

# HAÏTÍ

## *Chapitre IV*

### *De la Protection du Citoyen*

Article 207: Il est créé un office dénommé Office de la Protection du Citoyen dont le but est de protéger tout individu contre toutes les formes d'abus de l'Administration Publique.

Article 207 1: L'office est dirigé par un citoyen qui porte le titre de Protecteur du Citoyen. Il est choisi par consensus entre le Président de la République, le Président du Sénat et le Président de la Chambre des Députés. Il est investi d'un mandat de sept (7) ans, non renouvelable.

Article 2: Son intervention en faveur de tout plaignant se fait sans frais aucun, quelle que soit la juridiction.

Article 207 3: Une loi fixe les conditions et règlements de fonctionnement de l'Office du Protecteur du Citoyen.

# JAMAICA

## *The Ombudsman Act*

### **PART I.- PRELIMINARY**

1. This Act may be cited as the Ombudsman Act.

2. In this Act

“action” includes failure to act, and other expressions connoting action shall be construed accordingly; “authority” means

- (a) a Ministry, department or agency of Government;
- (b) the Jamaica Constabulary Force, the Island Special Constabulary Force or the Rural Police;
- (c) a statutory body or authority, and includes any company registered under the Companies Act, being a company in which the Government or an agency of Government holds not less than fifty-one per centum of the ordinary shares, which is declared by resolution of each House of Parliament to be an authority for the purposes of this Act;

“complainant” means a person who claims to have sustained such injustice as is mentioned in section 12;

“Constitution” means the Constitution of Jamaica;

“emoluments” means salary, allowances and fees;

“functions” includes powers and duties;

“local authority” means

- (a) in relation to the parishes of Kingston and St. Andrew, the Council of the Kingston and St. Andrew Corporation as constituted under the Kingston and St. Andrew Corporation Act; and
- (b) in relation to any other parish, the Parish Council of such parish;

“public office” and “public service” have the meanings assigned to those expressions, respectively, by section 1(1) of the Constitution;

“Service Commission” means the Judicial Service Commission, the Public Service Commission or the Police Service Commission, as the context may require, established by the Constitution.

## **PART II.- THE OMBUDSMAN**

- 3. (1) For the purpose of conducting investigations in accordance with the provisions of this Act, there is hereby constituted a commission of Parliament to be known as the Ombudsman.
- (2) The commission shall consist of such person or persons as shall be appointed by the Governor-General by instrument under the Broad Seal after consultation with the Prime Minister and the Leader of the Opposition and any person so appointed shall be known as an Ombudsman.
- 4. (1) Subject to the provisions of this section, any person appointed Ombudsman shall hold office for a period of seven

years and may, at the expiration of such period, be re-appointed for a period of five years but shall not be further re-appointed thereafter.

(2) A person appointed Ombudsman may at his own request be relieved of office by the Governor-General and shall in any case, subject to the provisions of subsections (3) and (4), vacate office on attaining the age of sixty-five years.

(3) The Governor-General, acting after consultation with the Prime Minister and the Leader of the Opposition, may permit an Ombudsman who attains the age of sixty-five years to continue in office until he has attained such later age, not exceeding sixty-seven years, as may (before the Ombudsman has attained the age of sixty-five years) have been agreed between them.

(4) Notwithstanding that he has attained the age at which he is required by or under the provisions of this section to vacate his office, an Ombudsman may continue in office for such period after attaining that age as the Governor-General, acting after consultation with the Prime Minister and the Leader of the Opposition, may specify, in order to enable an Ombudsman to give his decision or do any other thing in relation to any investigation he was conducting before he attained that age.

(5) Nothing done by an Ombudsman shall be invalid by reason only that he has attained the age at which he is required by this section to vacate his office.

(6) An Ombudsman may be removed from office only for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour, and shall not be removed except in accordance with the provisions of subsection (6)

(7) If each House of Parliament by resolution decides that the question of removing an Ombudsman from office ought to be investigated then

(a) the Governor-General acting after consultation with the Prime Minister and the Leader of the Opposition, shall appoint a tribunal which shall consist of a chairman and not less than two other members, selected from among person who hold or have held the office of a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court; and

(b) that tribunal shall enquire into the matter and report on the facts to the Governor-General and advise the Governor-General whether the Ombudsman ought to be removed from office for inability as aforesaid or for misbehaviour.

