

Ombudsmen (Cost Recovery) Amendment Bill

Member's Bill

Explanatory note

General policy statement

The Office of the Ombudsmen has a vital constitutional function to ensure Government agencies are acting according to the laws set by Parliament, and their own internal standards and processes. To ensure the Office of the Ombudsmen can properly fulfil this function it must be adequately resourced.

The workload of the Office of the Ombudsmen continues to climb. In the 2013/14 financial year, the Office received the second highest amount of complaints ever received, 13% higher than the average amount of work received over the past 10 years.

This Bill allows the Ombudsmen to set guidelines for recovering the costs of their investigations from the agencies being investigated. This will ensure that resourcing constraints do not deny access to due process, and will promote greater compliance with legislative requirements by government departments and agencies.

In particular, providing the Ombudsmen with the ability to charge those departments or agencies who are the subject of Official Information Act 1982 investigations is likely to improve compliance with that legislation (which currently contains very weak compliance provisions).

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 provides for the Bill to come into force on the day after the date on which it receives the Royal assent.

Clause 3 states that the Ombudsmen Act 1975 is the principal Act amended by the Bill.

Clause 4 sets out the purpose of the Bill.

Clause 5 inserts *new section 17D*, allowing cost recovery from agencies for investigations. Costs can only be recovered for investigations arising from complaints, not from own-motion investigations or those referred by the House of Representatives or the Prime Minister.

Hon David Parker

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Ombudsmen (Cost Recovery) Amendment Act **2017**.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent. 5

3 Principal Act

This Act amends the Ombudsmen Act 1975 (the **principal Act**).

4 Purpose

The purpose of this Act is to amend the Ombudsmen Act 1975 to allow Ombudsmen to recover the costs of investigations from the agencies being investigated. 10

5 New section 17D inserted (Cost recovery)

After section 17C, insert:

17D Cost recovery

- (1) The Ombudsman may recover from an agency that is the subject of a complaint any costs associated with the investigation of that complaint.
- (2) The Ombudsman must issue guidelines specifying the costs that can be recovered from agencies, and the circumstances under which charges will be imposed. 5
- (3) This section does not apply to investigations initiated by an Ombudsman on their own motion, or referred by the House of Representatives under section 13(4), or by the Prime Minister under section 13(5).
- (4) In this section, **agency** means— 10
 - (a) a department or organisation named in Schedule 1; or
 - (b) a holder of official information in terms of the Official Information Act 1982 or the Local Government Official Information and Meetings Act 1987.