

1996

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

SENATE

OMBUDSMAN AMENDMENT BILL 1996

EXPLANATORY MEMORANDUM

(Circulated by authority of Senator Conroy)

OMBUDSMAN AMENDMENT BILL 1996

OUTLINE

Overview

1 The Ombudsman Amendment Bill 1996 ("the Bill") seeks to amend the *Ombudsman Act 1976*.

2 The purpose of the amendments is to strengthen the independence of the Office of Ombudsman and to create a Parliamentary Joint Committee to monitor and review the office's performance and functions and to report to both Houses on matters concerning the Ombudsman's Office.

OMBUDSMAN AMENDMENT ACT 1996

NOTES OF INDIVIDUAL PROVISIONS

Clause 1 Short Title

1 This clause provides that the Act may be cited as the *Ombudsman Amendment Act 1996*.

Clause 2 Commencement

2 This clause provides that this Act commences on the day on which it receives the Royal Assent.

Clause 3 Schedule

3 This clause provides that the Ombudsman Act 1976 is amended in accordance with the applicable items in the Schedule.

SCHEDULE – Amendment of the Ombudsman Act 1976

Item 1

This item inserts a new definition to provide that in the Act “Committee” means the Parliamentary Joint Committee on the Ombudsman as established under the Act.

Item 2

This item inserts a definition of Member in the Ombudsman Act to provide that a “Member” means a Member of the Parliamentary Committee.

Item 3

This item inserts a new heading into the Principal Act prior to the insertion of the provisions for the Parliamentary Joint Committee on the Ombudsman.

Item 4

This item inserts the provisions for the establishment of a Joint Committee on the Ombudsman. The provisions provide for the establishment of such a Committee (a) as soon as is practicable after the commencement of this Act; and (b) after the commencement of the

first session of each Parliament. It provides that the Committee should be a Joint Committee, consisting of 10 members, namely 5 members of the Senate and 5 members of the House. The item provides that certain members (namely Ministers, Presiding Officers and their Deputies) are not eligible to be members of the Committee; it provides that Members of the Committee cease to hold office when the House expires by effluxion of time or is dissolved, when they become the holder of an office which may otherwise make them ineligible (such as becoming a Minister or Presiding Officer) and it provides that members may resign their membership of the Committee by writing to the relevant Presiding Officer.

Subsection 29A(7) provides that either House may appoint members to fill vacancies on the Committee.

Proposed Section 29B provides that matters relating to the powers and proceedings of the Committee shall be determined by resolution of both Houses of the Parliament.

Proposed Section 29C defines the duties of the Committee. Essentially these are:

to monitor and to review the performance by the Ombudsman of the Ombudsman's functions;

to report to both Houses of the Parliament, with such comments as it thinks fit, upon any matter appertaining to the Ombudsman or connected with the performance of the Ombudsman's functions to which, in the opinion of the Committee, the attention of the Parliament should be directed;

to examine the proposed budget for the Ombudsman's office for each year and to approve the budget, with whatever comments it considers appropriate, for transmission to the Prime Minister;

to examine each annual report of the Ombudsman and report to the Parliament on any matter appearing in, or arising out of any such annual report to which the Committee thinks the Parliament's attention should be directed;

to examine trends and changes in matters dealt with by the Ombudsman and report to both Houses of the Parliament any change which the Committee thinks desirable to the functions, structure, powers and procedures of the Ombudsman; and

to inquire into any question in connection with its duties which is referred to it by either House of the Parliament, and to report to that House upon that question.

Item 5

Inserts a new heading before the provisions on the Ombudsman's budget.

Item 6

Inserts provisions to require that as soon as is practicable after the proposed budget for each year has been considered by the Committee the Ombudsman must transmit the budget, with any comment the Committee has made, to the Prime Minister.

Proposed subsection 31A(2) provides that no changes to the budget for the Ombudsman which would be inconsistent with any comments made by the Committee may be made unless they have been discussed with the Committee.



9 780644 446686