

CHAPTER 19:04

OMBUDSMAN ACT

ARRANGEMENT OF SECTIONS

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SCHEDULE—Authorities subject to the Ombudsman's jurisdiction.

An Act to make provision for matters supplementary and ancillary to those provided for by Subtitle 2 of TITLE 5 of the Constitution of the Co-operative Republic of Guyana. 17 of 1967 [O. 8/1980]

[9TH SEPTEMBER, 1967]

1. This Act may be cited as the Ombudsman Act. Short title.
2. (1) All complaints to the Ombudsman and requests for investigation by him shall be made in writing. Mode of complaint.

(2) Notwithstanding anything provided by or under any enactment, where any letter written by any person detained on a charge or after conviction of any offence is addressed to the Ombudsman, it shall be immediately forwarded, unopened, to the Ombudsman by the person for the time being in charge of the place where the writer is detained.

Procedure in
respect of
investigation.
[O. 80/1980]
c. 1:01

3. (1) Where the Ombudsman proposes to conduct an investigation under article 192(1) of the Constitution he shall afford to the principal officer of the department or authority concerned an opportunity to make, orally or in writing as the Ombudsman thinks fit, representations which are relevant to the matter in question and the Ombudsman shall not, as a result of such an investigation, make any report or recommendation which may adversely affect any person without his having had an opportunity to make, orally or in writing as deemed sufficient by the Ombudsman, representations relevant to the matter investigated.

(2) Every such investigation shall be conducted in private.

(3) It shall not be necessary for the Ombudsman to hold any hearing and, subject as hereinbefore provided, no person shall be entitled as of right to be heard by the Ombudsman. The Ombudsman may obtain information from such persons and in such manner, and make such inquiries, as he thinks fit.

(4) If, during or after any investigation, the Ombudsman is of opinion that there is evidence of any breach of duty, misconduct or criminal offence on the part of any officer or employee of any department or authority to which article 192 of the Constitution applies, the Ombudsman may refer the matter to the authority competent to take such disciplinary or other proceedings against him as may be appropriate.

(5) Subject to this Act, the Ombudsman may regulate his procedure in such manner as he considers appropriate in the circumstances of the case.

(6) Where any person is required under this Act by the Ombudsman to attend before him for the purposes of an investigation, the Ombudsman shall cause to be paid to such person, out of moneys provided by Parliament for the purpose, the fees, allowances and expenses, subject to qualifications and exceptions corresponding to those, that are for the time being prescribed in the Sixth Schedule to the Criminal Law (Procedure) Act, so, however, that the like functions as are so prescribed and assigned to the Registrar of the Supreme Court of Judicature shall, for the purposes of this subsection, be exercisable by the Ombudsman and he may, if he thinks fit, disallow, in whole or in part, the payment of any amount under this subsection.

c. 10:01

4. (1) Subject to this section and section 5, the Ombudsman may from time to time require any person who in his opinion is able to give any information relating to any matter that is being investigated by the Ombudsman to furnish to him any such information, and to produce any documents or papers or things which in the Ombudsman's opinion relate to any such matter as aforesaid and which may be in the possession or under the control of that person. This subsection shall apply whether or not the person is an officer, employee, or member of any department or authority, and whether or not such documents, papers, or things are in the custody or under the control of any department or authority.

Evidence.
[O. 80/1980]

(2) The Ombudsman may summon before him and examine on oath—

- (a) any person who is an officer or employee or member of any department or authority to which article 192 of the Constitution applies and who in the Ombudsman's opinion is able to give any such information as aforesaid; or
- (b) any complainant; or
- (c) any other person who in the Ombudsman's opinion is able to give any such information;

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and for that purpose may administer an oath. Every such examination by the Ombudsman shall be deemed to be a judicial proceeding for the purposes of Title 21 of the Criminal Law (Offences) Act (which relates to perjury).

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(3) Subject to subsection (4) no person who is bound by the provisions of any enactment, other than the Official Secrets Acts, 1911 to 1939 (or any Act of the Parliament of Guyana replacing the same in its application to Guyana), to maintain secrecy in relation to, or not to disclose, any matter shall be required to supply any information to or answer any questions put by the Ombudsman in relation to that matter, or to produce to the Ombudsman any document or paper or thing relating to it, if compliance with that requirement would be in breach of the obligation of secrecy or non-disclosure.

(4) With the previous consent in writing of any complainant, any person to whom subsection (3) applies may be required by the Ombudsman to supply any information or answer any question or produce any document or paper or thing relating only to the complainant, and it shall be the duty of the person to comply with that requirement.

(5) Subject to subsection (4) every person shall have the like privileges in relation to the giving of information, the answering of questions, and the production of documents and papers and things, as witnesses have in any court.

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(6) Except on the trial of any person for an offence under Title 21 of the Criminal Law (Offences) Act in respect of his sworn testimony, or for an offence under section 12 of this Act, no statement made or answer given by that or any other person in the course of any inquiry by, or any proceedings before, the Ombudsman under the Constitution or this Act shall be admissible in evidence against any person in any court or at any inquiry or in any other proceedings and no evidence in respect of proceedings before the Ombudsman shall be given against any person.

(7) No person shall be liable to prosecution for an offence against the Official Secrets Acts, 1911 to 1939, or any enactment, other than this Act, by reason of his compliance with any requirement of the Ombudsman under this section.

5. (1) Where the Attorney-General certifies that the giving of any information or the answering of any question or the production any document or paper or thing—

Disclosure of certain matters not to be required.

