

No.                      of 2020.

*Organic Law on the Independent Commission Against Corruption Law 2020.*

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No. of 2020.

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No. of 2020.

***Organic Law on the Independent Commission Against Corruption 2020,***

Being an Organic Law to implement Division VIII.3 of the *Constitution (The Independent Commission Against Corruption)* 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. COMPLIANCE WITH CONSTITUTIONAL REQUIREMENTS.**

This *Organic Law*, 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) liberty of the person conferred by Section 42; and
- (b) freedom from arbitrary search of person or property and entry of premises conferred by Section 44; and
- (c) freedom of conscience, thought and religion conferred by Section 45; and
- (d) freedom of expression conferred by Section 46; and
- (e) freedom of assembly and association conferred by Section 47; and
- (f) freedom of employment conferred by Section 48; and
- (g) the right to privacy conferred by Section 49; and
- (h) the right to freedom of information conferred by Section 51; and
- (i) the right to freedom of movement conferred by Section 52; and
- (j) the protection from unjust deprivation of property conferred by Section 53,

of the *Constitution* is a law that is made pursuant to Section 38 of the *Constitution* that is necessary for the purpose of giving effect to the public interest in public safety, public order and public welfare and is reasonably justifiable in a democratic society having a proper respect and regard for the rights and dignity of mankind, taking into account the National Goals and Directive Principles and Basic Social Obligations, because of the risk that corruption poses to public safety, public order and public welfare as well as to the successful economic and human development of Papua New Guinea and its citizens and to the stability of the State of Papua New Guinea.

**2. LAW TO BIND THE STATE.**

This Law binds the State.

**3. APPLICATION OF CRIMINAL CODE ACT 1974.**

The *Criminal Code Act 1974* applies to all offences under this Law.

**4. INTERPRETATION.**

(1) In this Law, unless the contrary intention appears -

- “Appointments Committee” means the Independent Commission Against Corruption Appointments Committee established under Section 220B(2) of the *Constitution*;
- “assisting the Commission” has the meaning given by Section 12;
- “Code of Conduct” means the Code of Conduct determined under Section 125;



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- “Commission” means the Independent Commission Against Corruption established by Section 220B(1) of the *Constitution*;
- “Commission investigator” means a person authorised to be a Commission investigator under Section 130(1), and is deemed to include the Commissioner and a Deputy Commissioner;
- “Commission officer” has the meaning given under Section 13;
- “Commission prosecutor” means a legal practitioner authorised to be a Commission prosecutor under Section 132(1) and is deemed to include the Commissioner and a Deputy Commissioner if the Commissioner or the Deputy Commissioner is a legal practitioner;
- “Commissioner” means the Commissioner of the Commission appointed under Section 15;
- “computer” means an electronic device for storing, transmitting or processing information;
- “conduct” includes an act or omission;
- “confidentiality provision” means a provision of a law of Papua New Guinea that -
- (a) prohibits or restricts a person from communicating, divulging or publishing information; or
  - (b) protects the confidentiality of information;
- “consultant” means a person engaged by the Commission as a consultant under Section 121;
- “corrupt conduct” has the meaning given by Sections 5, 6 and 7;
- “data interception device” means a device or program capable of being used to record or monitor the input of information into, or the output of information from, a computer, but does not include an optical interception device;
- “Deputy Commissioner” means a Deputy Commissioner of the Commission appointed under Section 15;
- “disciplinary offence” means any act or omission which form the grounds for -
- (a) disciplinary action against; or
  - (b) terminating the services of; or
  - (c) removal from office of,
- a public official under any law, including a breach of the Leadership Code;
- “disciplinary proceeding” means a proceeding relating to a disciplinary offence;
- “document” means any record of information whether stored in hard copy, electronically or in some other format and includes -
- (a) anything on which there is writing; and
  - (b) anything on which there are marks, figures, symbols or perforations having a meaning for persons qualified to interpret them; and
  - (c) anything from which sounds, images or writing can be reproduced with or without the aid of anything else; and
  - (d) a map, plan, drawing or photograph;
- “enhancement equipment”, in relation to an interception device, means equipment capable of enhancing a signal, image, moving image or other information obtained by the use of the interception device;
- “family member”, of a person, means the following:
- (a) a spouse of the person; or
  - (b) a child of the person or a child of the person’s spouse; or
  - (c) a parent of the person or a parent of the person’s spouse; or
  - (d) a grandparent of the person or a grandparent of the person’s spouse; or
  - (e) a brother or sister of the person or a brother or sister of the person’s spouse; or
  - (f) any other person who is treated by the person or his or her spouse as a family member;

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- “hearing” means a hearing of the Commission under Part V;
- “install” includes attach;
- “integrity agency” means -
- (a) the Ombudsman Commission; or
  - (b) the Office of the Auditor-General; or
  - (c) the Public Services Commission; or
  - (d) the Judicial and Legal Services Commission;
- “interception device” means -
- (a) a data interception device, a listening device, an optical interception device or a tracking device; or
  - (b) a device that is a combination of any two or more of the devices mentioned in Paragraph (a);
- “interception warrant” means a warrant issued under Section 88;
- “interest”, in relation to property, means -
- (a) a legal or equitable estate or interest in the property; or
  - (b) a right, power or privilege in connection with the property, whether present or future and whether vested or contingent;
- “international agency” means an agency or body outside of Papua New Guinea that has similar functions to the Commission, an integrity agency, a law enforcement agency or a regulatory agency;
- “investigation” means an investigation into corrupt conduct by the Commission under this Law;
- “law enforcement agency” means -
- (a) the Royal Papua New Guinea Constabulary; or
  - (b) the Office of the Public Prosecutor; or
  - (c) the Financial Assessment and Supervision Unit;
- “legal practitioner” means a person authorised under the *Lawyers Act 1986* to practice as a lawyer in Papua New Guinea;
- “listening device” means a device capable of being used to overhear, record, monitor or listen to a conversation or words spoken to or by any person in a conversation, but does not include a hearing aid;
- “member of the Commission” means the Commissioner or a Deputy Commissioner;
- “occupational detriment” has the meaning given by Section 11;
- “optical interception device” means a device capable of being used to record visually or observe an activity, but does not include spectacles or contact lenses;
- “premises” includes the following:
- (a) a structure, building or vehicle; and
  - (b) land or a place (whether or not enclosed or built on); and
  - (c) a part of premises;
- “property” means real or personal property, whether situated in Papua New Guinea or elsewhere, and includes an interest in property;
- “public body” has the meaning given by Section 8;
- “public official” has the meaning given by Section 9;
- “regulatory agency” means an agency or body established by or under a Constitutional Law or an Act whose functions include setting, monitoring or enforcing compliance with standards or obligations prescribed by or under that or another Constitutional Law or Act;
- “relevant agency” means -
- (a) an integrity agency; or
  - (b) a law enforcement agency; or
  - (c) a regulatory agency;
- “retaliates” has the meaning given by Section 10;

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- “search warrant” means a search warrant issued under Section 77;
- “serious corrupt conduct” means corrupt conduct engaged in by a person that constitutes -
- (a) a criminal offence punishable, on conviction, by a term of imprisonment for 12 months or more; or
  - (b) a disciplinary offence punishable by the termination of the person’s services, or the removal or dismissal from office of the person;
- “Service” means the Independent Commission Against Corruption Staff Service established by Section 115;
- “Service Guidelines” means the guidelines made by the Commission under Section 126;
- “spouse” of a person means any individual of the opposite sex to the person who -
- (a) is or has been married to the person; or
  - (b) although not married to the person, is living with the person in a marriage-like relationship, or has lived with the person in such a relationship; or
  - (c) is a biological parent of a child with the person (whether or not they are married or have been married or are living together or have lived together);
- “State Service” means a State Service established by or under Section 188 of the *Constitution*;
- “statement of information” means a statement of information produced in response to a notice under Section 54;
- “summons” means a summons issued under Section 68;
- “systemic corrupt conduct” means instances of corrupt conduct (which may or may not constitute serious corrupt conduct) that reveal a pattern of corrupt conduct in one or more public bodies, or by one or more public officials;
- “tracking device” means an electronic device capable of being used to determine or monitor the location of a person or an object or the status of an object;
- “vehicle” includes an aircraft or vessel.

**5. CORRUPT CONDUCT.**

- (1) Conduct of a public official is corrupt conduct if -
- (a) the conduct constitutes or involves, or is engaged in for the purpose of -
    - (i) dishonestly exercising official functions; or
    - (ii) abusing official functions; or
    - (iii) exercising official functions in a way that is not impartial; or
    - (iv) misusing information or material acquired in the course of official functions; or
    - (v) obstructing, interfering with or perverting the administration or the course of justice; and
  - (b) the conduct could amount to a disciplinary offence or a criminal offence.
- (2) The conduct of a person (whether or not a public official) is corrupt conduct if -
- (a) the conduct affects or influences, or could affect or influence, any of the conduct mentioned in Subsection (1) by a public official; and
  - (b) the conduct could amount to a disciplinary offence or a criminal offence.
- (3) The conduct of any person (whether or not a public official) is corrupt conduct if the conduct -
- (a) allows, encourages, causes, aids, abets, incites, induces, counsels or procures or assists to conceal corrupt conduct; or
  - (b) is an attempt, preparation or conspiracy to commit corrupt conduct; or
  - (c) is directly or indirectly connected with, or is a part of a course of activity involving corrupt conduct.

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(4) Conduct may be corrupt conduct regardless of whether the conduct or part of the conduct occurred before the commencement of this *Organic Law*.

### **6. CONDUCT OF PUBLIC OFFICIALS.**

(1) If conduct of a person occurs before the person becomes a public official, the conduct may be corrupt conduct of a public official if the conduct is connected to the exercise of the person's official functions after the person became a public official.

- (2) Conduct of a person may be corrupt conduct of a public official regardless of whether -
- (a) some of the conduct occurs after the person ceases to be a public official; or
  - (b) the person ceases to be a public official after the conduct concerned occurred; or
  - (c) the conduct is for the benefit of the person as a public official.

### **7. CONDUCT OUTSIDE PAPUA NEW GUINEA.**

Conduct that occurs outside of Papua New Guinea may be corrupt conduct if -

- (a) the conduct is connected to other conduct that occurs in Papua New Guinea; or
- (b) the conduct is committed by a citizen; or
- (c) a citizen or the State is affected by or connected with the conduct; or
- (d) the conduct occurs on an aircraft that is registered under the laws of Papua New Guinea; or
- (e) the conduct occurs on a vessel that is flying the national flag of Papua New Guinea; or
- (f) the conduct concerns property or funds that are located in Papua New Guinea, or are moved out of or into Papua New Guinea.

### **8. PUBLIC BODY.**

(1) A body, authority or entity is a public body if -

- (a) it is established for a public purpose by or under a Constitutional Law or an Act; or
- (b) it is established by an administrative act for governmental or official purposes.

(2) Without limiting Subsection (1), each of the following is a public body:

- (a) the National Parliament; and
- (b) the National Government or an arm, department, agency or instrumentality of the National Government; and
- (c) a State Service; and
- (d) a Provincial Government and a Provincial Assembly, or an arm, department, agency or instrumentality of a Provincial Government; and
- (e) a Local-level Government or an arm, agency or instrumentality of a Local-level Government; and
- (f) the Supreme Court, the National Court, a District Court, a Village Court or any other court established by or under a Constitutional Law or an Act.

### **9. PUBLIC OFFICIAL.**

(1) A person is a public official if the person is -

- (a) subject to the *leadership code* under Section 26 of the *Constitution*; or
- (b) a member of staff, an officer or a member of a public body; or
- (c) a person -
  - (i) employed, engaged or contracted to perform services for a public body or public official in their official capacity; or
  - (ii) engaged or contracted to act on behalf of a public body or public official in their official capacity; or
- (d) a person appointed to an office or position by the Governor-General.

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- (2) Subsection (1) applies regardless of whether the person is -
- (a) paid or unpaid; or
  - (b) elected or appointed; or
  - (c) temporarily or permanently engaged, employed or appointed.

**10. MEANING OF RETALIATES.**

A person retaliates if -

- (a) the person causes or inflicts, by act or omission, any of the following on or against another person:
  - (i) any violence, injury, punishment, damage, loss, harm or disadvantage; or
  - (ii) any victimisation, harassment or intimidation; or
  - (iii) any occupational detriment; and
- (b) when the act or omission occurs, the person believes or suspects that the other person or another person is assisting, may have assisted or may assist the Commission; and
- (c) that belief or suspicion is the reason, or part of the reason, for the act or omission.

**11. MEANING OF OCCUPATIONAL DETRIMENT.**

Occupational detriment for a person who is an employee includes -

- (a) the taking of disciplinary action against the employee; and
- (b) the dismissal, suspension or demotion of the employee; and
- (c) the victimisation or intimidation of the employee in the workplace; and
- (d) the transfer of the employee against his or her will to another place or position; and
- (e) the employee being refused an appointment, transfer or promotion; and
- (f) the employee being refused a reference or being provided with an adverse reference; and
- (g) discrimination between the employee and other employees of the same employer.

**12. MEANING OF ASSISTING THE COMMISSION.**

(1) A person assists the Commission if the person -

- (a) has attended, is attending or is to attend a hearing to give evidence or to produce a document or other thing to the Commission; or
- (b) has produced or proposes to produce a document or other thing to the Commission; or
- (c) has produced or proposes to produce a statement of information to the Commission; or
- (d) has made a complaint regarding corrupt conduct to the Commission; or
- (e) has provided or proposes to provide information regarding corrupt conduct to the Commission; or
- (f) has assisted, is assisting or is to assist the Commission in some other way.

