

The Ombudsman Act, 1980

(ACT NO. XV OF 1980)

An Act to provide for the establishment of the office of Ombudsman and to define his powers and functions.

WHEREAS it is expedient to provide for the establishment of the office of Ombudsman and to define his powers and functions and to provide for matters connected therewith;

It is hereby enacted as follows:-

Short title and

1. (1) This Act may be called the Ombudsman Act, 1980.

commencement

(2) It shall come into force on such date as the Government may, by notification in the official Gazette, appoint.

* এস, আর, ও নং ০৭-আইন/২০০২, ০৬ জানুয়ারী, ২০০২ খ্রিস্টাব্দ উক্ত আইন কার্যকর হইয়াছে।

Definitions

2. In this Act, unless there is anything repugnant in the subject or context,-

(a) "action" means action taken by way of decision, recommendation or approval or in any other manner and includes failure to act;

(b) "competent authority" means-

(i) in relation to a Ministry, the Minister,

(ii) in relation to a statutory public authority, the Government,

(iii) in relation to a public officer, the appointing authority or, where there is no such authority, the Government;

(c) "public officer" means a public officer as defined in Article 152 of the Constitution and includes a chairman, mayor, director, member, trustee, officer or other employee of a statutory public authority or of any other

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authority, corporation, body or organisation established, owned, managed or controlled by the Government;

(d) "prescribed" means prescribed by rules made under this Act.

Establishment of office of Ombudsman

3. (1) There shall be an Ombudsman who shall be appointed by the President on the recommendation of Parliament.

(2) Parliament shall recommend for appointment as Ombudsman a person of known legal or administrative ability and conspicuous integrity.

Term of office of Ombudsman

4. (1) The Ombudsman shall, subject to this section, hold office for a term of three years from the date on which he enters upon his office, and shall be eligible for reappointment for one further term.

(2) The Ombudsman shall not be removed from his office except by an order of the President passed pursuant to a resolution of Parliament supported by a majority of not less than two-thirds of the total number of members of Parliament on the ground of proved misconduct or physical incapacity:

Provided that no such resolution shall be passed until the Ombudsman has been given a reasonable opportunity of being heard in person.

(3) The Ombudsman may resign his office by writing under his hand addressed to the President.

Remuneration, etc. of Ombudsman

5. Subject to this Act, the remuneration, privileges and other conditions of service of the Ombudsman shall be the same as are admissible or applicable to a Judge of the Appellate Division.

Functions of Ombudsman

6. (1) The Ombudsman may investigate any action taken by a Ministry, a statutory public authority, or a public officer in any case where-

(a) a complaint in respect of such action is made to him by a person-

(i) who claims to have sustained injustice in consequence of such action;

or

(ii) who affirms that such action has resulted in favour being unduly shown to any person or in accrual of undue personal benefit or gain to any person; or

(b) information has been received by him from any person or source, otherwise than on a complaint, that such action is of the nature mentioned in clause (a).

(2) Nothing in this section shall authorise the Ombudsman to investigate any civil or criminal proceedings before any Court, or the function performed by, or the conduct of, a person acting as a member of a Court.

**Procedure
in respect
of
investigations**

7. (1) Where the Ombudsman proposes to conduct an investigation under this Act, he shall-

(a) forward a copy of the complaint or, in the case where he proposes to conduct the investigation on his own motion, a statement setting out the grounds therefore, to the Ministry, statutory public authority, or the public officer concerned;

(b) afford to the Ministry, the statutory public authority, or the public officer concerned an opportunity to offer its or his comments on such complaint or statement.

(2) Except as aforesaid the procedure for conducting any such investigation shall be such as the Ombudsman considers appropriate in the circumstances of the case.

(3) The Ombudsman may obtain information from such persons and in such manner, and make such inquiries and in such manner, as he thinks fit.

(4) Where any action is under investigation by any other person under any other law, the Ombudsman shall not investigate such action unless, for reasons to be recorded in writing, he is of opinion that an investigation by him is necessary.

Evidence

8. (1) Subject to the provisions of this section, for the purposes of an investigation under this Act, the Ombudsman may require any public officer or any other person who, in his opinion, is able to furnish information or produce documents relevant to the investigation to furnish any such information or produce any such document.

(2) For the purposes of any such investigation the Ombudsman shall have all the powers of a civil Court, while trying a suit under the Code of Civil Procedure, 1908 (V of 1908), in respect of the following matters, namely:-

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of any document;

(c) requiring evidence on affidavit;

(d) requisitioning any public record or a copy thereof from any Court or office;

(e) issuing commissions for the examination of witnesses or documents;

(f) such other matters as may be prescribed.

(3) Any proceeding before the Ombudsman shall be deemed to be a judicial proceeding within the meaning of section 193 of the Penal Code (XLV of 1860).

(4) Subject to the provisions of sub-section (5), no obligation to maintain secrecy or other restriction upon the disclosure of information obtained by or furnished to Government or persons in Government service, imposed by any law, shall apply to the disclosure of information for the purposes of any investigation under this Act.

(5) No person shall be required or authorised by virtue of this Act to furnish any such information or answer any such question or produce so much of any document-

(a) as might prejudice the security or defence or international relations of Bangladesh, or the investigation or detection of crime; or