



# 1st Compendium of Case Notes of the Ombudsman

Published under the authority of the Ombudsman Act, 1994



Office of the Ombudsman  
Antigua and Barbuda  
2008

# Foreword



“The Ombudsman may, from time to time in the public interest, publish reports relating generally to the exercise of his functions or to the particular case or cases investigated by him, whether or not the matters to be dealt with in such reports may have been the subject of a report to Parliament” Section 21 (2) of the Ombudsman Act, of 1994 No. 5 of 1994.

This compendium seeks to highlight various cases handled by the Office of the Ombudsman during the past thirteen (13) years from 1995-2008. It focuses on the nature of the complaint, the investigation process and a brief commentary to each case. It further exposes some of the critical areas where the necessary administrative infrastructure is deficient and where corrective measures are required in order to reduce as well as eliminate occurrences of complaints that, in fact, should either have been settled in the first instance or averted altogether.

In an effort to fulfill the charge mandated by law the Ombudsman in the exercise of his discretionary powers has considered it timely and appropriate to compile a number of relevant cases which illustrate the systemic deficiencies faced by and within public sector entities and resolution methods.

## **Claim against Antigua Public Utilities Authority (APUA) In reference to restoration of electricity**

### **Facts:**

The complainant, a proprietor of a Woodwork Shop, alleged that at the time of writing he alone in his area was without electricity following destruction caused by the passage of Hurricane Luis. This was despite the fact that the Antigua Public Utilities Authority (APUA) had conducted extensive repairs and reconstruction in the area and all surrounding businesses and homeowners had received electricity. The complainant emphasized that he had been to APUA many times and that he only got promises but no results. This led him to believe that he was being deliberately victimized and subjected to discrimination. Such a situation would, of course, be unlawful and unacceptable. Moreover, the proprietor's livelihood and that of several employees was at stake.

### **Investigation:**

I, therefore, decided to investigate the matter without delay and thus made a site-visit to observe things on the spot and to hold appropriate discussions. The proprietor indeed had no electricity and was forced to use a stand-by generator continuously which was, no doubt, an expensive exercise. It was, however necessary, in order for him to complete various orders including some school furniture. I then visited the supervisor in charge of re-connections and pointed out the need for fair and impartial treatment of all persons. "Justice must not only be done but must be seen to be done". He was emphatic that no victimization was involved but that the delay was due to difficulties caused by pressure of work resulting from Hurricane Luis and the fact that meters were out of stock. He promised, however, to make a temporary direct connection pending availability of a meter in order to alleviate the situation.

### **Outcome:**

I am pleased to report that I subsequently received a telephone call within two hours confirming that the connection was made. The complainant was satisfied with the result of my intervention and I then wrote the Supervisor expressing my thanks and appreciation for his assistance.

## **Claim against Ministry of Health/Antigua Public Utilities Authority (A.P.U.A.) In respect to standby diesel generator in neighbourhood**

### **Facts:**

A complainant submitted to me copies of letters he had written to the A.P.U.A. and Ministry of Health pertaining to problems he had been experiencing with a neighbour's noisy standby diesel generator. The complainant said that his neighbour, although apparently well-served by the A.P.U.A. electricity system, maintained his own generator which he operated on a daily basis. It was reported that the generator appeared to be of a larger, perhaps industrial type. "It is diesel fueled, given to making excessive noise and the giving off of oil-related smell."

The complainant further stated:-

"It is now about three years or so we have been suffering from this assault on our families' and our own health, due mainly to the noise from this plant. We are often unable to sleep or concentrate and there is a mental uneasiness - a kind of imbalance, and so forth.

Time and again we have tried to appeal to the proprietor, Mr. X but always with only negative results. We have also called in the police at times and on one particularly desperate occasion on a Sunday we even called in the fire department police.

We believe this is a matter where our basic human rights have been and continue to be violated and we accordingly ask that you kindly take steps to put an end to it."

### **Investigation:**

I wrote the Electricity Manager and the Chief Health Inspector on the matter. They visited the site and made recommendations to the proprietor as to how the problem should be solved. I subsequently chaired a meeting on site at which the proprietor and his advisor as well as the Electricity Manager, Chief Health Inspector and the Senior Environmental Health Technician of the Ministry of Health were present.

The proprietor said that he was forced to use his generator at times because of low voltage from the mains. It was agreed that this would be monitored. The Electricity Manager subsequently reported that his measurements revealed that the A.P.U.A. power supply voltage was adequate. Permission was given for use of the generator only "when there is a general, group or selective loss of supply, due to A.P.U.A. suppression of voltage." Suggestions were also made by the Central Board of Health as to how noise levels could be reduced.

### **Outcome:**

The complainant later wrote me as follows:-

"Yes, indeed, there have been much improvements in recent months. In fact you will be

pleased to know that for the past 2-3 months or so the generator in question has operated, as far as I am personally aware, only when A.P.U.A.'s power supply was off and legitimately, that is as it should be.

