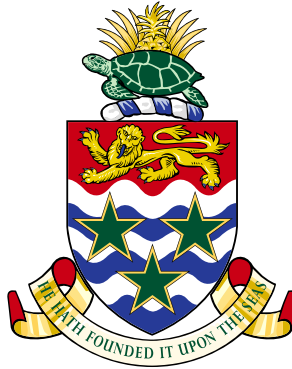


**CAYMAN ISLANDS**



# **OMBUDSMAN ACT**

**(2021 Revision)**

**Supplement No. 2 published with Legislation Gazette No. 29 dated 30th April, 2021.**

## PUBLISHING DETAILS

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Law 23 of 2017 consolidated with Law 56 of 2021 and with the Ombudsman Act, 2017 (Amendment of Schedule 2) Order, 2019 (SL29 of 2021).

Revised under the authority of the *Law Revision Act (2020 Revision)*.

Originally enacted —

Law 23 of 2017-27th March, 2017

Law 56 of 2020-7th December, 2020.

Originally made —

Order, 2021-22nd October, 2019.

Consolidated and revised this 31st day of March, 2021.



## CAYMAN ISLANDS



## OMBUDSMAN ACT

(2021 Revision)

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## CAYMAN ISLANDS



# OMBUDSMAN ACT

(2021 Revision)

## PART 1 - PRELIMINARY

### Short title

1. This Act may be cited as the *Ombudsman Act (2021 Revision)*.

### Interpretation

2. (1) In this Act —

“**Deputy Ombudsman (Information Rights)**” means the person appointed by the Ombudsman under section 7(a);

“**Deputy Ombudsman (Complaints)**” means the person appointed by the Ombudsman under section 7(b);

“**functions**” includes responsibilities, powers and duties;

“**Ombudsman**” means the person appointed by the Governor under section 3;

“**political party**” means a group of persons who have united to contest election for membership of the Cayman Islands Parliament; and

“**scheduled Acts**” means the Acts set out in Schedule 2.

### Appointment of Ombudsman

3. (1) The Ombudsman shall be appointed by the Governor, acting after consultation with the Premier and the Leader of the Opposition.

- (2) The Ombudsman shall be appointed for a period of seven years and shall not be eligible for re-appointment.
- (3) No person shall be qualified to be appointed as Ombudsman if the person is or has been within the preceding three years —
  - (a) an elected member of the Cayman Islands Parliament; or
  - (b) the holder of any office in any political party.
- (4) The appointment of a person as Ombudsman is not valid if the person is disqualified under subsection (3).
- (5) The validity of anything done by a person appointed as the Ombudsman is not affected by the fact that the person is or becomes disqualified under subsection (3).
- (6) The Ombudsman may at any time resign office by instrument in writing addressed to the Governor and the resignation shall take effect as from the date of receipt by the Governor.
- (7) The Governor may revoke the appointment of the Ombudsman if the Ombudsman —
  - (a) becomes of unsound mind or becomes permanently unable to perform the functions of Ombudsman by reason of ill health;
  - (b) becomes bankrupt or compounds with or suspends payment to creditors;
  - (c) fails to carry out the functions conferred on the Ombudsman by this Act or a scheduled Act; or
  - (d) brings the office of Ombudsman into disrepute.
- (8) In the event that the Ombudsman is temporarily unable to perform the functions of Ombudsman, by reason of illness, temporary absence from the Islands, leave or any other reason the Governor considers appropriate, the Governor may appoint by instrument in writing one of the Deputy Ombudsmen to act as Ombudsman.

### **Oath of Office**

4. The Ombudsman shall not enter upon the duties of office until the Ombudsman has taken and subscribed the Oath of Office set out in Schedule 1.

### **Salary and emoluments**

5. (1) There shall be paid to the Ombudsman such annual salary, emoluments and benefits as are established under the *Public Service Management Act (2018 Revision)*.
- (2) The salary, emoluments and benefits of the Ombudsman shall not be altered to the disadvantage of the Ombudsman during the period of the Ombudsman's appointment, except by mutual agreement.