(2) Subsection (1) applies to a person whether the person is assisting the Commission voluntarily or by compulsion of law.

**13. COMMISSION OFFICERS.**

(1) Commission officer means -

- (a) the Commissioner; or
- (b) a Deputy Commissioner; or
- (c) a member of the staff of the Service; or
- (d) a Commission investigator; or
- (e) a Commission prosecutor; or
- (f) a person seconded to the Service; or
- (g) a legal practitioner engaged by the Commission.

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(2) For the purposes of Part XIII and for other offences under this Law, "Commission officer" includes a former Commission officer.

**PART II. - COMMISSIONER AND DEPUTY COMMISSIONERS.**

**14. CONSTITUTIONAL OFFICE-HOLDERS.**

The Commissioner and Deputy Commissioners are declared to be Constitutional Office-holders for the purposes of Part IX (*Constitutional Office-holders and Constitutional Institutions*) of the *Constitution*.

**15. APPOINTMENT OF COMMISSIONER AND DEPUTY COMMISSIONERS.**

(1) The Head of State, acting with, and in accordance with, the advice of the Appointments Committee is to appoint the Commissioner and two Deputy Commissioners.

(2) The decision by the Appointments Committee as to who should be recommended to the Head of State for appointment as a member of the Commission, including an acting appointment under Section 26 or 27 -

(a) must be made at a meeting of at least four members of the Appointments Committee; and

(b) must be agreed to by at least four members of the Appointments Committee.

(3) The Appointments Committee must make the decision based on the relative merits of the candidates.

**16. EXPRESSIONS OF INTEREST.**

(1) The Appointments Committee must seek expressions of interest for appointment to the Commission.

(2) Subject to Subsection (3), the Appointments Committee may determine the procedures to be used when seeking expressions of interest.

(3) The Chairperson of the Appointments Committee must publish an advertisement -

(a) seeking expressions of interest from persons for appointment as a member of the Commission; and

(b) fixing a date by which expressions of interest must be provided to the Appointments Committee.

(4) The advertisement must be published in one of the national newspapers of Papua New Guinea for at least seven working days.

**17. QUALIFICATIONS FOR APPOINTMENT.**

(1) Subject to Section 18, a person is qualified for appointment as the Commissioner if the person -

(a) is a person of high integrity, independence of mind and good reputation; and

(b) is qualified for appointment as a Judge of the National Court.

(2) Subject to Section 18, a person is qualified for appointment as a Deputy Commissioner if the person -

(a) is a person of high integrity, independence of mind and good reputation; and

(b) holds qualifications and has demonstrated experience of at least seven years in fields that are relevant to the functions of the Commission.

**18. DISQUALIFICATIONS FOR APPOINTMENT.**

A person is not qualified to be, or to remain, a member of the Commission if the person -

- (a) is a member, or candidate for election as a member, of the Parliament; or
- (b) is a member of a Provincial Government or a Provincial Assembly; or
- (c) is a candidate for election as a member of a Local-level Government, or is a member of a Local-level Government or a Local-level Government Special Purposes Authority; or
- (d) is an office-holder, or candidate for election as an office-holder, in a political party registered under the *Organic Law on the Integrity of Political Parties and Candidates 2003*; or
- (e) is an undischarged bankrupt or insolvent; or
- (f) is of unsound mind within the meaning of any law relating to the protection of persons and property of persons of unsound mind; or
- (g) has been found guilty of any criminal offence under the laws of Papua New Guinea or a foreign law, whether before, on or after the commencement of this Law; or
- (h) has been found guilty of misconduct in office under the *Organic Law on the Duties and Responsibilities of Leadership*, whether before, on or after the commencement of this Law.

**19. PERIOD OF APPOINTMENT OF COMMISSIONER.**

(1) The Commissioner shall be appointed for a period of -

- (a) six years if the Commissioner is a citizen; or
- (b) three years if the Commissioner is not a citizen.

(2) A person appointed as the Commissioner is eligible for re-appointment for one additional term only.

**20. PERIOD OF APPOINTMENT OF DEPUTY COMMISSIONER.**

(1) A Deputy Commissioner shall be appointed for a period of -

- (a) six years if the Deputy Commissioner is a citizen; or
- (b) three years if the Deputy Commissioner is not a citizen.

(2) A person appointed as a Deputy Commissioner is eligible for re-appointment for one additional term only.

(3) However, a Deputy Commissioner or a former Deputy Commissioner may be appointed the Commissioner, even if the person has served two terms as a Deputy Commissioner.

**21. SPECIAL CONDITIONS OF APPOINTMENT.**

(1) A member of the Commission must, as soon as practicable, report any suspected corrupt conduct of -

- (a) the Commissioner to the Appointments Committee; or
- (b) a Deputy Commissioner to the Commissioner; or
- (c) any other Commission officer to the Commissioner.

(2) A member of the Commission must not -

- (a) actively engage in politics; or
- (b) engage in corrupt conduct; or
- (c) subject to Subsection (4), engage either directly or indirectly in the management or control of a corporation or other body carrying on business for profit; or
- (d) directly or indirectly engage in any paid employment outside the duties of his or her office; or
- (e) subject to Subsection (5), acquire by way of gift or otherwise, or use or hold in any other way any interest in any property of the State, or solicit, accept or receive any

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- (f) benefit in addition to his or her terms and conditions of employment; or  
be absent from duty for more than 14 consecutive days or more than 28 days in any period of 12 months except with the written consent of the Chairperson of the Appointments Committee or because of illness.

(3) A member of the Commission must advise the Chairperson of the Appointments Committee in writing of any change of circumstances that may affect his or her eligibility to be or remain a member of the Commission.

(4) Subsection (2)(c) does not prevent a member of the Commission from holding office in a professional body in relation to which his or her qualifications are relevant.

(5) Subject to any *Organic Law* made for the purposes of Division III.2 (*leadership code*) of the *Constitution*, a member of the Commission who is a citizen may purchase, lease or otherwise acquire land in the same way and subject to the same conditions as any other citizen.

**22. REMOVAL FROM OFFICE.**

- (1) A member of the Commission may be removed from office if -
- (a) the person becomes disqualified from remaining a member under Section 18; or
  - (b) the person breaches a condition mentioned in Section 21; or
  - (c) on the grounds set out in Section 7 of the *Organic Law on the Guarantee of the Rights and Independence of Constitutional Office-holders*; or
  - (d) the person fails to comply with Section 28 or 44.

(2) The process for removal is to be determined in accordance with the *Organic Law on the Guarantee of the Rights and Independence of Constitutional Office-holders*.

**23. RESIGNATION.**

(1) A member of the Commission may resign by giving three months' notice in writing to the Head of State.

(2) The three month period commences on the twenty-second day after the receipt by the Head of State of the notice, unless the Head of State, acting with, and in accordance with, the advice of the Appointments Committee, by notice in writing to the member, fixes an earlier date for the commencement.

(3) A member of the Commission may withdraw his or her intention to resign at any time before the end of the three month period.

**24. RETIREMENT.**

(1) A person who has attained the age of 75 years is not to be appointed or re-appointed as a member of the Commission.

(2) A person is not to be appointed or re-appointed for a period that extends beyond the date on which he or she will attain the age of 75 years.

**25. VACANCY.**

- (1) An office of a member of the Commission becomes vacant if the member -
- (a) dies; or
  - (b) resigns in accordance with Section 23; or
  - (c) is not re-appointed at the end of a term of office; or
  - (d) is removed from office under Section 22.



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(2) A vacancy in the office of a member of the Commission must be filled as soon as practicable and, in any event, not later than four months after the office becomes vacant.

**26. ACTING COMMISSIONER.**

(1) If for four months or less -

- (a) the Commissioner is suspended from office; or
- (b) there is a vacancy in the office of the Commissioner; or
- (c) the Commissioner is on leave of absence,

a Deputy Commissioner must act as the Commissioner.

(2) If any of the circumstances in Subsection (1)(a), (b) or (c) apply for more than four consecutive months, the Head of State, acting with, and in accordance with, the advice of the Appointments Committee may appoint a person who satisfies the criteria for appointment under Section 17(1) to act as the Commissioner.

(3) The Appointments Committee is not required to comply with Section 16 before advising the Head of State about an acting appointment.

**27. ACTING DEPUTY COMMISSIONER.**

(1) If for four months or less -

- (a) a Deputy Commissioner is suspended from office; or
- (b) there is a vacancy in the office of a Deputy Commissioner; or
- (c) a Deputy Commissioner is on leave of absence,

the Commissioner may appoint a Commission officer who satisfies the criteria for appointment under Section 17(2) to act as the Deputy Commissioner.

(2) If any of the circumstances in Subsection (1)(a), (b) or (c) apply for more than four consecutive months, the Head of State acting with, and in accordance with, the advice of the Appointments Committee may appoint a person who satisfies the criteria for appointment under Section 17(2) to act as the Deputy Commissioner.

(3) The Appointments Committee is not required to comply with Section 16 before advising the Head of State about an acting appointment.

**28. DISCLOSURE OF INTERESTS.**

(1) A member of the Commission must give written notice to the Ombudsman Commission of all interests, financial or otherwise, that the member has or acquires and that could conflict with the proper performance of the Commission's functions.

(2) The member of the Commission must make the disclosure as soon as practicable after he or she acquires the interest concerned or becomes aware of the potential conflict.

**29. SALARIES, ALLOWANCES AND BENEFITS.**

The members of the Commission are to be paid the salary, allowances and benefits fixed by the Parliament as provided for under Section 13 of the *Salaries and Remuneration Commission Act 1988*.

**30. VACANCY, ETC., NOT TO AFFECT FUNCTIONS OR POWERS.**

An act or decision of the Commission is not invalid by reason only of -

- (a) a defect or irregularity in, or in connection with, the appointment of a member of the Commission; or
- (b) a vacancy in an office of a member of the Commission.

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**31. OATH OR AFFIRMATION OF OFFICE.**

Before commencing the duties of his or her office, a member of the Commission must take an oath of office in Form 1 of Schedule 1 or make an affirmation of office in Form 2 of Schedule 1 before the Head of State or a person appointed by the Head of State.

**PART III. - FUNCTIONS, POWERS AND PROCEDURES OF THE COMMISSION.**

**32. FUNCTIONS AND POWERS OF THE COMMISSION.**

(1) In addition to the functions and powers of the Commission specified in Division VIII.3 (*The Independent Commission Against Corruption*) of the *Constitution*, the Commission has -

- (a) such functions and powers as are conferred on it by this Law or any other Constitutional Law or Act; and
- (b) the power to do all things necessary to be done for or in connection with, or reasonably incidental to, the performance of its functions or the exercise of its powers.

**33. PREVENTING AND REDUCING CORRUPT CONDUCT.**

Without limiting how the Commission may prevent and reduce corrupt conduct, the Commission may do the following:

- (a) undertake or commission research; or
- (b) review and make recommendations regarding the systems, strategies, policies, practices and procedures of any public body or public official; or
- (c) undertake or commission education, training or awareness, to the public generally or to a particular section of the public or private sector, including educational institutions; or
- (d) enlist and foster public support for preventing and reducing corrupt conduct; or
- (e) analyse information regarding complaints, investigations and prosecutions; or
- (f) make recommendations for legal, operational or policy reforms; or
- (g) publish recommendations, research, reports, policies or guidelines and provide such material to other agencies and bodies; or
- (h) make public statements necessary for its purposes under this Law or regarding the powers or functions of the Commission; or
- (i) work in cooperation with other agencies and bodies, including other public sector agencies and bodies, the media, civil society, educational institutions and the private sector.

**34. INVESTIGATION AND PROSECUTION OF CORRUPT CONDUCT.**

(1) Without limiting how the Commission may prevent and reduce corrupt conduct, the Commission may -

- (a) investigate alleged or suspected corrupt conduct, including offences mentioned in Subsection (2), and perform functions or exercise powers under Parts IV, V and VI; and
- (b) prosecute indictable offences relating to corrupt conduct in accordance with Part VII.

(2) The Commission may investigate -

- (a) offences under this *Organic Law*; and
- (b) other offences under the *Criminal Code Act 1974* that fall within the definition of corrupt conduct; and
- (c) offences under any other laws that fall within the definition of corrupt conduct.

**35. COOPERATION WITH AGENCIES AND BODIES.**

In performing its functions and exercising its powers, the Commission is, so far as practicable, to cooperate with relevant agencies and may cooperate with such other agencies and bodies (including international agencies) as the Commission considers appropriate.

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**36. EXCHANGE OF INFORMATION.**

(1) The Commission may provide information relating to alleged or suspected corrupt conduct to -

- (a) a relevant agency; or
- (b) any other agency or body; or
- (c) an international agency,

if the information relates to the functions of the agency or body.

(2) Any restrictions on the use of the information that apply to the Commission apply to the agency or body.

**37. REFERRAL OF MATTERS.**

(1) The Commission may refer a matter involving alleged or suspected corrupt conduct to -

- (a) a relevant agency; or
- (b) any other agency or body; or
- (c) an international agency,

if the matter relates to the functions of the agency or body.

(2) When referring the matter, the Commission -

- (a) may recommend the action to be taken by the agency or body; and
- (b) must provide any information obtained by the Commission during an investigation that is relevant to the functions of the agency or body.