This then is the position we had asked your office several month ago to look towards bringing about and we are most grateful that it has been achieved. It is my belief that with you there, that office will continue to strive to be as effective and impartial as possible in resolving matters brought to you by us citizens, and I would wish to add my own to other public expressions that I have heard made of praise for your good work."

## **Claim against Ministry of Finance for monthly contributions taken from salary**

### **Facts:**

A regional institution which had stationed one of its employees in Antigua in 1983 made arrangements with the Treasury Department here to pay him on the Institution's behalf. The Treasury was to have been re-imbursed by the Institution on submission of claims.

On arrival in Antigua the employee was asked to obtain both Medical Benefits and Social Security Cards and he said that he complied in order to ensure that his salary was paid.

The employee complained, however, that he never subsequently received a salary slip or statement to indicate what his deductions were for Medical Benefits and Social Security or for certain loans which he was also repaying by way of monthly deductions from his salary. He said that despite a written request by the regional institution, the Accountant General did not respond.

On another matter, the complainant said that he had been ill for some six months at the time of writing. He said that he received his salary but that his expenses were quite high, to the extent that he had to borrow money to survive. He was advised that he should apply to the Social Security Office for assistance but on doing so was told that he should forward medical certificates as well as a statement of his payments from the Treasury Department. He said that his doctor duly issued the required medical certificates but that he could not get the Treasury statement after one year of trying. He said that there was no reply even when the regional institution itself made a written request.

He wrote to me expressing his grievance and requested my assistance in dealing with these matters.

### **Investigation:**

I wrote to the Accountant General outlining the complainant's concerns and asked that a reply be sent as early as possible. He confirmed that deductions were indeed made as requested and claims forwarded monthly for reimbursement (of salary and matching contributions). He said that they were continuing "indepth research into the matter in order to give both Social Security and Medical Benefits Scheme an accurate statement of the amounts deducted by the Treasury ... from 1983 to date."

There were further delays by the Treasury in forwarding the required information and at a meeting which I arranged with the Accountant General and his Deputy they explained that this was due to the fact that some of the records were not readily available. They were, however, unhappy about what they considered to be the complainant's abrasive approach. On the other hand this could well have been due to frustration following the delays. I would like here to place on record the cordial way in which the above discussions took place. All of the information was subsequently supplied to the Superintendent Medical Benefits Scheme and the Director of the Social Security Board following which the matter was settled.

### **Outcome:**

It is unfortunate that it could not have been dealt with more speedily. At least the reasons for the delay should have been communicated in writing to the complainant. In one of my letters to the Accountant

General during the investigations I wrote *inter alia*.

“I also wish to take this opportunity to respectfully recommend that in the future in order to make it convenient for all concerned, that the Treasury submit these statements half yearly and annually as is done with other employees. Kindly indicate whether this is feasible.”

A copy of the statement could be given to the complainant at the same time to keep him informed.

I subsequently received a letter of thanks from the complainant thus:-

“The Director of Social Security has settled the matter pursued on my behalf.

Thanks very much for your support in dealing with the matter so expeditiously.

I wish you God’s blessing and every success in your job and may you find courage and strength to pursue other tasks which confront you on a daily basis.”

### **General Comments:**

A major concern is the tardy response and in some cases even no response by officers to correspondence sent to them from this office. Indeed many of the complaints received by me from the public against various Ministries concern this same problem. It smacks of discourtesy and disrespect and needs to be seriously addressed. Should this problem continue I will have no alternative but to use the powers vested in me under Sections 8(2) and 22 of the Ombudsman Act 1994, No. 5 of 1994 irrespective of the person or persons guilty of non-cooperation. I must at the same time express my sincere thanks and appreciation to the many who have fully cooperated with my investigations to date.

It might prove helpful if all Ministries could designate particular officers to deal with complaints submitted by the Ombudsman or by members of the public.

## Claim against Ministry of Public Works & Ministry of Health

### Facts:

Our office received a letter of complaint from someone who had a problem with a drain adjacent to his residence. He said that he had previously sought a solution through his Parliamentary Representative, the Ministry of Public Works, the Ministry of Health and the Prime Minister all to no avail. The following are the details:-

There is a major drain running through the property of two of the complainant's neighbours. The drain carries a large body of water which runs towards the sea. The Ministry of Public Works had cleaned this drain on a few occasions in the past except for a part fenced by one of the neighbours. That part is directly on the southern boundary of the complainant's property. The neighbour, however, had refused to allow the Public Works Department to go on to his property to clean the section of the drain passing through his land. This was confirmed by the Director of Public Works who wrote thus:-

*"We confirm that when the Public Works Department first cleaned the main drain approaching (Mr. X's) property, he indicated to them that they should not clean the drain where it crossed his land.*

