



**BELIZE**

**OMBUDSMAN ACT  
CHAPTER 5**

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**CHAPTER 5**

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## CHAPTER 5

## OMBUDSMAN

7 of 1994.  
42 of 1999.  
S.I. 19 of 1999.

[28th April 1994]

## PART I

*Preliminary*

Short title. **1.** This Act may be cited as the Ombudsman Act.

Interpretation. **2.-(1)** In this Act, unless the context otherwise requires,

“action” includes failure to act, and other expressions connoting action shall be construed accordingly;

“authority” means,

- (a) a Ministry, department or agency of Government;
- (b) the Belize Police Department;
- (c) a City Council or a Town Council; or
- (d) other statutory body or authority,

and includes any company registered under the Companies Act, Cap. 250 being a company in which the Government or an agency of Government holds not less than fifty-one *per centum* of the ordinary shares, which is declared by resolution of each House of the National Assembly to be an authority for the purposes of this Act;

“complainant” means a person who makes a complaint to the Ombudsman under the provisions of this Act;

“Constitution” means the Belize Constitution, Cap. 4;

“Council” means the Belize Advisory Council established under the Constitution, Cap. 4;

“emoluments” means salary, allowance and fees;

“functions” includes powers and duties;

“public office” and “public service” have the meanings assigned to those expressions, respectively, by section 131 of the Constitution, Cap. 4;

“Public Services Commission” means the Public Services Commission established by the Constitution, Cap. 4.

(2) The references in this Act to a Ministry, department or agency of Government include references to the Minister, Minister of State, members or officers of that Ministry, department or agency.

## PART II

### *Establishment of the Office of Ombudsman*

The Ombudsman.

**3.-(1)** For the purpose of conducting investigations in accordance with the provisions of this Act, there is hereby constituted an Office of a Parliamentary Commissioner to be known as the Ombudsman.

(2) The Ombudsman shall be appointed by the Governor-General acting on the recommendations of both Houses of the National Assembly contained in resolutions passed in that behalf.

(3) Notwithstanding anything to the contrary contained in this Act, the office of Ombudsman shall not be deemed to be an office in the public service.

**4.-(1)** Subject to the provisions of this section, any person appointed as Ombudsman shall hold office for a period of three years and shall, at the expiration of such period, be eligible for reappointment.

Tenure of office.

(2) A person appointed as Ombudsman may at his own request be relieved of office by the Governor-General and shall in any case, subject to the provisions of subsections (3) and (4) of this section, vacate office on attaining the age of sixty-five years.

(3) The Governor-General acting on the recommendations of the National Assembly as aforesaid may permit an Ombudsman who attains the age of sixty-five years to continue in office until he has attained such later age, not exceeding seventy years, as may be agreed between them.

(4) Notwithstanding that he has attained the age at which he is required by or under the provisions of this section to vacate his office, the Ombudsman may continue in office for such period after attaining that age as the Governor General, acting on the recommendations of the National Assembly as aforesaid, may specify, in order to enable the Ombudsman to give his decision or do any other thing in relation to any investigation he was conducting before he attained that age.

(5) Nothing done by the Ombudsman shall be invalid by reason only that he has attained the age at which he is required by this section to vacate his office.

(6) The Ombudsman may be removed from office only for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour, and shall not be removed except in accordance with the provisions of subsection (7) below.

(7) If each House of the National Assembly by resolution decides that the question of removing the Ombudsman from office ought to be investigated then,

- (a) the Governor-General shall refer the matter to the Belize Advisory Council which shall sit as a tribunal presided over by the Chairman of the Council; and
- (b) the Belize Advisory Council shall enquire into the matter and report on the facts to the Governor-General and advise

the Governor General whether the Ombudsman ought to be removed under this section.

(5) If the question of the removal of the Ombudsman from office has been referred to the Council, the Governor-General may suspend the Ombudsman from performing the functions of his office and any such suspension may at any time be revoked by the Governor-General and shall in any case cease to have effect if the Council advises the Governor-General that the Ombudsman ought not to be removed from office.

**5.-(1)** No person shall be qualified for appointment to the office of Ombudsman if he,

- (a) is a member of the House of Representatives or the Senate; or
- (b) is a member of a local authority; or
- (c) is an un-discharged bankrupt; or
- (d) has at any time been convicted of any offence involving dishonesty or moral turpitude.

(2) The Ombudsman shall vacate office if any circumstances arise that if he were not Ombudsman, would cause him to be disqualified for appointment as such, by virtue of subsection (1) of this section.