(a) might prejudice the security, defence or international relations of Guyana (including Guyana's relations with the Government of any other country or with any international organisation);

(b) might involve the disclosure of the deliberations of Cabinet; or

(c) might involve the disclosure of proceedings of Cabinet, or of any Committee of Cabinet, relating to matters of a secret or confidential nature, and would be injurious to the public interest,

the Ombudsman shall not require the information or answer to be given or, as the case may be, the document or paper or thing to be produced.

(2) Subject to subsection (1), no rule of law which authorises or requires the withholding of any document or paper, or the refusal to answer any question, on the ground that the disclosure of the document or paper or the answering of the question would be injurious to the public interest shall apply in respect of any investigation by or proceedings before the Ombudsman.

6. A person who performs the functions appertaining to the office of the Ombudsman or any office or employment thereunder—

Secrecy of information.
[O. 80/1980]

(a) shall regard as secret and confidential all documents, information and things which have been disclosed to any such person in the execution of any of the provisions of articles 192 and 194 of the Constitution:

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Provided that no disclosure made by any such person in proceedings for an offence under section 12 of this Act, or under Title 21 of the Criminal Law (Offences) Act and by virtue of section 4(2) of this Act, or which the Ombudsman considers it requisite to make in the discharge of any of his functions and for the purpose of executing any

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of the said provisions or the provisions of section 3(4) or section 11 of this Act, shall be deemed inconsistent with any duty imposed by this paragraph; and

(b) shall not be called upon to give evidence in respect of, or produce, any such documents, information or things in any proceedings, other than proceedings mentioned in the preceding proviso.

Proceedings not to be questioned or to be subject to review.

7. No proceeding of the Ombudsman shall be held bad for want of form, and, except on the ground of lack of jurisdiction, no proceeding or decision of the Ombudsman shall be liable to be challenged, reviewed, quashed, or called in question in any court.

Proceedings privileged.

8. (1) Except in the case of proceedings for an offence under section 12(d), no proceedings, civil or criminal, shall lie against any person appointed to any office, or to perform any functions, referred to in section 6 for anything he may do or report or say in the course of the exercise or intended exercise of his functions under the Constitution or this Act, unless it be shown that he acted in bad faith.

(2) Anything said or any information supplied or any document, paper or thing produced by any person for the purpose or in the course of any inquiry by or proceedings before the Ombudsman under the Constitution or this Act is privileged in the same manner as if the inquiry or proceedings were proceedings in a court.

Power of entry on premises. [O. 80/1980] c. 1:01

9. (1) The Ombudsman may, for the purpose of executing any provisions of article 192 of the Constitution but subject to this section, at any time enter upon any premises occupied by any department or authority to which the article applies and inspect the premises and, subject to sections 4 and 5 of this Act, carry out therein any inquiry or investigation that is within his jurisdiction for the said purpose.

(2) Before entering upon any such premises the Ombudsman shall notify the principal officer of the department or as the case may require the authority by which the premises are occupied.

(3) The Attorney-General may from time to time by notice to the Ombudsman exclude from the application of subsection (1) any specified premises or class of premises, if he is satisfied that the exercise of the power conferred by this section might prejudice the security, defence or international relations of Guyana (including Guyana's relations with the Government of any other country or with any international organisation).

10. (1) With the prior approval in each case of the President, functions hereinbefore assigned to the Ombudsman may from time to time, by direction under his hand, be delegated to any person who is appointed as mentioned in section 8(1) of this Act.

Delegation of powers.
[O. 80/1980]

(2) No such delegation shall prevent the exercise of any power by the Ombudsman.

(3) Any such delegation may be made subject to such restrictions and conditions as the Ombudsman may direct, and may be made either generally or in relation to any particular case or class of cases.

(4) Any person purporting to perform any function of the Ombudsman by virtue of a delegation under this section shall, when required to do so, produce evidence of his authority to exercise the power.

11. The Ombudsman may from time to time in the public interest publish reports relating generally to the exercise of his functions or to a particular case or cases investigated by him, whether or not the matters to be dealt with in such reports may have been the subject of a report to the Assembly.

Reports.

12. Every person who—

Offences.
[6 of 1997]

(a) without lawful justification or excuse, wilfully obstructs, hinders or resists the Ombudsman or any other person in the exercise of his powers under this Act;

(b) without lawful justification or excuse, refuses or wilfully fails to comply with any lawful requirement of the Ombudsman or any other person under this Act;

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(c) wilfully makes any false statement to or misleads or attempts to mislead the Ombudsman or any other person in the exercise of his powers under this Act; or

(d) in a manner inconsistent with his duty under section 6(a), deals with any documents, information or things mentioned in that paragraph,

is liable on summary conviction to a fine of thirty-two thousand five hundred dollars and to imprisonment for six months.

Prescription of
authorities
subject to the
Ombudsman's
jurisdiction.
[O. 80/1980]
c. 1:01

13. (1) The authorities mentioned in the Schedule are authorities to which article 192 of the Constitution applies.

(2) The President may, by order, amend the Schedule by the addition thereto or deletion therefrom of any authority or the substitution therein, for any authority, of other authority.

SCHEDULE

s. 13
O. 7/1971

AUTHORITIES SUBJECT TO THE OMBUDSMAN'S
JURISDICTION

Central Board of Health

Central Housing and Planning Authority

Sea Defence Board

Drainage and Irrigation Board

Public Corporations established under the Public Corporations Act, Cap. 19:05

Guyana Rice Board

Guyana Electricity Corporation

National Insurance Board

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City Council, Town Council and other town councils, and district councils, within the meaning of the Municipal and District Councils Act, Cap. 28:01, and local authorities under the Local Government Act, Cap. 28:02.