(3) Despite the referral, the Commission may continue to deal with the matter or refer the matter to another agency or body.

(4) The Commission may advise a complainant in relation to the matter that the matter has been referred.

(5) The Commission may accept the referral of a matter relating to alleged or suspected corrupt conduct from -

- (a) a relevant agency; or
- (b) any other agency or body; or
- (c) an international agency.

**38. COMMITTEES AND TASKFORCES, ARRANGEMENTS AND AGREEMENTS.**

The Commission may establish or participate in committees and taskforces in conjunction with -

- (a) relevant agencies; and
- (b) such other agencies or bodies; and
- (c) such other international agencies.

**39. ADMINISTRATIVE ARRANGEMENTS AND AGREEMENTS.**

The Commission may enter into administrative arrangements and agreements with other agencies and bodies, to facilitate the performance of the Commission's functions and the exercise of its powers, including arrangements and agreements for -

- (a) cooperation with other agencies and bodies; and
- (b) the exchange of information between agencies and bodies and measures to protect the confidentiality of the information; and
- (c) the referral of matters between agencies and bodies.

**40. MEETINGS OF THE COMMISSION.**

(1) The Commission must convene such meetings of the Commission as the Commission considers appropriate.

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- (2) The presiding member at a meeting is -
- (a) the Commissioner; or
  - (b) in the absence of the Commissioner, a Deputy Commissioner appointed by the Commissioner.

(3) The quorum for a meeting of the Commission is two members of the Commission and the quorum must be present at all times during the meeting.

(4) A question arising at a meeting of the Commission is to be determined by a majority of votes of the members present.

- (5) The person presiding at a meeting has -
- (a) a deliberative vote; and
  - (b) where necessary, a casting vote.

**41. COMMISSION TO DETERMINE MEETING PROCEDURES.**

Subject to this Part, the Commission may determine its own procedures for the conduct of its meetings.

**42. MEETING BY TELEPHONE, ELECTRONIC COMMUNICATION, ETC.**

(1) In addition to meeting in person, the members of the Commission may participate in a meeting by telephone or any electronic means of communication.

(2) A member who participates in a meeting by any of the means referred to in Subsection (1) is deemed to be present at the meeting and to form part of the quorum for the meeting.

(3) A meeting relying on a means of participation referred to in Subsection (1) may be held at two or more places at the same time.

**43. DECISIONS TO BE RECORDED.**

A decision of the Commission must be recorded in writing, unless it is made by written agreement.

**44. DISCLOSURE OF CONFLICTS OF INTEREST.**

- (1) This section applies to a member of the Commission if -
- (a) the member has a material personal interest in a matter being considered, or about to be considered, by the Commission; and
  - (b) the interest conflicts or may reasonably appear to conflict with the proper performance of the member's duties about the consideration of the issue.

- (2) In this section, "material personal interest" means -
- (a) a direct or indirect interest relating to personal affairs; or
  - (b) a personal or political association.

(3) As soon as practicable after the relevant facts come to the member's knowledge, the member must disclose the nature of the interest to a meeting of the Commission.

(4) Unless the Commission otherwise directs, the member must not -

- (a) be present when the Commission considers the matter; or
- (b) take part in a decision of the Commission about the matter.

(5) The member must not be present when the Commission is considering whether to give a direction under Subsection (4).

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(6) A disclosure under Subsection (3) must be recorded in the Commission's record of the meeting.

(7) A failure to disclose a material personal interest does not, of itself, invalidate a decision of the Commission.

**PART IV. - INVESTIGATING CORRUPT CONDUCT.**

*Division 1. - Duty to report corrupt conduct and complaints.*

**45. DUTY TO NOTIFY COMMISSION OF POSSIBLE CORRUPT CONDUCT.**

(1) Subject to Subsections (3) and (4), notwithstanding any other Act, any person to whom Division III.2 (*leadership code*) of the *Constitution* applies is under a duty to report to the Commission any matter that the person suspects on reasonable grounds concerns or may concern corrupt conduct.

(2) The person must report the matter to the Commission as soon as practicable after the person becomes aware of the matter, and may do so orally or in writing.

- (3) The duty to report under this section does not apply if -
- (a) the Prime Minister certifies that to do so is likely to prejudice the security or defence of Papua New Guinea; or
  - (b) the Prime Minister certifies that to do so is likely to prejudice Papua New Guinea's relations with the Government of any other country or with any international organisation; or
  - (c) to do so would involve the disclosure of proceedings, deliberations or decisions of the National Executive Council, or of any committee of that Council, which the Prime Minister certifies relate to matters of a secret or confidential nature, disclosure of which would be injurious to the public interest; or
  - (d) to do so would be a breach of Parliamentary privilege or immunity; or
  - (e) the matter is subject to a claim of legal professional privilege.

(4) The Commissioner of Police, the Public Prosecutor, the Public Solicitor, a Judge, the Chief Magistrate or a member of the Ombudsman Commission is not under a duty to report to the Commission, any matter that concerns or may concern corrupt conduct if he becomes aware of the matter while performing official duties, unless the matter concerns or may concern corrupt conduct of -

- (a) in the case of the Commissioner of Police - a member of the Police Force; or
- (b) in the case of the Public Prosecutor - a member of the staff of the Office of the Public Prosecutor; or
- (c) in the case of the Public Solicitor - a member of the staff of the Office of the Public Solicitor; or
- (d) in the case of a Judge - another Judge, or an officer or employee of the National Judicial Staff Service; or
- (e) in the case of the Chief Magistrate - a Magistrate or a member of the staff of the Magisterial Service; or
- (f) in the case of a member of the Ombudsman Commission - another member of the Ombudsman Commission or an officer or employee of the Service of the Ombudsman Commission.

**46. COMPLAINTS ABOUT POSSIBLE CORRUPT CONDUCT.**

(1) Any person may make a complaint to the Commission about alleged or suspected corrupt conduct.

(2) The person may make the complaint orally or in writing.

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(3) The Commission may decide whether to accept a complaint that does not include the complainant's identity or contact details, or both.

(4) If the complainant's identity or contact details, or both, are included in a complaint, the complainant may request that the details are not to be disclosed.

**47. COMPLAINTS ON BEHALF OF ANOTHER PERSON ABOUT POSSIBLE CORRUPT CONDUCT.**

(1) A person may make a complaint on behalf of another person.

(2) The Commission may authorise other bodies or agencies to accept complaints on behalf of the Commission in accordance with agreements between the Commission and such other agencies or bodies.

**48. DISCLOSURE OF IDENTITY OR CONTACT DETAILS, OR BOTH.**

(1) If a request is made under Section 46(4) that a complainant's identity or contact details, or both, are not to be disclosed, a Commission officer or consultant must not disclose the details to another Commission officer or consultant unless the disclosure is made while performing functions, or exercising powers, under, or for the purposes of, this Law.

(2) A person who contravenes Subsection (1) commits an offence.

Penalty: A fine not exceeding K10,000.00 or imprisonment for a term not exceeding two years, or both.

(3) If a request is made under Section 46(4) that a complainant's identity or contact details not be disclosed, a Commission officer, a consultant or any other person must not disclose the details to a person who is not a Commission officer or a consultant unless the complainant has consented in writing to the disclosure.

(4) A person who contravenes Subsection (3) commits an offence.

Penalty: A fine not exceeding K10,000.00 or imprisonment for a term not exceeding two years, or both.

**49. FALSE OR MISLEADING COMPLAINTS.**

A person commits an offence if the person makes a complaint to the Commission about alleged or suspected corrupt conduct that the person knows is false or misleading in a material particular.

Penalty: A fine not exceeding K10,000.00 or imprisonment for a term not exceeding three years, or both.

*Division 2. - Assessments of complaints, etc.*

**50. ASSESSMENT OF COMPLAINTS, ETC.**

(1) After receiving a complaint about alleged or suspected corrupt conduct, the Commission must assess the complaint.

(2) In assessing the complaint, the Commission may have regard to whether the complaint -

- (a) raises a potential matter of corrupt conduct; or
- (b) raises a matter of serious corrupt conduct or systemic corrupt conduct; or
- (c) raises any matter of public interest; or
- (d) appears to lack credibility or substance; or

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- (e) is trivial, vexatious or frivolous; or
- (f) raises a matter that occurred too long ago to justify an investigation; or
- (g) raises a matter that is more appropriately dealt with by another agency or body; or
- (h) raises a matter that has previously been dealt with by another agency or body and there is no reason to re-examine it, or there is other good reason why no action should be taken in respect of the matter.

- (3) The Commission must assess a matter involving alleged or suspected corrupt conduct if -
  - (a) the matter is reported or referred to the Commission by another agency or body; or
  - (b) the Commission is aware of the matter acting on its own initiative.

**51. ACTION THAT THE COMMISSION MAY TAKE.**

- (1) After making an assessment of a matter under Section 50, the Commission may -
  - (a) investigate all or part of the matter; or
  - (b) decide to take no further action in relation to all or part of the matter; or
  - (c) refer all or part of the matter to another agency or body.

- (2) The Commission may, at any time, reconsider how a matter must be dealt with.

- (3) Without limiting Subsection (2), the Commission -
  - (a) may discontinue an investigation; or
  - (b) having decided not to investigate a matter, may decide to investigate the matter; or
  - (c) may decide to refer a matter to another agency or body, before, during or after an investigation.

- (4) The Commission may inform a complainant or an agency or body that has reported or referred a matter to the Commission, as to the action taken under this section in respect of the matter.

**52. PUBLIC STATEMENTS.**

The Commission may, subject to other laws, make or publish a public statement about a complaint or investigation concerning alleged or suspected corrupt conduct if, in the Commission's opinion, it is appropriate to do so in the public interest, having regard to the following:

- (a) the benefits to an investigation that might be derived from making the statement;
- (b) the risk of prejudicing the reputation or safety of a person by making the statement;
- (c) whether the statement is necessary in order to allay public concern or to prevent or minimise the risk of prejudice to the reputation of a person;
- (d) if an allegation against a person has been made public and, in the opinion of the Commission, the person is not implicated in corrupt conduct - whether the statement would redress prejudice caused to the reputation of the person as a result of the allegation having been made public;
- (e) the risk of adversely affecting a potential prosecution of a criminal offence or a disciplinary proceeding.

*Division 3. - Investigations into Corrupt Conduct.*

**53. INVESTIGATIONS GENERALLY.**

- (1) The Commission may conduct an investigation into alleged or suspected corrupt conduct -
  - (a) on its own initiative; or
  - (b) in response to a complaint made; or
  - (c) in response to a report or reference made to it by another agency or body.

- (2) The Commission may conduct an investigation even if no public official or public body is implicated.

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**54. POWER TO REQUIRE STATEMENT OF INFORMATION.**

(1) For the purposes of an investigation, the Commission may, by notice in writing, require a public body or a public official to produce a statement of information.

(2) The notice -

- (a) must be signed by a member of the Commission; and
- (b) must specify or describe the information required; and
- (c) must fix a time and date for compliance with the notice; and
- (d) may specify a Commission officer to whom the production is to be made; and
- (e) must be served on the officer in charge of the body or the official required to comply with the notice.

(3) The notice may provide that the requirement may be satisfied by another person acting on behalf of the public body or public official and may, but need not, specify the person or class of persons who may so act.

(4) Subject to Subsection (5), despite any other law, the public body or public official must comply with the notice.

(5) However, the public body or public official is not required to produce the statement of information if -

- (a) the Prime Minister certifies that to do so is likely to prejudice the security or defence of Papua New Guinea; or
- (b) the Prime Minister certifies that to do so is likely to prejudice Papua New Guinea's relations with the Government of any other country or with any international organisation; or
- (c) to do so would involve the disclosure of proceedings, deliberations or decisions of the National Executive Council, or of any committee of that Council, which the Prime Minister certifies relate to matters of a secret or confidential nature, disclosure of which would be injurious to the public interest; or
- (d) to do so would be a breach of Parliamentary privilege or immunity; or
- (e) the information sought is subject to a claim of legal professional privilege.

**55. SELF-INCRIMINATION, ETC.**

(1) A public body or public official is not excused from producing a statement of information on the ground that doing so incriminates the body or official.

(2) A statement of information -

- (a) is not admissible in evidence against the body or official in any civil or criminal proceedings; and
- (b) is admissible in a hearing of the Commission.

**56. FAILURE TO PROVIDE STATEMENT OF INFORMATION.**

A person commits an offence if he or she refuses or fails to provide a statement of information as required by a notice under Section 54.

Penalty: A fine not exceeding K10,000.00 or imprisonment for a term not exceeding two years, or both.

**57. POWER TO ENTER PUBLIC PREMISES.**

(1) For the purposes of an investigation, the Commission may, at any time -

- (a) enter and inspect any premises (other than residential premises) occupied or used by a public body or public official in that capacity; and



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- (b) inspect any document or other thing in or on the premises; and
- (c) take copies of any document in or on the premises.

(2) The public body or public official must make available to the Commission such assistance and facilities as are necessary to enable the Commission to exercise its powers under Subsection (1).

(3) Notwithstanding any other Act, the public body or public official must allow the Commission to exercise its powers under Subsection (1).

