

Organic Law on the Ombudsman Commission.
Consolidated: 17/3/2025



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Organic Law on the Ombudsman Commission.

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CHAPTER NO. 1.

Organic Law on the Ombudsman Commission,

Being a Provisional Organic Law to implement Division VIII.2 (*Ombudsman Commission*) of the *Constitution*.

MADE by the Constituent Assembly to come into operation on Independence Day¹.

PART I. - INTRODUCTORY.

1. EFFECT OF THIS LAW.

(1) Sections 2 and 19² and Parts V, VI and VIII are intended to take effect, as provided for by Section 12(3)(a) (*Organic Laws*) of the *Constitution* as an Act of the Parliament.

(2) The balance of this Law takes effect as an Organic Law.

2. DEFINITIONS.

In this Law -

“the Commission” means the Ombudsman Commission;

“the Committee” means the Ombudsman Appointments Committee established by Section 229³ (*the Ombudsman Commission*) of the *Constitution*;

“member of the Commission” means the Chief Ombudsman or an Ombudsman;

“the responsible person” means -

- (a) in the case of any State Service, provincial service or other governmental body - the Permanent Head of that service or body; and
- (b) in the case of a natural person - that person; and
- (c) in the case of any statutory body - the statutory head of that body; and
- (d) in the case of any local government body⁴ - the President or Chairman of that body.

“statutory body” means any body to which Section 231(1)(a)(iv)⁵ (*functions of the Commission*) of the *Constitution* refers.

3. APPLICATION OF THIS LAW.

Except as provided by any other law, this Law does not apply to the powers, functions, duties and responsibilities of the Ombudsman Commission under Division III.2 (*leadership code*) of the *Constitution*.

¹ “Adopted” on 15 August 1975, after the adoption of the *Constitution*.

² *Seemle*, the reference should be to Section 18, as Section 19 must (under Section 219(7)(a) and (b) of the *Constitution*) take effect as an Organic Law, and all section numbers in the draft Law were affected by the omission of Clause 4 by the National Constituent Assembly.

³ This reference is incorrect. It seems that the correct reference is to Section 217, and “229” was the numbering in the draft Constitution debated and amended by the National Constituent Assembly.

⁴ Note, now referred to as Local-level Government, *see the Organic Law on Provincial Governments and Local-level Governments and Local-level Governments Administration Act 1997*.

⁵ Incorrect reference. *Seemle*, “Section 219(1)(a)(iv)” was intended: *compare* footnote 3.

PART II. - CONSTITUTION, ETC., OF THE COMMISSION.**4. QUALIFICATIONS FOR APPOINTMENT.**

(1) A person is not eligible for appointment as the Chief Ombudsman or Ombudsmen unless he is, in the opinion of the Committee, a person of integrity, independence of mind, resolution and high standing in the community.⁶

(2) One of the Ombudsmen shall have such professional accountancy qualifications and experience as, in the opinion of the Committee, is appropriate.

(3) The other Ombudsman shall have such administrative or legal qualifications and experience as, in the opinion of the Committee, is appropriate.

5. TERM OF OFFICE.

(1) Subject to Subsection (2), a member of the Commission shall be appointed -

(a) in the case of any citizen of Papua New Guinea appointed to office for the first time within 10 years after Independence Day - for a term of three years; and

(b) subject to Section 10, in the case of any other citizen - for a term not exceeding six years; and⁷

(c) in the case of a non-citizen - for a term of three years,

and is eligible for re-appointment.

(2) The first appointments to the Commission shall be arranged so that the terms of each member expires at a different time.

(3) Where a vacancy arises under this section, the Committee shall within four months of that vacancy, make its recommendation to the Governor General⁸ on its appointments.⁹

[Section 6 repealed by *Organic Law on the Ombudsman Commission (Amendment No. 1 - Consequential Amendment) Law*.]

7. DISQUALIFICATIONS FROM OFFICE.

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

(a) a member of the Parliament; or

(b) a member of a provincial government body; or

(c) a member of a Local Government Council or Authority¹⁰; or

(d) an office-holder in a registered political party; or

(e) an undischarged bankrupt or insolvent; or

(f) of unsound mind within the meaning of any law relating to the protection of the person and property of persons of unsound mind; or

(g) under sentence of death or imprisonment.

⁶ Subsection (1) amended by *Organic Law on the Ombudsman Commission (Amendment No. 2) 2023*.

