

FIRST PRINT

OMBUDSMAN (AMENDMENT) BILL 1991

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

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

- (a) to make the positions of Deputy Ombudsman and Assistant Ombudsman statutory office positions in the Senior Executive Service; and
- (b) to provide that the Ombudsman is the person who has the power to appoint persons to those positions (rather than the Governor as at present); and
- (c) to provide that the Ombudsman (rather than the Governor) is the person who has the power to remove persons from those positions under the provisions of the Public Sector Management Act 1988 applying to the removal of statutory officers in the SES; and
- (d) to make consequential amendments.

Clause 1 specifies the short title of the proposed Act.

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

Clause 3 makes the amendments described above.

Clause 4 makes a consequential amendment to the Public Sector Management Act 1988 by listing the positions of Deputy Ombudsman and Assistant Ombudsmen as statutory office positions in the Senior Executive Service.

Clause 5 makes a consequential amendment to the Statutory and Other Offices Remuneration Act 1975 by removing the positions of Deputy Ombudsman and Assistant Ombudsman from that Act.

Clause 6 contains a transitional provision which provides that the persons who currently hold the positions of Deputy Ombudsman and Assistant Ombudsman are to be taken to have been appointed to those positions under the proposed new provisions.



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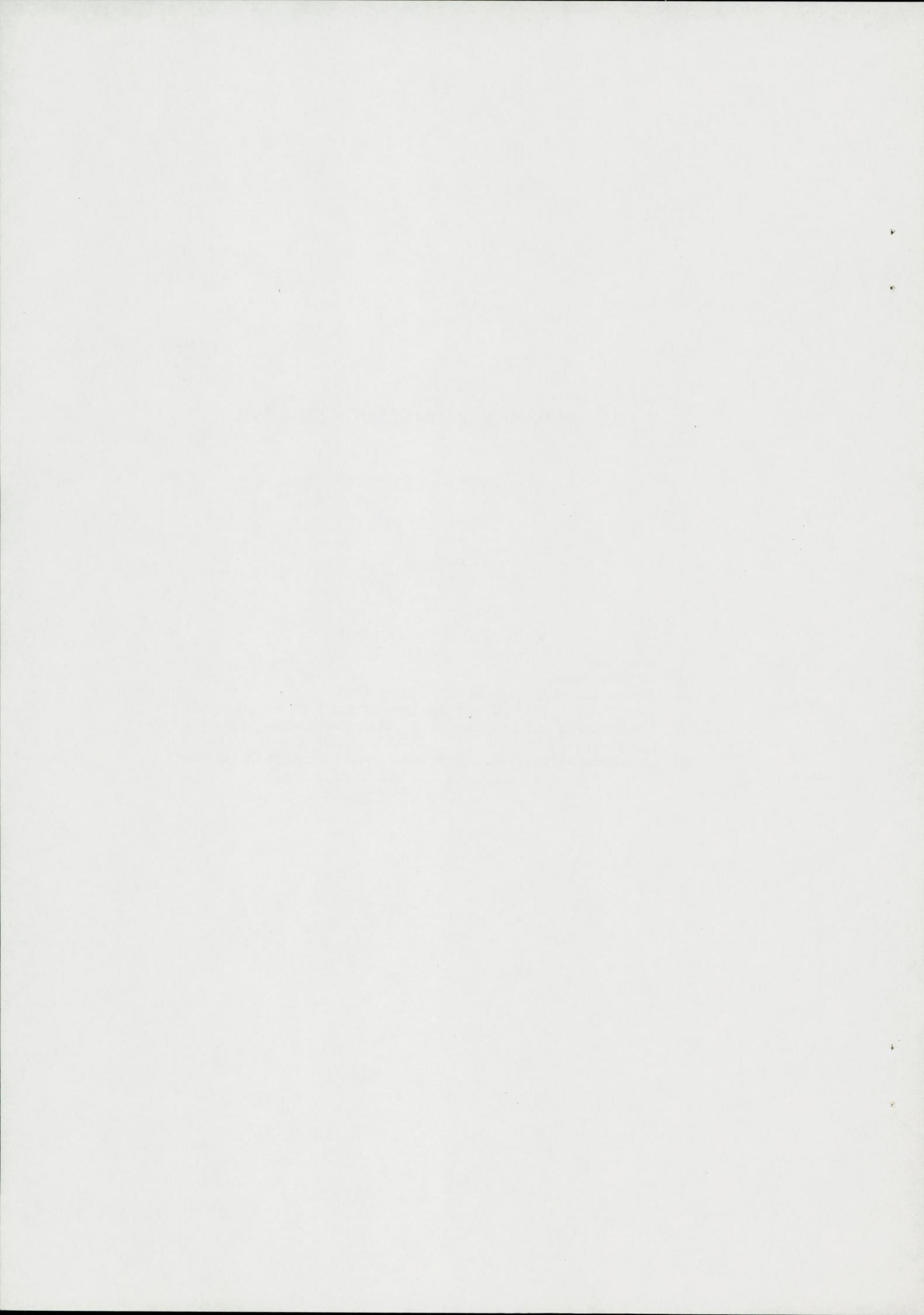
OMBUDSMAN (AMENDMENT) BILL 1991

