

1996

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Attorney-General)

Ombudsman (Amendment) Bill 1996

A BILL
FOR

An Act to amend the *Ombudsman Act 1989* and for
related purposes

The Legislative Assembly for the Australian Capital Territory enacts as follows:

Short title

1. This Act may be cited as the *Ombudsman (Amendment) Act 1996*.

5 Commencement

2. This Act commences on the day on which it is notified in the *Gazette*.

Principal Act

3. In this Act, "Principal Act" means the *Ombudsman Act 1989*.¹

86001 1995/136 (T1/96)

Long title

4. The title of the Principal Act is amended by omitting "Australian Capital Territory".

Interpretation

5 5. Section 3 of the Principal Act is amended—

(a) by inserting in paragraph (c) of the definition of "prescribed authority" in subsection (1) "for the Environment" after "Commissioner" (first occurring);

10 (b) by omitting paragraph (e) from the definition of "prescribed authority" in subsection (1) and substituting the following paragraph:

"(e) a Territory owned corporation or a subsidiary within the meaning of the *Territory Owned Corporations Act 1990*,";

15 (c) by omitting from subparagraph (b) (i) of the definition of "principal officer" in subsection (1) "or" (last occurring);

(d) by inserting after subparagraph (b) (i) of the definition of "principal officer" in subsection (1) the following subparagraph:

20 "(ia) in the case of a Territory owned corporation or a subsidiary within the meaning of the *Territory Owned Corporations Act 1990*—the chief executive officer of the corporation or subsidiary; or"; and

25 (e) by omitting from subsection (1) the definitions of "Commissioner", "Commissioner for Health Complaints" and "Ombudsman".

Establishment of office of Ombudsman

6. Section 4 of the Principal Act is amended by omitting from subsection (1) "Australian Capital Territory".

30 **Functions**

7. Section 5 of the Principal Act is amended—

(a) by omitting paragraph (2) (b) and substituting the following paragraph:

"(b) action taken by—

35 (i) a Judge or the Master of the Supreme Court; or

- (ii) the Registrar or a Deputy Registrar of the Supreme Court or of the Magistrates Court when performing a function of a judicial nature;”; and

(b) by adding at the end of paragraph (2) (cc) “for the Environment”.

5 **Insertion**

8. After section 6 of the Principal Act the following section is inserted:

Discretion to refer complaint to another statutory office holder

“6A. (1) If the Ombudsman forms the opinion that the action to which a complaint under this Act relates is such that—

- 10 (a) a complaint in respect of the action, or an application or request for the action to be investigated or reviewed, could have been made to a statutory office holder other than the Ombudsman;
- (b) the matter could be more conveniently or effectively dealt with by that statutory office holder;
- 15 (c) it would otherwise be appropriate in all the circumstances for the complaint to be referred to that statutory office holder; and
- (d) that statutory office holder consents to having the complaint referred to him or her;

20 the Ombudsman may decide not to investigate, or not to investigate further, the action, and if the Ombudsman so decides he or she shall refer the complaint, together with any relevant documents or information that are within his or her possession or control, to that statutory office holder.

25 “(2) In this section, ‘statutory office holder’ means the holder of an office established by a law of the Territory, the Commonwealth, a State or another Territory.”.

Mandatory referral of complaint

9. Section 37A of the Principal Act is amended—

- (a) by inserting in paragraph (a) “for the Environment” after “Commissioner”; and
- 30 (b) by inserting “for the Environment” before “or” (last occurring).

Relocation

10. (1) Section 37A of the Principal Act as amended by this Act is relocated so that it appears after section 6A of the Principal Act as amended by this Act and is renumbered as section 6B.

5 (2) A reference in a provision of another law of the Territory made before the commencement of this section (whether or not that provision has commenced), or in any instrument or document, to section 37A of the Principal Act shall (except as regards the operation of the section before it was renumbered by subsection (1)) be construed as a reference to the section as so renumbered.

Consequential amendment—*Commissioner for the Environment Act 1993*

10 11. Section 3 of the *Commissioner for the Environment Act 1993* is amended by omitting from subsection (1) the definition of “Ombudsman”.

Consequential amendment—*Epidemiological Studies (Confidentiality) Act 1992*

15 12. Section 3 of the *Epidemiological Studies (Confidentiality) Act 1992* is amended by omitting from the definition of “court” in subsection (1) “Australian Capital Territory”.

Consequential amendment—*Freedom of Information Act 1989*

13. Section 4 of the *Freedom of Information Act 1989* is amended by omitting from subsection (1) the definition of “Ombudsman”.

Consequential amendment—*Health Complaints Act 1993*

20 14. Section 4 of the *Health Complaints Act 1993* is amended by omitting from subsection (1) the definition of “Ombudsman”.

NOTE

Principal Act

1. Reprinted as at 31 January 1996.

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