(8) The provisions of sections 8 to 16 (inclusive) of the Commissions of Enquiry Act shall apply *mutatis mutandis* in like manner in relation to tribunal appointed under subsection (4) or, as the context may require to the members thereof, as they apply in relation to the Commissions or Commissioners appointed under that Act.

(9) Where the question of the removal of an Ombudsman from office has been referred to a tribunal appointed under subsection (7) and the tribunal has advised the Governor-General that the Ombudsman ought to be removed from office, the Governor-General shall, by instrument under the Broad Seal, remove the Ombudsman from office.

(10) Where the question of removing an Ombudsman from office has been referred to a tribunal the Governor-General, acting after consultation with the Prime Minister and the Leader of the Opposition, may suspend the Ombudsman from performing the functions of his office and any such suspension may at any time be revoked by the Governor-General acting as aforesaid and shall in any case cease to have effect if the tribunal advises the Governor-General that the Ombudsman ought not to be removed from office.

5. (1) No person shall be qualified for appointment to the office of Ombudsman if he

(a) is a member of the Senate or House of Representatives;  
or

(b) is an undischarged bankrupt; or

(c) has at any time been convicted of any offence involving dishonesty or moral turpitude.

(2) An Ombudsman shall vacate office if any circumstances arise that, if he were not Ombudsman, would cause him to be disqualified for appointment as such, by virtue of subsection(1).

6. A person appointed Ombudsman shall be a full-time officer and

(a) shall not be employed in any other capacity during any period in which he holds office as Ombudsman; and

(b) shall not, at any time after he has ceased to hold office as Ombudsman, be eligible for appointment in the public service.

7. (1) When a vacancy arises in the office of Ombudsman the Governor-General, after consultation with the Prime Minister and the Leader of the Opposition, may designate someone to act in that office during such vacancy, until an appointment is made.

(2) Where by reason of illness, absence from the Island or other sufficient cause a person appointed Ombudsman is unable to perform his functions under this Act, he may appoint a member of his staff to perform those functions for a period not exceeding two months, but if an Ombudsman is unable or fails to appoint such a person or if it is necessary that such a person be appointed for a period in excess of two months, the Governor-General, after consultation with the Prime Minister and the Leader of the Opposition, may appoint such person as he thinks fit to perform those functions.

8. (1) Subject to subsection (2), an Ombudsman shall receive such emoluments and be subject to such other terms and conditions of service as may from time to time be prescribed by or under any law or by a resolution of the House of Representatives, such emoluments being not less than the emoluments which may, from time to time, be payable to a Puisne Judge.

(2) The emoluments and terms and conditions of service of an Ombudsman, other than allowances that are not taken into account in computing pensions, shall not be altered to his disadvantage during the period of his appointment or reappointment, as the case may be.

(3) The emoluments for the time being payable to an Ombudsman by virtue of this Act shall be charged on and paid out of the Consolidated Fund.

9. The provisions of the First Schedule shall have effect with respect to the pension and other benefits to be paid to or in respect of a person who has held office as Ombudsman.

10. (1) An Ombudsman may appoint and employ for the purposes of this Act, at such remuneration and on such terms and conditions as may be approved by the Commission constituted under subsection (2), such officers and agents as may be considered necessary to assist him in the proper performance of his functions under this Act.

(2) The Commission referred to in subsection (1) shall consist of

(a) the Speaker, as chairman;

(b) the President of the Senate;

(c) the person designated by the Prime Minister as Leader of Government business in the House of Representatives;

(d) the person designated by the Leader of the Opposition as leader of Opposition business in the House of Representatives; and

(e) the Minister responsible for the public service.

(3) The Governor-General may subject to such conditions as he may impose, approve of the appointment to the staff of an Ombudsman, of any officer in the public service, provided that in relation to pension, gratuity, allowance and other rights as a public officer, such officer shall be deemed to be in the public service while so employed.