⁷ Ibid, Paragraph (b) repealed and replaced, s.2(a).

⁸ *Semble*, should be styled as "Governor-General". See, *Organic Law on the Nomination of the Governor-General*.

⁹ Ibid, Subsection (3) added, s.2(b).

¹⁰ Note, now referred to as Local-level Government, see the *Organic Law on Provincial Governments and Local-level Governments and Local-level Governments Administration Act 1997*.

8. SPECIAL CONDITIONS OF EMPLOYMENT.

- (1) A member of the Commission shall not -
- (a) actively engage in politics; or
 - (b) subject to Subsection (2), engage either directly or indirectly in the management or control of a corporation or other body of persons carrying on business for profit; or
 - (c) except on leave granted by the Head of State, or because of illness, absent himself from duty for more than 14 consecutive days or more than 28 days in any period of 12 months; or
 - (d) subject to Subsection (3), acquire by way of gift or otherwise, or use or hold in any other manner any interest in, any property of Papua New Guinea¹¹ or solicit, accept or receive any other benefit in addition to his terms and conditions of employment.

(2) Nothing in Subsection (1)(b) prevents a member of the Commission from holding office in a professional body in relation to which his qualifications are relevant.

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

9. RESIGNATION.

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

(2) The period of three months specified in Subsection (1) shall be deemed to commence on the twenty-second day after the receipt by the Head of State of the notice except where the Head of State, acting with, and in accordance with, the advice of the Committee, by notice in writing to the member, fixes an earlier date for the commencement.

(3) A member of the Commission may withdraw his resignation at any time before the period of three months referred to in Subsection (1) commences.

10. RETIREMENT.¹²

(1) A person is not eligible to be appointed or reappointed as a member of the Commission where he has -

- (a) reached the age of 75 years; or
- (b) served two terms as a member of the Commission.

(2) Such appointment or reappointment should not extend beyond -

- (a) 75 years of age; or
- (b) two terms of service.

(3) A member of the Commission shall, unless he is dismissed from office, be entitled to receive a lifetime pension upon ceasing to hold office.

¹¹ *Sic*

¹² Section 10 repealed and replaced by *Organic Law on the Ombudsman Commission (Amendment No. 2) 2023*.

11. ACTING CHIEF OMBUDSMAN AND ACTING OMBUDSMAN.

A person suitably qualified may be appointed to be an acting Chief Ombudsman or an acting Ombudsman -

- (a) to fill temporarily a vacancy; or
- (b) in the case of the absence from duty for any reason of the Chief Ombudsman or an Ombudsman.

11A. PROCEDURE FOR ACTING APPOINTMENTS.¹³

The Committee shall, in the event of a vacancy or absence of duty under Section 11, make its recommendation to the Governor General¹⁴ for an acting appointment to a position within three months.

12. DECLARATION OF OFFICE.

Before entering upon the duties of their offices, the members of the Commission shall make the Declaration of Office before the Head of State or a person appointed by the Head of State.

PART III. - FUNCTIONS, ETC., OF THE COMMISSION.**13. FUNCTIONS OF THE COMMISSION.**

For the purposes of Section 219(1)(a) (*functions of the Commission*) of the *Constitution* the functions of the Commission, in addition to the functions specified in Section 219(1)(b), (c), (d) and (e) (*functions of the Commission*) of the *Constitution*, are to investigate, on its own initiative or on complaint by a person affected, any conduct on the part of -

- (a) any State Service or a member of any State Service; or
- (b) any governmental body, or an officer or employee of a governmental body; or
- (c) any other service or body referred to in Section 219(a)¹⁵(*functions of the Commission*) of the *Constitution* that the Head of State, acting with, and in accordance with, the advice of the National Executive Council, by notice in the National Gazette, declares to be a service or body for the purposes of this section.

14. PROCEDURES OF THE COMMISSION.

(1) The Commission shall meet at such times and places as are fixed by the Chief Ombudsman.

(2) The Chief Ombudsman shall preside at all meetings of the Commission.

(3) For the purposes of conducting an inquiry under this Law, the quorum at a meeting of the Commission is two.

(4) All matters before a meeting of the Commission shall be decided in accordance with the majority of votes.

¹³ Section 11A added by *Organic Law on the Ombudsman Commission (Amendment No. 2) 2023*, s.4.

¹⁴ See, footnote to Section 5(3) as to the correct wording of "Governor-General".

