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## BROADCASTING OMBUDSMEN

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### A BILL INTITULED

#### **An Act to provide for the appointment of Broadcasting Ombudsmen**

BE IT ENACTED by the General assembled of New Zealand  
5 in Parliament assembled, and by the authority of the same,  
as follows:

**1. Short Title and commencement**—(1) This Act may be cited as the Broadcasting Ombudsmen Act 1976.

(2) This Act shall come into force on 10 December 1976.

10 **2. Broadcasting Ombudsmen**—(1) There shall be appointed, as officers of Parliament, two Broadcasting Ombudsmen to be called the Independence Ombudsman of Broadcasting and the Standards Ombudsman of Broadcasting.

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(2) Subject to the provisions of this Act, such Ombudsmen shall be appointed by the Governor-General on the recommendation of the House of Representatives after consultation between the Prime Minister and the Leader of the Opposition.

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(3) No person shall be deemed to be employed in the service of Her Majesty for the purposes of the State Services Act 1962 or the Superannuation Act 1956 by reason of his appointment as Ombudsman.

**3. Ombudsmen to hold no other office—**(1) The Ombudsmen shall not be Members of Parliament, and shall not hold any office other than his office as Ombudsman, which is an office of trust, or profit concerned in any way with the administration of broadcasting, the production of material for broadcasting, or hold any appointment of responsibility in any organisation involved in broadcasting, or the production of any material for broadcasting, either within or beyond New Zealand, for the term of his office as Ombudsman.

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(2) The recommendation provided for in section 2 (2) of this Act for the appointment of the Ombudsmen shall be made in the year following a general election.

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(3) Unless his office sooner becomes vacant, every person appointed as Ombudsman shall hold office until his successor is appointed; and every such person may from time to time be reappointed.

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(4) An Ombudsman may at any time resign his office by writing addressed to the Speaker of the House of Representatives, or to the Prime Minister if there is no Speaker or the Speaker is absent from New Zealand.

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**4. Removal or suspension from office—**(1) An Ombudsman may at any time be removed or suspended from his office by the Governor-General, upon an address from the House of Representatives, for disability, bankruptcy, neglect of duty, or misconduct.

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(2) At any time when Parliament is not in session, an Ombudsman may be suspended from his office by the Governor-General in Council for disability, bankruptcy, neglect of duty, or misconduct proved to the satisfaction of the Governor-General; but any such suspension shall not continue in force beyond the end of the next ensuing session of Parliament.

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**5. Oaths to be taken by Ombudsmen—**(1) Before entering upon the exercise of the duties of their office the Ombudsmen shall take an oath that they will faithfully and impartially perform the duties of their office, and that they will not, except as otherwise provided by this Act, divulge any information received by them under this Act.

(2) The oath shall be administered by the Speaker or the Clerk of the House of Representatives.

**6. Functions and powers of Independence Ombudsman—**  
10 (1) In exercising the powers referred to in this Act the Independence Ombudsman shall be guided by the necessity for all news and current affairs to be presented according to recognised standards of objective journalism. His functions and powers shall be:

15 (a) To investigate a complaint by any person whatsoever, whether employed by a broadcasting station or not, concerning the broadcasting of or televising of any item of news or current affairs, or the failure to broadcast or televise any item of the news or  
20 comment on current affairs:

(b) To require the Corporation or any other person involved in broadcasting news or current affairs to record any of their programmes and to hold such record for such periods as he may think fit:

25 (c) To require the Corporation or any other person broadcasting news or current affairs to make available to him for his use any such recordings:

(d) In pursuance of the provisions of paragraphs (a), (b), and (c) of this subsection he may require the  
30 Corporation or any company or any other person broadcasting news or current affairs to broadcast any statement which he may think fit.

(2) In exercising such powers in relation to controversial matters on current affairs the Ombudsman shall not consider  
35 any single programme on its own, but shall recognise that the principles of impartial objective presentation may be achieved by two or more programmes given similar prominence and sufficiently close in time.

**7. Functions and powers of the Standards Ombudsman—**

- (1) The functions of the Standards Ombudsman shall be:
- (a) To investigate a complaint by any person whatsoever, whether employed by a broadcasting station or not, concerning the broadcasting of any programme, or the failure to broadcast or televise any programme: 5
  - (b) To require the Corporation or any other person involved in broadcasting to record any programme and to hold such record for such period as he may think fit: 10
  - (c) To require the Corporation or any other person broadcasting to make available to him for his use any such recordings:
  - (d) In pursuance of the provisions of paragraphs (a), (b), and (c) of this subsection, to require the Corporation or any other person broadcasting to broadcast any statement he, in his absolute discretion may think fit. 15
- (2) In exercising the functions conferred on him by this Act the Standards Ombudsman shall consider the following 20 matters:
- (a) The extent to which a programme is of value or importance for artistic, cultural, or other reasons:
  - (b) The dominant affect of a programme as a whole and its likely effect on the audience viewing that 25 programme:
  - (c) The time when the programme is broadcast:
  - (d) The manner, extent, and degree in which the programme depicts or treats anti-social behaviour, cruelty, violence, crime, horror, sex, or indecent or 30 offensive language or behaviour:
  - (e) The extent or degree to which the programme denigrates any particular class of the general public by reference to the colour, race or ethnic or national 35 origins, sex, or the cultural traditions or religious beliefs of the members of that class.

**8. Mode of complaint—**(1) Every complaint to an Ombudsman shall be made in writing.

(2) On every complaint to an Ombudsman there shall be paid to the Ombudsman on behalf of the Crown, a fee of \$2, 40 unless, having regard to any special circumstances, the Ombudsman shall direct that no fee shall be payable.

(3) The Ombudsmen shall cause all fees paid to them under this section to be paid into the Public Account.

**9. Ombudsmen may refuse to investigate complaint**—If in the course of the investigation of any complaint within his jurisdiction it appears to the Ombudsman:

- 5 (a) That under the law or existing administrative practice there is an adequate remedy or right of appeal for the complainant (whether or not he has availed himself of it); or
  - (b) That, having regard to all the circumstances of the case, any further investigation is unnecessary—
- 10 he may, in his discretion, refuse to investigate the matter further.

**10. Complainant to be informed of result of investigation**—The Ombudsman shall in every case inform the complainant of any action he has taken upon the complaint or of his  
15 reasons for taking no action thereon.

**11. Protection of Ombudsmen**—(1) No proceedings, civil or criminal, shall lie against any other person for anything an Ombudsman may do, or report, or say, or require any other person to do, or say in the course of the exercise, or  
20 intended exercise of his functions under this Act, unless it is shown that he acted in bad faith.

(2) An Ombudsman or any such other person as aforesaid, shall not be called to give evidence in any Court, or in any proceedings of a judicial nature, in respect of anything  
25 coming to his knowledge in the exercise of a power conferred by this Act.

**12. Annual report**—Without limiting his right to report at any other time, but subject to any rules for the guidance of the Ombudsman that may be made by the House of Repre-  
30 sentatives and for the time being in force, the Ombudsmen shall in each year make a report to Parliament on the exercise of their functions under this Act.

**13. Offences**—Every person commits an offence against this Act and is liable on summary conviction to a fine not  
35 exceeding \$200 who, without lawful jurisdiction or excuse, wilfully obstructs, hinders, or resists an Ombudsman or any other person in the exercise of his powers under this Act.

**14. Money to be appropriated by Parliament for purposes of Act**—Except as otherwise provided in this Act, all salaries and allowances and other expenditure payable, or incurred under or in the administration of this Act, shall be payable out of money to be appropriated by Parliament for the purpose. 5