions prescribed by an Organic Law, shall—

- (a) assess and monitor the economic and fiscal policies of the National Government, Provincial Governments and Local-level Governments; and
- (b) advise and recommend to the National Executive Council, appropriate policies; and
- (c) make recommendations to the National Executive Council and to the National Parliament on the financial arrangements and allocation of grants—
 - (i) by the National Government to Provincial Governments and Local-level Governments; and
 - (ii) between Provincial Governments and Local-level Governments.

187I. Local and village governments.

(1) Until an Organic Law makes provision for government at the local level, and such provision is implemented in accordance with the Organic Law the *Local Government Act* (Chapter 57), as in force from time to time, continues to apply in respect of such government in the province.

(2) An Organic Law shall make provision for the respective powers of the National Government and of Provincial Governments concerning Local-level Governments.

187J. Reports on Provincial Governments and Local-level Governments.

The Minister responsible for provincial government and local-level government matters shall, at least once in each period of 12 months, at such times as are fixed—

- (a) by or under an Act of the Parliament; or
- (b) subject to any such Act, by the Head of State, acting with, and in accordance with, the advice of the National Executive Council,

present to the Head of State, for presentation to the Parliament, a report on the working of the system of Provincial Governments and Local-level Governments.

ⁱSection 187C(2)(a) was repealed and replaced by *Constitutional Amendment No. 17—Further Provisions relating to Provincial Governments and Local-level Governments*.

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ⁱⁱSection 187C(8) was added by *Constitutional Amendment No. 19—Elections*.

ⁱⁱⁱSection 197H was repealed and replaced by *Constitutional Amendment No. 17—Further Provisions relating to Provincial Governments and Local-level Governments*.

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