

## OMBUDSMAN ACT

Act 15 of 1969 – 17 May 1969

### ARRANGEMENT OF SECTIONS

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## OMBUDSMAN ACT

### 1. Short title

This Act may be cited as the Ombudsman Act.

### 2. Oaths of office

(1) Before performing the duties of their respective offices, the Ombudsman and the Senior Investigation Officer shall take an oath before a Judge that they will faithfully and impartially perform the duties of their offices and that they will not, except in accordance with Chapter IX of the Constitution and this Act, divulge any information received by them in the exercise of their duties.

(2) The other members of the staff of the Ombudsman shall maintain secrecy in respect of all matters that come to their knowledge in the exercise of their duties.

(3) Every person mentioned in subsection (2) shall, before entering upon the exercise of his duties, take an oath to be administered by the Ombudsman, that he will not, except in accordance with Chapter IX of the Constitution and this Act, divulge any information received by him in the exercise of his duties.

### 3. Procedure

(1) Every complaint made to the Ombudsman shall be in writing.

(2) Notwithstanding any other enactment, where a letter is written to the Ombudsman by a person who is in legal custody or who is an inmate of a mental health care centre or other similar institution, the person in charge of the place where the writer of the letter is detained or is an inmate shall immediately forward the letter, unopened, by registered post to the Ombudsman.

(3) No complaint shall be entertained by the Ombudsman unless the complainant—

- (a) has, before making the complaint, made a written representation to the relevant department or authority and not received within 5 working days—
  - (i) a written substantive reply; or
  - (ii) a written reply in which the department or authority states the action it is initiating and the date by which a substantive reply shall be made, such date being not more than 45 days of the date of receipt of the written representation by the department or authority;
- (b) is dissatisfied with any reply given to him by the department or authority;
- (c) has sufficient interest in the subject matter of the complaint;
- (d) specifies the nature of the complaint, the reasons for his grievance and the redress being sought; and
- (e) encloses every document or other information which is relevant to the complaint.

(4) Where a department or authority receives a written representation under subsection (3), it shall make a written reply or written substantive reply, as the case may be, within the time limit specified in that subsection.

(5) (a) On receipt of a complaint under this section, the Ombudsman shall, within 5 working days of the date of receipt—

- (i) make a written reply to the complainant, stating the action the Ombudsman is taking; and
  - (ii) where the department or authority has failed to comply with subsection (4), order the department or authority concerned to make, not later than 7 working days from the date of the order, a substantive reply to the complainant.
- (b) The department or authority shall—
- (i) comply with an order under paragraph (a) (ii); and
  - (ii) at the same time, forward a copy of its reply to the Ombudsman.

(6) In the discharge of his functions relating to an investigation, the Ombudsman may order a department or authority to submit comments and to provide such information and documents relating to the investigation, within such time as may be specified in the order, and the department or authority shall comply with the order.

(7) Where a department or authority fails to comply with subsection (4) or an order under subsection (5) (a) (ii) or (6), the Ombudsman shall request the principal officer of that department or authority to take such action as he considers appropriate.

(8) In the discharge of his functions relating to the report of his opinion and reasons pursuant to his investigation, the Ombudsman shall endeavour, within 45 days of the date of receipt of a copy of the written reply under subsection (5), to forward the report to the principal officer of the department or authority concerned.

[S. 3 amended by s. 19 (a) of Act 27 of 2012 w.e.f. 22 December 2012.]

#### **4. Action by department not affected by investigation**

The conduct of an investigation by the Ombudsman shall not affect any action taken by the department or authority concerned, or any power or duty of that department or authority to take further action with respect to any matter which is the subject of the investigation.

#### **5. Privilege of communication**

For the purposes of any enactment relating to defamation, the publication, by the Ombudsman or by any member of his staff, of any report or communication and the publication to the Ombudsman or to any member of his staff of any complaint or other matter shall, if made in accordance with Chapter IX of the Constitution and this Act, be absolutely privileged.

#### **5A. Annual report**

In the discharge of his functions relating to his annual report, the Ombudsman shall, not later than 30 June in each year, make the report in respect of the preceding year to the President.

[S. 5A inserted by s. 19 (b) of Act 27 of 2012 w.e.f. 22 December 2012.]

#### **6. Offences**

(1) Any person who, otherwise than in the course of his duty, directly or indirectly, by himself or by any other person, in any manner influences or attempts to influence the decision of the Ombudsman with regard to any complaint made to him or to any investigation made by him, shall commit an offence.

(2) Subject to Chapter IX of the Constitution, any person who is requested by the Ombudsman or by any member of his staff, acting in the exercise of his duties, to furnish any information or to produce any document and who wilfully fails to furnish the information or to produce the document, shall commit an offence.

(3) Any person who, in connection with any matter which lies within the province of the Ombudsman, wilfully gives him any information which is false or misleading in a material particular, shall commit an offence.

(4) Any person who commits an offence under this section shall be liable, on conviction, to a fine not exceeding 1,000 rupees and to imprisonment for a term not exceeding 12 months.

## **7. Expenses and allowances**

The Ombudsman may, where he thinks fit, pay to any person by whom a complaint has been made or to any person who attends, or furnishes information for the purposes of, an investigation, sums in respect of expenses properly incurred or by way of allowance or compensation for loss of time, in accordance with such scales and subject to such conditions as may be prescribed.

## **8. Administrative expenses**

The administrative expenses of the Office of the Ombudsman together with such other expenses as may be authorised under this Act shall, with the approval of Parliament, be charged on the Consolidated Fund.

## **9. Regulations**

(1) The Cabinet may make such regulations as it thinks fit for the purposes of this Act.

(2) Notwithstanding the generality of subsection (1), such regulations may provide for the scale according to which any sum may be paid to complainants or to persons attending, or furnishing information for the purposes of, an investigation.

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