¹⁵ *Semle*, "Section 219(1)(a)" was intended.

(5) In the event of an equality of votes on a matter, the Chief Ombudsman has a casting, as well as a deliberative, vote.

(6) The Commission shall cause minutes of its meetings to be kept.

(7) Subject to this Law, the procedures of the Commission are as determined by it.

15. DELEGATION.

(1) The Commission may, with the prior approval of the Prime Minister, by instrument in writing under the hand of the Chief Ombudsman, delegate to any member or officer of the Commission all or any of its powers and functions (other than this power or function or any prescribed power or function) so that the delegated powers and functions may be exercised and performed by the delegate in relation to the matters or class of matters specified in the instrument of delegation.

(2) Every delegation under Subsection (1) is revocable, in writing, at will, and no such delegation affects the exercise of a power or the performance of a function by the Commission.

PART IV. - COMPLAINTS AND PROCEEDINGS.

16. COMPLAINTS.

(1) Any person may make a complaint to the Commission concerning any matter that is within the jurisdiction of the Commission.

(2) A letter to the Commission from a person in custody, or confined in a hospital or in an institution under the control of a governmental body shall not be opened by any person other than a member of the Commission or a person authorized by the Commission, and the person in charge of the place where the correspondent is in custody or is confined shall make all facilities available that may be necessary to have the letter properly forwarded.

Penalty: K1 000.00 or imprisonment for 12 months¹⁶.

(3) The Commission shall investigate the subject of any complaint received by it, other than a complaint that relates to a matter outside its jurisdiction, unless, in its deliberate judgement, it decides not to do so because -

- (a) the complaint is trivial, frivolous, vexatious or not made in good faith; or
- (b) it is not within the jurisdiction of the Commission; or
- (c) the complainant has available to him another remedy or channel of complaint that he could reasonably be expected to use; or
- (d) the complainant has not a sufficient interest in the subject of the complaint; or
- (e) the complaint has been too long delayed to justify an investigation; or
- (f) it has before it other matters more worthy of its attention; or
- (g) its resources are insufficient for adequate investigation,

and may defer or discontinue an investigation for any of the same reasons.

¹⁶ In respect of the Constitutional Laws, there is no provision similar to Section 14 and 15 of the *Interpretation Act* (Chapter 2), declaring such penalties to be maxima only.

(4) No decision by the Commission to decline to investigate or to defer or discontinue, an investigation into the subject of a complaint affects the Commission's power to inquire generally into a matter on its own initiative.

16A. PRELIMINARY INQUIRIES.¹⁷

(1) The Commission may where it considers necessary, conduct preliminary enquiries into the conduct of a responsible person to determine whether or not to conduct investigations.

(2) A preliminary enquiry under Subsection (1) is not an investigation for the purposes of Section 17.

(3) The responsible person shall comply and cooperate with the Commission, including but not limited to, carrying out of the inquiry and providing of information.

(4) The responsible person, an employee or an authorised person who discloses information to the Commission in an inquiry under this section is not liable to criminal, civil or disciplinary action for providing any confidential information under any other law.

17. PROCEEDINGS OF THE COMMISSION.

(1) Before investigating any matter within its jurisdiction, the Commission shall inform the responsible person of its intention to make the investigation.

(2) Every investigation by the Commission under this law shall be conducted in private except by the deliberate judgement of the Commission where there is an alleged or suspected criminal conduct being detected.¹⁸

(3) The Commission may hear or obtain information from any person who the Commission considers can assist and may make whatever inquiries it thinks fit.

(4) Nothing in this Law compels the Commission to hold any hearing and no person is entitled as of right to be heard by the Commission except that -

- (a) where a report of the Commission may affect a State Service, provincial government body or statutory body, the Commission shall provide reasonable opportunity for the Permanent Head of that service or the statutory head of that body, as the case may be, to comment on the subject of the investigation; and
- (b) the Commission shall not make any comment in its report that is adverse to or derogatory of any person without -
 - (i) providing him with reasonable opportunity of being heard; and
 - (ii) fairly setting out his defence in its report.

(5) The Commission shall, in its discretion, at any time, during or after any investigation, consult any Minister who is concerned in the matter of the investigation.

¹⁷ Section 16A added by *Organic Law on the Ombudsman Commission (Amendment No. 3) 2023*, s.5.

¹⁸ *Ibid*, Subsection (2) repealed and replaced, s.6.

