

Constitutional Amendment (No. 40) (Independent Commission Against Corruption) Law 2014.

Certified on: **30 MAY 2014**



No. of 2014.

Constitutional Amendment (No. 40) (Independent Commission Against Corruption) Law 2014.

ARRANGEMENT OF SECTIONS.

1. New Division VIII.3 of the *Constitution*.

“Division 3. - The Independent Commission Against Corruption.”

- “220A. INTERPRETATION.”
 - “Appointments Committee”
 - “Commission”
 - “corrupt conduct”
 - “member”
 - “Oversight Committee”.
- “220B. THE INDEPENDENT COMMISSION AGAINST CORRUPTION.”
- “220C. PURPOSES OF THE COMMISSION.”
- “220D. FUNCTIONS OF THE COMMISSION.”
- “220E. POWERS OF THE COMMISSION.”
- “220F. INDEPENDENCE OF THE COMMISSION.”
- “220G. OVERSIGHT OF THE COMMITTEE.”
- “220H. REPORTS BY THE COMMISSION.”

2. Amendments to Section 177 of the *Constitution*.



Constitutional Amendment (No. 40) (Independent Commission Against Corruption) Law 2014,

Being a law to alter the *Constitution* by making provision for the establishment of an 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 Minister.

1. NEW DIVISION VIII.3 OF THE CONSTITUTION.

Part VIII of the *Constitution* is amended by adding, after Division 2, the following new division:

“Division 3. - The Independent Commission Against Corruption.

220A. INTERPRETATION.

For the purposes of this Division, unless the contrary intention appears -

“Appointments Committee” means the Appointments Committee established under Section 220B(2);

“Commission” means the Independent Commission Against Corruption established under Section 220B(1);

“corrupt conduct” means any conduct, act or omission defined in an Organic Law as a corrupt conduct;

“member” means a member of the Commission;

“Oversight Committee” means the Committee prescribed under Section 220G.

220B. THE INDEPENDENT COMMISSION AGAINST CORRUPTION.

(1) There shall be an Independent Commission Against Corruption consisting of a Commissioner and two Deputy Commissioners.

(2) There shall be an Independent Commission Against Corruption Appointments Committee.

(3) The members of the Commission shall be appointed by the Head of State, acting on, and in accordance with, the advice of the Appointments Committee.

(4) An Organic Law shall make further provision for -

(a) the composition of the Appointments Committee; and

(b) members of the Appointments Committee (including but not limited to qualifications, selection process, terms and conditions, length of appointment, cessation of appointment and termination of appointment); and

(c) the functions and powers of the Appointments Committee; and

(d) the operations and procedures of the Appointments Committee; and

Constitutional Amendment

- (e) any other matters concerning or relating to the Appointments Committee.
- (5) An Organic Law shall make further provision for -
 - (a) the qualifications, terms and conditions, length of appointment, cessation of appointment and termination of appointment of the members of the Commission; and
 - (b) any other matters concerning or relating to the Commission.

220C. PURPOSES OF THE COMMISSION.

The purposes of the Commission are to contribute, in cooperation with other agencies, to preventing, reducing and combating corrupt conduct.

220D. FUNCTIONS OF THE COMMISSION.

Subject to any Organic Law made for the purposes of Section 220E, the functions of the Commission are -

- (a) to receive and consider complaints regarding alleged or suspected corrupt conduct and investigate such of those complaints as it considers appropriate; and
- (b) to investigate, on its own initiative or on complaints received, alleged or suspected corrupt conduct; and
- (c) to exchange information regarding alleged or suspected corrupt conduct and cooperate with other law enforcement, integrity and regulatory agencies, both within Papua New Guinea and internationally; and
- (d) to refer complaints regarding alleged or suspected corrupt conduct to other agencies for investigation; and
- (e) to accept the referral from other agencies of matters regarding alleged or suspected corrupt conduct for investigation; and
- (f) where the Commission, after conducting an investigation, is of the opinion that a person has committed an offence involving corrupt conduct, to refer the matter to the Public Prosecutor or the Police Force together with a statement of reasons for its opinion; and
- (g) to exercise such prosecution powers concerning or relating to corrupt conduct as may be prescribed by or under an Organic Law; and
- (h) to encourage, cooperate and coordinate with other public and private sector agencies in -
 - (i) research regarding corrupt conduct and anti-corruption strategies, policies, practices and procedures; and
 - (ii) the development, implementation and review of anti-corruption strategies, policies, practices and procedures; and
 - (iii) training, education and awareness regarding corrupt conduct and anti-corruption strategies, policies, practices and procedures.