(4) The public body or public official may refuse to allow the Commission to exercise powers under Subsection (1) if -

- (a) the Prime Minister certifies that the exercise of the powers is likely to prejudice the security or defence of Papua New Guinea; or
- (b) the Prime Minister certifies that the exercise of the powers is likely to prejudice Papua New Guinea's relations with the Government of any other country or with any international organisation; or
- (c) the exercise of the power or powers would involve the disclosure of proceedings, deliberations or decisions of the National Executive Council, or of any committee of that Council, which the Prime Minister certifies relate to matters of a secret or confidential nature, and the disclosure of which would be injurious to the public interest; or
- (d) to do so would be a breach of Parliamentary privilege or immunity; or
- (e) the document or thing is subject to a claim of legal professional privilege.

**58. NOTICE TO PRODUCE DOCUMENT OR THING.**

(1) For the purpose of an investigation, the Commission may, by notice in writing require a person (whether or not a public official or public body) to produce a document or thing.

(2) The notice -

- (a) must be signed by a member of the Commission; and
- (b) must specify or describe the document or thing to be produced; and
- (c) must fix a time and date for compliance with the notice; and
- (d) may specify a Commission officer to whom the production is to be made; and
- (e) must be served on the person required to comply with the notice.

(3) The notice may provide that the requirement may be satisfied by another person acting on behalf of the person on whom the requirement was imposed and may specify the person or class of persons who may so act.

(4) Notwithstanding any other Act, the person served with the notice must produce the document or thing required by the notice.

(5) The person served with the notice is not required to produce the document or thing required by the notice if -

- (a) the Prime Minister certifies that to do so is likely to prejudice the security or defence of Papua New Guinea; or
- (b) the Prime Minister certifies that to do so is likely to prejudice Papua New Guinea's relations with the Government of any other country or with any international organisation; or
- (c) to do so would involve the disclosure of proceedings, deliberations or decisions of the National Executive Council, or of any committee of that Council, which the Prime Minister certifies relate to matters of a secret or confidential nature, disclosure of which would be injurious to the public interest; or

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- (d) to do so would be a breach of Parliamentary privilege or immunity; or
- (e) the document or thing is subject to a claim of legal professional privilege.

**59. SELF-INCRIMINATION, ETC.**

(1) A person is not excused from producing a document or thing on the ground that doing so incriminates the person.

- (2) A document or thing produced -
  - (a) is not admissible in evidence against the person in any civil or criminal proceedings; and
  - (b) is admissible in a hearing of the Commission.

**60. FAILURE TO COMPLY WITH NOTICE TO PRODUCE.**

A person commits an offence if the person is served with a notice under Section 58 and that person fails to comply with the notice.

Penalty: A fine not exceeding K10,000.00 or imprisonment for a term not exceeding two years, or both.

**61. DISCLOSURE OF NOTICE TO PRODUCE MAY BE PROHIBITED.**

(1) The Commission may include a notation in a notice issued under Section 58 to the effect that disclosure of the existence of the notice or any information about the notice is prohibited except in the circumstances specified in the notation if the Commission is satisfied that a failure to include a notation is likely to prejudice -

- (a) a person's safety; or
- (b) the fair trial of a person who has been, or may be, charged with a criminal offence; or
- (c) the investigation to which the notice relates or an investigation into other corrupt conduct; or
- (d) any action taken as a result of an investigation.

(2) If a notation is included in the notice, it must be accompanied by a written statement setting out the rights and obligations conferred or imposed on the person on whom the notice is served.

- (3) A notation included in the notice is cancelled if -
  - (a) the Commission concludes the investigation to which the notice relates; and
  - (b) any criminal proceeding or disciplinary proceeding resulting from the investigation are concluded.

- (4) A person commits an offence if -
  - (a) the person contravenes the requirements of a notation included in a notice under Subsection (1); and
  - (b) when the contravention occurs the notation has not been cancelled by Subsection (3).

Penalty: A fine not exceeding K10,000.00 or imprisonment for a term not exceeding two years, or both.

(5) In proceedings for an offence against Subsection (4), it is a defence if the person makes the disclosure -

- (a) to a legal practitioner for the purpose of obtaining legal advice or representation in relation to the notice; or
- (b) to a person, other than a legal practitioner, for the purpose of ensuring compliance with the notice; or

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- (c) as a legal practitioner, for the purpose of any or all of the following:
  - (i) obtaining the agreement of another person to the legal practitioner producing a document or thing; or
  - (ii) obtaining or giving legal advice; or
  - (iii) making legal representations.

**62. COMMISSION MAY RETAIN DOCUMENTS AND THINGS.**

(1) If a document or thing is produced in accordance with a notice under Section 58, the Commission -

- (a) may take possession of, and may make copies of, the document or thing, or take extracts from a document; and
- (b) may retain possession of the document or thing for the period necessary for the purposes of the investigation to which the document or thing relates.

(2) While retaining the document or thing, the Commission must allow a person who would otherwise be entitled to inspect the document or view the thing to do so at the times that the person would ordinarily be able to do so.

(3) If the retention of the document or thing by the Commission is not, or ceases to be, reasonably necessary for the purposes of the investigation or a prosecution to which the document or thing relates, the Commission must deliver the document or thing to the person who appears to the Commission to be entitled to possession of the document or thing.

(4) The Commission must make a record of all documents or things produced and retained.

**PART V. - HEARINGS.**

*Division 1. - General provisions for hearings.*

**63. HEARINGS.**

(1) The Commission may hold a hearing for the purposes of an investigation.

(2) The hearing must be held before at least one member of the Commission.

(3) The Commission may decide to hold the whole or a part of the hearing either in public or in private.

(4) In making a decision under Subsection (3), the Commission may have regard to the following:

- (a) the benefit of exposing the public to, and making the public aware of, corrupt conduct; or
- (b) the seriousness of the corrupt conduct being investigated; or
- (c) whether the evidence that may be given, or a matter that may arise, during the hearing is likely to be of a confidential nature or relates to the commission, or to the alleged or suspected commission, of an offence; or
- (d) the risk of any unfair prejudice to a person's reputation that is likely to be caused if the hearing takes place in public; or
- (e) whether the public interest in holding the hearing in public is outweighed by the public interest in preserving the privacy of the person concerned; or
- (f) whether a public hearing would prejudice any of the following matters:
  - (i) defence; or
  - (ii) public safety; or
  - (iii) public order; or

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- (iv) public welfare; or
- (v) the investigation into or the prosecution of corrupt conduct.

(5) The Commission must make a written record of a hearing.

**64. LEGAL REPRESENTATION AT A HEARING.**

- (1) A person giving evidence at a hearing may be represented by a legal practitioner.
- (2) The Commission may appoint a Commission prosecutor or another legal practitioner to assist the Commission during a hearing.
- (3) The Commission prosecutor or legal practitioner may attend the hearing to assist the Commission.

**65. RULES OF EVIDENCE DO NOT APPLY.**

- (1) The Commission is not bound by the rules of evidence at a hearing and may inform itself as the Commission considers appropriate.
- (2) The Commission must conduct a hearing with as little formality and technicality as the Commission considers appropriate.

**66. EXAMINATION AND CROSS EXAMINATION.**

At a hearing, the following persons may, if the Commission thinks it appropriate, examine or cross-examine any witness on any matter that the Commission considers relevant:

- (a) a Commission prosecutor or other legal practitioner assisting the Commission at the hearing; or
- (b) a person summoned to attend the hearing; or
- (c) a legal practitioner representing a person at the hearing.

**67. POWER TO EXAMINE ON OATH.**

- (1) The Commission may take evidence on oath or affirmation at a hearing.
- (2) For the purposes of Subsection (1), the member of the Commission presiding at the hearing -
  - (a) may require a person attending the hearing to give evidence either to take an oath or make an affirmation; and
  - (b) may administer the oath or affirmation.

*Division 2. - Summons to attend hearing.*

**68. COMMISSION MAY SUMMON PERSON.**

- (1) The Commission may summon a person to attend a hearing to do any of the following:
  - (a) give evidence; or
  - (b) produce a document or thing; or
  - (c) give evidence and produce a document or thing.
- (2) The summons must -
  - (a) be signed by a member of the Commission; and
  - (b) set out the general nature of the corrupt conduct the subject of the hearing; and
  - (c) in the case of a summons to produce the document or thing; and
  - (d) specify the time and date of the hearing; and
  - (e) be served on the person required to attend the hearing.
- (3) Notwithstanding any other Act, a person served with a summons must comply with it.

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(4) A person summoned to give evidence at a hearing is entitled to be paid the same fees, allowances and expenses as a witness in legal proceedings before the National Court.

**69. ON-GOING REQUIREMENT FOR WITNESS TO ATTEND.**

(1) A person who is summoned to attend a hearing to give evidence must attend and report to the Commission from day to day unless the person is excused from attending or released from further attendance by the member of the Commission presiding at the hearing.

(2) The Commission may, by notice in writing, excuse a person who has been summoned to attend a hearing to produce documents or other things from the required attendance on the condition that the person or a person acting on the person's behalf produces the document or thing in accordance with any directions given by the Commission before the hearing.

**70. SELF-INCRIMINATION, ETC.**

(1) A person who is summoned to produce a document or thing at a hearing, is not excused from producing the document or thing on the basis that doing so incriminates the person.

(2) A person who is a witness at a hearing is not excused from answering a question at the hearing, whether or not the person is summoned to give evidence, on the basis that doing so incriminates the person or exposes the person to a penalty.

- (3) Evidence given, at a hearing (including a document or thing produced) -
- (a) is not admissible in evidence against the person in any civil or criminal proceeding; and
  - (b) is admissible at the hearing.

**71. OFFENCES FOR ATTENDANCE AT HEARINGS, ETC.**

- (1) A person commits an offence if -
- (a) the person is served with a summons to attend a hearing to give evidence; and
  - (b) the person fails -
    - (i) to comply with the summons; or
    - (ii) to attend and report to the Commission from day to day unless excused or released from further attendance by the Commission; or
    - (iii) to make an oath or make an affirmation at the hearing; or
    - (iv) to answer a question at the hearing that the Commission requires the person to answer.

Penalty: A fine not exceeding K10,000.00 or imprisonment for a term not exceeding two years, or both.

- (2) A person commits an offence if -
- (a) the person is served with a summons to produce a document or thing; and
  - (b) the person fails to comply with the summons.

Penalty: A fine not exceeding K10,000.00 or imprisonment for a term not exceeding two years, or both.

- (3) It is a defense to an offence of failing to comply with a summons under Subsections (1) and (2) if -
- (a) the Prime Minister certifies that to do so is likely to prejudice the security or defence of Papua New Guinea; or
  - (b) the Prime Minister certifies that to do so is likely to prejudice Papua New Guinea's relations with the Government of any other country or with any international

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- organisation; or
- (c) to do so would involve the disclosure of proceedings, deliberations or decisions of the National Executive Council, or of any committee of that Council, which the Prime Minister certifies relate to matters of a secret or confidential nature, disclosure of which would be injurious to the public interest; or
- (d) to do so would be a breach of Parliamentary privilege or immunity; or
- (e) the answer is subject to a claim of legal professional privilege.

**72. DISCLOSURE OF SUMMONS MAY BE PROHIBITED.**

- (1) This section applies if -
  - (a) a summons is served on a person to attend a hearing; and
  - (b) the hearing is to be held in private.

(2) The Commission may include a notation in the summons to the effect that disclosure of the existence of the summons or any information about the summons is prohibited except in the circumstances specified in the notation if the Commission is satisfied that a failure to include a notation is likely to prejudice -

- (a) a person's safety; or
- (b) the fair trial of a person who is charged with an offence; or
- (c) the investigation to which the summons relates or an investigation into other corrupt conduct; or
- (d) any action taken as a result of an investigation.

(3) If a notation is included in the summons, it must be accompanied by a written statement setting out the rights and obligations conferred or imposed on the person on whom the summons is served.

- (4) A notation included in the summons is cancelled if -
  - (a) the Commission concludes the investigation to which the summons relates; and
  - (b) a criminal proceeding or disciplinary proceeding resulting from the investigation is concluded.

- (5) A person commits an offence if -
  - (a) the person contravenes the requirements of a notation included in a notice under Subsection (2); and
  - (b) when the contravention occurs the notation has not been cancelled by Subsection (4).

Penalty: Fine not exceeding K10,000.00 or imprisonment for a term not exceeding two years, or both.

(6) In proceedings for an offence against Subsection (5), it is a defence if the person makes the disclosure -

- (a) to a legal practitioner for the purpose of obtaining legal advice or representation in relation to the summons; or
- (b) to a person, other than a legal practitioner, for the purpose of ensuring compliance with the summons; or
- (c) as a legal practitioner, for the purpose of the following:
  - (i) obtaining the agreement of another person to the legal practitioner complying with the summons; or
  - (ii) obtaining or giving legal advice; or
  - (iii) making legal representations.

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**73. COMMISSION MAY RETAIN DOCUMENTS AND THINGS.**

- (1) If a document or thing is produced in accordance with a summons, the Commission -
  - (a) may take possession of, and may make copies of, the document or thing or take extracts from the document; and
  - (b) may retain possession of the document or thing for such period as is necessary for the purposes of the investigation to which the document or thing relates.

(2) While retaining the document or thing, the Commission must allow a person who is entitled to inspect the document or view the thing to do so at the times that the person would ordinarily be able to do so.

(3) If the retention of the document or thing by the Commission is not or ceases to be, reasonably necessary for the purposes of the investigation or a prosecution to which the document or thing relates, the Commission must deliver the document or thing to the person who appears to the Commission to be entitled to possess the document or thing.

- (4) The Commission must make a record of all documents or things produced.