(6) On the request of any Minister in relation to any investigation, or in any case where any investigation relates to any recommendation made to a Minister, the Commission shall consult that Minister after making the investigation and before forming a final opinion on the matter it has investigated.

(7) If, during or after an investigation, the Commission is, after considering any defence lodged by or on behalf of the officer or employee concerned, of the opinion that there has been a breach of duty or misconduct on the part of any officer or employee of any State Service, provincial government body, local government body or statutory body, it shall refer the matter, together with its report on the matter, to the Permanent Head of that service or the statutory head of that body, as the case requires, and shall send a copy of its report and any defence lodged to the responsible Minister.

18. EVIDENCE.

(1) Subject to the provisions of this section and of Section 20¹⁹, the Commission may from time to time require any person who in its opinion is able to give any information relating to any matter that is being investigated by the Commission to furnish to it that information and to produce any documents, papers or things that, in the opinion of the Commission, relate to any matter being investigated by it and that may be in the possession or control of that person.

(2) Subsection (1) applies whether or not -

- (a) the person is an officer, employee or member of any State Service, provincial government body, local government body or statutory body; and
- (b) the documents, papers or things referred to in that subsection are in the custody or under the control of any State Service, provincial government body, local government body or statutory body.

(3) The Commission may, by instrument in writing, summon any person who in its opinion is able to give any information relating to any matter that is being investigated by the Commission, to attend the Commission at a time and place specified in the summons for examination by it on oath or affirmation.

(4) The Commission may administer on²⁰ oath or affirmation to a person appearing as a witness before the Commission whether the witness has been summoned or appears without being summoned, and may examine the witness on oath or affirmation.

(5) A witness attending before the Commission has the same privileges and is subject to the same penalties in relation to the giving of information, the answering of questions and the production of documents, papers and things as a witness before the National Court.

(6) Except on the trial of any person for perjury in respect of his sworn testimony, no statement made or answer given by that or any other person in the course of any inquiry by or any proceedings before the Commission is admissible in evidence against any person in any court or at any inquiry or any other proceedings, and no evidence in respect of proceedings before the Commission shall be given against any person.

¹⁹ *Seemle*, the reference should be Section 19: *compare* Footnote 2 on p.1.

²⁰ *Seemle*, "an" was intended.

(7) Where any person is required by the Commission to attend before it for the purposes of this section, the person is entitled to the same fees, allowances and expenses as if he were a witness in the National Court.

19. DISCLOSURE OF CERTAIN MATTERS NOT TO BE REQUIRED.

(1) Where the Prime Minister, after consultation with the Commission²¹, certifies that the giving of any information or the answering of any question or the production of any documents or papers or things likely²² to -

- (a) prejudice the security, defence or international relations of Papua New Guinea (including Papua New Guinea's relations with the Government of any other country or with any international organization) or the investigation or detection of offences; or
- (b) 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,

the Commission shall not require the information or answer to be given or, as the case may be, the document, paper or thing to be produced.

(2) Subject to Subsection (1), any law that authorizes or requires the withholding of any document, paper or thing, or the refusal to answer any question, on the ground that the disclosure of the document, paper or thing or the answering of the question would be injurious to the public interest does not apply in respect of any investigation by or proceedings before the Commission.

20. MEMBERS, ETC., TO MAINTAIN SECRECY.

(1) Before entering on the exercise of the duties of his office, a member of the Commission shall take an oath or make an affirmation in the form in Part I of Schedule 1 before a Judge of the National Court.

(2) Every officer and employee of the Commission shall maintain secrecy in respect of all matters that come to their knowledge in the exercise of their duties and shall, before entering on the exercise of their duties, take an oath or make an affirmation in the form in Part II of Schedule 1 before a member of the Commission.

(3) Notwithstanding the provisions of Subsection (1), the Commission may disclose for the purposes of any investigation being conducted by it and in any report made by it, such matters as in its opinion ought to be disclosed in order to properly investigate the matter before it or establish grounds for its conclusions and recommendations, as the case may be.

(4) The power conferred by Subsection (3) does not extend to any matter that might prejudice the security, defence or international relations of Papua New Guinea (including Papua New Guinea's relations with the Government of any other country or with any international organization) or the investigation or detection of offences, or that might involve the disclosure of the deliberations of the National Executive Council.

²¹ Subsection (1) amended by *Organic Law on the Ombudsman Commission (Amendment No. 2) 2023*, s.7.

