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CONSTITUTION

ORGANIC LAW ON THE SOVEREIGN WEALTH FUND

THE Government proposes to enact the *Organic Law on the Sovereign Wealth Fund* and, pursuant to the requirement of Section 14(2) (*making of alterations to the Constitution and the Organic Laws*) of the Constitution, I, Jeffery Nape, the Speaker of the National Parliament, hereby publish the proposed Law.

Draft of 25/10/2011.

PROPOSED LAW TO ENACT THE *ORGANIC LAW ON THE SOVEREIGN WEALTH FUND*

No. of 2011

Organic Law on the Sovereign Wealth Fund

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Draft of 25/10/2011.

AN ACT

entitled

Organic Law on the Sovereign Wealth Fund

being

AN Organic Law to implement Part VIII, Division 1A (Sovereign Wealth Fund) of the Constitution 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 National Executive Council.

PART I.—PRELIMINARY.

1. CONSTITUTIONAL COMPLIANCE.

This Organic Law, to the extent that it regulates or restricts a right or freedom referred to in Part III.3.C. (*Qualified Rights*) of the Constitution, namely—

- (a) the right to freedom from arbitrary search and entry conferred by Section 44 of the Constitution; and
 - (b) the right to privacy conferred by Section 49 of the Constitution; and
 - (c) the right to freedom of information conferred by Section 51 of the Constitution,
- is a law that is made for the purposes of complying with Section 38 of the Constitution, taking account of the National Goals and Directive Principles and Basic Social Obligations, in particular to restrict rights and freedoms of Law from exercising their rights for the purpose of giving effect to the public interest in public order and public welfare, to the extent that the law is reasonably justifiable in a democratic society having proper respect or regard for the right and dignity of mankind.

2. INTERPRETION.

In this Law, unless the contrary intention appears—
“asset” means—

- (a) any kind of real or personal property; or
- (b) any legal or equitable estates in real or personal property; or
- (c) any legal or equitable rights;

“Board” means the Sovereign Wealth Fund Board established by Section 16 of the this *Organic Law*;

“foreign assets” means assets which are held in jurisdictions other than PNG but excludes assets directly or indirectly, owned by, related to, or associated with, any person, company, business or the Government in PNG;

“Fund” means the Sovereign Wealth Fund established by Section 212A of the Constitution, and Section 3 Sovereign Wealth Fund of this *Organic Law*;

“fund manager” means an investment fund manager appointed under Section 33 of this *Organic Law*;

“investment strategies” includes rules, policies and directions;

Organic Law on the Sovereign Wealth Fund—continued

“Minister” means the minister responsible for treasury matters;

“PNG LNG Project” has the same meaning as the PNG LNG Gas Agreement;

“petroleum” has the meaning given to it in the *Oil and Gas Act 1998*;

“Mineral and petroleum revenues” means the gross public revenues earned from the sale of all valuable non-living substances, including petroleum, obtained or obtainable from land;

“PNG LNG Gas Agreement” means the PNG LNG Gas Agreement dated 22nd May 2008 between the Independent State of Papua New Guinea and each of Esso Highlands Limited, Esso PNG Juha Limited, Ampolex (Papua New Guinea) Limited, Ampolex (PNG Petroleum) Inc., Ampolex (Highlands) Limited, Oil Search Limited, Oil Search (PNG) Limited, Oil Search (Tumbudu) Limited, Merlin Petroleum Company, Merlin Pacific Oil Company Limited, Santos Hides Ltd, Lavana Limited, AGL Gas Developments (PNG) Pty Limited, Petroleum Resources Kutubu Limited, and Petroleum Resources Gobe Limited and Eda Oil Limited, as amended, novated or replaced from time to time;

“State owned entity” has the same meaning given to it in the *Independent Consumer and Competition Commission Act 2002*.

PART II.—THE SOVEREIGN WEALTH FUND.**3. SOVEREIGN WEALTH FUND.**

(1) The Sovereign Wealth Fund of Papua New Guinea is hereby established in accordance with Section 212A of the Constitution, and consists of—

- (a) the Stabilisation Fund; and
- (b) the Development Fund.

(2) The moneys paid into or withdrawn from the Fund must be paid and withdrawn in accordance with this *Organic Law*.

4. OBJECTIVE OF THE FUND.

The objective of the Sovereign Wealth Fund is—

- (a) to support macroeconomic stabilization; and
- (b) to support the development objectives of the Government including long-term economic and social development; and
- (c) to support asset management in relation to assets accrued from natural resource revenue.

5. OWNERSHIP OF THE SOVEREIGN WEALTH FUND.

The legal ownership of the Sovereign Wealth Fund is vested in the Independent State of Papua New Guinea.

PART III.—OPERATIONAL RULES.***Division 1.—Investment.*****6. ROLL OF THE MINISTER.**

The role of the Minister is to—

- (a) determine the investment mandate in accordance with Section 7; and
- (b) receive and consider reports from the Board to ensure that it complies with this *Organic Law*.

7. INVESTMENT MANDATE.

(1) The Minister shall, after consultation with the Board, give to the Board a written investment mandate in respect of the performance of its investment functions.

(2) The investment mandate shall include—

- (a) directions about the classes of investments in which the Fund can be invested and the selection criteria for investments within those classes; and
- (b) information on the acceptable balance between risk and return in the overall Fund portfolio; and
- (c) guidelines on ethical investment, including policies, standards, and procedures for avoiding prejudice to Papua New Guinea’s reputation as a responsible member of the world community; and
- (d) directions relating to the management of credit, liquidity, operational, currency, market, and other financial risks; and
- (e) directions on prohibited or restricted investment or any investment constraints or limits; and
- (f) in relation to the Development Fund the extent to which the Board may invest moneys in domestic assets.