*Division 3. - Hearing directions and court orders.*

**74. DIRECTIONS AT A HEARING.**

(1) The Commission may issue directions for the purposes of a hearing, including directions as to who may be present at a hearing or part of a hearing.

- (2) A person commits an offence if the person contravenes a direction.

Penalty: A fine not exceeding K5,000.00 or imprisonment for a term not exceeding 12 months, or both.

**75. DIRECTIONS IN RELATION TO CONFIDENTIALITY.**

(1) The Commission may direct that the following must not be published, except in the manner, and to the persons, the Commission specifies, if the Commission is satisfied of any of the matters in Subsection (2):

- (a) particular evidence given at a hearing;
- (b) the contents of a particular document or a description of anything, produced to the Commission at a hearing;
- (c) particular information that might enable a person who gives evidence at a hearing to be identified;
- (d) the fact that a particular person gives or may be about to give evidence at a hearing.

(2) The Commission must be satisfied that a direction is -

- (a) likely to prevent prejudice to -
  - (i) the administration of justice; or
  - (ii) an investigation; or
  - (iii) a person's reputation; or
- (b) likely to protect a person's safety or prevent other serious harm to a person; or
- (c) likely to prevent a serious risk of intimidation of a witness or other person providing information to the Commission; or
- (d) required to protect national security; or
- (e) in the public interest.

(3) A direction operates for the period the Commission specifies in the direction, and any further period the Commission determines.

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(4) A person commits an offence if the person contravenes the direction.

Penalty: (a) in the case of an individual, a fine not exceeding K10,000.00 or imprisonment for a term not exceeding two years, or both; or  
(b) a body corporate, a fine not exceeding K50,000.00.

**76. SURRENDER OF PASSPORT OF WITNESS.**

(1) This section applies if, in connection with an investigation into serious corrupt conduct or systemic corrupt conduct, a summons has been issued requiring a person to attend a hearing.

(2) A Commission investigator may apply to the District Court for an order -  
(a) requiring the person to give the Commission any passport issued to the person that is in his or her possession, custody or control; and  
(b) authorising the Commission to retain the passport until the expiration of the period specified in the order.

(3) The application must be supported by affidavit setting out the grounds on which the application is made.

(4) The Court may make an order if it is satisfied that there are reasonable grounds for suspecting that the person intends to leave Papua New Guinea in order to contravene the summons.

(5) The order may be made subject to conditions.

(6) The Court may make such other ancillary orders as the Court considers appropriate.

(7) The Court may, on application by a Commission investigator, extend the period for which the Commission is authorised to retain a passport under an order made under Subsection (4).

(8) The Court may revoke an order under Subsection (4) on application by the holder of the passport.

(9) If it is impracticable for an application under Subsection (2) or (7) to be made in person for reasons of urgency, the application may be made by fax, email or such other means of communication approved by the Court.

(10) An application made under Subsection (2) or (7) may be heard -

(a) *ex parte*; and  
(b) in closed court or in chambers.

**PART VI. - WARRANTS.**

*Division 1. - Search Warrants.*

**77. APPLICATION FOR A SEARCH WARRANT.**

(1) A Commission investigator may apply to the District Court for a search warrant for the purposes of an investigation.

(2) The application must be supported by an affidavit setting out the grounds on which the application is made.

(3) If it is impracticable for the application to be made in person for reasons of urgency, the application may be made by fax, email or such other means of communication approved by the Court.



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- (4) The application may be heard -
- (a) *ex parte*; and
  - (b) in closed court or in chambers.

- (5) The District Court may issue a search warrant authorising the Commission investigator to enter and search premises if the Court is satisfied there are reasonable grounds for suspecting that a document or other thing that is relevant to or connected with an investigation into corrupt conduct -
- (a) is in or on the premises; or
  - (b) is likely to be in or on the premises,
- within the next 72 hours.

**78. AUTHORITY CONFERRED BY SEARCH WARRANT.**

- (1) A search warrant must -
- (a) state who is authorised to execute the warrant; and
  - (b) contain a statement of the purpose for which the warrant is issued; and
  - (c) specify the premises to which the warrant relates; and
  - (d) state whether entry is authorised at any time of the day or night or during specified hours of the day or night; and
  - (e) state that a failure to cooperate with the person executing the warrant may amount to an offence; and
  - (f) specify any other conditions to which the warrant is subject.

- (2) The search warrant authorises a Commission investigator to do any of the following for the purpose of executing the warrant:

- (a) to enter and search and, where necessary, use reasonable force to break into or open -
  - (i) premises to which the warrant relates; or
  - (ii) part of, or anything in or on, the premises; or
- (b) to stay in or on the premises to which the warrant relates for the time reasonably necessary to exercise powers authorised under the warrant and this Division; or
- (c) to pass over, through, along or under other premises to enter the premises to which the warrant relates; or
- (d) to remove wall or ceiling linings or floors of a building, or panels of a vehicle; or
- (e) to dig up land; or
- (f) to detain a person in or on the premises to which the warrant relates for the time reasonably necessary to find out if that person has anything sought under the warrant; or
- (g) to search a person if the Commission investigator reasonably suspects that the person -
  - (i) is, or has been, on or in the premises to which the warrant relates; or
  - (ii) is about to enter the premises,and the person has on or about his or her body a document or thing connected with the investigation; or
- (h) to use force against a person that is necessary and reasonable in the circumstances; or
- (i) to give directions with respect to the stopping or movement of any vehicle to which the warrant relates.

- (3) The search warrant authorises a Commission investigator to do any of the following for the purpose of the investigation:

- (a) to take photographs, films or audio, video or other electronic recordings; or
- (b) to examine, copy or take extracts from a document; or
- (c) to examine, use or test anything, including electronic devices or cause or require it to be examined, used or tested; or
- (d) to open anything in or on the premises to which the warrant relates that is locked; or
- (e) to search for and record fingerprints found on or in the premises to which the warrant

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relates, and take samples of things excluding human biological fluid or tissue found on or in the premises for forensic purposes; or

- (f) to seize and retain any document or thing found in or on the premises to which the warrant relates and deliver it to the Commission; or
- (g) to take a vehicle to a place with appropriate facilities for searching the vehicle and to search the vehicle; or
- (h) to seize any illegal item or material, detain and refer the illegal item or material to the relevant bodies or agencies.

**79. ASSISTANCE IN EXECUTING A SEARCH WARRANT.**

(1) For the purpose of this section, a “technical officer” is an officer who is an expert in handling or preserving the evidentiary value of any thing.

(2) In executing a search warrant, a Commission investigator may be assisted by police officers or technical officers where necessary and reasonable in the circumstances.

(3) A police officer or technical officer may use reasonable force to assist a Commission investigator in executing a search warrant.

(4) A Commission investigator may require an occupier of premises to which a search warrant relates to give to the investigator, a police officer or a technical officer, such assistance as is reasonably required for the effective execution of the search warrant, including -

- (a) facilitating access to electronic equipment; and
- (b) unlocking doors, cabinets, drawers and other things; and
- (c) responding to questions about the location of documents or things on the premises.

(5) A Commission investigator, a police officer or a technical officer executing the search warrant, may bring onto the premises to which the warrant relates any equipment, vehicle, animal or other material reasonably necessary to examine, detect, transport or process documents or things found in or on the premises in order to determine whether they are documents or things that may be seized under the warrant.

**80. SEARCH OF A PERSON UNDER A SEARCH WARRANT.**

(1) In searching a person under a search warrant, a Commission investigator -

- (a) may run his or her hands over the person’s outer clothing; and
- (b) may require the person to remove a coat, jacket, hat or shoes the person is wearing, and may run his or her hands over the person’s remaining outer clothing; and
- (c) may require the person to surrender an item for inspection; and
- (d) may use reasonable force to remove an item from a person if the person does not comply with a requirement to remove or surrender the item under Paragraph (c); and
- (e) may inspect an item that a person has removed or surrendered or that has been removed from a person; and
- (f) must conduct the search in a manner that affords, to the extent that the circumstances of the search warrant permit, reasonable privacy and respect for human dignity to the person being searched; and
- (g) must conduct the search as quickly as is reasonably practicable in the circumstances of the search.

(2) A search must be conducted by a person of the same sex as the person being searched unless it is not reasonable or practicable to do so in the circumstances of the search.

(3) If a person is searched, the Commission investigator executing the search warrant or a person assisting the Commission investigator must make available a copy of the warrant to the person.

**81. DUTY TO SHOW WARRANT.**

If an occupier or owner of the premises to which a search warrant relates, is present at the premises, the Commission investigator executing the search warrant, a police officer or technical officer assisting the Commission investigator, must make available a copy of the warrant to the occupier or owner.

**82. RESTORE PREMISES.**

The Commission must, within a reasonable period after the conclusion of a search of premises under a search warrant, restore the premises or cause the premises to be restored as nearly as possible to the same state of repair that existed immediately before the commencement of the search.

**83. COMMISSION MAY RETAIN DOCUMENTS AND THINGS.**

- (1) If a document or thing is seized under a search warrant, the Commission investigator -
  - (a) may take possession of and may make copies of, the document or thing or take extracts from the document; and
  - (b) may retain possession of the document or thing for such period as is necessary for the purposes of the investigation or prosecution to which the document or thing relates.

(2) While retaining the document or thing, the Commission must allow a person who is entitled to inspect the document or view the thing to do so at the times that the person would ordinarily be able to do so.

(3) If the retention of the document or thing by the Commission is not or ceases to be, reasonably necessary for the purposes of the investigation or a prosecution to which the document or thing relates, the Commission must deliver the document or thing to the person who appears to the Commission to be entitled to possess the document or thing.

(4) The Commission must make a record of all documents or things seized under a search warrant.

**84. OBSTRUCTION OF PERSON EXECUTING A SEARCH WARRANT.**

A person commits an offence if the person prevents, hinders or obstructs -

- (a) a Commission investigator executing a search warrant; or
- (b) a police officer or technical officer assisting a Commission investigator executing a search warrant.

Penalty: A fine not exceeding K10,000.00 or imprisonment for a term not exceeding two years, or both.

**85. RELATIONSHIP WITH *SEARCH ACT* 1977.**

Any information obtained or thing seized under a search warrant or an interception warrant may be used in any criminal proceeding under any Act as if the information or thing was obtained or seized under the *Search Act* 1977.

*Division 2. - Interception Warrants.*

**86. APPLICATION FOR INTERCEPTION WARRANT.**

(1) A Commission investigator may apply to the District Court for an interception warrant authorising the use of an interception device for the purposes of an investigation.

- (2) The application must -
  - (a) be supported by affidavit setting out the grounds on which the interception warrant is sought; and

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- (b) specify the nature and duration of the warrant sought, including the kind of interception device or devices to be used.

(3) If it is impracticable for the application to be made in person for reasons of urgency, the application may be made by fax, email or such other means of communication approved by the District Court.

- (4) The application may be heard -
  - (a) *ex parte*; and
  - (b) in closed court or in chambers.

**87. CONSIDERATION OF APPLICATION FOR INTERCEPTION WARRANT.**

In deciding whether to issue an interception warrant, the District Court may, having regard to the intrusive nature of using an interception device, consider the following, amongst other matters:

- (a) whether the corrupt conduct being investigated is serious corrupt conduct or systemic corrupt conduct; or
- (b) if the warrant is issued, the extent to which the privacy of the person is likely to be affected; or
- (c) the extent to which issuing the warrant would help prevent, detect, or provide evidence of the commission of corrupt conduct; or
- (d) the benefits derived from the issue of any previous interception warrants in relation to corrupt conduct; or
- (e) the extent to which a Commission investigator has used alternative means of investigation; or
- (f) the existence of any alternative means of investigation and the extent to which those means may assist or prejudice the investigation.

**88. ISSUE OF INTERCEPTION WARRANT.**

(1) The District Court may issue an interception warrant if satisfied that there are reasonable grounds for suspecting that -

- (a) the use of an interception device by the Commission is likely to assist the Commission in an investigation; and
- (b) other methods of investigation have failed or are unlikely to succeed because of the circumstances of the particular case.

(2) The Court may impose any conditions on the interception warrant that the Court considers necessary in the public interest.

- (3) The interception warrant may be issued in respect of -
  - (a) more than one kind of interception device; and
  - (b) more than one interception device of any particular kind.

(4) Subject to Section 93(1), the interception warrant remains in force until the end of the period of validity specified in the warrant, including any extension of the warrant under Section 92.

**89. CONTENTS OF AN INTERCEPTION WARRANT.**

- (1) An interception warrant must state the following:
  - (a) who is authorised to execute the warrant; and
  - (b) the purpose for which the warrant is issued; and
  - (c) the name of any person, if known, to be placed under interception; and
  - (d) where applicable, the premises where the interception device authorised under the warrant may be used; and

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- (e) the number and kind of interception devices authorised to be used under the warrant; and
- (f) where applicable, the object or class of object in relation to which the interception device authorised under the warrant may be used; and
- (g) any conditions of the warrant imposed by the District Court; and
- (h) the day and time the warrant starts and when the warrant ends.

(2) An interception warrant may be issued for a period not exceeding 90 days.