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
 2. Commencement
 3. Amendment of Ombudsman Act 1974 No. 68
 4. Amendment of Public Sector Management Act 1988 No. 33
 5. Amendment of Statutory and Other Offices Remuneration Act 1975 (1976 No. 4)
 6. Transitional—Current Deputy Ombudsman and Assistant Ombudsmen
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OMBUDSMAN (AMENDMENT) BILL 1991

NEW SOUTH WALES



No. , 1991

A BILL FOR

An Act to amend the Ombudsman Act 1974 to make further provision with respect to the offices of Deputy Ombudsman and Assistant Ombudsmen; and for other purposes.

Ombudsman (Amendment) 1991

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Ombudsman (Amendment) Act 1991.

Commencement

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

Amendment of Ombudsman Act 1974 No. 68

3. The Ombudsman Act 1974 is amended by omitting sections 8 and 8A and by inserting instead the following sections:

Deputy Ombudsman and Assistant Ombudsmen—appointment etc.

8. (1) The Ombudsman may appoint a Deputy Ombudsman and one or more Assistant Ombudsmen.

(2) The provisions of section 6 (3) (b), (4) (b)–(d) and (5) apply to and in respect of the Deputy Ombudsman and an Assistant Ombudsman in the same way that they apply to and in respect of the Ombudsman.

(3) The employment of the Deputy Ombudsman and an Assistant Ombudsman is subject to Part 2A of the Public Sector Management Act 1988, but is not subject to Part 2 of that Act.

(4) Section 42Q (Removal of executive officers from office) of the Public Sector Management Act 1988 applies to and in respect of the Deputy Ombudsman and an Assistant Ombudsman as if the references in that section to the Governor were references to the Department Head within the meaning of that Act.

(5) If the Deputy Ombudsman or an Assistant Ombudsman is appointed as acting Ombudsman, he or she does not, on that account, cease to be Deputy Ombudsman or an Assistant Ombudsman.

Deputy Ombudsman and Assistant Ombudsmen—functions

- 8A. (1) The Deputy Ombudsman may, to the extent to which he or she is directed by the Ombudsman to do so, exercise any function of the Ombudsman other than the following functions:

Ombudsman (Amendment) 1991

- (a) a function conferred or imposed by section 9, 10, 10A, 21A or 30;
- (b) the power to accept or to refuse to accept a delegation to which section 10B applies;
- (c) the power to exercise or to refuse to exercise a function conferred on the Ombudsman as referred to in section 10B.

(2) For the purposes of this Act (except section 37 (2) (d)), an Assistant Ombudsman is a special officer of the Ombudsman.

Amendment of Public Sector Management Act 1988 No. 33

4. The Public Sector Management Act 1988 is amended by inserting at the end of Part 2 (Statutory positions) of Schedule 3B the following matter:

Deputy Ombudsman
An Assistant Ombudsman

Amendment of Statutory and Other Offices Remuneration Act 1975 (1976 No. 4)

