

First print



New South Wales

Local Government Amendment (Ombudsman's Recommendations) Bill 1998

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

Section 26 of the *Ombudsman Act 1974* enables the Ombudsman to recommend the action to be taken by a body that is the subject of a report made under that section following an investigation into the conduct of the body. The Ombudsman is required to give a report under the section to the Minister responsible for the body.

The object of this Bill is to amend the *Local Government Act 1993* to enable the Minister for Local Government to require a council that is the subject of an Ombudsman's report to comply with any recommendations made by the Ombudsman.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day to be appointed by proclamation.

Clause 3 is a formal provision giving effect to the amendments to the *Local Government Act 1993* set out in Schedule 1.

Schedule 1 [1] inserts proposed section 434A into the Principal Act. Proposed section 434A:

- (a) enables the Minister for Local Government to order a council to present an Ombudsman's report concerning the conduct of the council at the council's next meeting after the Minister's order is made, and
- (b) requires the council, within 40 days after that presentation, to notify the Minister in writing of any things done or proposed to be done to give effect to any recommendations contained in the report, and
- (c) enables the Minister, after receiving the council's notice or at the expiry of the 40-day period (whichever is the earlier), to make binding orders on the council arising from any recommendations contained in the Ombudsman's report.

Schedule 1 [2] inserts a proposed Part into Schedule 8 to the Principal Act (Savings, transitional and other provisions consequent on the enactment of other Acts) to provide that proposed section 434A will not apply to any Ombudsman's report received by the Minister before the commencement of that section.

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New South Wales

Local Government Amendment (Ombudsman's Recommendations) Bill 1998

No. , 1998

A Bill for

An Act to amend the *Local Government Act 1993* to enable the Minister administering the Act to require a council to comply with recommendations made by the Ombudsman in a report under section 26 of the *Ombudsman Act 1974* about the council.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Local Government Amendment (Ombudsman's Recommendations) Act 1998*.

2 Commencement

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This Act commences on a day to be appointed by proclamation.

3 Amendment of Local Government Act 1993 No 30

The *Local Government Act 1993* is amended as set out in Schedule 1.

Schedule 1 Amendments

(Section 3)

[1] Section 434A

Insert after section 434:

434A Council's response to Ombudsman's report	5
(1) The Minister may order a council to present a copy of a report made by the Ombudsman under section 26 of the <i>Ombudsman Act 1974</i> concerning the conduct of the council (together with a copy of the Minister's order) at the next meeting of the council occurring after the order is made.	10
(2) The council must, within 40 days after the presentation of the Ombudsman's report and the Minister's order, give written notice to the Minister of the things done or proposed to be done to give effect to any recommendations contained in the report.	15
(3) At any time after receiving the council's notice or the expiration of the 40-day period (whichever is the earlier) the Minister may order the council to do such things or to refrain from doing such things arising from the recommendations contained in the Ombudsman's report as are specified in the order.	20
(4) The council must comply with any order made by the Minister under this section.	
(5) An order under this section may state that a failure to comply with the order may lead to legal proceedings being taken to enforce compliance.	25
(6) Nothing in this section affects any other obligation of the council in respect of the Ombudsman's report under the <i>Ombudsman Act 1974</i> .	30

[2] Schedule 8 Savings, transitional and other provisions consequent on the enactment of other Acts

Insert in Schedule 8 (with appropriate Part and clause numbers):

**Part Provision consequent on enactment of
Local Government Amendment
(Ombudsman's Recommendations) Act 1998** 5

Application of section 434A

Section 434A does not apply to any Ombudsman's report received by the Minister before the commencement of that section. 10