**90. AUTHORISATION BY AN INTERCEPTION WARRANT.**

- (1) An interception warrant may authorise one or more of the following:
  - (a) the use of an interception device on specified premises; or
  - (b) the use of an interception device in or on a specified object or class of object; or
  - (c) the use of an interception device in respect of the conversations, activities or location of a specified person or a person whose identity is unknown.
- (2) An interception warrant of a kind mentioned in Subsection (1)(a) authorises -
  - (a) the installation, use and maintenance of an interception device of the kind specified in the warrant on the specified premises; and
  - (b) the entry, by force if necessary, onto the premises, and onto other specified premises adjoining or providing access to the premises, for any of the purposes referred to in Paragraph (a) or Subsection (5).
- (3) An interception warrant of a kind mentioned in Subsection (1)(b) authorises -
  - (a) the installation, use and maintenance of an interception device of the kind specified in the warrant in or on the specified object or an object of the specified class; and
  - (b) the entry, by force if necessary, onto any premises where the object, or an object of the class, is reasonably believed to be or is likely to be, and onto other specified premises adjoining or providing access to those premises, for any of the purposes referred to in Paragraph (a) or Subsection (5).
- (4) An interception warrant of a kind mentioned in Subsection (1)(c) authorises -
  - (a) the installation, use and maintenance of an interception device of the kind specified in the warrant in or on premises where the person is reasonably believed to be or likely to be; and
  - (b) the entry, by force if necessary, onto the premises, or other premises adjoining or providing access to those premises, for any of the purposes referred to in Paragraph (a) or Subsection (5).
- (5) An interception warrant further authorises -
  - (a) the retrieval of the interception device; and
  - (b) the installation, use, maintenance and retrieval of enhancement equipment in relation to the interception device; and
  - (c) the disconnection of, or otherwise making inoperative, any security system for the purpose of the installation, use, maintenance or retrieval of the interception device or enhancement equipment; and
  - (d) the temporary removal of an object or vehicle from premises for the installation, maintenance or retrieval of the interception device or enhancement equipment and the return of the object or vehicle to the premises; and
  - (e) the breaking open of anything for the installation, maintenance or retrieval of the interception device or enhancement equipment; and
  - (f) the connection of the interception device or enhancement equipment to any source of

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electricity and the use of electricity from that source to operate the device or equipment;  
and

- (g) the connection of the interception device or enhancement equipment to any telecommunications system or network that may be used to transmit information in any form and the use of that telecommunications system or network in connection with the operation of the device or equipment; and
- (h) the provision of assistance or technical expertise to the Commission investigator responsible for the execution of the warrant in the installation, use, maintenance or retrieval of the interception device or enhancement equipment; and
- (i) the use of a person to translate or interpret conversations intercepted under the interception warrant.

(6) An interception warrant may authorise the doing of anything reasonably necessary to conceal anything done in relation to the installation, use, maintenance or retrieval of an interception device or enhancement equipment under the warrant.

(7) An interception warrant may authorise the interference with property of a person who is not the subject of the investigation in respect of which the warrant was issued but, if the interference would be on premises not specified in the warrant, only if the Court issuing the warrant is satisfied that it is necessary to do so in order to give effect to the warrant.

(8) A Commission officer may use an interception device under an interception warrant only in the performance of his or her functions or the exercise of his or her powers.

**91. EXTENSION AND VARIATION OF INTERCEPTION WARRANT.**

(1) At any time before the expiry of an interception warrant a Commission investigator may apply to the District Court for -

- (a) an extension of the warrant; or
- (b) a variation of any of the terms of the warrant.

(2) The application must be made to the District Court and must be accompanied by the original warrant.

(3) Section 86 applies, with any necessary changes, to an application under this section as if it were an application for an interception warrant.

**92. DISTRICT COURT MAY GRANT APPLICATION FOR EXTENSION OR VARIATION OF INTERCEPTION WARRANT.**

(1) The District Court may grant the application -

- (a) if it is satisfied that the circumstances in Section 88(1)(a) and (b) still exist; and
- (b) after considering matters under Section 87.

(2) If the Court grants the application, it must, endorse the new expiry date and term on the original interception warrant.

(3) The interception warrant may be extended for a period not exceeding 90 days.

(4) An application may be made under this section more than once.

**93. REVOCATION AND EXPIRY OF AN INTERCEPTION WARRANT.**

(1) The District Court may revoke an interception warrant on its own initiative at any time before the expiry of the period of validity specified in the warrant.

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- (2) A Commission investigator must, as soon as practicable, take the necessary steps to ensure that the use of an interception device authorised by an interception warrant is discontinued if -
- (a) the interception warrant expires; or
  - (b) the interception warrant is revoked by the District Court.

**94. RESTRICTION ABOUT RECORDS AND ACCESS TO INTERCEPTION WARRANT APPLICATIONS, ETC.**

(1) In this section, “relevant proceeding” means an application to a District Court for an interception warrant or an extension of an interception warrant.

- (2) Notwithstanding any other law, a person must not make a transcript of a relevant proceeding.
- (3) Except by direction of the District Court, a person must not -
- (a) make a record of a relevant proceeding or an interception warrant available to another person; or
  - (b) publish or otherwise disclose a notice or report of a relevant proceeding or the existence of an interception warrant.
- (4) A person commits an offence if the person contravenes Subsection (2) or Subsection (3).

Penalty: A fine not exceeding K10,000.00 or imprisonment for a term not exceeding two years, or both.

(5) A person is not entitled to search for information that is in the custody of a Court in relation to a relevant proceeding or an interception warrant, unless the District Court otherwise orders in the interests of justice.

**95. ADMISSIBILITY AND DISCLOSURE OF INFORMATION OBTAINED USING INTERCEPTION WARRANT.**

- (1) This section applies to information that was obtained using an interception warrant.
- (2) Subject to Subsection (3), the information is not admissible in evidence against a person in any civil or criminal proceedings.
- (3) The information is admissible in the following:
- (a) proceedings for an offence against this Law; or
  - (b) proceedings relating to serious corrupt conduct or systemic corrupt conduct; or
  - (c) proceedings under the *Proceeds of Crime Act 2005*.
- (4) The information is admissible in a hearing of the Commission under this Law.
- (5) This section does not render inadmissible information that was obtained independently of the use of an interception warrant.
- (6) A Commission officer who obtains information obtained using an interception device must not disclose the information to another person, except for the purposes of -
- (a) any proceedings mentioned in Subsection (3); or
  - (b) an investigation; or
  - (c) a hearing.

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(7) A Commission officer who contravenes Subsection (6) commits an offence.

Penalty: A fine not exceeding K10,000.00 or imprisonment for a term not exceeding two years, or both.

**96. KEEPING OF RECORDS.**

(1) The Commission must keep all information obtained under an interception warrant and transcripts of recordings or photographs made or taken under the warrant in a secure place.

**97. PRIVILEGED COMMUNICATIONS.**

This Division does not render information obtained under an interception warrant to be admissible as evidence if that information is subject to a claim of privilege.

**98. OBSTRUCTION OF PERSON EXECUTING AN INTERCEPTION WARRANT.**

A person commits an offence if the person prevents, hinders or obstructs a person authorised to execute an interception warrant from executing the warrant.

Penalty: A fine not exceeding K10,000.00 or imprisonment for a term not exceeding two years, or both.

**PART VII. - ARRESTS AND PROSECUTIONS.**

**99. ARRESTS.**

(1) This section applies to an indictable offence relating to "corrupt conduct".

(2) A Commission investigator has the same duties and powers under the *Arrest Act 1977* in relation to an indictable offence as a police officer would have under that Act in relation to the indictable offence, other than the powers under Part II (*Circumstances justifying arrest without warrant*) of that Act.

(3) A Commission investigator also has the same duties and powers under the *Arrest Act 1977* in relation to an indictable offence as a member of the public would have under that Act in relation to the indictable offence.

(4) A Commission investigator has the same duties and powers under the *Bail Act 1977* in relation to an indictable offence as a police officer would have under that Act in relation to the offence, but the Commission is not a bail authority within the meaning of that Act.

(5) A Commission prosecutor has the same duties and powers under the *District Courts Act 1963* in relation to an indictable offence as a police officer would have under that Act in relation to the indictable offence.

**100. COMMENCEMENT AND CONDUCT OF COMMITTAL PROCEEDINGS FOR CERTAIN OFFENCES.**

The Commission may commence committal proceedings for indictable offences relating to corrupt conduct.

**101. OBTAINING CONSENT OF PUBLIC PROSECUTOR TO PROSECUTE CERTAIN OFFENCES.**

(1) The Commission prosecutor may prosecute the trial of an indictable offence relating to corrupt conduct with the written consent of the Public Prosecutor and in accordance with law.



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- (2) The Commission may request the consent of the Public Prosecutor to prosecute -
  - (a) a particular indictable offence relating to corrupt conduct; or
  - (b) a class of indictable offences relating to corrupt conduct.
- (3) The request for consent must be in writing.
- (4) The Public Prosecutor must, within 60 days after receiving the Commission's request, notify the Commission in writing of his or her decision to consent to the prosecution or refuse consent.
- (5) If the Public Prosecutor refuses to consent to the prosecution, the Public Prosecutor must include in the notice under Subsection (4) the reasons for the refusal, indicating whether the Public Prosecutor -
  - (a) considers that there is no reasonable prospect of a conviction; or
  - (b) considers that the prosecution is not in the public interest; or
  - (c) intends to conduct the prosecution.
- (6) If within 60 days after receiving the Commission's request to prosecute an indictable offence relating to corrupt conduct, the Public Prosecutor has not responded in writing to the request, the Public Prosecutor is deemed to have consented to the prosecution by the Commission.

### **102. APPEALS AND OTHER PROCEEDINGS.**

If the Public Prosecutor consents or is deemed to have consented to the prosecution of the trial of an indictable offence relating to corrupt conduct, the Commission may conduct any other proceeding arising out of or relating to the prosecution, including any appeal.

## **PART VIII. - PROTECTING PEOPLE WHO ASSIST THE COMMISSION.**

### **103. DIRECTIONS TO PROTECT WITNESSES DURING COMMISSION HEARINGS.**

Where the Commission considers that a witness may be intimidated, distressed or fear for the witnesses's safety or that of another person at a hearing, the Commission may direct that one or more of the following special measures be used at the hearing:

- (a) the use of a screen or other arrangement to prevent the witness from seeing other persons in the hearing room;
- (b) the presence of a support person chosen by the witness to be seated with the witness when he or she is giving evidence;
- (c) planned seating arrangements for people who have an interest in the hearing, including the level at which they are seated and the people in the line of vision of the witness;
- (d) the relocation of the hearing or any part of the hearing to other premises;
- (e) the exclusion of persons from the hearing room while the witness is giving evidence;
- (f) permitting the evidence to be given from a place other than the hearing room by means of closed-circuit television or other facilities that enable communication between that place and the hearing room.

### **104. PROTECTION OF WITNESSES.**

(1) In this section, "good faith" means that a person is acting on an honest belief held on reasonable grounds that the information was true at the time the information was given to the Commission.

(2) A person is not liable to any civil or criminal action, including disciplinary proceedings, for giving information in good faith to the Commission.

(3) Subsection (2) applies to a person despite the person being subject to a confidentiality

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provision or a duty of confidentiality, or any other prohibition or restriction on disclosure under any other law of Papua New Guinea.

### **105. COMPENSATION.**

(1) This section applies if the National Court is satisfied, on the application of a person, that another person has retaliated or threatened to retaliate, or is retaliating or threatening to retaliate, against the applicant.

(2) The Court may make an order requiring the person against whom an application is made to compensate the applicant for any loss, damage or injury suffered as a result of the retaliation or threat.

### **106. REINSTATEMENT, ETC.**

- (1) This section applies where the National Court is satisfied, on the application of a person that -
- (a) another person has retaliated, or is retaliating, against the applicant; and
  - (b) the retaliation wholly or partly consists, or consisted, of that other person -
    - (i) terminating, or purporting to terminate, the applicant's employment; or
    - (ii) causing other occupational detriment to the applicant.

(2) The Court may make an order that the applicant be reinstated to their position or a position at a comparable level, or that other action be taken to address the other occupational detriment suffered by the applicant.

### **107. INJUNCTIONS AND OTHER ORDERS.**

(1) This section applies where the National Court is satisfied, on the application of a person, that another person has retaliated or threatened to retaliate, or is retaliating or threatening to retaliate, against the applicant.

(2) The Court may make the following orders:

- (a) an order granting an injunction requiring the person to do anything necessary to prevent or cease the retaliation;
- (b) any other order the Court considers appropriate.

(3) The Court may make any other orders that the Court considers appropriate against any other person who -

- (a) aids, abets, counsels, leads or procures the conduct against the applicant; or
- (b) induces the conduct against the applicant, whether through threats or promises or otherwise; or
- (c) knowingly is a party to the conduct against the applicant; or
- (d) conspires with others to effect the conduct against the applicant.

### **108. OFFENCE OF RETALIATION.**

(1) A person commits an offence if the person retaliates, or threatens to retaliate, against another person.

Penalty: A fine not exceeding K10,000.00 or imprisonment for a term not exceeding two years, or both.

- (2) For the purpose of Subsection (1), a threat may be -
- (a) expressed or implied; or
  - (b) conditional or unconditional.

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(3) In a prosecution for an offence under Subsection (1), it is not necessary to prove that the person who was threatened actually feared that the threat would be carried out.

### **109. PHYSICAL PROTECTION OF PERSONS ASSISTING THE COMMISSION.**

(1) Where it appears to the Commission that, because a person is assisting the Commission, the safety of the person or any other person may be prejudiced or the person or any other person may be subject to intimidation or harassment, the Commission may make necessary arrangements -

- (a) to protect the safety of the person; or
- (b) to protect the person from intimidation or harassment.