11. Every person appointed to the staff of an Ombudsman shall, before he performs any function assigned to him under or by virtue of this Act, take and subscribe an oath to be administered by the Ombudsman, in the form set out in the Second Schedule.

### **PART III.- FUNCTIONS OF OMBUDSMAN**

12. (1) Subject to the provisions of this Act, where an Ombudsman is of the opinion that any person or body of persons has or may have sustained injustice as a result of any action taken by an authority or an officer or a member of such authority, being action taken in the exercise of the administrative functions of that authority (whether before or after the 17th day of November, 1978), the Ombudsman may investigate the action so taken.

(2) Subject to the provisions of subsection (3), an Ombudsman shall not investigate

(a) any such action aforesaid in respect of which the complainant has or had a remedy by way of proceedings in any court or in any tribunal constituted by or under an Act of Parliament; or

(b) any such action or matters as are described in the Third Schedule; or



(c) the exercise of the powers conferred on the Governor-General by section 90 of the Constitution (which relates to the prerogative of mercy); or

(d) any action which, by virtue of any provision of the Constitution, may not be enquired into by any court of law.

### **(3) An Ombudsman**

(a) may conduct an investigation into any such action as is mentioned in subsection (2)(a), if he is satisfied that in the particular circumstances it is not reasonable to expect the complainant to take or have taken such proceedings;

(b) may (to the extent that such investigation is not in conflict with paragraph 4 of the Third Schedule) conduct an investigation into any reports made to a Service Commission in respect of the appointment, removal, promotion, disciplinary control or other personnel matters in relation to any person; and

(c) shall not be precluded from conducting an investigation in respect of any matter by reason only that it is open to the complainant to apply to the court for redress under section 25 of the Constitution (which relates to redress for contravention of provisions for the protection of fundamental rights and freedoms).

(4) If any question arises as to whether he has jurisdiction to investigate any case or class of cases under this Act, an Ombudsman may apply to the Supreme Court for a declaration determining that question.

(5) The fact that an action is commenced in any court in connection with a matter under investigation by an Ombudsman shall not, unless the court otherwise directs, preclude such investigation.

13. An investigation pursuant to section 12 may be undertaken by an Ombudsman on his own initiative or on a complaint made to him pursuant to section 14.

14. (1) A complaint to the Ombudsman may be made by any person or body or persons, whether incorporated or not, who claims to have sustained such injustice as is mentioned in section 12(1), but such complaint shall not be made by

(a) a local authority; or

(b) a body constituted for the purposes of the public service or a local authority.

(2) Where the complainant

(a) is a minor, the complaint may be made by his parent or guardian or any other suitable person;

(b) is unable to act for himself by reason of infirmity, or for any other cause or has died, the complaint may be made by his personal representative, or a member of his family, or any other suitable person.

(3) Every complaint to the Ombudsman shall be made in writing.

(4) Notwithstanding anything provided by or under any law

(a) where a complaint made by a person who is an inmate of a Government institution or is detained therein is addressed to the Ombudsman, it shall be forwarded to the Ombudsman by the person for the time being in charge of that institution; and if such complaint is contained in a sealed envelope, the envelope shall be forwarded unopened; and

(b) regulations made under this Act may make provision for ensuring confidentiality of communication between any such person as is mentioned in paragraph (a) and the Ombudsman.

15. (1) An Ombudsman may, in his absolute discretion, determine whether to undertake or continue an investigation

under this Act and in particular, but without prejudice to the generality of the foregoing, may refuse to undertake or continue any investigation if he is of the opinion that

- (a) the subject-matter of the complaint is trivial;
- (b) the complaint is frivolous or vexatious or not made in good faith;
- (c) the complainant has deferred for too long the making of his complaint to the Ombudsman;
- (d) the complainant does not have a sufficient interest in the subject-matter of the complaint; or
- (e) having regard to all the circumstances of the case, no investigation or further investigation is necessary.