## Independence

6. (1) Subject to the provisions of the Constitution relating to the powers of the Director of Public Prosecutions, in the exercise of the functions of Ombudsman, the Ombudsman shall not be subject to the direction or control of any other person or authority.
- (2) Except as otherwise provided in this Act, the Ombudsman shall be subject to the *Public Service Management Act (2018 Revision)*, and the Ombudsman may adopt such policies and directions by the Deputy Governor as the Ombudsman sees fit to the extent that these do not, in the opinion of the Ombudsman, compromise the Ombudsman's independence.
- (3) For the purpose of establishing the budget of the office of the Ombudsman, the Ombudsman shall report and be accountable for expenditure to the Oversight Committee of the Cayman Islands Parliament.

## Staff

7. The officers of the Ombudsman shall be public officers appointed by the Ombudsman in accordance with the *Public Service Management Act (2018 Revision)*, and shall include —
  - (a) a Deputy Ombudsman (Information Rights);
  - (b) a Deputy Ombudsman (Complaints); and
  - (d) such other officers as are necessary to enable the Ombudsman to carry out the functions of Ombudsman.

## Functions of Ombudsman and Deputy Ombudsmen

8. (1) The Ombudsman shall perform the functions of the Ombudsman that are specified in this Act and in the scheduled Acts.
- (2) In the performance of the functions of the Ombudsman that are specified in the scheduled Acts, the Ombudsman shall be assisted as follows —
  - (a) where the function is specified in Part 1 or Part 3 of Schedule 2, the Ombudsman shall be assisted by the Deputy Ombudsman (Complaints); and
  - (b) where the function is specified in Part 2 of Schedule 2, the Ombudsman shall be assisted by the Deputy Ombudsman (Information Rights).
- (3) Notwithstanding subsection (2), the Ombudsman may delegate to any suitably qualified person by instrument in writing any function of the Ombudsman under this Act or the scheduled Acts to the extent so delegated, other than the power to delegate under this section.
- (4) The Cabinet may by Order subject to affirmative resolution, amend Schedule 2.

**Alternative methods for resolution of matter**

9. (1) The Ombudsman may use mediation, conciliation or any other alternative dispute resolution process with a view to resolving a matter under any scheduled Act.
- (2) Any process used under this section shall be conducted with due regard to the privacy and confidentiality of the parties.

**Advisers**

10. (1) The Ombudsman may obtain advice from any person who, in the Ombudsman's opinion, is qualified to give it, to assist in the discharge of the Ombudsman's functions.
- (2) The Ombudsman may pay to any person from whom advice under subsection (1) is obtained, such reasonable fees or allowances as the Ombudsman may determine.
- (3) Any fees or allowances paid under subsection (2) shall be paid out of the funds appropriated to the office of the Ombudsman.

**Annual and extraordinary reports**

11. (1) The Ombudsman —
- (a) shall annually prepare a report to be tabled in the Cayman Islands Parliament on the discharge of the Ombudsman's functions; and
  - (b) may prepare any other report with respect to the Ombudsman's functions that the Ombudsman thinks appropriate.
- (2) A report prepared under this section may include any general recommendations which the Ombudsman may have arising from the discharge of the Ombudsman's functions.
- (3) The Ombudsman shall cause a copy of each report prepared under this section, to be laid before the Cayman Islands Parliament.
- (4) The Ombudsman may send a copy of any report prepared under this section to any other persons the Ombudsman thinks appropriate.
- (5) The Ombudsman shall publish any report laid before the Cayman Islands Parliament under this section.
- (6) If a report prepared under this section —
- (a) mentions the name of any person in respect of which a complaint has been made or referred under a scheduled Act; or
  - (b) includes any particulars which, in the opinion of the Ombudsman, are likely to identify any such person and which, in the Ombudsman's opinion, can be omitted without impairing the effectiveness of the report,





that information shall not be included in a version of the report laid before the Cayman Islands Parliament under subsection (3), sent to a person under subsection (4) or published by the Ombudsman under subsection (5), subject to subsection (7).