Disqualifications for appointment, etc.

**6.** A person appointed as Ombudsman shall be a full-time officer and,

Restriction on employment.

- (a) shall not be employed in any other capacity during any period in which he holds office as Ombudsman; and
- (b) shall not, at any time after he has ceased to hold office as Ombudsman, be eligible for appointment in the public service.

**7.-(1)** When a vacancy arises in the office of Ombudsman, the Governor-General acting on the recommendations of the National

Filling of vacancy.

Assembly, may designate a person to act in that office during such vacancy, until a substantive appointment is made.

(2) Where by reason of illness, absence from the country or other sufficient cause, a person appointed Ombudsman is unable to perform his functions under this Act, he may appoint a member of his staff to perform those functions for a period not exceeding two months, but if the Ombudsman is unable or fails to appoint such a person or if it is necessary that such a person be appointed for a period in excess of two months, the Governor-General, acting on the recommendations of the National Assembly, may appoint a suitable person to perform those functions.

Remuneration of Ombudsman.

**8.**-(1) Subject to subsection (2), the Ombudsman shall receive such emoluments and be subject to such other terms and conditions of service as may from time to time be prescribed by or under any law or by resolution of the National Assembly, such emoluments being not less than the emoluments which may, from time to time, be payable to a Judge of the Supreme Court.

(2) The emoluments and terms and conditions of service of the Ombudsman, other than allowances that are not taken into account in computing pensions, shall not be altered to his disadvantage during the period of his appointment or re-appointment, as the case may be.

(3) The emoluments for the time being payable to the Ombudsman by virtue of this Act shall be charged on and paid out of the Consolidated Revenue Fund.

Pensions and gratuities.

**9.** The provisions of the First Schedule shall have effect with respect to the pension and other benefits to be paid to or in respect of a person who has held office as Ombudsman.

Appointment of officers, etc.

**10.**-(1) The Ombudsman may appoint and employ for the purposes of this Act, on such remuneration and on such terms and conditions as may be approved by the National Assembly, such officers and agents as may be considered necessary to assist him in the proper performance of his functions under this Act.

(2) The Governor-General or the Public Services Commission, as the case may be, may, subject to such conditions as may be imposed, approve the secondment to the staff of the Ombudsman, of any officer in the public service, provided that in relation to pension, gratuity, allowances and other rights as a public officer, such officer shall be deemed to be in the public service while so employed.

(3) An appeal shall lie to the House Committee (established under Standing Order 72 of the Standing Orders of the House of Representatives), made in Subsidiary Legislation 1991 Edition, Volume 1 , Cap. 4 at page 54 from any decision of the Ombudsman removing or taking any other disciplinary action against a member of the staff of the Ombudsman appointed under this section.

(4) The House Committee may make such rules as it may deem fit for the hearing of appeals under subsection (3) of this section.

**11.** Every person appointed to the staff of an Ombudsman shall, before he performs any function assigned to him under or by virtue of this Act, take and subscribe an oath to be administered by the Ombudsman, in the form set out in the Second Schedule.

Oath of secrecy.

### PART III

#### *Functions of Ombudsman*

**12.**-(1) Subject to the provisions of this Act, where the Ombudsman has reasonable cause to believe that,

- (a) an authority or an officer or member of an authority has been guilty of corruption or other wrongdoing; or
- (b) any person or body of persons has or may have sustained injustice, injury or abuse as a result of any action taken by an authority or an officer or a member of such authority,

arising out of or connected with the exercise of the administrative functions of that authority (whether before or after the commencement of this Act), the Ombudsman may investigate the action so taken,

Provided that the Ombudsman shall not investigate any matter or action which arose or was taken more than 10 years before the commencement of this Act.

(2) The expression “abuse” as used in subsection (1) above shall include any act of discourtesy or refusal to act and any act motivated by discrimination based on religion, language, race, sex, colour or creed.

(3) Subject to the provisions of subsection (4) of this section, the Ombudsman shall not investigate,

- (a) any such action aforesaid in respect of which the complainant has already sought a remedy by way of proceedings in any court or in any tribunal constituted by or under any law; or
- (b) any such action or matters as are described in the Third Schedule; or
- (c) the exercise of the powers conferred on the Governor-General by section 52 of the Constitution, Cap. 4 (which relates to the prerogative of mercy).