(2) Where an Ombudsman decides not to undertake or continue the investigation of a complaint, he shall inform the complainant of his decision and give reasons therefor.

16. The powers conferred on an Ombudsman by this Act may be exercised notwithstanding any provision in any law that an act done thereunder shall not be challenged, reviewed, quashed or called in question.

#### **PART IV.- PROCESS OF INVESTIGATION**

17. (1) Where an Ombudsman proposes to conduct any investigation under this Act he shall afford

- (a) to the principal officer of the authority to which the investigation relates; and
- (b) to any other officer thereof who is alleged to have done or authorized any such action as is mentioned in section 12(1),

an opportunity to comment in writing on any allegations relating to such action.

(2) An Ombudsman may adopt whatever procedure he considers appropriate to the circumstances of a particular case and, subject to the provisions of this Act, may obtain information from such persons and in such manner, and make such enquiries as he thinks fit.

(3) Nothing in this Act shall be construed as requiring an Ombudsman to hold any hearing, and except as provided by subsections (1) and (5) of this section and section 21(3), no person shall be entitled as of right to comment on any allegations or to be heard by an Ombudsman.

(4) Regulations made under this Act may prescribe the procedure to be adopted at any hearing and such procedure may include provision to ensure that any such communication as is mentioned in section 28(5) is not disclosed at that hearing.

(5) If it appears to an Ombudsman during the course of an investigation that there are sufficient grounds for making a report or recommendation that may adversely affect any person, he shall give that person an opportunity to be heard and that person may, if he wishes, be represented at that hearing by an attorney-at-law or any other person.

(6) Where, for the purposes of an investigation, an Ombudsman requires a person to attend before him, that person shall be entitled to be paid, according to the scale laid down in the First Schedule to the Witnesses' Expenses Act, expenses incurred by him by reason of such attendance and by way of compensation for the trouble and loss of time suffered by him.

18. (1) Subject to the provisions of subsection (5) of this section and section 19(1), an Ombudsman may at any time require any officer or member of an authority, or any other person who, in his opinion, is able to give any assistance in relation

to the investigation of any matter, to furnish such information and produce any document or thing in connection with such matter and which may be in the possession or under the control of that officer or member or other person.

(2) Subject as aforesaid, an Ombudsman may summon before him and examine on oath—

(a) any complainant; or

(b) any officer, member or employee of an authority, or any other person who, in the opinion of the Ombudsman, is able to furnish information relating to the investigation,

and such examination shall be deemed to be a judicial proceeding within the meaning of section 4 of the Perjury Act.

(3) For the purposes of an investigation under this Act, an Ombudsman shall have the same powers as a Judge of the Supreme Court in respect of the attendance and examination of witnesses and the production of documents.

(4) Any obligation to maintain secrecy or any restriction on the disclosure of information or the production of any document or paper or thing imposed on any person by or under the Official Secrets Acts, 1911 to 1939 \*or any Act of the Parliament of Jamaica replacing the same in its application to Jamaica) or, subject to the provisions of this Act, by any other law (including a rule of law) shall not apply in relation to the disclosure of information or the production of any document or thing by that person to an Ombudsman for the purpose of an investigation; and accordingly, no person shall be liable to prosecution for an offence under the Official Secrets Acts, 1911 to 1939, or such Act of Parliament of Jamaica or any other law aforesaid, by reason only of his compliance with a requirement of an Ombudsman under this Act.

(5) No person shall, for the purpose of an investigation, be compelled to give any evidence or produce any document or

thing which he could not be compelled to give or produce in proceedings in any court of law.

19. (1) Where the Secretary to the Cabinet at the direction of Cabinet—

(a) gives notice that the disclosure by an Ombudsman of any document or information specified in the notice, or any class of documents or information so specified, would

(i) involve the disclosure or the deliberations or proceedings of the Cabinet or any committee thereof, relating to matters of a secret or confidential nature and is likely to be injurious to the public interest; or

(ii) prejudice the relations of Jamaica with the government of any other country, or with any international organization; or

(iii) prejudice the detection of offences, an Ombudsman or any member of this staff shall not communicate to any person for any purpose any document or information specified in the notice, or any document or information of a class so specified;

(b) certifies that the giving of any information or the answering of any question or production of any document or thing would prejudice the security or defence of Jamaica, an Ombudsman shall not further require such information or answer to be given or such document or thing to be produced.