²² Presumably "is" was omitted before "likely".

21. PRESERVATION OF SECRECY.

(1) The Commission may direct that any evidence given before it, or any document, paper or thing produced to it, be not published.

(2) Any person who publishes or discloses to any person -

(a) any evidence given before the Commission; or

(b) any of the contents of any document, paper or thing,

which the Commission has directed not to be published without the consent in writing of the Commission is guilty of an offence.

Penalty: K1 000.00 or imprisonment for 12 months, or both²³.

22. PROCEDURE AFTER INVESTIGATION.

(1) The succeeding provisions of this section apply in every case where the Commission, after making an investigation under this Law, is of the opinion that -

(a) the conduct, the subject of the investigation, was wrong; or

(b) the law or administrative practice, the subject of the investigation, or any other law or administrative practice, is defective; or

(c) the practice, the subject of the investigation, is discriminatory within the meaning of any law prohibiting such practices.

(2) If in any case to which this section applies the Commission is of the opinion that any service, body, person or other appropriate authority should -

(a) consider the matter further; or

(b) take certain specific action; or

(c) modify or cancel any administrative act; or

(d) alter any regulation or ruling; or

(e) explain more fully any administrative act; or

(f) do any other thing,

the Commission shall report its opinion, and the reasons for its opinion, to the Minister responsible for the relevant service, body or person and to the Permanent Head or statutory head responsible for the service, body or person, and may refer the matter to the Public Prosecutor if action by him is warranted and may make such recommendations as it thinks fit.

(3) If the Commission so requests, the responsible Minister, Permanent Head or statutory head, as the case may be, shall, within such period as is specified by the Commission, notify the Commission as to the steps (if any) that he proposes to take to give effect to its recommendations.

(4) Where the Commission is of the opinion that an administrative action has produced unfair or objectionable results and that that action was caused wholly or partly by legislation, the Commission shall forward a report on the matter to -

(a) in the case of National legislation - the Parliament; and

(b) in the case of legislation of a provincial government body - the relevant provincial government body; and

(c) in the case of local government legislation - the relevant local government body.

²³ In respect of the Constitutional Laws, there is no provision similar to Sections 14 and 15 of the *Interpretation Act* (Chapter 2), declaring such penalties to be maxima only.

23. PUBLICATION OF RESULTS OF INVESTIGATIONS.

(1) The Commission may, in its discretion, publish the results of any investigation carried out by it by forwarding a copy of its conclusions, recommendations and suggestions to -

- (a) the Prime Minister; and
- (b) the Minister responsible for the National Public Service; and
- (c) the Chairman of any parliamentary committee; and
- (d) the Speaker, who shall present it to the Parliament within eight sitting days of the Parliament; and
- (e) the Minister responsible for the National Legal Administration²⁴; and
- (f) the Chief Justice; and
- (g) the Chief Magistrate; and
- (h) the Chairman of the Public Services Commission; and
- (i) the head of any provincial government body; and
- (j) any other person holding an official position as²⁵ the Commission considers appropriate,

or any of them.

(2) The Commission shall, unless in its deliberate judgement, it considers that to do so may prejudice the security, defence or international relations of Papua New Guinea (including Papua New Guinea's relations with the Government of any other country or with any international organization), forward a copy of its conclusions, recommendations and suggestions to the person on whose complaint the investigation was carried out.

(3) Where the Commission publishes an opinion that is adverse to or derogatory of any service, body or person, it shall, unless it has obtained the consent of the responsible person to do otherwise, include in the document published the substance of any statement the responsible person may have made in explanation of past difficulties, or present rejection of the Commission's recommendations.

24. PROCEEDINGS NOT TO BE QUESTIONED OR TO BE SUBJECT TO REVIEW²⁶.

No proceeding of the Commission shall be held bad for want of form, and, except on the ground of lack of jurisdiction, no proceeding or decision of the Commission shall be challenged, reviewed, quashed or called into question in any court.

²⁴ This reference is incorrect. The draft Constitution was amended by the National Constituent Assembly to refer to "the National Justice Administration" (*see* Constitution, Section 154).

²⁵ *Seemle*, "that" was intended.

²⁶ But *see Constitution*, Section 217(6), which makes necessary provision for this matter.

PART V. - THE SERVICE OF THE COMMISSION.