(4) The Ombudsman,

- (a) may (to the extent that such investigation is not in conflict with paragraph 4 of the Third Schedule) conduct an investigation into any reports made to the Governor-General or the Public Services Commission, as the case may be, in respect of the appointment, removal, promotion, disciplinary control or other personnel matters in relation to any person; and
- (b) shall not be precluded from conducting an investigation in respect of any matter by reason only that it is open

to the complainant to apply to the Supreme Court for redress under section 20 of the Constitution, Cap.4 (which relates to re-dress for contravention of provisions for the protection of fundamental rights and freedoms).

(5) If any question arises as to whether he has jurisdiction to investigate any case or class of cases under this Act, the Ombudsman may apply to the Supreme Court for a declaration determining that question.

(6) The fact that an action is commenced in any court in connection with a matter under investigation by the Ombudsman shall not, unless the court otherwise directs, preclude such investigation.

**13.** An investigation pursuant to section 12 of this Act may be undertaken by the Ombudsman on his own initiative or on a complaint made to him pursuant to section 14 of this Act.

Initiation of investigation.

**14.**-(1) A complaint to the Ombudsman may be made by any person or body of persons, whether incorporated or not, who claims to have sustained such injustice or abuse as is mentioned in section 12 (1), or who claims that an authority or an officer or member of an authority has been guilty of corruption or other wrongdoing, but such complaint shall not be made by,

Who may complain.

(a) an authority; or

(b) a body or authority constituted for the purposes of the public service.

(2) Where the complainant,

(a) is a minor, the complaint may be made by his parent or guardian or any other suitable person;

(b) is unable to act for himself by reason of infirmity, or for any other cause, or has died, the complaint may be made by his personal representative, or a member of his family, or any other suitable person.

- (3) Every complaint to the Ombudsman shall be made in writing.
- (4) Notwithstanding anything provided by or under any law,
  - (a) where a complaint made by a person who is an inmate of a prison or a Government institution or is detained therein, is addressed to the Ombudsman, it shall be forwarded to the Ombudsman by the person for the time being in charge of that prison or institution; and if such complaint is contained in a sealed envelope, the envelope shall be forwarded unopened; and
  - (b) regulations made under this Act may make provisions for ensuring confidentiality of communication between any such person as is mentioned in paragraph (a) and the Ombudsman.

Refusal to investi-  
gate.

**15.**-(1) The Ombudsman may, in his absolute discretion, determine whether to undertake or continue an investigation under this Act and in particular, but without prejudice to the generality of the foregoing, may refuse to undertake or continue any investigation if he is of the opinion that,

- (a) the subject-matter of the complaint is trivial;
- (b) the complaint is frivolous or vexatious or not made in good faith;
- (c) the complainant has deferred for too long the making of his complaint to the Ombudsman
- (d) the complainant does not have a sufficient interest in the subject-matter of the complaint; or
- (e) having regard to all the circumstances of the case, no investigation or further investigation is necessary.

(2) Where the Ombudsman decides not to undertake or continue the investigation of a complaint, he shall inform the complainant of his decision and give reasons therefore.

**16.** Subject to the provisions of the Constitution, Cap. 4, the powers conferred on the Ombudsman by this Act may be exercised notwithstanding any provision in any law that an act done thereunder shall not be challenged, reviewed, quashed or called into question.

Extent of exercise of powers.

## PART IV

### *Process of Investigation*

**17.-** (1) Where the Ombudsman proposes to conduct any investigation under this Act, he shall afford,

Procedure in respect of investigation.

- (a) to the principal officer of the authority to which the investigation relates; and
- (b) to any other officer or member thereof who is alleged to have done or authorized any such action as is mentioned in section 12 (1) of this Act,

an opportunity to comment in writing on any allegations relating to such action.

(2) The Ombudsman may adopt whatever procedure he considers appropriate to the circumstances of a particular case and, subject to the provisions of this Act, may obtain information from such persons and in such manner, and make such enquiries as he thinks fit.

(3) Nothing in this Act shall be construed as requiring the Ombudsman to hold any hearing, and except as provided by subsections (1) and (5) of this section and section 21 (3) of this Act, no person shall be entitled as of right to comment on any allegations or to be heard by the Ombudsman.

(4) Regulations made under this Act may prescribe the procedure to be adopted at any hearing and such procedure may include provision to ensure that any such communication as is mentioned in section 28 (5) of this Act is not disclosed at that hearing.

(5) If it appears to the Ombudsman during the course of an investigation that there are sufficient grounds for making a report or recommendation that may adversely affect any person, he shall give that person an opportunity to be heard and that person may, if he wishes, be represented at that hearing by an attorney-at-law or any other person.

