

Introduced by the Hon J P Hannaford, MLC

First print



New South Wales

Ombudsman Amendment (Compensation) Bill 1997

Explanatory note

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

Overview of Bill

The *Ombudsman Act 1974* presently provides a mechanism for authorising the ex gratia payments of compensation recommended by the Ombudsman. The object of this Bill is to amend that Act to enable the Ombudsman to order a public authority (including the police) whose conduct has been investigated by the Ombudsman to pay compensation to any person who suffers any loss or damage because of that conduct. The amount of compensation will be assessed by an independent mediator or arbitrator, and be recoverable as a judgment debt.

Outline of provisions

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

Clause 2 provides that the proposed Act will commence 3 months after the date of assent, unless commenced sooner by proclamation.

Clause 3 is a formal provision giving effect to the amendments to the *Ombudsman Act 1974* set out in Schedule 1.

Schedule 1 inserts a new section 25AA in the Principal Act to give effect to the object described above.

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New South Wales

Ombudsman Amendment (Compensation) Bill 1997

No. , 1997

A Bill for

An Act to amend the *Ombudsman Act 1974* to make further provision with respect to the payment of compensation in connection with the investigation of complaints under that Act; and for related purposes.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Ombudsman Amendment (Compensation) Act 1997*.

2 Commencement

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This Act commences 3 months after the date of assent (unless sooner commenced by proclamation).

3 Amendment of Ombudsman Act 1974 No 68

The *Ombudsman Act 1974* is amended as set out in Schedule 1.

Schedule 1 Amendment

(Section 3)

Section 25AA

Insert after section 25 in Part 3:

25AA Order for payment of compensation

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(1) The Ombudsman may, if the Ombudsman finds that the conduct the subject of an investigation (or any part of the conduct) is of any one or more of the kinds of conduct referred to in section 26 (1), order the public authority whose conduct it is to pay compensation to any person for any loss or damage suffered by the person because of that conduct. 10

(2) The amount of compensation to be paid is to be assessed by an independent mediator or arbitrator nominated by the Ombudsman for the purposes of this section. 15

(3) Any amount of compensation ordered to be paid by the Ombudsman under this section may be registered as a judgment debt in a court of competent jurisdiction.

(4) This section does not prevent the Ombudsman from doing any thing under Part 4, and this section has effect despite any provision of Part 4. 20

(5) In this section:

conduct includes police conduct that is investigated by the Ombudsman in accordance with this Part or in accordance with Part 8A of the *Police Service Act 1990*. 25

public authority includes the Police Service.

