

GAMBIA CHAPTER X: THE OMBUDSMAN

163. National Assembly to establish office of the Ombudsman

(1) Subject to the provisions of this Constitution, an Act of the National Assembly shall within six months of the coming into force of this Constitution establish the office of Ombudsman and provision for his or her functions and duties -

(a) In the investigation of any action taken by a government department or other authority, or public body, to which the Act applies, being action taken in the exercise of the administrative functions of that department or authority, on a complaint by a member of the public who claims he or she has suffered injustice in consequence of mal-administration or mismanagement, or discrimination on any ground set out in Chapter IV, in connection with such action;

(b) In the investigation, on his or her own initiative, of allegations of mal-administration, mismanagement or discriminatory practices in any government department, authority, or other public body, to which the Act applies; and

(c) In the investigation of complaints of any failure to observe the code prescribed in Chapter (XXI) for the conduct of public officers.

(2) Without prejudice to the generality of subsection an Act of the National Assembly may;

(a) determine the departments, authorities and other public bodies to which the Act shall apply;

(b) determine the actions or classes of action which may be subject to such investigations;

(c) determine the departments, authorities, public bodies and actions which shall be excluded from such investigations;

(d) determine the procedure to be adopted in any investigation and the powers which may be exercised in the course of such investigation, including the power of the Ombudsman to require persons to furnish documents and other information and to provide evidence, and provide for the right of any department, authority, other public body or person to be heard when its, or his or her, actions are the subject of an investigation;

(e) provide for sections for the obstruction of the Ombudsman in the exercise of his or her functions or a failure to comply with his or her lawful requirements;

(f) provide for the making of reports by the Ombudsman, including an annual report to the National assembly, and report to the Inspector General of Police in the event of his or her investigations disclosing the commission of a criminal offence or to the Attorney General in the event of their disclosing any other failure to comply with a provision of law;

(g) provide for the appointment of one or more deputy Ombudsmen to exercise, under the directions of the Ombudsman, the function of that office.

(h) Make such administrative and financial provisions as may be necessary or desirable for the efficient functioning of the office of Ombudsman.

164. Appointment and Tenure Of office of Ombudsman

(1) The President shall appoint an Ombudsman and his or her Deputies in consultation with the

Public Service Commission, subject to confirmation of the National Assembly within seven days of the presentation of the request:

Provided that where the National Assembly rejects a person nominated by the President, it shall not again reject the person nominated to replace him or her.

(2) In making an appointment under this section, the President shall have regard to the need for persons exercising the functions of Ombudsman to have substantial administrative or professional experience.

(3) The office of Ombudsman and deputy Ombudsman shall be offices in the public service.

(4) A person shall not be qualified to hold office as Ombudsman or deputy Ombudsman if he or she is a member of the National Assembly, a Secretary of state or holds any other public office.

(5) Subject to this Constitution, an Act of the National Assembly shall prescribe the tenure and terms of service of the Ombudsman and any deputy Ombudsman.

(6) An Ombudsman or deputy Ombudsman may only be remove from office by the President for inability to discharge the functions of his or her officer (where arising from infirmity of mind or body or from any other cause) or for misconduct, and shall not be remove unless the National Assembly has appointed a tribunal to investigate the case and his or her removal has been approved by resolution of the National Assembly supported by the votes for not less than two-thirds of all the members of the National Assembly. The Ombudsman or a deputy Ombudsman shall have the right to be heard and to be legally represented before the tribunal.

165. Independence of Ombudsman

(1) Subject to the provisions of this chapter, in the exercise of his or her functions, the Ombudsman and a deputy Ombudsman shall not be subject to the direction or control of any other person or authority but subject only to the Constitution and the law.

(2) All departments, authorities and other public bodies which are subject to investigation by the Ombudsman shall accord such assistance as he or she may require for the protection of the independence, dignity and effectiveness of the Ombudsman in the performance of his or her functions.