(6) Where, for the purposes of an investigation, the Ombudsman requires a person to attend before him, that person shall be entitled to be paid, according to the scale laid down in the Supreme Court Rules, expenses incurred by him by reason of such attendance and by way of compensation for the trouble and loss of time suffered by him.

Evidence.

**18.**-(1) Subject to the provision of subsection (5) of this section and section 19 (1) of this Act, the Ombudsman may at any time require any officer or member of an authority, or any other person who, in his opinion, is able to give any assistance in relation to the investigation of any matter, to furnish such information and produce any document or thing in connection with such matter and which may be in the possession or under the control of that officer or member or other person.

(2) Subject as aforesaid, the Ombudsman may summon before him and examine on oath,

(a) any complainant; or

(b) any officer, member or employee of an authority, or any other person who, in the opinion of the Ombudsman, is able to furnish information relating to the investigation,

and such examination shall be deemed to be a judicial proceeding and the provisions of Title XV of the Criminal Code, Cap. 101 shall apply to all statements made in such proceedings.

(3) For the purposes of an investigation under this Act, the Ombudsman shall have the same powers as a Judge of the Supreme Court in respect of the attendance and examination of witnesses and the production of documents.

(4) Subject to the provisions of this Act, any obligation to maintain secrecy or any restriction on the disclosure of information or the production of any document or paper or thing imposed on any person by or under any law shall not apply in relation to the disclosure of information or the production of any document or thing by that person to the Ombudsman for the purpose of an investigation; and accordingly, no person shall be liable to prosecution for an offence under any such law by reason only of his compliance with a requirement of the Ombudsman under this Act.

(5) No person shall, for the purposes of an investigation, be compelled to give any evidence or produce any document or thing which he could not be compelled to give or produce in proceedings in any court of law.

**19.-(1)** Where the Secretary to the Cabinet at the direction of the Cabinet,

Restriction on disclosure of certain matters.

- (a) gives notice that the disclosure by the Ombudsman of any document or information specified in the notice, or any class of documents or information so specified, would,
  - (i) involve the disclosure of the deliberations or proceedings of the Cabinet or any committee thereof, relating to matters of a secret or confidential nature and is likely to be injurious to the public interest; or
  - (ii) prejudice the relations of Belize with the government of any other country, or with any international organization; or
  - (iii) prejudice the detection of offences, the Ombudsman or any member of his staff shall not

communicate to any person for any purpose, any document or information specified in the notice, or any document or information of a class so specified;

- (b) certifies that the giving of any information or the answering of any question or production of any document or thing would prejudice the security or defence of Belize, the Ombudsman shall not further require such information or answer to be given or such document or thing to be produced.

(2) Except as provided under subsection (1) of this section and section 18 (5) of this Act, no law which authorises or requires the refusal to answer any question or the withholding of any information or document or thing on the ground that the answering of the question or the disclosure of the information, document or thing would be injurious to the public interest, shall apply in respect of any investigation by or proceedings before the Ombudsman.

**20.**-(1) The Ombudsman may, for the purpose of preventing or detecting crime or protecting the rights or freedoms of any person, enter any premises occupied by any authority in order to inspect any document or record therein in respect of any matter under investigation and may, without prejudice to the provisions of sections 18 and 19 of this Act, make such enquiries and retain such document or record, as he considers necessary to such investigation.

(2) Before entering upon any premises pursuant to subsection (1) of this section, the Ombudsman shall notify the principal officer of the authority or department by which the premises are occupied.

**21.**-(1) After conducting an investigation under this Act, the Ombudsman shall inform the principal officer of the authority concerned of the result of that investigation, and if the Ombudsman finds that an officer or member of an authority has been guilty of corruption or other wrongdoing, or that the complainant has sustained injustice, injury or abuse in consequence of a fault in the administration of that authority, he shall inform such officer

Power to enter premises and retain documents.

Procedure after investigation.

aforesaid of his findings and may, as he thinks fit, make recommendations for action to be taken by that authority within a specified time.

(2) Where the Ombudsman has made a recommendation under subsection (1), and within the time specified or a reasonable time thereafter, he is of the opinion that no adequate action has been taken in pursuance of his recommendation, he shall lay before the National Assembly a special report on the case.

(3) The Ombudsman shall not, in any report under subsection (2) above, comment adversely on any person unless he has given that person an opportunity to be heard.