(2) Except as provided under subsection (1), no law which authorizes or requires the refusal to answer any question or the withholding of any information, or document or thing on the ground that the answering of the question or the disclosure of the information, document or thing would be injurious to the public interest, shall apply in respect of any investigation by or proceedings before an Ombudsman.

20. An Ombudsman may, for the purpose of preventing or detecting crime or protecting the rights or freedoms of any

person, enter any premises occupied by any authority in order inspect any document or record therein in respect of any matter under investigation and may, without prejudice to the provisions of sections 18 and 19, make such enquiries and retain such document or record, as he considers necessary to such investigation.

21. (1) After conducting an investigation under this Act, an Ombudsman shall inform the principal officer of the authority concerned of the result of that investigation, and if the Ombudsman is of the opinion that the complainant has sustained injustice in consequence of a fault in the administration of that authority, he shall inform such officer aforesaid of the reason for that opinion and may, as he thinks fit, make recommendations for action to be taken by that authority within a specified time.

(2) Where an Ombudsman has made a recommendation under subsection (1) and within the time specified or a reasonable time thereafter, he is of the opinion that no adequate action has been taken to remedy the injustice, he shall lay before Parliament a special report on the case.

(3) An Ombudsman shall not, in any report under subsection (2), comment adversely on any person unless he has given that person an opportunity to be heard.

(4) Where an Ombudsman is of the opinion that—

(a) the complainant has sustained any such injustice as is mentioned in section 12(1), he shall inform the complainant of that opinion, the nature of the injustice sustained and the recommendations (if any) which have been made to remedy the injustice, and may make such comments in relation to the case as he thinks fit;

(b) the complainant has suffered no such injustice, he shall inform the complainant of that opinion and the reasons therefor and may make such comments in relation to the case as he thinks fit.

(5) On the conclusion of an investigation, an Ombudsman may make to the authority concerned such recommendations as he thinks fit and in particular, but without prejudice to the generality of the foregoing, may recommend any or all of the following.

(a) that the action which was the subject-matter of the complainant be reviewed;

(b) that an enactment, rule or regulation which causes or may cause injustice, be altered;

(c) that compensation be made to the complainant.

22. If an Ombudsman finds, during the conduct of his investigations or on the conclusion thereof, that there is evidence of a breach of duty, or misconduct, or criminal offence on the part of an officer or member of any authority, he shall refer the matter to the person or body of persons competent to take such disciplinary or other proceeding as may be appropriate against that officer or member and in all such cases shall lay a special report before Parliament.

23. The proceedings of an Ombudsman shall not be rendered void for want of form.

24. (1) Except in the case of proceedings for an offence under section 30(c), no proceedings whatsoever shall lie against an Ombudsman or any person concerned with the administration of this Act, for anything he may do or report or say in the performance of his functions under this Act.

(2) Anything said or any information supplied or any document or thing produced by any person for the purpose or in the course of, any enquiry by or proceedings before an Ombudsman under this Act, shall be absolutely privileged in the same manner as if the enquiry or proceedings were proceedings in a court of law.

(3) For the purposes of the Defamation Act, any report made by an Ombudsman under this Act and any fair and accurate report thereon shall be deemed to be privileged.



## **PART V.- GENERAL**

25. (1) An Ombudsman and every person concerned with the administration of this Act shall regard as secret and confidential all documents, information and things disclosed to them in the execution of any of the provisions of this Act, except that of disclosure

(a) made by an Ombudsman or any person aforesaid in proceedings for an offence under section 30 of this Act or under the Perjury Act, by virtue of section 18(2) of this Act;

(b) which an Ombudsman thinks it necessary to make in the discharge of his functions and for the purpose of executing any of the provisions of sections 21(2) and 22, and subject as provided in subsection (5) thereof, section 28,

shall be deemed inconsistent with any duty imposed by this subsection.