25. APPOINTMENT OF OFFICERS.

- (1) The Commission -
- (a) shall appoint -
 - (i) a Counsel to the Commission; and
 - (ii) a Secretary to the Commission; and
 - (b) within the limit of funds lawfully available to it, may appoint such other officers as, in its opinion, are necessary for the efficient performance of the functions of the Commission.

(2) The offices²⁷ of the Commission constitute the Service of the Commission.

(3) Subject to this Part and to the Regulations²⁸, officers hold office on such terms and conditions as the Commission after consultation with the Public Services Commission, fixes.

(4) If an officer appointed under this section was, immediately before his appointment, an officer of the National Public Service, his service as an officer of the Commission shall be counted as service in the National Public Service for the purposes of determining his rights (if any) 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).

(5) The provisions of Section 115 of the pre-Independence law known as the ***Public Service (Interim Arrangements) Act 1973***²⁹ apply in relation to offices in the Service of the Commission as if they had been specifically included in that section.

26. CONTROL OF SERVICE.

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

27. REGULATIONS FOR THE SERVICE OF THE COMMISSION.

The Regulations may make provision in relation to the Service of the Commission and in particular, may -

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

²⁷ *Seemle*, "officers" was intended.

²⁸ See Section 37 and the footnote to that section.

²⁹ Printed in this Revised Edition as Section 104 of the *Public Service Act*. Note, the *Public Service Act* (Chapter 67) was repealed by No. 28 of 1986. See, now *Public Service (Management) Act 1995* which is current and in operation.

28. TEMPORARY AND CASUAL EMPLOYEES.

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

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

PART VI. - FINANCE.**29. APPLICATION OF PUBLIC BODIES (FINANCIAL ADMINISTRATION) ACT.³⁰**

The pre-Independence law known as the *Public Bodies (Financial Administration) Act 1969*³¹ applies to and in relation to the Commission subject to the exceptions and modifications specified in Schedule 2.

PART VII. - OFFENCES.**30. FAILURE TO ATTEND OR PRODUCE DOCUMENTS.**

A person who, having been summoned to attend the Commission, fails without reasonable excuse, the burden of proof of which lies on him, to attend the Commission or to produce any documents, books or writings in his custody or control that he is required by the summons to produce, is guilty of an offence.

Penalty: K2,500.00 or imprisonment for three months.³²

31. REFUSING TO BE SWORN OR GIVE EVIDENCE.

A person appearing as a witness before the Commission who refuses to be sworn or to make an affirmation or to answer any questions relevant to the inquiry put to him by a member of the Commission, or having attended leaves the Commission without the permission of a member of the Commission, is guilty of an offence.

Penalty: K2,500.00 or imprisonment for three months.³³

32. CONTEMPT OF THE COMMISSION.

A person who wilfully insults a member of the Commission, or wilfully interrupts the proceedings of the Commission, or is in any manner guilty of wilful contempt of the Commission, is guilty of an offence.

Penalty: K2,500.00 or imprisonment for six months.³⁴

³⁰ Note, the *Public Bodies (Financial Administration) Act 1969* is repealed by No. 35 of 1986. See, the *Public Finance (Management) Act 1995* is current and in operation.

³¹ Printed in the Revised Edition as the *Public Bodies (Financial Administration) Act* (Chapter 6). Note, the *Public Bodies (Financial Administration) Act 1969* is repealed. See, the *Public Finance (Management) Act 1995* is current and in operation.

³² Penalty provision repealed and replaced by *Organic Law on the Ombudsman Commission (Amendment No. 2) 2023*, s.8. Note: In respect of the Constitutional Laws, there is no provision similar to Section 14 and 15 of the *Interpretation Act*, declaring such penalties to be maxima only.

³³ Ibid, penalty clause repealed and replaced, s.9. See, Note in footnote to Section 30.

³⁴ Ibid, penalty clause repealed and replaced, s.9. See, Note in footnote to Section 30.

33. GIVING FALSE EVIDENCE.

A person appearing as a witness before the Commission, who wilfully gives false evidence, is guilty of perjury and is liable to prosecution and punishment accordingly.

34. PROSECUTION FOR OFFENCES.

Proceedings for an offence under this Law -

- (a) shall be brought in the National Court; and
- (b) may not be brought against any person except with the consent in writing of the Commission³⁵.

PART VIII. - MISCELLANEOUS.

35. PRIVILEGE.

(1) A member of the Commission or an officer or employee of the Commission is not liable for any act or omission done or made *bona fide* and without negligence under or for the purposes of this Law.