(4) Where the Ombudsman finds that,

- (a) the complainant has sustained any such injustice, injury or abuse as is mentioned in section 12 (1), he shall inform the complainant of his findings, the nature of the injustice sustained and the recommendations (if any) which have been made to remedy the injustice, and may make such comments in relation to the case as he thinks fit;
- (b) the complainant has suffered no such injustice, injury or abuse, he shall inform the complainant of that finding and may make such comments in relation to the case as he thinks fit.

(5) On the conclusion of an investigation, the Ombudsman may make to the authority concerned such recommendations as he thinks fit and in particular, but without prejudice to the generality of the foregoing, may recommend any or all of the following,

- (a) that the action which was the subject-matter of the complaint be reviewed;
- (b) that an enactment, rule or regulation which causes or may cause injustice, be altered;
- (c) that compensation be made to the complainant.

Disciplinary action against officers and procedure for criminal offences.

**22.**-(1) If the Ombudsman finds, during the conduct of his investigations or on the conclusion thereof, that there is evidence of a breach of duty, or misconduct, or of a criminal offence on the part of an officer or member of any authority, he shall refer the matter to the person or body of persons competent to take such disciplinary or other proceedings as may be appropriate against that officer or member and in all such cases shall lay a special report before the National Assembly.

(2) Where any special report is laid before the National Assembly, the National Assembly may, in addition to any other action it may take,

- (a) if the report discloses the commission of a criminal offence, report the said matter to the Director of Public Prosecutions for necessary action; or
- (b) if the matter discloses any breach of duty or conduct that has caused damage to any person or to his property, authorise the Ombudsman, after satisfying itself that the indigent circumstances of the injured party require such assistance to be given, to appoint a solicitor to institute action on behalf of the complainant to recover damages.

(3) The Ombudsman may, where he is authorised to appoint a solicitor on behalf of a complainant under subsection (2) of this section, incur expenses by way of legal fees and stamp duties not exceeding one thousand dollars in respect of any one complaint.

**23.** The proceedings before the Ombudsman shall not be rendered void for want of form.

**24.**-(1) Except in the case of proceedings for an offence under section 30 (c) of this Act, no proceedings whatsoever shall lie against the Ombudsman or any person concerned with the administration of this Act, for anything he may do or report or say in the performance of his functions under this Act.

(2) Anything said or any information supplied or any document or thing produced by any person for the purpose or in the course of

Proceedings of Ombudsman not to be void for want of form.

Privilege.

any enquiry by, or proceedings before the Ombudsman under this Act, shall be absolutely privileged in the same manner as if the enquiry or proceedings were proceedings in a court of law.

(3) For the purposes of the Libel and Defamation Act, Cap. 169 for the purpose of the Libel and Defamation Act, Cap. 169 any report made by the Ombudsman under this Act and fair and accurate report thereon shall be deemed to be privileged.

## PART V

### *Miscellaneous*

**25.**-(1) The Ombudsman and every person concerned with the administration of this Act shall regard as secret and confidential all documents, information and things disclosed to them in the execution of any of the provisions of this Act, except that no disclosure,

Secrecy of information.

- (a) made by the Ombudsman or any person aforesaid in proceedings for an offence under section 30 of this Act or under Title XV of the Criminal Code, Cap. 101 by virtue of section 18 (2) of this Act;
- (b) which the Ombudsman thinks it necessary to make in the discharge of his functions and for the purpose of executing any of the provisions of sections 21 (2) and 22, and subject as provided in subsection (5) of section 28,

shall be deemed inconsistent with any duty imposed by this subsection.

(2) Neither the Ombudsman nor any such person aforesaid shall be called upon to give evidence in respect of, or produce any document, information or thing aforesaid, in any proceedings other than proceedings mentioned in subsection (1) of this section.

**26.**-(1) The functions of the Ombudsman, except those under sections 15, 21, 22, 27 (2) and 28, may be performed by any member of his staff authorized for that purpose by the Ombudsman.

Performance of functions of Ombudsman by members of his staff.

(2) Nothing in subsection (1) shall be construed as affecting the responsibility of the Ombudsman for functions performed on his behalf pursuant to subsection (1).

Funding and ac-  
counts, etc.

**27.-(1)** The funds of the office of Ombudsman shall consist of,

- (a) such sums as may from time to time be appropriated by the National Assembly for the purposes of the office of Ombudsman; and
- (b) all other moneys which may in any manner become payable to or vested in the Ombudsman in respect of any matter incidental to his functions.

(2) The accounts and financial transactions of the office of Ombudsman shall be audited annually by the Auditor General and a statement of accounts so audited shall form part of the annual report mentioned in section 28.