(2) Neither an Ombudsman nor any such person aforesaid shall be called upon to give evidence in respect of, or produce, any document, information or thing, aforesaid in any proceedings other than proceedings mentioned in subsection (1).

26. (1) The functions of an Ombudsman, except those under sections 15, 21, 22, 27(2) and 28, may be performed by any member of his staff authorized for that purpose by the Ombudsman.

(2) Nothing in subsection (1) shall be construed as affecting the responsibility of an Ombudsman for functions performed on his behalf pursuant to subsection (1).

27. (1) The accounts and financial transactions of the office of Ombudsman shall be audited annually by the Auditor-General and a statement of accounts so audited shall form part of the annual report mentioned in section 28.

(2) An Ombudsman shall, at such time within each year as the Minister may direct—

(a) submit to the Minister a statement of the accounts of the Ombudsman audited in accordance with the provisions of subsection (1);

(b) submit to the Minister for approval the estimates of revenue and expenditure for the financial year commencing on the 1st day of April next following.

(3) In this section "Minister" means the Minister responsible for finance.

28. (1) An Ombudsman may at any time be required by Parliament to submit thereto a report in respect of any matter under investigation by him.

(2) An Ombudsman shall submit to Parliament an annual report relating generally to the execution of his functions and may at any time submit a report relating to any particular case or cases investigated by him which, in his opinion, require the special attention of Parliament.

(3) Reports under this section shall be submitted to the Speaker of the House of Representatives and the President of the Senate who shall, as soon as possible, have them laid on the Table of the respective Houses.

(4) An Ombudsman may, in the public interest, from time to time publish in such manner as he thinks fit, reports relating to such matters as are mentioned in subsection (2) and any case which is the subject<sup>9</sup> of a special report under sections 21(2) and 22, provided that no such reports shall be published until after it has been laid pursuant to subsection (3).

(5) An Ombudsman shall not, in any report furnished under this section, disclose or act upon any communication—

(a) between a medical practitioner and his patient in their professional relationship; or

(b) between a minister of religion and any person consulting him in his capacity as such,

where such communication came to the Ombudsman's knowledge during the course of an investigation under this Act.

29. (1) Subject to subsection (2), where an Ombudsman decides to investigate a complaint he shall cause to be recorded in a register kept for the purpose—

(a) the name of the complainant;

(b) the subject-matter of the complaint and the date thereof; and

(c) on the conclusion of the investigation, the Ombudsman's decision respecting the complaint, and any person may, on payment of such fees as may be prescribed, inspect, during the hours and on the days of business of the Ombudsman, any register kept pursuant to this subsection.

(2) A separate register shall be kept for any such complaint as is mentioned in section 14(4), and shall not be open to inspection.

30. Every person who—

(a) willfully—

(i) contravenes the provisions of section 14(4); or

(ii) makes any false statement to or misleads or attempts to mislead an Ombudsman or any other person in the execution of this functions under this Act; or

(b) without lawful justification or excuse—

(i) obstructs, hinders or resists an Ombudsman or any other person in the execution of his functions under this Act; or

(ii) fails to comply with any lawful requirement of an Ombudsman or any other person under this Act; or

(c) in a manner inconsistent with his duty under section 25(1), deals with documents, information or things mentioned in that subsection,

shall be guilty of an offence and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding one thousand dollars or to imprisonment not exceeding twelve months, or to both such fine and imprisonment.

31. Nothing in this Act shall be construed as limiting or affecting any remedy or right of appeal, objection or procedure given to any person by any other provision of law.

32. An Ombudsman may make regulations to provide for any matter which is or may be prescribed by this Act and for any other matter in respect of which it may be necessary or desirable to make regulations for the better carrying into effect of the provisions of this Act.

33. Where pursuant to any provision of this Act, the Governor-General is required to act after consultation with the Leader of the Opposition and

(a) there is no person holding the office of Leader of the Opposition; or

(b) the holder of that office is unwilling or, by reason of his illness or absence from Jamaica, unable to perform his functions in that regard,

the Governor-General shall act if the reference in such provision to the Leader of the Opposition were a reference

to such person as the Governor-General, in his discretion, considers appropriate.

