

OMBUDSMAN AMENDMENT ACT 1978

No. 63 of 1978

An Act to amend the *Ombudsman Act* 1976 for purposes related to the self-government of the Northern Territory, and for purposes incidental thereto.

BE IT ENACTED by the Queen, and the Senate and House of Representatives of the Commonwealth of Australia, as follows:

1. (1) This Act may be cited as the *Ombudsman Amendment Act* 1978.¹ Short title,
&c.

(2) The *Ombudsman Act* 1976² is in this Act referred to as the Principal Act.

2. This Act shall come into operation on 1 July 1978.

Commence-
ment

3. Section 3 of the Principal Act is amended—

Interpret-
ation

- (a) by omitting from paragraph (a) of the definition of “Department” in sub-section (1) “or”;
- (b) by omitting paragraph (b) of that definition;
- (c) by omitting from sub-section (1) the definition of “Deputy Ombudsman for the Northern Territory”;
- (d) by omitting from sub-section (1) the definition of “Local Government Ordinance of the Northern Territory” and substituting the following definition:
 - “ ‘enactment of the Northern Territory’ means—
 - (a) an Ordinance of the Northern Territory; or
 - (b) an instrument (including rules, regulations or by-laws) made under such an Ordinance; ”;
- (e) by omitting from paragraph (a) of the definition of “prescribed authority” in sub-section (1) “enactment” and substituting “enactment (not being an enactment of the Northern Territory)”;
- (f) by omitting from sub-paragraph (v) of that paragraph “for” and substituting “of”;
- (g) by omitting from sub-paragraph (i) of paragraph (b) of the definition of “prescribed authority” in sub-section (1) “or” (last occurring);

- (h) by adding at the end of that paragraph the following word and sub-paragraph:
 “or (iii) a body established for a public purpose by, or in accordance with the provisions of, an enactment of the Northern Territory;”;
- (j) by adding at the end of paragraph (a) of the definition of “principal officer” in sub-section (1) “and”;
- (k) by omitting paragraph (b) of that definition;
- (l) by omitting paragraph (b) of the definition of “responsible Minister” in sub-section (1);
- (m) by inserting in paragraph (c) of that definition “or sub-paragraph (b) (iii)” after “paragraph (a)”;
- (n) by omitting from paragraph (a) of sub-section (3) “for” and substituting “of”;
- (o) by omitting from paragraph (a) of sub-section (4) “a Minister, the Permanent Head of a Department or the Administrator of the Northern Territory” and substituting “a Minister or the Permanent Head of a Department”;
- (p) by adding at the end of paragraph (a) of sub-section (9) “and”;
- (q) by omitting from paragraph (b) of sub-section (9) “and”;
- (r) by omitting paragraph (c) of sub-section (9);
- (s) by adding at the end of paragraph (a) of sub-section (10) “and”;
- (t) by omitting from paragraph (b) of sub-section (10) “and” (last occurring); and
- (u) by omitting paragraph (c) of sub-section (10).

**Functions of
Ombudsman**

4. Section 5 of the Principal Act is amended—

- (a) by omitting paragraph (e) of sub-section (2); and
- (b) by omitting from paragraph (g) of sub-section (2) “, an office in the Public Service of the Northern Territory”.

**Power to
require
persons to
answer
questions
and produce
documents**

5. Section 9 of the Principal Act is amended—

- (a) by omitting paragraph (b) of sub-section (3) and substituting the following paragraph:
 “(b) by reason that it would involve the disclosure of communications between a Minister and a Minister of a State or of the Northern Territory, being a disclosure that would prejudice relations between the Commonwealth Government and the Government of a State or of the Northern Territory, as the case may be;”;
- (b) by adding at the end of paragraph (d) of sub-section (3) “or under the *Northern Territory (Self-Government) Act 1978*,”.

6. Section 18 of the Principal Act is repealed and the following section is substituted:

“18. (1) Where the Ombudsman reports to the Parliament concerning an investigation of action taken under an enactment of the Northern Territory, he shall submit a copy of the report to the Minister, for presentation to the Legislative Assembly of the Northern Territory.

Reports
relating to
Northern
Territory

“(2) Where the Ombudsman submits a copy of a report to the Minister under sub-section (1), the Minister shall cause a copy of the report to be forwarded, as soon as practicable after its receipt by him, to the Administrator of the Northern Territory for presentation to the Legislative Assembly of the Northern Territory.”.

7. Section 19 of the Principal Act is amended—

- (a) by omitting from paragraph (c) of sub-section (1) “for the Northern Territory, for presentation to the Legislative Assembly for” and substituting “, for presentation to the Legislative Assembly of”;
- (b) by omitting from paragraph (b) of sub-section (3) “for the Northern Territory, for presentation to the Legislative Assembly for” and substituting “, for presentation to the Legislative Assembly of”;
- (c) by omitting sub-section (6) and substituting the following sub-section:

Annual
report and
additional
reports to
Parliament

“(6) Where the Ombudsman submits a report to the Minister under paragraph (1) (c) or (3) (b), the Minister shall cause the report to be forwarded, as soon as practicable after its receipt by him, to the Administrator of the Northern Territory for presentation to the Legislative Assembly of the Northern Territory.”; and

- (d) by omitting from sub-section (9) the definition of “enactment of the Northern Territory”.

8. Section 23 of the Principal Act is amended—

- (a) by omitting from paragraph (a) of sub-section (1) “and”;
- (b) by omitting paragraph (b) of sub-section (1); and
- (c) by omitting sub-section (3).

Deputy
Ombudsman

9. Section 34 of the Principal Act is amended by omitting from sub-section (5) “or (3)”.

Delegation

Officers to
observe
secrecy

10. Section 35 of the Principal Act is amended by omitting sub-section (7) and substituting the following sub-section:

“(7) Sub-section (2) does not prevent the Ombudsman from furnishing any information, not being information referred to in sub-section (5), or forwarding a document, or a copy of, or extract from, a document, not being a document referred to in sub-section (5), being information or a document relating to—

- (a) a matter arising under an Act of a State or an Ordinance of the Northern Territory; or
- (b) an undertaking that is being carried out jointly by the Commonwealth and a State or the Commonwealth and the Northern Territory,

to a person exercising, under a law of a State or an Ordinance of the Northern Territory, functions similar to the functions exercised by the Ombudsman under this Act.”.

Transitional

11. The power to make regulations under the *Ombudsman Act* 1976 extends to regulations making provision (including provision by way of modifications and adaptations of that Act) for and in relation to any matter arising from, consequential upon or otherwise connected with the conferring of self-government on the Northern Territory by the *Northern Territory (Self-Government) Act* 1978 and, in particular, but without limiting the generality of the foregoing, any such matter relating to—

- (a) any change in the administrative arrangements of the Commonwealth or of the Northern Territory arising from, consequential upon or otherwise connected with that conferring of self-government; or
- (b) the conferring of executive authority on Ministers of the Northern Territory in accordance with section 35 of the *Northern Territory (Self-Government) Act* 1978.

NOTES

1. Act No. 63, 1978; assented to 22 June 1978.
2. Act No. 181, 1976.