

1993-94

**THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA**

**SENATE**

**PRIME MINISTER AND CABINET  
(MISCELLANEOUS PROVISIONS) BILL 1994**

**FURTHER SUPPLEMENTARY EXPLANATORY MEMORANDUM**

**Amendments to be moved on behalf of the Government**

**(Circulated by authority of the Prime Minister, the Hon P J Keating MP)**





**PRIME MINISTER AND CABINET  
(MISCELLANEOUS PROVISIONS) BILL 1994**

**OUTLINE AND FINANCIAL IMPACT STATEMENT**

The Prime Minister and Cabinet (Miscellaneous Provisions) Bill 1994 (the Bill) amends a number of Acts, most of which fall within the portfolio of the Prime Minister.

Part 6 of the Bill makes amendments to the *Ombudsman Act 1976* including amendments to extend the Ombudsman's jurisdiction to cover the registries of Commonwealth courts and the Administrative Appeals Tribunal and the Parliamentary Departments. Clause 18 of the Bill amends the definitions section of the Act to insert three new subsections which taken together provide that, in the case of matters concerning such bodies, the phrase "responsible Minister" or "Minister concerned" is to be read as a reference to the chief judge or Speaker of the House of Representatives or President of the Senate as appropriate in provisions of the Act relating to notification by the Ombudsman to that Minister.

The first of the two proposed Government amendments omits proposed subsection 3(17) and substitutes a new one which contains minor technical changes. The second amends subsection 8(8) of the Act to ensure that where the Ombudsman investigates the administrative action of the registry of a Commonwealth court or of the Administrative Appeals Tribunal or of a Parliamentary Department, the Ombudsman can discuss the matter with the chief judge or Speaker or President, as appropriate as well as any Minister concerned with the matter.

The amendments will have no financial impact.

## NOTES ON AMENDMENTS

### Amendment 15

Part 6 of the Bill amends the *Ombudsman Act 1976* and includes amendments which will allow the Ombudsman to investigate complaints about the registries of Commonwealth courts and of the Administrative Appeals Tribunal. Clause 18 of the Bill inserts three new subsections into section 3 of the Act ("definitions") with the effect that where under the Act the Ombudsman is required or empowered to raise a matter concerning the investigation of a court registry or Parliamentary Department with a Minister then the head judge of the court or Tribunal or Speaker or President, as appropriate, is substituted for the Minister.

This amendment substitutes a new proposed subsection 3(17) to include a change consequential on amendment 16 below and also a technical change to ensure that the reference in subsection 8(10) of the Act to a "Minister administering a Department" is read as the Speaker of the House of Representatives or President of the Senate where appropriate. Accordingly, where the Ombudsman is of the opinion that the principal officer of a Parliamentary Department has been guilty of a breach of duty or of misconduct, the Ombudsman must bring the evidence to the notice of the Speaker of the House of Representatives or the President of the Senate, as appropriate.

### Amendment 16

This amendment will amend subsection 8(8) of the Act to ensure that where an investigation relates to the administrative actions of a registry or Parliamentary Department, the Ombudsman will be able to discuss the investigation with the head judge or Speaker or President, as appropriate, as well as with any Minister concerned with the matter.