(3) The Ombudsman shall, at such time within each year as the Minister of Finance may direct,

- (a) submit to the Minister of Finance a statement of the accounts of the Ombudsman audited in accordance with the provisions of subsection (1);
- (b) submit to the Minister of Finance for approval, the estimates of revenue and expenditure for the financial year commencing on the 1st day of April next following.

Reports.

**28.-(1)** The Ombudsman may at any time be required by the National Assembly to submit thereto a report in respect of any matter under investigation by him.

(2) The Ombudsman shall submit to the National Assembly an annual report relating generally to the execution of his functions and may, at any time submit a report relating to any particular case or cases investigated by him which, in his opinion, requires the special attention of the National Assembly.

(3) Reports under this section shall be submitted to the Speaker of the House of Representatives and the President of the Senate who shall, as soon as possible, have them laid on the Table of the respective Houses.

(4) The Ombudsman may, in the public interest, from time to time publish in such manner as he thinks fit, reports relating to such matters as are mentioned in subsection (2) of this section and any case which is the subject of a special report under sections 21(2) and 22 of this Act, provided that no such reports shall be published until after it has been laid pursuant to subsection (3) of this section.

(5) The Ombudsman shall not, in any report furnished under this section, disclose or act upon any communication,

- (a) between a medical practitioner and his patient in their professional relationship; or
- (b) between a minister of religion and any person consulting him in his capacity as such,

where such communication came to the Ombudsman's knowledge during the course of an investigation under this Act.

**29.**-(1) Subject to subsection (2) of this section, where the Ombudsman decides to investigate a complaint, he shall cause to be recorded in a register kept for the purpose,

Register.

- (a) the name of the complainant;
- (b) the subject-matter of the complaint and the date thereof; and
- (c) on the conclusion of the investigation, the Ombudsman's decision respecting the complaint,

and any person may, on payment of such fees as may be prescribed, inspect during the hours and on the days of business of the Ombudsman, any register kept pursuant to this subsection.

(2) A separate register shall be kept for any such complaint as is mentioned in section 14 (4) of this Act (which relates to complaints made by a prisoner or an inmate of a Government institution), and which shall not be open to inspection.

Offences.

**30.** Every person who,

(a) wilfully,

- (i) contravenes the provisions of section 14 (4) of this Act or any regulations made in furtherance of that subsection, or
- (ii) makes any false statement to or misleads or attempts to mislead the Ombudsman or any other person in the execution of his functions under this Act; or

(b) without lawful justification or excuse,

- (i) obstructs, hinders or resists the Ombudsman or any other person in the execution of his functions under this Act; or
- (ii) fails to comply with any lawful requirement of the Ombudsman or any other person under this Act; or
- (iii) in a manner inconsistent with his duty under section 25 (1) of this Act, deals with documents, information or things mentioned in that subsection; or
- (iv) otherwise than in the course of his duty, directly or indirectly by himself or by any other person, in any manner whatsoever, wilfully 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 be guilty of an offence and shall be liable on summary conviction to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding twelve months, or to both such fine and imprisonment.

**31.**-(1) Nothing in this Act shall be construed as limiting or affecting any remedy or right of appeal, objection or procedure given to any person by any other law.

Remedy under any other provision of law unaffected.

(2) The Ombudsman may initiate or continue any investigation and report thereon pursuant to this Act notwithstanding any legal proceedings relating to the subject-matter of the investigation.

**32.** Before entering upon his duties under this Act, the Ombudsman shall take and subscribe the oath of allegiance and office before the Governor-General.

Oath of allegiance and office.

**33.** In the discharge of his functions, the Ombudsman shall not be subject to the direction or control of any other person or authority and no proceedings of the Ombudsman shall be called in question in any court of law by way of *certio-rari* or any other means.

Ombudsman not subject to control of other authority.

**34.** In carrying out his functions under this Act, the Ombudsman shall have due regard to the powers and functions of the Contractor-General under the Contractor General Act, Cap. 6 and shall refrain from investigating a matter which falls within the jurisdiction of the Contractor-General.

Powers of Ombudsman in relation to Contractor-General.

**35.**-(1) The Ombudsman may make regulations to provide for any matter which is or may be prescribed by this Act and for any other matter in respect of which it may be necessary or desirable to make regulations for the better carrying into effect of the provisions of this Act.

Regulations.

(2) The Ombudsman may make the contravention of any regulation made by him under the preceding subsection an offence punishable by a fine not exceeding one thousand dollars or by imprisonment for a term not exceeding six months, or both such fine and imprisonment.