- (7) Subsection (6) does not apply in relation to a version of the report if, after taking account of the interests of any persons the Ombudsman thinks appropriate, the Ombudsman considers it to be in the public interest to include that information in that version of the report.

### **Immunity**

- 12.** Neither the Ombudsman, any Deputy Ombudsman, any person employed, engaged or appointed by the Ombudsman nor any person delegated any function under this Act or any scheduled Act, shall be liable in damages for anything done or omitted in the discharge of their respective functions unless it is shown that the act or omission was negligent or in bad faith.

### **Indemnity**

- 13.** The Government shall indemnify the Ombudsman, a Deputy Ombudsman, a person employed, engaged or appointed by the Ombudsman and a person delegated any function under this Act or any scheduled Act against all claims, damages, costs, charges or expenses incurred by those respective persons in the discharge or purported discharge of their functions under this Act or any scheduled Act, except claims, damages, costs, charges or expenses caused by the negligence or bad faith of those persons.

### **Use of title “Ombudsman”**

- 14.** No private entity or Government department shall use the term “Ombudsman” or “Office of the Ombudsman” to describe itself in any capacity.

### **Regulations**

- 15.** The Cabinet may make regulations subject to affirmative resolution for giving effect to the provisions of this Act.

### **Transitional provisions**

- 16.** The Governor may make any transitional arrangements for the appointment of the first Ombudsman as may be appropriate for the establishment of the office of Ombudsman.



## SCHEDULE 1

### OATH FOR THE DUE EXECUTION OF THE OFFICE OF OMBUDSMAN

(Section 4)

#### Oath

I, .....appointed Ombudsman of the Cayman Islands in accordance with the *Ombudsman Act (2021 Revision)*, do swear that I will faithfully and impartially perform the duties of my office and that I will well and truly serve Her Majesty Queen Elizabeth the Second, Her Heirs and Successors in such office. So help me God.

#### Affirmation

In the form above respectively set forth, for the word “swear” there shall be substituted the words “solemnly and sincerely affirm and declare”, and the words “So help me God” shall be omitted.



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## SCHEDULE 2

*(Section 8(1) and (2))*

### ACTS IN RESPECT OF WHICH THE OMBUDSMAN HAS RESPONSIBILITY

#### PART 1

*The Complaints (Maladministration) Act (2018 Revision).*

*The Whistleblower Protection Act, 2015 (Law 22 of 2015).*

#### PART 2

*The Freedom of Information Act (2021 Revision).*

#### PART 3

*The Police (Complaints by the Public) Act, 2017 (Law 22 of 2017).*

#### PART 4

*The Data Protection Act (2021 Revision).*

**Publication in consolidated and revised form authorised by the Cabinet this 6th day  
of April, 2021.**

**Kim Bullings**  
*Clerk of the Cabinet*







## ENDNOTES

### Table of Legislation history:

SL #	Law #	Legislation	Commencement	Gazette
29/2021		Ombudsman Act, 2017 (Amendment of Schedule 2) Order, 2019	22-Mar-2021	LG25/2021/s1
	56/2020	Citation of Acts of Parliament Act, 2020	3-Dec-2020	LG89/2020/s1
2/2018		Ombudsman Law, 2017 (Commencement of Certain Provisions) Order, 2018	17-Jan-2018	GE5/2018/s2
75/2017		Ombudsman Law, 2017 (General Commencement) Order, 2017	8-Sep-2017	GE76/2017/s1
26/2017		Ombudsman Law, 2017 (Commencement of Section 3) Order, 2017	26-Apr-2017	GE35/2017/s10
	23/2017	Ombudsman Law, 2017	17-Jan-2018	GE35/2017/s3

(Price: \$3.20)