(2) A member of the Commission or an officer or employee of the Commission shall not be called to give evidence in any court, or in any proceedings of a judicial nature, in respect of anything coming to his knowledge in the exercise of his functions.

(3) Anything said or any information supplied or any document, paper or thing produced by any person in the course of any inquiry by or proceedings before the Commission under this Law are privileged in the same manner as if the inquiry or proceedings were proceedings in a Court.

36. POWER OF ENTRY.

(1) For the purposes of this Law, but subject to this section, a member of the Commission may, at any time, enter upon any premises occupied by any State Service, provincial government body, local government body or statutory body over whom it has jurisdiction and inspect the premises and, subject to Sections 18 and 19³⁶ carry out in the premises any investigation that is within its jurisdiction.

(2) Before entering upon any premises the member of the Commission shall notify the Permanent Head or statutory head or other person in charge of the premises.

(3) The Prime Minister may after consultation with the Chief Ombudsman, from time to time, exclude the operation of Subsection (1) to any premises if he is satisfied that the exercise of the powers conferred by this section is likely to prejudice the security, defence or international relations of Papua New Guinea (including Papua New Guinea's relations with the Government of any other country or with any international organization).

³⁵ But *see* Constitution, Section 177.

³⁶ *Seem*, the reference should be to Sections 17 (*compare* the wording of Section 17(1)) and 18. *Compare* footnote to Section 1.

37. REGULATIONS.³⁷

The Head of State, acting with, 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, and generally for achieving the purposes of this Law, and in particular for prescribing penalties not exceeding K500.00 and default penalties not exceeding K10.00 for offences against or contraventions of any regulations so made.

38. SAVINGS.

The provisions of this Law are in addition to the provisions of any other enactment, subordinate enactment or any rule of law under which any remedy or right of appeal or objection is provided for any person or any procedure is provided for the inquiry into or investigation of any matter, and nothing in this Law limits or affects any such remedy or right of appeal or objection or procedure.

SCHEDULES.

SCHEDULE 1.

Sec. 21³⁸.**PART I.**

Oath and affirmation of Secrecy to be taken or made by Members of the Commission.

OATH.

I, _____, a member of the Ombudsman Commission, do swear that I will at all times maintain secrecy in relation to the affairs of the Commission and, in particular, that I will not directly or indirectly communicate or divulge any information that comes to my knowledge in the performance of my functions as a member of the Commission, except under compulsion or obligation of law or as provided by law.

So help me God!

³⁷ See, however, Constitution, Section 258, which provides for the making of "Constitutional Regulations" for the purposes of Organic Laws.

³⁸ *Semble*, Section 20 was intended.

AFFIRMATION.

I, _____ a member of the Ombudsman Commission, do solemnly and sincerely promise and declare that I will at all times maintain secrecy in relation to the affairs of the Commission and, in particular, that I will not directly or indirectly communicate or divulge any information that comes to my knowledge in the performance of my functions as a member of the Commission, except under compulsion or obligation of law or as provided by law.

PART II.

Oath and Affirmation of Secrecy to be taken or made by officers and employees of the Commission.

OATH.

I, _____ (*an officer or employee of the Ombudsman Commission, as the case requires*) do swear that I will at all times maintain secrecy in relation to the affairs of the Commission and, in particular, that I will not directly or indirectly communicate or divulge any information that comes to my knowledge in the performance of my functions as an officer/employee of the Commission, except under compulsion or obligation of law or as provided by law.

So help me God!

AFFIRMATION.

I, _____ (*an officer or employee of the Ombudsman Commission, as the case requires*) do solemnly and sincerely promise and declare that I will at all times maintain secrecy in relation to the affairs of the Commission and, in particular, that I will not directly or indirectly communicate or divulge any information that comes to my knowledge in the performance of my functions as an officer/employee of the Commission, except under compulsion or obligation of law or as provided by law.

SCHEDULE 2.

Sec. 29.

Exception and Modifications to the *Public Bodies (Financial Administration Act 1969*.³⁹

Provision.

Modification.

Section 8

Not applicable.

Section 10

Not applicable.

Section 11

Not applicable.

Section 13

Not applicable.

Section 15

Not applicable.

Section 16

Not applicable.

Section 17

(a) applies only to financial statements.

(b) applies as if references to Head of State were references to the Prime Minister.

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³⁹ See, footnote to Section 29.