

No. of 2003.

*Constitutional Amendment No. 25 – The State Services.*

Certified on: 16-05-03

**INDEPENDENT STATE OF PAPUA NEW GUINEA.**

*Constitutional Amendment No. 25 - The State Services*

**ARRANGEMENT OF SECTIONS.**

1. Establishment of the Commission (Amendment of Section 190).
2. Appointment to certain offices (Amendment of Section 193).
3. Transitional and savings provisions.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

*Constitutional Amendment No. 25 - The State Services,*

Being a Law to alter the *Constitution* by amending the provisions relating to appointments to the Public Services Commission and to certain offices,

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. ESTABLISHMENT OF THE COMMISSION (AMENDMENT OF SECTION 190).

Section 190 of the *Constitution* is amended –

(a) by repealing Subsection (2) and replacing it with the following:-

“(2) The Commission shall consist of three members who shall be appointed for a term of five years by the Head of State, acting with, and in accordance with, the advice of a Public Services Commission Appointments Committee consisting of –

- (a) the Prime Minister, who shall be Chairman; and
- (b) the Chief Justice; and
- (c) the Leader of the Opposition; and
- (d) the Chairman of the appropriate Permanent Parliamentary Committee, or, if the Chairman is not a member of the Parliament who is recognized by the Parliament as being generally committed to support the Government in the Parliament, the Deputy Chairman of that Committee; and
- (e) the Chief Ombudsman.”; and

(b) by inserting after Subsection (2) the following new subsection:-

“(2A) The Head of State, acting with, and in accordance with, the advice of the Public Services Commission Appointments Committee, shall appoint one of the members of the Public Services Commission to be Chairman of the Public Services Commission.”; and

(c) in Subsection (4), by repealing the words “the appointment and conditions of employment of members of the Commission” and replacing them with the following:-

“acting appointments and conditions of employment of the Chairman and members of the Commission”.

2. APPOINTMENTS TO CERTAIN OFFICES (AMENDMENT OF SECTION 193).

Section 193 of the *Constitution* is amended –

(a) by inserting after Subsection (1) of the following new subsections:-

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“(1A) All substantive appointments to offices to which Subsection (1)(a), (g) and (h) apply shall be made by the Head of State, acting with, and in accordance with, the advice of the National Executive Council from a list of persons recommended by the Public Services Commission following procedures prescribed by or under an Act of the Parliament.

“(1B) All temporary appointments to offices to which Subsection (1)(a), (g) or (h) apply shall be made by the Head of State, acting with, and in accordance with, the advice of the National Executive Council in accordance with a recommendation by the Public Services Commission following procedures prescribed by or under an Act of the Parliament.

“(1C) The revocation of appointment of persons appointed under Subsection (1A) or (1B) shall be made by the Head of State, acting with, and in accordance with, the advice of the National Executive Council given in accordance with a recommendation by the Public Services Commission following procedures prescribed by or under an Act of the Parliament.

“(1D) The suspension from office of persons appointed under Subsection (1A) or (1B) shall be made by the Head of State, acting with, and in accordance with, a recommendation by the Public Services Commission following procedures prescribed by or under an Act of the Parliament.”; and

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

“Subsection (1)(b), (c) and (e)”;

- (c) in Subsection (3), by repealing the reference to “Subsection (1)(a), (d), (f) and (g) and replacing it with the following:-

“Subsection (1)(d), and (f)”.

**3. TRANSITIONAL AND SAVINGS PROVISIONS.**

(1) A member of the Public Services Commission, validly appointed and holding office as such member immediately before the coming into operation of this Law, shall, on that coming into operation, be deemed to have been validly appointed in accordance with Section 190 (*establishment of the Commission*) of the *Constitution* as amended by Section 1 of this Law and shall continue to hold office as such member until the expiry of his term of appointment or until the cessation of his appointment otherwise according to law.

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(2) The member of the Public Services Commission validly appointed and holding office as Chairman of the Public Services Commission immediately before the coming into operation of this Law, shall, on that coming into operation, be deemed to have been validly appointed as Chairman of the Public Services Commission in accordance with Section 190 (*establishment of the Commission*) of the *Constitution* as amended by Section 1 of this Law and shall continue to hold office as such Chairman until the expiry of his term of appointment or until the cessation of his appointment otherwise according to law.

(3) A person who –

(a) was, before the coming into operation of this Law, validly appointed (whether substantively or temporarily) to an office referred to in Section 193 (1)(a), (g) and (h) (*appointment to certain offices*) of the *Constitution*; and

(b) immediately before that coming into operation held such office (whether substantively or temporarily),

shall, on that coming into operation, be deemed to have been validly appointed (substantively or temporarily, as the case may be) under Section 193 (*appointment to certain offices*) of the *Constitution* as amended by Section 2 of this Law and shall continue to hold office (substantively or temporarily, as the case may be) until the expiry of his term of appointment or until the cessation of his appointment otherwise according to law, whichever shall first happen.

(4) A person who-

(a) was, before the coming into operation of this Law, validly suspended from an office referred to in Section 193(1)(a), (g) and (h) (*appointments to certain offices*) of the *Constitution*; and

(b) immediately before that coming into operation was so suspended from that office,

shall, on that coming into operation, be deemed to have been validly suspended from that office in accordance with Section 193 (*appointment to certain offices*) of the *Constitution* as amended by Section 2 of this Law and shall continue to be so suspended from that office until the suspension is lifted or until he ceases to hold such office according to law.

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I hereby certify that the above is a fair print of the *Constitutional Amendment No. 25 – The State Services* which has been made by the National Parliament.

Clerk of the National Parliament.

*Constitution.*

**CERTIFICATE UNDER SECTION 14.**

I, **BILL SKATE**, Speaker of the National Parliament, hereby certify that the requirements of Section 14(1), (2) and (3) of the *Constitution* were complied with in respect of the *Constitutional Amendment No. 25 – The State Services* and that the law was made by the National Parliament as follows:-

- (a) the first vote was taken on 10 December 2002 when the number of seats in the National Parliament were 109 and those voting for the proposal were 81 and none voted against the proposal; and
- (b) the second vote was taken on 13 March 2003 when the number of seats in the National Parliament were 109 and those voting for the proposal were 77 and none voted against the proposal.

Speaker of the National Parliament.