

**10. DO THE ICAC POWERS EXTEND TO CORRUPT CONDUCT OVERSEAS?**

Yes, given the conduct;

- i. is connected to other corrupt conduct that occurs in PNG
- ii. is Committed by a PNG citizen
- iii. affects a citizen or State
- iv. occurs in or on a flag carrier vessel of PNG
- v. concerns property or funds that are located in PNG or are moved out of or into PNG

*(OLICAC Section 7)*

*This table shows the differences between the core mandate of the ICAC and the Ombudsman Commission. (according to the OLOC 1991 and Twenty Years of the Papua New Guinea Constitution by Regan AJ et, al...)*

OMBUDSMAN COMMISSION	ICAC
<b>PRIMARY FUNCTION</b>	
Investigation of alleged wrong conduct and defective administration by governmental bodies	Preventing and Reducing Corrupt Conduct; undertaking research, recommend systems, strategies, practices and policies
Investigation of alleged discriminatory practices, by any person or body	Investigation and Prosecution of Corrupt Conduct
Investigation of alleged misconduct in office under Leadership Code	Powers and duties to Arrest a person of corrupt conduct
<b>SECONDARY FUNCTION</b>	
Power to make special reference to the Supreme Court on question of constitutional interpretation	Corporation with Agencies and Bodies
Power to enforce the Basic Rights	Exchange of information
Power to advise (jointly with the National Executive Council) the Queen and Head of State, to consent to the Governor-General holding another office or position or engaging in another calling.	Referral of Matters to a relevant agency or accept referral of a matter relating to alleged corrupt conduct
Power to administer the Organic Laws regulating political parties, political donations and protection of elections from outside or hidden influences.	Establish or participate in committee and taskforces with relevant agencies
Power given to Chief Ombudsman to participate in judicial appointments etc, by virtue of membership of the Judicial and Legal Service Commission	Facilitate administrative arrangements and agreements for corporation with other agencies, exchange of information and referral of matters

Frequently Asked Questions on the **ORGANIC LAW ON THE INDEPENDENT COMMISSION AGAINST CORRUPTION (OLICAC)**

## 1. WHAT IS ICAC?

The ICAC is a proposed Constitutional Office that will focus on strengthening governance in PNG. While Prime Minister James Marape has publicly committed to enacting an ICAC by the end of 2020, the Organic Law on ICAC has had its 2nd reading and is pending its 3rd reading in Parliament.



## 2. WHO APPOINTS THE HEADS OF ICAC?

The Governor General appoints the Commissioner and the two Deputy Commissioners in accordance with the advice of the Appointments Committee. The Appointment Committee comprise of;

- the Prime Minister (Chairperson)
- the Opposition Leader
- the Chief Justice; and
- the Chairman of the Public Services Commission;
- and the Chairperson of the Papua New Guinea Council of Churches

*(OLICAC Section 15, 133)*

## 3. DOES THE FUNCTION OF ICAC OVERLAP WITH OTHER EXISTING CONSTITUTIONAL OFFICES?

### ICAC AND OMBUDSMAN COMMISSION:

ICAC investigates complaints of public officials or any individuals with corrupt conduct, while Ombudsman Commission investigates only Leaders specified under the Leadership Code. Further information on the functions of ICAC and the OC can be found in the table on page 4.

### ICAC AND POLICE:

ICAC has the same duties and powers of Police to arrest. This is to aid delay or compromise of investigation in anticipation for the Police to exercise their powers and also the limitations of resources by Police.

*(Section 99)*

### ICAC AND PUBLIC PROSECUTOR'S OFFICE:

ICAC can prosecute offenses relating to corrupt conduct but with written consent from the Public Prosecutor as they are the mandated Office to carry out the prosecution function of the State.

*(OLICAC Section 101,102)*

## 4. WHO WILL PROVIDE OVERSIGHT TO THE ICAC AND WHAT IS THEIR ROLE?

The Appointments Committee will appoint a 5-member Oversight Committee who is of good standing and high integrity with experience in an anti-corruption agency, integrity agency or a law enforcement agency.

The role of the Oversight Committee is to provide recommendations on operations, staffing, financial and other resource requirements of the Commission and provides an annual report to the Speaker of Parliament. It does not interfere with functions of the Commission in dealing with an alleged person or agency with corrupt conduct.

*(OLICAC Section 140, 142,144)*

## 5. WHAT CRIME WILL ICAC DEAL WITH?

ICAC deals with any one person, whether a public official or not, but who has involved in corrupt conduct by;

- dishonestly exercising official functions
- abusing official functions
- exercising official functions in a way that is not impartial
- misusing information or material acquired in the course of official functions or
- obstructing, interfering with or perverting the administration or the course of justice

*(OLICAC Section 5, 6)*

## 6. IS THERE A PENALTY FOR FALSE AND MISLEADING CLAIMS?

It is an offense if someone gives evidence or states anything that is false and misleading in a particular manner. A penalty not exceeding K15,000 or imprisonment for a term not exceeding 3 years or both will be applied.

*(OLICAC Section 49)*

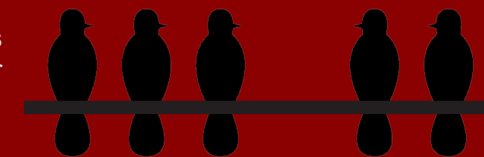


## 7. HOW INDEPENDENT IS ICAC?

ICAC's decisions regarding its priorities and whether or not to investigate or prosecute a person is not subject to any authority.

This will be further strengthened as ICAC will have adequate control over its staffing and operations.

*(OLICAC Section 45, subsection 4)*



## 8. WILL THE EXISTING CONSTITUTIONAL OFFICE BE UNDERMINED BY ICAC?

The Commission of Police, the Public Prosecutor, Judge, the Chief Magistrate or a member of the Ombudsman Commission is not under a duty to report to the ICAC any matter that concerns corrupt conduct except if the conduct concerns members of their agency.

*(OLICAC Section 45, subsection 4)*



## 9. WHAT IS PNG'S BENEFIT OF ESTABLISHING ICAC?

Establishing an ICAC will bolster PNG's international reputation and demonstrate that leadership is being taken on issues of governance. The ICAC will give assurance to foreign investors and bilateral partners that PNG is a reliable jurisdiction. Domestically, an ICAC will increase internal revenue collection by reducing the risk of wastage public.

