

LEGISLATIVE ASSEMBLY

OMBUDSMAN BILL.

EXPLANATORY MEMORANDUM.

Clause 1.

This clause contains the usual citation provision, a provision enabling the Act to be brought into operation on a proclaimed date, and a provision setting out the Parts and Divisions of the Act.

PART I.—CLAUSE 2.

Clause 2.

This clause sets out interpretations. In particular the interpretation of “administrative action” includes a failure or refusal to take a decision or perform an act as well as the taking of a decision.

PART II.—CLAUSES 3-12.

Clause 3.

This clause provides for the appointment of the Ombudsman and with the manner in which he shall cease to hold office. Members of Parliament are not eligible for appointment but the person who is appointed may hold office until he attains the age of 72 years.

Clause 4.

This clause deals with the suspension of the Ombudsman. The Ombudsman so suspended will be restored to office unless each House of Parliament, within the stipulated time, passes an address praying for his removal.

Clause 5.

This clause provides for the conditions of service of the Ombudsman.

Clause 6.

This clause provides for the appointment of an Acting Ombudsman during the absence or suspension of the Ombudsman. While so acting the Acting Ombudsman has all the powers and may exercise the functions of the Ombudsman.

Clause 7.

This clause deals with the appointment and conditions of service of the officers of the Ombudsman.

Clause 8.

This clause provides that the Ombudsman, the Acting Ombudsman and the officers of the Ombudsman are not subject to the provisions of the *Public Service Act* 1958. It also protects the rights of public servants who join the staff of the Ombudsman.

Clause 9.

This clause deals with superannuation.

Clause 10.

This clause provides for the taking of an oath or the making of an affirmation by the Ombudsman and his staff before commencing duties.

Clause 11.

This clause enables the Ombudsman to delegate his powers or functions.

Clause 12.

This clause prohibits the Ombudsman and his staff from engaging in outside remunerative employment without obtaining the consent of the Attorney-General.

PART III.—CLAUSE 13.

Clause 13.

This clause deals with the functions of the Ombudsman, and the limits of his investigative jurisdiction. The Ombudsman's jurisdiction covers investigation into all Government Departments and Public Statutory Bodies other than those set out in the Schedule.

PART IV.—CLAUSES 14–24.

DIVISION 1.—CLAUSES 14–15.

Clause 14.

This clause deals with the conducting of investigations and the manner in which complaints are to be made. Although in normal circumstances the complainant should be a person affected by the complaint, this rule will not be applied where a Member of Parliament acts on behalf of the aggrieved person or the aggrieved person is one who is considered by the Ombudsman to be unable to act for himself.

Clause 15.

This clause enables the Ombudsman to reject complaints which are trivial, frivolous or vexatious, made in bad faith or are stale.

DIVISION 2.—CLAUSE 16.

Clause 16.

This clause empowers Parliament to refer any matter it thinks fit to the Ombudsman for investigation.

DIVISION 3.—CLAUSES 17–22.

Clause 17.

This clause deals with the procedure relating to investigations.

Clause 18.

This clause applies to the Ombudsman the powers given to a sole commissioner by certain provisions of the *Evidence Act* 1958 with respect to hearings.

Clause 19.

This clause prohibits the obtaining of information relating to deliberations by Ministers or Parliamentary Committees formed to advise Ministers.

Clause 20.

This clause penalizes the disclosure of information obtained in an investigation except in certain circumstances.

Clause 21.

This clause empowers premises to be entered and inspected at any reasonable time for the purposes of an investigation.

Clause 22.

This clause penalizes the obstruction of an investigation.

DIVISION 4.—CLAUSES 23–24.

Clause 23.

This clause deals with the procedure on completion of an investigation.

Clause 24.

This clause requires the complainant to be informed of the result of an investigation.

PART V.—CLAUSES 25–26.

Clause 25.

This clause requires the Ombudsman to make reports.

Clause 26.

This clause permits Rules of Parliament to be made with respect to publication of reports.

PART VI.—CLAUSES 27–32.

Clause 27.

This clause enables application to be made to the Supreme Court for determination of any question relating to the Ombudsman's jurisdiction.

Clause 28.

This clause ensures that letters written to the Ombudsman by persons in custody or in an institution within the meaning of the *Mental Health Act* 1959 will immediately be forwarded to him unopened.

Clause 29.

This clause provides for protection for the Ombudsman and his staff from civil or criminal proceedings.

Clause 30.

This clause sets out the penalty for an offence against the Act. The penalty is one not exceeding \$1,000 or imprisonment for 12 months or both.

Clause 31.

This clause provides for the making of Rules of Parliament.

Clause 32.

This clause contains provision for the payment of expenses incurred in the administration of this Act.

SCHEDULE.

The Schedule refers back to clause 13 (2), and sets out the authorities and branches of authorities to which the Act does not apply.