



New South Wales

Ombudsman Amendment (Aboriginal Programs) Bill 2014

Explanatory note

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

Overview of Bill

The object of this Bill is to amend the *Ombudsman Act 1974*:

- (a) to provide for the monitoring and assessment by the Ombudsman of designated Aboriginal programs (being Government initiatives or services relating to Aboriginal affairs prescribed by the regulations), and
- (b) to provide for the appointment of a Deputy Ombudsman for the purpose of enabling the Ombudsman to monitor and assess those Aboriginal programs.

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 1 July 2014.

Schedule 1 Amendment of Ombudsman Act 1974 No 68

Schedule 1 [1] provides for the appointment of a Deputy Ombudsman for the purpose of enabling the Ombudsman to monitor and assess Aboriginal programs under proposed Part 3B.

Schedule 1 [2] inserts proposed Part 3B (proposed sections 25K–25N) into the Act.

Proposed section 25K enables the regulations to prescribe the Aboriginal programs to which the proposed Part applies.

Proposed section 25L requires the Ombudsman to monitor and assess Aboriginal programs to which the proposed Part applies. The proposed section also applies for that purpose the powers and protections of the Ombudsman in the investigation of complaints.

Proposed section 25M enables the Ombudsman to access information held by public authorities that is reasonably required by the Ombudsman for the purposes of the proposed Part.

Proposed section 25N enables the Ombudsman to report on any matter concerning an Aboriginal program to which the proposed Part applies (including any recommendations for improvements in the delivery of any such Aboriginal program).



New South Wales

Ombudsman Amendment (Aboriginal Programs) Bill 2014

Contents

	Page
1 Name of Act	2
2 Commencement	2
Schedule 1 Amendment of Ombudsman Act 1974 No 68	3



New South Wales

Ombudsman Amendment (Aboriginal Programs) Bill 2014

No. , 2014

A Bill for

An Act to amend the *Ombudsman Act 1974* with respect to the monitoring and assessment of Aboriginal programs and the appointment of a Deputy Ombudsman for that purpose.

The Legislature of New South Wales enacts:

1

1 Name of Act

2

This Act is the *Ombudsman Amendment (Aboriginal Programs) Act 2014*.

3

2 Commencement

4

This Act commences on 1 July 2014.

5

Schedule 1	Amendment of Ombudsman Act 1974 No 68	1
[1] Section 8 Deputy Ombudsman and Assistant Ombudsman—appointment etc		2
Insert after section 8 (1A):		3
(1B) The Ombudsman is to appoint a Deputy Ombudsman for the purpose of enabling the Ombudsman to monitor and assess Aboriginal programs under Part 3B.		4 5 6
[2] Part 3B		7
Insert after Part 3A:		8
	Part 3B Aboriginal programs	9
25K	Aboriginal programs to which Part applies	10
	This Part applies to Aboriginal programs prescribed by the regulations.	11
25L	Monitoring and assessment of Aboriginal programs	12
(1)	The Ombudsman is to monitor and assess Aboriginal programs to which this Part applies.	13 14
(2)	Sections 17–24 and 36 apply to the exercise of the Ombudsman’s functions under this Part in the same way as they apply to an investigation of a complaint by the Ombudsman, subject to any necessary modifications and to any modifications prescribed by the regulations.	15 16 17 18
25M	Provision of information	19
(1)	It is the duty of the head of a public authority that has functions under an Aboriginal program to which this Part applies to provide the Ombudsman with full and unrestricted access to records that are under the person’s control (or whose production the person may, in an official capacity, reasonably require), being records to which the Ombudsman reasonably requires access for the purpose of exercising the functions of the Ombudsman under this Part in relation to the program.	20 21 22 23 24 25 26
(2)	Access to which the Ombudsman is entitled under this section includes the right to inspect and, on request, to be provided with copies of any such record and to inspect any non-documentary evidence associated with any such record.	27 28 29
(3)	A provision of any Act or law that restricts or denies access to records (other than a provision applied by section 25L (2)) does not prevent a person to whom this section applies from complying, or affect the person’s duty to comply, with this section.	30 31 32 33
(4)	The Ombudsman and the Minister responsible for an Aboriginal program to which this Part applies may consult each other on the monitoring and assessment of, or other matters relating to, the program.	34 35 36
(5)	The Ombudsman may, if the Ombudsman thinks it appropriate to do so, provide information obtained by the Ombudsman under this section to a public authority that has functions under an Aboriginal program to which this Part applies and that has a relevant interest.	37 38 39 40

(6)	The provision of information under this section:	1
(a)	does not constitute a breach of professional etiquette or ethics or a departure from accepted standards of professional conduct, and	2 3
(b)	does not give rise to any liability for defamation or other civil liability.	4
25N	Reporting on Aboriginal programs	5
(1)	The Ombudsman may provide a report on any matter concerning an Aboriginal program to which this Part applies (including any recommendations for improvements in the delivery of the program) to the Minister responsible for the program and to any other Minister or public authority affected, in the opinion of the Ombudsman, by the report.	6 7 8 9 10
(2)	The Minister responsible for the program is to furnish a copy of the report to the Presiding Officer of each House of Parliament within 1 month after receiving the report. Section 31AA applies to a copy of a report furnished under this section in the same way as it applies to a report under Part 4.	11 12 13 14