(2) Where it appears to the Commission that, because of the performance by a Commission officer or a consultant of his or her functions or the exercise of his or her powers, the safety of the Commission officer, the consultant or any other person may be prejudiced, or the officer, consultant or any other person may be subject to intimidation or harassment, the Commission may make necessary arrangements -

- (a) to protect the safety of the Commission officer, the consultant or other person; or
- (b) to protect the Commission officer, the consultant or other person from intimidation or harassment.

(3) The Commissioner may request the Commissioner of Police or another public body or public official -

- (a) to provide any protection referred to in Subsection (1) or (2); or
- (b) to provide personnel or facilities or both to assist in providing that protection; or
- (c) to otherwise assist in the provision of that protection.

### **110. PREVENTING, ETC., PERSON FROM ASSISTING THE COMMISSION.**

A person commits an offence if the person prevents a person from assisting the Commission.

Penalty: A fine not exceeding K10,000.00 or imprisonment for a term not exceeding two years, or both.

## **PART IX. - REPORTING AND FINANCES.**

### **111. ANNUAL REPORT.**

The annual report of the Commission required under Section 220H of the *Constitution* must include the following:

- (a) statistics regarding -
  - (i) complaints of alleged or suspected corrupt conduct received by the Commission during the year; and
  - (ii) matters referred to the Commission by other agencies and bodies during the year; and
  - (iii) matters referred by the Commission to other agencies and bodies during the year; and
- (b) the agencies and bodies to which complaints or matters referred to relate and the types of corrupt conduct to which the complaints or matters relate; and
- (c) statistics regarding -
  - (i) the investigations undertaken by the Commission, including investigations undertaken on its own initiative; and
  - (ii) the prosecutions of indictable offences undertaken by the Commission and the Public Prosecutor following investigations by the Commission; and
- (d) statistics regarding the search warrants and interception warrants issued; and

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- (e) a description of any patterns or trends of corrupt conduct identified by the Commission; and
- (f) any recommendations for changes in the laws of Papua New Guinea, or for changes to policies or administrative action, that the Commission considers should be made; and
- (g) a description of the Commission's significant activities during that year in relation to its function of preventing and reducing corrupt conduct; and
- (h) statistics regarding court proceedings involving the Commission; and
- (i) a list of the Commission's reports and other publications; and
- (j) the details of the Commission's organisational structure; and
- (k) statistics regarding the staff of the Service and consultants (without identifying individuals) and their remuneration levels; and
- (l) the financial statements of the Commission; and
- (m) such other matters relating to its functions as the Commission determines to be in the public interest.

### **112. SUPPLEMENT REPORT TO THE ANNUAL REPORT.**

(1) The Commission must produce a supplement report to the annual report written in plain English and Tok Pisin.

(2) The supplement report must summarise the annual report to be suitable for use by educational institutions and in raising community awareness.

### **113. APPLICATION OF THE *AUDIT ACT 1989*.**

The Commission is a public body within the meaning of the *Audit Act 1989* and is subject to that Act.

### **114. APPLICATION OF OTHER ACTS.**

The followings Acts apply to and in relation to the Commission:

- (a) the *National Procurement Act 2018*; and
- (b) the *Public Money Management Regulation Act 2017*; and
- (c) the *Public Finances (Management) Act 1995*.

## **PART X. - INDEPENDENT COMMISSION AGAINST CORRUPTION STAFF SERVICE.**

### **115. ESTABLISHMENT OF INDEPENDENT COMMISSION AGAINST CORRUPTION STAFF SERVICE.**

(1) The Independent Commission Against Corruption Staff Service is established.

(2) The staff of the Commission constitute the Service of the Commission.

### **116. CONTROL OF THE SERVICE.**

The Service is subject to the control and direction of the Commission.

### **117. FUNCTIONS OF THE SERVICE.**

The functions of the Service are to provide staff and services to enable the Commission to operate efficiently and effectively.

### **118. ENGAGEMENT OF STAFF OF THE SERVICE.**

(1) After consultation with the department responsible for personnel management, the Commission may engage staff of the Service under written agreements and on terms and conditions as the Commission determines.

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(2) If a staff member appointed under this section was, immediately before his or her appointment, an officer of the National Public Service, his or her service to the Commission is taken to be service in the National Public Service for the purpose of determining his or her rights in respect of -

- (a) absence or leave on the ground of illness; and
- (b) furlough or pay in lieu of furlough including pay to dependants or personal representatives on the death of the officer.

**119. REGULATIONS FOR THE STAFF SERVICE.**

The Regulations may -

- (a) make provisions in relation to the Service of the Commission; and
- (b) prescribe the terms and conditions of employment of staff; and
- (c) make provision for the establishment of a superannuation scheme to provide benefits for staff of the Commission on retirement, resignation, retrenchment or death.

**120. OUTSIDE EMPLOYMENT PROHIBITED.**

A member of the staff of the Service shall not directly or indirectly engage in any paid employment outside the duties of his or her office or position in the Service.

**121. ENGAGEMENT OF CONSULTANTS.**

(1) The Commission may engage a person with suitable qualifications and experience as a consultant to the Commission.

(2) The Commission may engage a consultant under agreement in writing on such terms and conditions as specified in the agreement.

(3) The Commission may engage non-citizens as consultants.

**122. SECONDMENTS.**

(1) The Commission may be assisted in the performance of its functions by members of another State Service seconded to the Service.

(2) The Commission may allow a staff of the Service to be engaged on secondment to a State Service to assist the State Service in the performance of the State Service's functions.

**123. ENGAGEMENT OF NON-CITIZENS.**

(1) The Commission may engage non-citizens as staff of the Service, including as Commission investigators and Commission prosecutors, in accordance with law and on such terms and conditions as the Commission determines.

(2) The Commission is not subject to the *Public Employment (Non-Citizens) Act 1978* but is subject to the *Employment of Non-Citizens Act 2008*.

**124. TEMPORARY AND CASUAL EMPLOYEES.**

(1) The Commission may appoint such temporary and casual employees as the Commission thinks necessary for the purpose of this Law.

(2) Employees appointed under Subsection (1) shall be employed on such terms and conditions as the Commission determines.

**125. CODE OF CONDUCT.**

(1) The Commission must determine a Code of Conduct for all Commission officers.

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(2) The Commission must publish the Code of Conduct in the National Gazette and ensure that all Commission officers are aware of the Code.

### **126. SERVICE GUIDELINES.**

(1) The Commission may make guidelines, not inconsistent with this Law, for any matter that is necessary or desirable for the efficient management and control of the Service.

(2) The Service Guidelines must be published in the National Gazette by the Commission.

### **127. DUTY TO REPORT CORRUPT CONDUCT.**

(1) Members of the Commission must immediately report any suspected corrupt conduct of a Commission officer to the Commissioner in accordance with the Code of Conduct.

(2) A Commission officer other than a member of the Commission must, as soon as practicable, report any suspected corrupt conduct by -

- (a) the Commissioner to the Appointments Committee; and
- (b) a Deputy Commissioner to the Commissioner; and
- (c) any other Commission officer to the Commissioner.

### **128. CONSULTATION WITH THE PUBLIC SERVICES COMMISSION.**

The Commission must consult with the Public Services Commission about -

- (a) the Code of Conduct; and
- (b) the Service Guidelines; and
- (c) the terms and conditions of engagement of staff of the Service.

### **129. DELEGATION.**

(1) The Commission may delegate to a Commission officer any or all of its functions and powers other than this power of delegation.

(2) A delegation -

- (a) must be made by instrument in writing; and
- (b) may be absolute or conditional; and
- (c) does not derogate from the power of the delegator to act in a matter; and
- (d) is revocable at will; and
- (e) may be made to a Commission officer or a class of Commission officers.

### **130. COMMISSION INVESTIGATORS.**

(1) Where the Commission is satisfied that a person has suitable qualifications or experience, the Commission may in writing authorise the person to be a Commission investigator.

(2) Section 76(a) of the *Firearms Act 1978* applies to a Commission investigator when performing functions or exercising powers as a Commission investigator as if he or she were a person referred to in that section.

### **131. IDENTIFICATION CARDS FOR COMMISSION INVESTIGATORS.**

(1) The Commission must issue an identity card to a Commission investigator showing a recent photograph of the investigator, his or her name and the fact that he or she is a Commission investigator.

(2) A Commission investigator must carry his or her identity card at all times when performing functions or exercising powers as a Commission investigator.

### **132. COMMISSION PROSECUTORS.**

(1) Where the Commission is satisfied that a legal practitioner has suitable qualifications or

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experience, the Commission may in writing authorise the legal practitioner to be a Commission prosecutor.

(2) This *Organic Law* does not affect the provisions of the *Criminal Code Act 1974* that require that certain powers and functions must only be exercised by State Prosecutors.

**PART XI. - APPOINTMENTS COMMITTEE.**

**133. APPOINTMENTS COMMITTEE.**

- (1) The Appointments Committee consists of -
- (a) the Prime Minister; and
  - (b) the Leader of the Opposition; and
  - (c) the Chief Justice; and
  - (d) the Chairman of the Public Services Commission; and
  - (e) the Chairperson of the Papua New Guinea Council of Churches.

(2) All members of the Appointments Committee are to be paid fees and allowances determined under the *Boards (Fees and Allowances) Act 1955*.

(3) The Prime Minister is the Chairperson of the Appointments Committee.

**134. FUNCTIONS AND POWERS OF THE APPOINTMENTS COMMITTEE.**

- (1) The functions of the Appointments Committee are -
- (a) to advise the Head of State in relation to the appointment of -
    - (i) the Commissioner and the two Deputy Commissioners; and
    - (ii) an acting Commissioner and acting Deputy Commissioners; and
  - (b) other functions as are conferred on the Committee by this and any other *Organic Law*.

(2) The Appointments Committee has such powers as are conferred on it by this and any other *Organic Law*.

**135. MEETINGS OF THE APPOINTMENTS COMMITTEE.**

(1) The Chairperson of the Appointments Committee is to convene such meetings of the Committee as the Chairperson considers appropriate.

(2) Where a vacancy arises in the membership of the Commission, the Chairperson must convene a meeting as soon as practicable.

(3) The Chairperson of the Appointments Committee presides at all meetings and where the Chairperson is not present at a meeting, the Chairperson may appoint another member of the Committee to preside.

**136. APPOINTMENTS COMMITTEE TO DETERMINE OWN MEETING PROCEDURES.**

Subject to this Part, the Appointments Committee may determine its own meeting procedures.

**137. MEETING BY TELEPHONE, ELECTRONIC COMMUNICATION, ETC.**

(1) In addition to meeting in person, the members of the Appointments Committee may participate in a meeting by telephone or any electronic means of communication.

(2) A member who participates in a meeting by any of the means referred to in Subsection (1) is deemed to be present at the meeting and to form part of the quorum for the meeting.

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(3) A meeting relying on a means of participation referred to in Subsection (1) may be held at two or more places at the same time.

**138. DECISIONS OF MEETING TO BE RECORDED.**

(1) A decision of the Appointments Committee must be recorded in writing, unless the decision is made by written agreement.

(2) A decision of the Appointments Committee, whether recorded in writing or made by written agreement, must include the information used by the Committee to make the decision and the reasons for the decision.

**139. QUORUM.**

(1) Subject to Section 15(2), the quorum for a meeting of the Appointments Committee is three members and the quorum must be present at all times during the meeting.

(2) A question arising at a meeting of the Committee is to be determined by a majority of votes of the members present.

(3) The person presiding at a meeting of the Committee has -  
(a) a deliberative vote; and  
(b) where necessary, a casting vote.

**PART XII. - OVERSIGHT COMMITTEE.**

**140. MEMBERSHIP OF THE OVERSIGHT COMMITTEE.**

(1) The Oversight Committee consists of five members.

(2) The Appointments Committee shall appoint the members of the Oversight Committee after consultation with the Commission.

**141. TERM OF APPOINTMENT OF MEMBERS.**

(1) A member of the Oversight Committee shall be appointed for a period not exceeding three years and on such terms and conditions specified in the instrument of appointment.

(2) A member of the Oversight Committee is eligible for re-appointment.

**142. CRITERIA FOR APPOINTMENT OF MEMBERS.**

(1) A person is not eligible for appointment to the Oversight Committee if he or she -  
(a) is, or has been, a member of the National Parliament or a Provincial Assembly; or  
(b) is a public official.

(2) The Appointments Committee must consider the following criteria when appointing a person to be a member of the Oversight Committee:

(a) the person must be of high integrity, independence of mind and good reputation; and  
(b) the person must hold qualifications and have demonstrated experience, whether practical or academic, of at least five years in fields that are relevant to the functions of an anti-corruption agency, an integrity agency or a law enforcement agency; and  
(c) the person must not be insolvent or an undischarged bankrupt.

(3) In appointing members of the Oversight Committee, the Appointments Committee may regard the benefit of having -

(a) members from within and outside Papua New Guinea; and  
(b) members who can bring a diverse range of expertise to the Oversight Committee.



**143. CHAIRPERSON OF THE OVERSIGHT COMMITTEE.**

The Appointments Committee is to appoint a member of the Oversight Committee as the Chairperson of the Oversight Committee.

**144. FUNCTIONS AND POWERS OF THE OVERSIGHT COMMITTEE.**

(1) The functions of the Oversight Committee are set out in Section 220G of the *Constitution* and the Commission is to cooperate with the Oversight Committee in the performance of the Committee's functions.

