

What's new under the new *Ombudsman Act 2017*

Some of the improvements under the new *Ombudsman Act 2017* as compared to the repealed old Act are as follows:

- It requires the government through the Ministry responsible for public service to provide necessary **manpower** (staff) to the Ombudsman's Office.
- Provides for a separate **budget** head for the Ombudsman Office in the national budget whereby the Ombudsman is the accountable officer.
- Allows the Ombudsman to enter into any lawful **arrangement** with another public body for purposes of carrying out his/her functions. This arrangement must not be confused with the Ombudsman's power to begin an investigation against any prescribed office which does not need any such arrangement to exercise.
- Gives powers of authorisation and **delegation** to the Ombudsman so that the work of the office can still continue under delegated authority even where there is no Ombudsman in office at any given time.
- Gives power to the Ombudsman to investigate **contractors** of government bodies. A contractor can be a private individual or company.
- Complaints can be made **verbally** as well so that a person is not unable to make a complaint simply because he/she cannot write.
- Requires the Ombudsman staff to put into **writing any verbal complaints** the office receives.
- Complaints can also be made by **third party** on behalf of a complainant.
- Requires the Ombudsman to keep a **register** of complaints he/she receives. This is to ensure there is proper record keeping and management of files.
- Provides for a **referral** mechanism where a complaint or part of a complaint that the Ombudsman does not have the power to investigate (i.e., complaint that is not maladministration) can be formally referred to another office or authority that has the power to deal with. Significantly, this mechanism ensures that no complaint against the government can be left unattended simply because it does not involve maladministration.
- Obligates the Ombudsman to **formally inform a complainant** on how his/her complaint is being dealt with.
- Creates additional **offences** and increase the punishment for such specified offences under the Act. For instance, the penalty for the offence of failing

to provide information that the Ombudsman has lawfully requested for his investigation is now increased to \$50,000 fine or imprisonment for 5 years. Under the old Act, it was only \$200 fine or a term of 12 months imprisonment.

- New offences & penalties under the new Act in addition to the 3 old ones¹ under OFPA which are also adopted in the new Act are:
 - Impersonation – \$20,000 / 5 yrs
 - Obstructing/threatening – \$50,000 / 5yrs
 - Failure to return ID Cards – \$1000
 - Unlawful disclosure of confidential information – \$50,000 / 5yrs.

¹ The old offences are: Influence /Attempt to influence Ombuds' decision; Failure to furnish information to Ombuds; Giving false/misleading info to Ombuds. Their penalties under the old Act are \$200 fine or 6 months imprisonment for each.