220E. POWERS ETC., OF THE COMMISSION.

(1) An Organic Law shall make further provision for the functions, structure, powers, procedures, operations, protections and immunities of the Commission and its staff.

Constitutional Amendment

- (2) Without limiting the scope of Subsection (1), an Organic Law may -
- (a) make provision for the Commission to have access to all available relevant information to carry out its functions; and
 - (b) impose reasonable restrictions on the availability of information held by the Commission; and
 - (c) make provision to ensure the secrecy or confidentiality of secret or confidential information made available to the Commission; and
 - (d) make provision for the bodies with which the Commission may share secret or confidential information; and
 - (e) make provision for and in respect of publicity for the proceedings, reports and recommendations of the Commission; and
 - (f) provide for certain penalties to automatically apply to a person who has been convicted of an offence involving corrupt conduct.

220F. INDEPENDENCE OF THE COMMISSION.

(1) In the performance of its functions and powers, the Commission is not subject to the direction and control of any person or authority.

(2) The proceedings and decisions of the Commission are not subject to review in any way, except by the Supreme Court or the National Court on the ground that it has exceeded its jurisdiction.

(3) The salary and other conditions of employment of the Commissioner shall not be less than or inferior to the salary and other conditions of employment of a Judge other than the Chief Justice or Deputy Chief Justice without taking into account any conditions of employment personal to that Judge.

(4) The salary and other conditions of a Deputy Commissioner shall not be less than or inferior to the salary and other conditions of employment of the Public Prosecutor, without taking into account any conditions of employment personal to any particular Public Prosecutor.

220G. OVERSIGHT OF THE COMMISSION.

An Organic Law shall make provision for an Independent Commission Against Corruption Oversight Committee, whose role shall be to monitor, review and report on the Commission's functions, operations and exercise of powers.

220H. REPORTS BY THE COMMISSION.

(1) By 31 March each year, the Commission shall present to the Speaker of Parliament an annual report for presentation to Parliament, and shall provide a copy of the annual report to the Minister and the Oversight Committee.

(2) The Speaker of Parliament shall present the Commission's annual report to Parliament at the next meeting of Parliament following the receipt of the report.

(3) Once the annual report has been presented to Parliament, the Commission shall publish the report.

Constitutional Amendment

- (4) An Organic Law may make provision for -
- (a) any particular matters which the Commission shall be obliged to report on in its annual report; and
 - (b) the role of the Oversight Committee in -
 - (i) reviewing the Commission's annual report; and
 - (ii) reporting on the Commission's annual report; and
 - (iii) reviewing and making recommendations on matters within the scope of its role under Section 220G as part of its reports; and
 - (c) the publication of the Oversight Committee's reports.


(5) Nothing in this section prevents the Commission or the Oversight Committee from making any other reports relating to any aspect of the Commission's operations, functions or powers."

2. **AMENDMENT TO SECTION 177 OF THE CONSTITUTION.**

Section 177 of the *Constitution* is amended in Subsection (1), Paragraph (a), by adding the following words before the words "in accordance with an Act of Parliament":

"subject to Division 3 of Part VIII of this *Constitution* and,".

I hereby certify that the above is a fair print of the *Constitutional Amendment (No. 40) (Independent Commission Against Corruption) Law 2014* which has been made by the National Parliament.


Clerk of the National Parliament.


Constitution.

30 MAY 2014

CERTIFICATE UNDER SECTION 14.

I, THEO ZURENUOC, Speaker of the National Parliament, hereby certify that the requirements of Section 14(1), (2) and (3) of the *Constitution* were complied with in respect of the *Constitutional Amendment (No. 40) (Independent Commission Against Corruption) Law 2014* and that the law was made by the National Parliament as follows:

- (a) the first vote was taken on 26 November 2013 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; and
- (b) the second vote was taken on 19 February 2014 when the number of seats in the National Parliament were 111 and those voting for the proposal were 91 and none voted against the proposal.


Speaker of the National Parliament.

30 MAY 2014