

OMBUDSMAN ACT

CHAPTER 2:52

Act
23 of 1977

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UNOFFICIAL VERSION

L.R.O.

UPDATED TO DECEMBER 31ST 2015

Note on Subsidiary Legislation

This Chapter contains no subsidiary legislation.

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OMBUDSMAN ACT

ARRANGEMENT OF SECTIONS

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CHAPTER 2:52

OMBUDSMAN ACT

23 of 1977. **An Act to make provision for giving effect to Part 2 of Chapter 6 of the Constitution.**

Commencement. [24TH MAY 1977]

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

Mode of complaint. **2.** (1) All complaints to the Ombudsman and requests for investigation by him shall be made in writing.

(2) Notwithstanding anything provided by or under any written law, 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. **3.** (1) Where the Ombudsman proposes to conduct an investigation under section 93(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 the representations.

(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 is 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) Where, 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 section 93 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 for attendance in the High Court, 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.

(7) For the purposes of section 93(2)(a) of the Constitution a complaint may be made by a person aggrieved himself or, if he is dead or for any reason unable to act for himself, by any person duly authorised to represent him.

(8) Any question whether a complaint or a request for an investigation is duly made under this Act or under Part 2 of Chapter 6 of the Constitution shall be determined by the Ombudsman.

4. (1) The power of the Ombudsman under section 97 of the Constitution to summon witnesses and to compel them to give evidence on oath and to produce documents shall apply whether or not the person is an officer, employee or member of any department or authority and whether or not the documents are in the custody or under the control of any department or authority. Evidence.

(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

Schedule. section 93 of the Constitution applies or any authority referred to in the Schedule to this Act and who in the Ombudsman's opinion is able to give any relevant information;

(b) any complainant; or

(c) any other person who in the Ombudsman's opinion is able to give any relevant information,

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 the Perjury Act.

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2 & 3 Geo. 6 c. 121. (3) Subject to subsection (4) no person who is bound by the provisions of any written law, other than the Official Secrets Act 1911 to 1939 of the United Kingdom in so far as it forms part of the law of Trinidad and Tobago, 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, where 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.

Ch. 11:14. (5) Except on the trial of any person for an offence under the Perjury Act in respect of his sworn testimony, or for an offence under section 10, 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.

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

2 & 3 Geo. 6 c.
121.

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

Disclosure of
certain matters
not to be
required.

- (a) might prejudice the security, defence or international relations of Trinidad and Tobago (including Trinidad and Tobago relations with the Government of any other country or with any international organisations);
- (b) will involve the disclosure of the deliberations of Cabinet; or
- (c) will involve the disclosure of proceedings of Cabinet, or 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.

- (a) shall regard as secret and confidential all documents, information and things which have been disclosed to any such person in the execution

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of any of the provisions of sections 93 and 96 of the Constitution, except that no disclosure made by any such person in proceedings for an offence under section 10, or under the Perjury Act and by virtue of section 4(2) or which the Ombudsman considers it requisite to make in the discharge of any of his functions and for the purpose of executing any of the said provisions or the provisions of section 3(4) or section 9, 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 exception to paragraph (a).

Notice of entry on premises.

7. Before entering upon any premises pursuant to section 97(2) of the Constitution the Ombudsman shall notify the principal officer of the department or the authority by which the premises are occupied.

Delegation of powers.

8. (1) With the prior approval in each case of the Prime Minister, functions hereinbefore assigned to the Ombudsman may from time to time, by direction under his hand, be delegated to any person who is appointed to any office or to perform any function referred to in section 6.

(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.

9. (1) 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 Parliament. Reports.

(2) The form of statistics of complaints received by the Ombudsman and the results of his investigation required by section 96(5) of the Constitution to be included in the annual report to Parliament by the Ombudsman on the performance of his functions shall be prescribed by regulations made under section 12.

10. A person is liable on summary conviction to a fine of one thousand dollars or to imprisonment for six months who— Offences.

- (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;
- (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.

11. (1) The authorities mentioned in the Schedule are authorities to which section 93(3)(d) of the Constitution applies. Prescription of authorities subject to the Ombudsman's jurisdiction.

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

Regulations.

12. The President may make Regulations for the proper carrying into effect of this Act, including, in particular, for prescribing anything required or authorised to be prescribed.

Section 11 (1).

SCHEDULE

**ADDITIONAL AUTHORITIES SUBJECT TO THE
OMBUDSMAN'S JURISDICTION**

Telecommunications Services of Trinidad and Tobago Limited.