- (2) In exercising its functions, the Oversight Committee may -
- (a) review and make recommendations on the operations, functions and powers of the Commission; and
  - (b) review the staffing, financial and other resourcing requirements of the Commission and make recommendations that it considers necessary to address any resourcing needs; and
  - (c) review the Commission's annual report.

(3) In performing its functions and exercising its powers, the Oversight Committee cannot examine, review or report on -

- (a) the alleged or suspected corrupt conduct of a particular person, or a particular agency or body; or
- (b) the action taken by the Commission relating to the alleged or suspected corrupt conduct of a particular person, or a particular agency or body.

**145. MEETINGS OF THE OVERSIGHT COMMITTEE.**

(1) The Oversight Committee must meet quarterly in a year.

(2) The Chairperson of the Oversight Committee presides at all meetings and where the Chairperson is not present at a meeting, the Chairperson may appoint another member of the Committee to preside.

**146. CHAIRPERSON MAY CONVENE MEETINGS.**

The Chairperson of the Oversight Committee may convene such other meetings as he considers necessary.

**147. OVERSIGHT COMMITTEE TO DETERMINE OWN MEETING PROCEDURES.**

Subject to this Part, the Oversight Committee may determine its own meeting procedures.

**148. MEETING BY TELEPHONE, ELECTRONIC COMMUNICATION, ETC.**

(1) In addition to meeting in person, the members of the Oversight Committee may participate in a meeting by telephone or any electronic means of communication.

(2) A member who participates in a meeting by any of the means referred to in Subsection (1) is deemed to be present at the meeting and to form part of the quorum for the meeting.

(3) A meeting relying on a means of participation referred to in Subsection (1) may be held at two or more places at the same time.

**149. DECISIONS TO BE RECORDED.**

A decision of the Oversight Committee must be recorded in writing, unless the decision is made by written agreement.

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**150. QUORUM.**

A quorum for a meeting of the Oversight Committee is three members of the Committee.

**151. REPORT OF THE OVERSIGHT COMMITTEE.**

(1) The Oversight Committee must prepare an annual report for each year on the performance of its functions and the exercise of its powers.

(2) The Oversight Committee must provide a copy of its annual report to the Speaker of Parliament within three months after the Committee receives the Commission's annual report.

(3) The Speaker of Parliament must present the Oversight Committee's annual report to the Parliament at the next meeting of the Parliament following the receipt of the report.

**152. PUBLICATION OF ANNUAL REPORT.**

(1) The Oversight Committee must publish the annual report as soon as practicable after the Speaker of the Parliament presents the annual report to the Parliament.

(2) Nothing in this Law prevents the Oversight Committee from preparing and publishing other reports.

**153. FEES AND ALLOWANCES.**

A member of the Oversight Committee shall be paid the fees and allowances determined under the *Boards (Fees and Allowances) Act 1955*.

**PART XIII. - OFFENCES.**

**154. CONFIDENTIALITY.**

(1) This section applies to information obtained by a Commission officer or a consultant in the performance of functions or the exercise of powers under or for the purposes of, this Law.

(2) The Commission officer or consultant commits an offence if -

(a) the officer or consultant directly or indirectly makes a record of the information or discloses the information; and

(b) the record or disclosure was not made in the performance of the officer's or consultant's functions or the exercise of the officer's or consultant's powers under, or for the purposes of, this Law.

Penalty: A fine not exceeding K20,000.00 or imprisonment for a term not exceeding five years, or both.

(3) Any person to whom the information is lawfully disclosed by a Commission officer or consultant under Subsection (1) commits an offence if -

(a) the person directly or indirectly makes a record of the information or discloses the information; and

(b) the record or disclosure was not made in the performance of the person's official duties.

Penalty: A fine not exceeding K20,000.00 or imprisonment for a term not exceeding five years, or both.

**155. IMPERSONATION OF COMMISSION OFFICER.**

A person commits an offence if the person falsely represents, by words or conduct, that the person is a Commission officer.

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Penalty: A fine not exceeding K15,000.00 or imprisonment for a term not exceeding three years, or both.

**156. ABUSE OF COMMISSION OFFICER.**

(1) A Commission officer commits an offence if the officer requests for, receives or obtains or agrees to receive or obtain, property or a benefit of any kind for himself or someone else from a person with the intent of the officer -

- (a) neglecting the performance of his or her functions or the exercise of his or her powers; or
- (b) being influenced in the performance of his or her functions or the exercise of his or her powers.

Penalty: Imprisonment for a term not exceeding 14 years.

(2) A Commission officer commits an offence if the Commission officer uses or takes advantage of his or her position to improperly gain benefit or gain advantage for himself or someone else.

Penalty: Imprisonment for a term not exceeding 14 years.

**157. BRIBERY OF COMMISSION OFFICER.**

A person commits an offence if the person gives to or procures for a Commission officer or someone else property or a benefit of any kind, or promises or offers to do so, with the intent of -

- (a) the officer neglecting the performance of his or her functions or the exercise of his or her powers; or
- (b) influencing the officer in the performance of his or her functions or the exercise of his or her powers.

Penalty: Imprisonment for a term not exceeding seven years.

**158. OBSTRUCTION OF COMMISSION OR COMMISSION OFFICER.**

(1) A person commits an offence if the person disrupts a hearing.

Penalty: A fine not exceeding K5,000.00 or imprisonment for a term not exceeding 12 months, or both.

(2) A person commits an offence if the person obstructs the Commission or a Commission officer performing functions or exercising powers under this Law.

Penalty: Fine not exceeding K10,000.00 or imprisonment for a term not exceeding two years, or both.

(3) A person commits an offence if the person fails to comply with any lawful requirement of the Commission or a Commission officer.

Penalty: A fine not exceeding K10,000.00 or imprisonment for a term not exceeding two years, or both.

(4) A person commits an offence if the person alters, destroys, conceals or fabricates a document or thing knowing that it is or is likely to be required by the Commission or a Commission officer.

Penalty: A fine not exceeding K15,000.00 or imprisonment for a term not exceeding three years, or both.

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**159. FALSE OR MISLEADING EVIDENCE OR STATEMENTS.**

A person commits an offence if the person gives evidence at a hearing or states anything to the Commission or a Commission officer that is false or misleading in a material particular.

Penalty: A fine not exceeding K15,000.00 or imprisonment for a term not exceeding three years, or both.

**160. FALSE OR MISLEADING DOCUMENTS.**

(1) A person commits an offence if the person knows a document is false or misleading in a material particular and the person -

- (a) produces the document at a hearing; or
- (b) gives the Commission or a Commission officer the document.

Penalty: A fine not exceeding K15,000.00 or imprisonment for a term not exceeding three years, or both.

(2) Subsection (1) does not apply if the person, on producing or giving the document -

- (a) tells the Commission or a Commission officer, to the best of the person's ability, how the document is false or misleading; and
- (b) if the person has or can reasonably obtain, the correct information, gives the correct information to the Commission or Commission officer.

**161. BRIBERY OF WITNESS.**

(1) A person commits an offence if the person gives to or procures for, another person property or a benefit of any kind, or promises or offers to do so, with an intent of that person or any other person doing any or all of the following:

- (a) withholding information or evidence, or a document or other thing, from the Commission; or
- (b) discontinuing to provide information or give evidence, or produce documents or other things, to the Commission; or
- (c) providing false or misleading information or giving false or misleading evidence, or producing false or misleading documents or other things, to the Commission.

Penalty: Imprisonment for a term not exceeding seven years.

(2) A person commits an offence if he asks for, receives or obtains, or agrees to receive or obtain, property or a benefit of any kind for himself or for any other person, with an intent of doing any or all of the following:

- (a) withholding information or evidence, or a document or other thing, from the Commission; or
- (b) discontinuing to provide information or give evidence, or produce documents or other things, to the Commission; or
- (c) providing false or misleading information or giving false or misleading evidence, or producing false or misleading documents or other things, to the Commission.

Penalty: Imprisonment for a term not exceeding seven years.

**162. PROSECUTION OF OFFENCES.**

Matters going to court under this Law shall be dealt with before a Principal Magistrate of the District Court.

**PART XIV. - MISCELLANEOUS.**

**163. DISPOSAL OF PROPERTY.**

- (1) This section applies to property if -
  - (a) the property is lawfully in the custody of the Commission in connection with an investigation; and
  - (b) the property is not required for the purposes of an investigation or a criminal prosecution or disciplinary proceeding; and
  - (c) the person lawfully entitled to the property cannot be located or identified.
- (2) A court may, on application by the Commission, make an order that the property be forfeited to the State if the court is satisfied that no person is lawfully entitled to the property or a person is entitled but cannot be located or identified.
- (3) Property ordered to be forfeited to the State -
  - (a) if money, is to be paid into the Consolidated Revenue Fund; or
  - (b) in any other case, may be sold by or on behalf of the Commission at public auction and the proceeds of sale, paid into the Consolidated Revenue Fund.
- (4) If the property is not money or is not fit or suitable for sale, or fails to sell at public auction, it is to be disposed of in accordance with the directions of the Commission.

**164. PRIVILEGES AND IMMUNITIES.**

- (1) A member of the Commission has the same privileges, protections and immunities as a Judge of the National Court.
- (2) A witness at a hearing and a person summoned to attend as a witness or to produce a document or thing to the Commission have the same protections and immunities as a witness in proceedings before the National Court.
- (3) A legal practitioner assisting the Commission or representing a person before the Commission has the same protections and immunities as a legal practitioner has in attending for a party in proceedings before the National Court.

**165. PROTECTION FROM LIABILITY.**

- (1) A Commission officer is not subject to any civil or criminal liability, action, claim or demand for anything done or omitted to be done in good faith under or for the purposes of this Law or any other law.
- (2) A Commission officer is not to be called to give evidence in any court or in any proceedings of a judicial nature in respect of anything coming to his or her knowledge in performing functions or exercising powers under or for the purposes of this Law.

**166. GRANT OF IMMUNITY FROM PROSECUTION.**

- (1) If -
  - (a) the Commission is prosecuting a person for an indictable offence; and
  - (b) in the opinion of the Commission, after consultation with the Public Prosecutor, it is necessary in the interests of justice to do so,the Commission may grant to the person an immunity from prosecution, either absolute or conditional, in relation to an offence with which the person could otherwise be charged.
- (2) If the grant of the immunity to a person is absolute, the person is not to be charged before any court with that offence.

## *Organic Law on the Independent Commission Against Corruption*

(3) If the grant of the immunity to a person is conditional, the person is not to be charged before any court with that offence unless the Commission has first certified in writing that the person has breached the conditions of the grant of immunity.

(4) This section does not prevent a person who has been granted immunity from prosecution being charged with any other offence against a law of Papua New Guinea.

### **167. SERVICE.**

A notice, summons or other document required or authorised to be given to or served on a person under this Law may -

- (a) be given to the person personally; or
- (b) be left for the person at the person's place of residence or business with someone over the age of 16 years; or
- (c) be posted to the person at the person's last known place of residence or business; or
- (d) be transmitted by fax or email to a fax number or email address provided by the person, in which case, the notice or other document will be taken to have been given or served at the time of transmission; or
- (e) if the person is a company within the meaning of the *Companies Act 1997*, be served in accordance with that Act.

### **168. GUIDELINES.**

The Commission may issue guidelines for the purposes of effective implementation of this Law.

### **169. REGULATIONS.**

The Head of State, acting on advice, and in accordance with, the advice of the National Executive Council, may make regulations, not inconsistent with this Law, prescribing all matters that by this Law are required or permitted to be prescribed for carrying out or giving effect to this Law.

## **SCHEDULE. - OATH OR AFFIRMATION OF OFFICE.**

Sec.32

Form 1.

### **OATH.**

"I, \_\_\_\_\_, a member of the Independent Commission Against Corruption, do swear that I will, at all times, well and truly serve the Independent State of Papua New Guinea and its People, and properly exercise the functions and powers conferred on me under the *Constitution* and the *Organic Law on the Independent Commission Against Corruption* without fear or favour, affection or ill-will, in accordance with the laws of the Independent State of Papua New Guinea.  
So help me God!"

**AFFIRMATION.**

“I, \_\_\_\_\_, a member of the Independent Commission Against Corruption, do solemnly and sincerely promise and declare that I will, at all times, well and truly serve the Independent State of Papua New Guinea and its People, and properly exercise the functions and powers conferred on me under the *Constitution* and the *Organic Law on the Independent Commission Against Corruption* without fear or favour, affection or ill-will, in accordance with the laws of the Independent State of Papua New Guinea.”.

I hereby certify that the above is a fair print of the *Organic Law on the Independent Commission Against Corruption*, which has been made by the National Parliament.

  
Clerk of the National Parliament.

14 JAN 2021

*Constitution.*

**CERTIFICATE UNDER SECTION 14.**

I, **KONI IGUAN**, Acting 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 *Organic Law on the Independent Commission Against Corruption*, and that the law was made by the National Parliament as follows:

- (a) the first vote was taken on 3 June 2020 when the number of seats in the National Parliament were 111 and those voting for the proposal were 98 and none voted against the proposal; and
- (b) the second vote was taken on 12 November 2020 when the number of seats in the National Parliament were 111 and those voting for the proposal were 92 and none voted against the proposal.

  
Acting Speaker of the National Parliament.

14 JAN 2021