Date Introduced: 25 May 1978
House: House of Representatives
Presented by: Hon. V. Garland,
Minister for Special Trade
Representations and Minister
for Veterans' Affairs

Short Digest of Bill

Purpose

To amend the Ombudsman Act 1976 in order to exclude the Northern Territory Public Service from the purview of the Act in respect of functions transferred to the Northern Territory government and to enable the commencement of the Northern Territory Ombudsman.

Background

This Bill represents one in a series of Bills in consequence of the government's decision to grant limited self-government to the Territory from 1 July 1978 and embodied in the Northern Territory (Self-government Bill 1978.

Under the Ombudsman Act 1976 the Commonwealth Ombudsman's jurisdiction extends to actions of the Northern Territory Public Service. However, in line with the transfer of administrative and executive functions to the Territory, this Bill excludes the Territory Public Service from the jurisdiction of the Commonwealth Ombudsman. Instead, under an Ordinance, the Ombudsman (Northern Territory) Ordinance, passed by the Assembly on 30 November 1977, the Territory will create an Ombudsman to investigate actions taken by the Territory Public Service. As yet, this Ordinance has not been assented to but it is intended that the commencement of the Ordinance will be coordinated with the amendments to the Ombudsman Act 1976 contained in this Bill.

Main Provisions

The significant amendments provided for in this Bill are contained in Clause 3 which sets out requisite changes to the definitions of certain operative terms. In particular, the definition of "Department" will now exclude any reference to a Department of the Northern Territory; the definition of "Deputy Ombudsman for the Northern Territory" is omitted; two of the several meanings for "prescribed authority" are amended such that an incorporated or unincorporated authority established
under an enactment of the Northern Territory government will no longer
be a "prescribed authority" for the purposes of the Act, unless it is
so declared by regulations made under the Act.

The practical effect of these amendments is that the functions
of the Commonwealth Ombudsman under section 5 of the Act will not extend
to a Department of the Northern Territory or an authority established
by an enactment of the Northern Territory unless, in the latter case,
such an authority is declared a "prescribed authority" by regulations
to the Act.

Clause 5 amends section 9 of the Act to place the Territory
on equal footing with the States in relation to the Attorney-General's
certificate verifying that a disclosure of information to the
Commonwealth Ombudsman would prejudice relations between the Commonwealth
government and the governments of the Territory or States.

Clause 6 amends section 8 to provide for certain reporting
procedures to be followed where the Ombudsman investigates actions by a
Northern Territory authority. In addition clause 7 provides for annual
reporting by the Ombudsman to the Minister concerning the former's
investigations of Northern Territory authorities. All of the above
reports must be submitted to the Territory Legislative Assembly.

Finally, clause 11 is intended as a general transitional
provision allowing the Commonwealth government to make regulations under
the Act as are found to be necessary as a consequence of the conferral
of self-government and executive authority on the Territory.
Specifically, as the Minister pointed out in his Second Reading speech,
this provision is intended to cover such situations as the completion of
investigations begun by the Commonwealth Ombudsman before the date of
transition.

29 May 1978

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