(3) All regulations made by the Ombudsman under this section shall be laid before the National Assembly as soon as may be after the making thereof and shall be subject to negative resolution.

## FIRST SCHEDULE

### OMBUDSMAN ACT

#### Terms and Conditions for Pensions and Gratuities of Ombudsman

#### [Section 9]

Interpretation.

**1.** In this Schedule, “pensionable emoluments” has the same meaning as in the Pensions Act, Cap. 30.

Entitlement to pensions and gratuities in respect of service as Ombudsman.

**2.- (1)** Where a person holding the office of Ombudsman retires in pensionable circumstances he shall, subject to the provisions of this Schedule, be paid pension and gratuity in accordance with this Act *in lieu* of any pension, allowance or gratuity for which he may have been eligible or which he may have been granted pursuant to the Pensions Act, Cap. 30.

(2) A person entitled to pension or gratuity pursuant to subparagraph (1) of this paragraph or who is eligible for a grant of pension or gratuity pursuant to subparagraph (5) of this paragraph may, by memorandum in writing to the Governor-General, elect to forego his entitlement under this Act and be granted instead such award under the Pensions Act, Cap. 30 as would be payable under that Act if the office of Ombudsman were a pensionable office under that Act.

(3) For the purposes of this paragraph and paragraph 4, a person retires in pensionable circumstances if he retires-

- (a) on or after the expiration of six years from the date of his appointment to the office of Ombudsman; or
- (b) by reason of ill-health prior to such expiration; or

- (c) on his attaining the age at which he is required by or under the provisions of section 4 of this Act to vacate office.
- (4) For the purposes of this Act, a person retires from the office of Ombudsman on the ground of ill-health if,
- (a) he retires on medical evidence, to the satisfaction of the Governor-General, that he is incapable by reason of any infirmity of mind or body of discharging the duties of his office and that such infirmity is likely to be permanent; or
  - (b) he is removed from office, in accordance with section 4 (6) of this Act, for inability, arising from infirmity of mind or body, to perform the functions of his office.
- (5) A person who, pursuant to section 4 (6) of this Act, is removed from the office of Ombudsman for misbehaviour or for any cause other than inability arising from infirmity of mind or body or who retired otherwise than in pensionable circumstances may, subject to subparagraph (2), be granted by the Governor-General *in lieu* of any pension, allowance or gratuity for which he may have been eligible pursuant to the Pensions Act, Cap. 30, such pension and gratuity as the Governor-General thinks fit not exceeding the pension and gratuity to which he would have been entitled had he retired in pensionable circumstances from such office and, for the purposes of subparagraph (6) of this paragraph, the date of such removal from office or retirement shall be deemed to be the date of retirement in pensionable circumstances.
- (6) Pension payable in accordance with this paragraph shall,
- (a) be charged on and payable out of the Consolidated Revenue Fund; and
  - (b) be paid monthly in arrears with effect, subject to paragraph 4 of this Schedule, from the date of retirement in pensionable circumstances and shall, subject to the provisions of this Act, continue to be paid during the lifetime of the person entitled thereto.

Rate of pension.

3. The rate of pension payable pursuant to paragraph 2 of this Schedule to any person shall be an annual rate equivalent to the sum of one-half of his pensionable emoluments at the date of retirement and one-three hundred and sixtieth of such pensionable emoluments in respect of each month of service as an Ombudsman,

Provided that the rate of pension shall not exceed the annual rate of such pensionable emoluments.

Special provision where Ombudsman retires before attaining age fifty.

4. Where in accordance with paragraph 2 (3), a person retires in pensionable circumstances before he has attained the age of fifty years-

- (a) the date with effect from which any pension due to him under this Act shall be payable, shall be the date on which he attains that age, but, if he elects pursuant to paragraph 5 to take a reduced pension and commuted pension gratuity, nothing in this paragraph shall prevent payment of the commuted pension gratuity at any time prior to the attainment of that age; and
- (b) if he dies before attaining that age, and he has not made an election to receive a reduced pension and commuted pension gratuity as aforesaid, he shall for the purposes of paragraph 6 be deemed to have died while holding the office of Ombudsman.

Reduced pension and gratuity.

5.-(1) Any person to whom a pension (in this paragraph referred to as “the original pension”) is payable pursuant to paragraph 2 may, at his option exercisable at his retirement in pensionable circumstances or within such period prior or subsequent to his retirement as the Governor-General may allow, be paid, *in lieu* of the original pension, a reduced pension at the rate of three-fourths of the annual rate of the original pension together with a gratuity (in this Act referred to as a “commuted pension gratuity”) equal to twelve and one-half times the amount by which the original pension is reduced.

