



New South Wales

Ombudsman and Other Legislation Amendment Bill 2024

Explanatory note

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

Overview of Bill

The object of this Bill is to—

- (a) amend the *Ombudsman Act 1974* to make minor miscellaneous amendments, and
- (b) amend the *Community Services (Complaints, Reviews and Monitoring) Act 1993* to make changes consequent on the enactment of the proposed Act and the *Disability Inclusion Amendment Act 2022*, and
- (c) repeal the *Ombudsman Regulation 2016*.

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.

Schedule 1 Amendment of Ombudsman Act 1974 No 68

Schedule 1[2] amends the definition of *public authority* to include a person entitled to be reimbursed from public funds for expenses associated with attending meetings or carrying out the business of a body constituted by an Act.

Schedule 1[3] removes redundant provisions that restrict the ability of the Ombudsman to investigate complaints about conduct occurring before 1 December 1976.

Schedule 1[4] clarifies that the Ombudsman may make preliminary inquiries to determine whether the Ombudsman has jurisdiction over particular conduct and for the purposes of any other function of the Ombudsman under the *Ombudsman Act 1974* or another Act.

Schedule 1[5] and [6] ensure that the Ombudsman may copy documents the Ombudsman inspects while on the premises of a public authority. The proposed amendments also require a public authority to provide the assistance and resources the Ombudsman reasonably requires to copy documents. The provisions are consistent with similar provisions relating to the Independent Commission Against Corruption and the Law Enforcement Conduct Commission.

Schedule 1[7] changes the definition of an *Aboriginal program* to provide that it is a Government program that is primarily directed to the health, or cultural, economic, educational or other wellbeing, of Aboriginal persons or communities and includes the OCHRE (Opportunity, Choice, Healing, Responsibility, Empowerment) program. **Schedule 1[1] and [8]–[10]** make consequential amendments.

Schedule 1[12] omits section 31Z, which prohibits the Ombudsman or a public authority from disclosing information tending to identify a person who takes protected action (a *protected person*). **Schedule 1[11], [13] and [14]** make consequential amendments.

Schedule 1[15] provides that a public authority has a duty to cooperate with the Ombudsman in the exercise of the Ombudsman's functions, including in relation to dealing with complaints, conducting investigations and overseeing public authorities. This includes a requirement that a public authority must use the public authority's best endeavours to assist the Ombudsman in exercising the functions if asked to assist.

Schedule 1[16] clarifies that the Ombudsman may provide a range of educational and training services and may charge reasonable fees for the services.

Schedule 1[17] addresses ambiguity in the investigation of certain privacy related complaints by clarifying that the jurisdiction of the Ombudsman to investigate privacy related complaints is only excluded for complaints arising under the *Health Records and Information Privacy Act 2002* and the *Privacy and Personal Information Protection Act 1998*. Complaints under the Acts are investigated by the Privacy Commissioner.

Schedule 2 Amendment of Community Services (Complaints, Reviews and Monitoring) Act 1993 No 2

Schedule 2 makes minor amendments to the *Community Services (Complaints, Reviews and Monitoring) Act 1993* to reflect amendments made to the *Ombudsman Act 1974* by the proposed Act and the *Disability Inclusion Amendment Act 2022*.

Schedule 3 Repeal

Schedule 3 repeals the *Ombudsman Regulation 2016*.