## **No. 5-1994**

I assent.

H. F. COOKE.  
*Governor-General.*

28th day of March, 1994.

AN ACT to Amend the Ombudsman Act.  
{ 29th March, 1994 }

BE IT ENACTED by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Jamaica, and by the authority of the same, as follows: —

1. This Act may be cited as the Ombudsman (Amendment) Act, 1994, and shall be read and construed as one with the Ombudsman Act (hereinafter referred to as the principal Act) and all amendments thereto.

2. Section 4 of the principal Act is hereby amended—

- (a) by deleting from subsection (2) all the words appearing after the words “by the Governor-General”;
- (b) by deleting subsections (3), (4) and (5);
- (c) by renumbering subsections (6), (7), (8), (9) and (10) as subsections (3), (4), (5), (6) and (7), respectively;
- (d) by deleting from subsection (3) as renumbered the words “subsection (9)” and substituting therefor the words “subsection (6)”; and

- (e) by deleting from subsections (5) and (6) as renumbered the words "subsection (7)" wherever they appear and substituting therefor, in each case, the words "subsection (4)".

3. Section 6 of the principal Act is hereby amended by inserting in paragraph (a) immediately before the words "shall not" the words "except with the approval of the Governor-General acting in his discretion".

4. Section 12 of the principal Act is hereby amended—

- (a) by deleting subsection (1) and substituting therefor the following—

"(1) Subject to the provisions of this Act, where an Ombudsman is of the opinion—

- (a) that any person or body of persons has or may have sustained injustice as a result of any action taken by an authority or an officer or a member of such authority, being action taken in the exercise of the administrative functions of that authority; or
- (b) that any action taken (whether before or after the date of commencement of the Ombudsman (Amendment) Act, 1994) by a political party, its members or supporters—
  - (i) constitutes or is likely to constitute a breach of any agreement, code or arrangement for the time being in force between or among political parties in Jamaica; or
  - (ii) is likely to prejudice good relations between the supporters of various political parties.

the Ombudsman may investigate the action so taken": and

- (b) by inserting next after subsection (5) the following as subsections (6) and (7), respectively—

“(6) An Ombudsman, after consultation with the Prime Minister and the Leader of the Opposition, may—

(a) appoint a Tribunal comprised of representatives of political parties to assist him in the investigation of complaints arising out of an action referred to in subsection (1) (b); and

(b) make regulations in relation to the constitution and operation of the Tribunal, and otherwise in relation thereto, so, however, that any regulations so made shall be subject to negative resolution.

(7) The fact that a Tribunal is not appointed under subsection (6) shall not affect the validity of anything done by an Ombudsman in the exercise of powers conferred on him by subsection (1) (b)”.

5. Section 14 of the Principal Act is hereby amended by deleting from subsection (1) the words “section 12 (1)” and substituting therefor the words “paragraph (a) of section 12 (1) or to be affected by any such action as is mentioned in paragraph (b) thereof”.

6. Section 17 of the principal Act is hereby amended by deleting subsection (1) and substituting therefor the following—

“(1) Where an Ombudsman proposes to conduct any investigation under this Act, he shall give to the specified officers an opportunity to comment in writing on any allegations relating to such action: and for the purposes of this subsection “specified officers” means—

- (a) in relation to an allegation concerning an action mentioned in paragraph (a) of section 12 (1)—
  - (i) the principal officer of the authority to which the investigation relates; and
  - (ii) any other officer thereof who is alleged to have done or authorized any such action; and
- (b) in relation to an allegation concerning an action mentioned in paragraph (b) of section 12 (1)—
  - (i) the Leader of Government Business in the House of Representatives and the Leader of Opposition Business in that House, and any other person holding, within a political party in Jamaica, such office as may be prescribed; and
  - (ii) any officer of a political party who is alleged to have done or authorized the doing of any such action as aforesaid”.