(2) The option referred to in subparagraph (1) of this paragraph shall be irrevocable unless the Governor-General, on such terms as he considers reasonable, otherwise permits.

6.-(1) Where a person dies while holding the office of Ombudsman, there shall be paid to his legal personal representatives, a gratuity of an amount equivalent to,

Gratuity on death.

- (a) one year's pensionable emoluments; or
- (b) the commuted pension gratuity for which the person aforesaid had a right to opt pursuant to paragraph 5 of this Schedule on the assumption that he retired in pensionable circumstances at the date of his death,

whichever is the greater.

(2) Where a person dies while in receipt of a pension pursuant to paragraph 2 above, there shall be paid to his legal personal representatives a gratuity of an amount equivalent to one year's pensionable emoluments of that person at the date of his retirement or removal from office, from which gratuity shall be deducted any pension or gratuity already paid to that person under this Act or under the Pensions Act, Cap. 30.

7. Where a person holding the office of Ombudsman dies as a result of injuries received,

Pensions to dependents when the Ombudsman dies as a result of injuries received or disease contracted in the discharge of his duties.

- (a) in the actual discharge of his duties;
- (b) in circumstances in which the injury is not wholly or mainly due to or seriously aggravated by his own serious and culpable negligence or misconduct; and
- (c) on account of circumstances specifically attributable to the nature of his duty,

while serving in that office, it shall be lawful for the Governor-General to grant to the deceased Ombudsman's widow, children, parents or other dependents such awards as would have been made under the Pensions Act, Cap. 30 if the office of Ombudsman were a pensionable office for the purposes of that Act.

Pensions, etc., not to be assigned.

**8.** A pension or gratuity payable under this Act shall not be assignable or transferable except for the purpose of satisfying,

- (a) a debt due to the Government; or
- (b) an order of any court for the payment of periodical sums of money towards the maintenance of the wife, or former wife, or minor children, of the person to whom the pension or gratuity is payable,

and shall not be liable to be attached, sequestered or levied upon, for or in respect of any debt due or claim whatever except a debt or claim due to the Government.

Widow's pension.

**9.**-(1) Where a person dies while holding the office of Ombudsman or while entitled to a pension under paragraph 2, there shall be paid to his widow a pension at an annual rate equivalent to one-fifth of the pensionable emoluments of the person aforesaid at the date of his death or, if at that date he was entitled to receive a pension under paragraph 2, at the date of his retirement or, as the case may be, removal from office in accordance with this Act.

(2) Pension payable to a widow pursuant to subparagraph (1) above shall,

- (a) be charged on and payable out of the Consolidated Revenue Fund; and
- (b) be paid monthly in arrears with effect from the date of her husband's death and shall, subject to the provisions of this Act continue to be paid during her lifetime.

(2) In paragraph 7 above and subparagraphs (1) and (2) of this paragraph, references to a widow shall, in the case of a female appointed Ombudsman, be deemed to include references to a widower and cognate expressions shall be construed accordingly, and similarly, references to a husband shall be deemed to include references to a wife.

**10.** In the exercise of his powers under this Schedule, the Governor-General shall act in accordance with the recommendations of the National Assembly.

Recommendations  
of National As-  
sembly.

SECOND SCHEDULE

OMBUDSMAN ACT

Oath of Office of Assistant Ombudsman

*[Section 11]*

I, ..... do swear (or solemnly and sincerely affirm and declare) that I will faithfully perform any functions assigned to me under the Ombudsman Act, and I will not, on any account, at any time whatsoever, except in so far as provisions of the Act authorize, directly or indirectly, reveal or make known any information or the nature or contents of any documents communicated to me in the performance of any functions assigned to me by virtue of the Act.

So help me God.

THIRD SCHEDULE  
OMBUDSMAN ACT  
Matters not Subject to Investigation  
*[Section 12]*

1. The commencement or conduct of civil or criminal proceedings in any court of law in Belize or before any international court or tribunal.
2. Any action done with respect to orders or directions to the Belize Defence Force or members thereof, or any proceedings under the Defence Act, Cap. 135.
3. Action taken by the Minister responsible for foreign affairs relating to the extradition of any person.
4. Any decision or action of the Governor-General or the Public Services Commission relating to the appointment, removal or disciplinary control of any person.
5. The grant of honours, awards and privileges under the National Honours and Awards Act, Cap. 162.
6. Any matter which affects the security or external relations of Belize.