5. The Statutory and Other Offices Remuneration Act 1975 is amended:

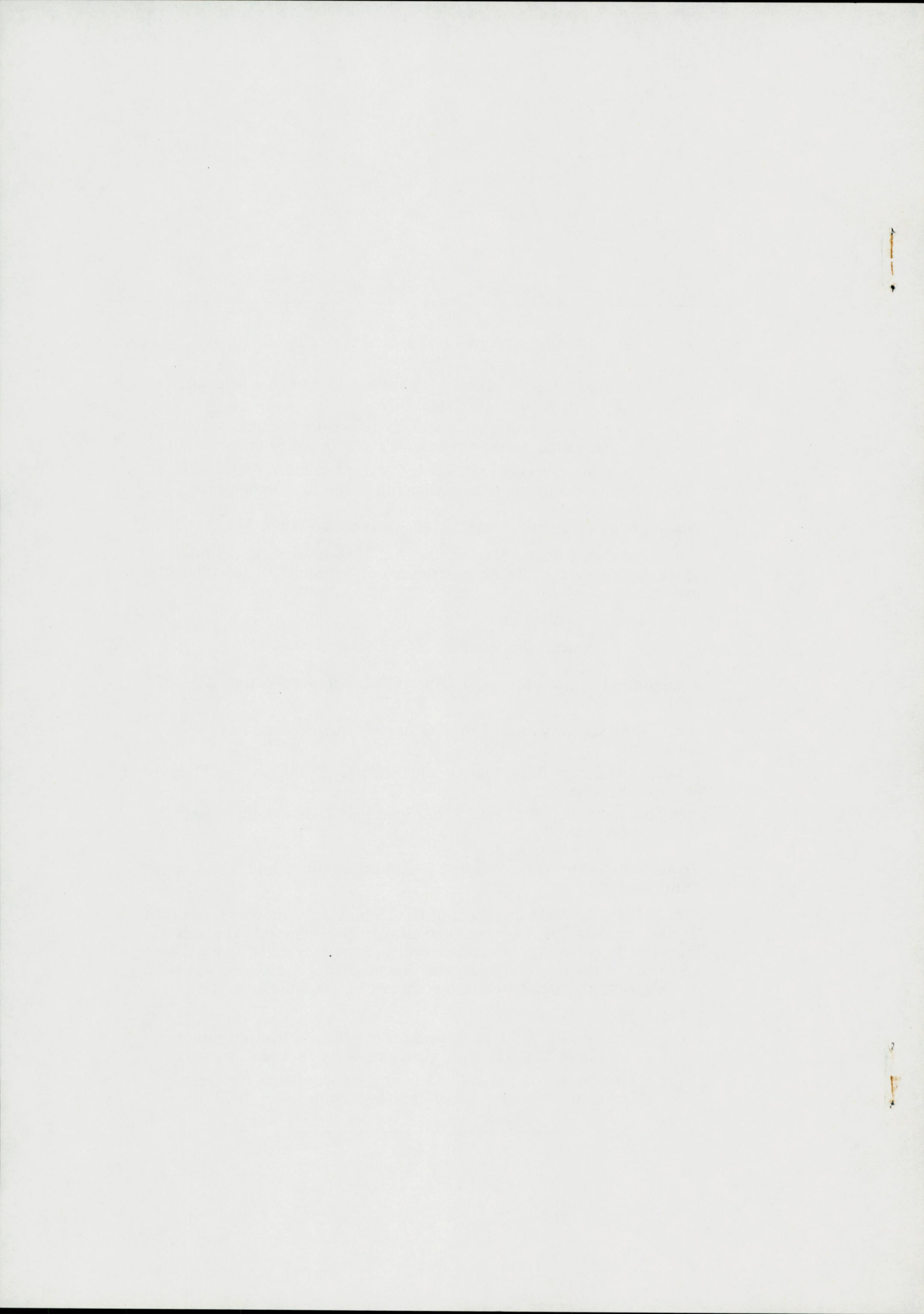
- (a) by omitting from Part 1 of Schedule 2 the words "Deputy Ombudsman.";
- (b) by omitting from Part 2 of Schedule 3 the words "Assistant Ombudsman."

Transitional—current Deputy Ombudsman and Assistant Ombudsmen

6. (1) On the commencement of this section, a person who held office in the position of Deputy Ombudsman or Assistant Ombudsman immediately before that commencement is to be considered to have been appointed to that position under the Ombudsman Act 1974 (as amended by this Act) for whichever is the shorter of the following terms:

- (a) 5 years;
- (b) the remainder of the person's term of office in that position under the Ombudsman Act 1974 (had this Act not been enacted).

(2) Such a person is not entitled to any compensation for ceasing to hold office in that position under the Ombudsman Act 1974.



OMBUDSMAN (AMENDMENT) ACT 1991 No. 3

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
 2. Commencement
 3. Amendment of Ombudsman Act 1974 No. 68
 4. Amendment of Public Sector Management Act 1988 No. 33
 5. Amendment of Statutory and Other Offices Remuneration Act 1975 (1976 No. 4)
 6. Transitional—current Deputy Ombudsman and Assistant Ombudsmen
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STATEMENT OF WORK

1. PROJECT TITLE: [Faint text]

2. PROJECT OBJECTIVES: [Faint text]

3. PROJECT SCOPE: [Faint text]

4. PROJECT DELIVERABLES: [Faint text]

5. PROJECT BUDGET: [Faint text]

6. PROJECT RISK ASSESSMENT: [Faint text]

OMBUDSMAN (AMENDMENT) ACT 1991 No. 3

NEW SOUTH WALES



Act No. 3, 1991

An Act to amend the Ombudsman Act 1974 to make further provision with respect to the offices of Deputy Ombudsman and Assistant Ombudsmen; and for other purposes. [Assented to 17 April 1991]

Ombudsman (Amendment) 1991

The Legislature of New South Wales enacts:**Short title**

1. This Act may be cited as the Ombudsman (Amendment) Act 1991.

Commencement

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

Amendment of Ombudsman Act 1974 No. 68

3. The Ombudsman Act 1974 is amended by omitting sections 8 and 8A and by inserting instead the following sections:

Deputy Ombudsman and Assistant Ombudsmen—appointment etc.

8. (1) The Ombudsman may appoint a Deputy Ombudsman and one or more Assistant Ombudsmen.

(2) The provisions of section 6 (3) (b), (4) (b)–(d) and (5) apply to and in respect of the Deputy Ombudsman and an Assistant Ombudsman in the same way that they apply to and in respect of the Ombudsman.

(3) The employment of the Deputy Ombudsman and an Assistant Ombudsman is subject to Part 2A of the Public Sector Management Act 1988, but is not subject to Part 2 of that Act.

(4) Section 42Q (Removal of executive officers from office) of the Public Sector Management Act 1988 applies to and in respect of the Deputy Ombudsman and an Assistant Ombudsman as if the references in that section to the Governor were references to the Department Head within the meaning of that Act.

(5) If the Deputy Ombudsman or an Assistant Ombudsman is appointed as acting Ombudsman, he or she does not, on that account, cease to be Deputy Ombudsman or an Assistant Ombudsman.

Deputy Ombudsman and Assistant Ombudsmen—functions

- 8A. (1) The Deputy Ombudsman may, to the extent to which he or she is directed by the Ombudsman to do so, exercise any function of the Ombudsman other than the following functions:

Ombudsman (Amendment) 1991

- (a) a function conferred or imposed by section 9, 10, 10A, 21A or 30;
- (b) the power to accept or to refuse to accept a delegation to which section 10B applies;
- (c) the power to exercise or to refuse to exercise a function conferred on the Ombudsman as referred to in section 10B.

(2) For the purposes of this Act (except section 37 (2) (d)), an Assistant Ombudsman is a special officer of the Ombudsman.

Amendment of Public Sector Management Act 1988 No. 33

4. The Public Sector Management Act 1988 is amended by inserting at the end of Part 2 (Statutory positions) of Schedule 3B the following matter:

Deputy Ombudsman

An Assistant Ombudsman

Amendment of Statutory and Other Offices Remuneration Act 1975 (1976 No. 4)

5. The Statutory and Other Offices Remuneration Act 1975 is amended:

- (a) by omitting from Part 1 of Schedule 2 the words "Deputy Ombudsman.";
- (b) by omitting from Part 2 of Schedule 3 the words "Assistant Ombudsman."

Transitional—current Deputy Ombudsman and Assistant Ombudsmen

6. (1) On the commencement of this section, a person who held office in the position of Deputy Ombudsman or Assistant Ombudsman immediately before that commencement is to be considered to have been appointed to that position under the Ombudsman Act 1974 (as amended by this Act) for whichever is the shorter of the following terms:

- (a) 5 years;
- (b) the remainder of the person's term of office in that position under the Ombudsman Act 1974 (had this Act not been enacted).

Ombudsman (Amendment) 1991

(2) Such a person is not entitled to any compensation for ceasing to hold office in that position under the Ombudsman Act 1974.

[*Minister's second reading speech made in—
Legislative Assembly on 28 February 1991
Legislative Council on 10 April 1991*]