*He then proceeded to plant rail iron spikes across the drain to stop the Public Works Department machine from passing across the drain.*

*Public Works Department subsequently left the area of the drain uncleaned."*

The complainant went on to say:-

*"As a result of this section not being cleaned there is a building up of debris including soil and bush in that area which prevent the water from taking its natural course. In addition to these blockages, (Mr. Y) caused the felling of coconut and other trees in the path of the drain in question, thus directly causing further and in our view deliberate blockage.*

*As a result Sir, the water especially in heavy rain cannot freely take its natural course and hence diverts through our property first and onto other properties west of us. The damages caused to our property are tremendous. Our fence, garden and building foundation are some of the damages meted out to us. Severe flooding and erosion of our soil and garden become a norm especially in heavy rainfall.*

*The damages to our property is unbelievable and our health and comfort in no way are spared. Very often when we have heavy rain our property is flooded and when we for example, get home from work or wherever, we have to walk through water as high as our knees in some cases.*

*The stagnant water left in those parts of the drain that are cleaned (and I must say irregularly) also create a stench at times and act as a breeding ground for mosquitoes. Sir, our problems are unending and it would appear that no one really cares.*

*At present, the entire drain needs cleaning and particularly that part that is fenced and never cleaned. There needs to be a free flow of water and the necessary steps to secure this has long been overdue. There is also evidence of rail iron stakes across the path of the drain.*



*We would also like for you to come and have a first hand view of the area in question. It would be advisable to plan with the Director of Public Works and the Chief Health Inspector as to a particular time as may be appropriate for a collective visit. It would be very appropriate to visit as soon as possible since the area is water logged and hence provides a better understanding of the situation. I would be more than willing to show you around so that you have a first hand idea of our problems.*

*In addition, on January 13, 1998 I visited the Director of Public works and the Chief Health Inspector and I cannot say that I have hope or any encouragement that anything will be done to speedily relieve us of this abominable situation. We cannot afford for this to drag on any longer. We have a legal system that could easily bring about a solution to this problem and we are simply asking that the State takes up its responsibility and act on behalf of those who are truly oppressed.*

*We recognise that you only recently took up this office and we are requesting that you investigate the situation and take the necessary actions as may be appropriate."*

He said that he was appealing to me in my capacity as Ombudsman to look into this situation with a view to bringing about a speedy solution to the problems. He ended by saying *"This situation is very urgent and for the cause of justice we seek your most urgent intervention."*

I have given details of the complaint in full in order to highlight the seriousness of the situation as outlined by the complainant.

### **Investigation:**

I paid a visit along with my Investigations Officer to the site soon after receiving the complaint. The place was indeed terribly water-logged causing an unhealthy appearance and odour.

### **Outcome:**

The matter was therefore urgently referred to the Chief Health Inspector who soon visited the site. He was subsequently able to get the neighbour's permission to clean the drain. He then collaborated with other Government agencies and was able to organise equipment to carry this out to the satisfaction of all concerned.

### **Comments:**

This opportunity is taken to publicly thank the Chief Health Inspector for quickly responding to our request for action. It is heartening to note that despite his busy schedule he always tries his best to cooperate with this office. This is very much appreciated.

## **Claim against Ministry of Agriculture in respect to payment of pension**

To further emphasise the problems with regard to the payment of pensions and gratuities generally here is another case which was brought to our attention by a complainant as well as the Labour Commissioner.

### **Facts:**

The complainant retired as a driver for the Ministry of Agriculture on the attainment of his 60<sup>th</sup> birthday in July 1997 but up to August 1998 he had not yet received his retirement benefits. He had only received his vacation pay. In the meanwhile he was in dire straits being unable to pay his house rent, utility and food bills. For example, he was in three months arrears with his rent and therefore likely to find himself homeless. His credits at the local shop had piled up. I was therefore asked by the complainant to intervene in the matter.

### **Investigation and Outcome:**

I contacted the Permanent Secretary of the Ministry who said that the voucher had since been prepared and submitted to the Treasury for payment. I informed the complainant who subsequently reported that he had received his money and expressed his thanks to us for following up the matter on his behalf.

## **Claim against Ministry of Agriculture, Lands and Fisheries In respect to purchasing of land**

### **Facts:**

I received a letter from a complainant who wrote as follows:-

“I am writing you this letter, not only to lodge a complaint, but also to express my total disappointment with the Ministry of Agriculture over the manner in which they have been handling a matter with me.

Sometime in 1990, I purchased a parcel of land from the government through the Ministry of Agriculture. This was fully paid on March 20th, 1991. After this was done all relevant documentation with respect to the transfer were duly completed and signed.

Having done all this I proceeded to the land registry to collect my title. To my surprise I was told that I could not get it since the government did not own this piece of land and that it should not have been sold to me. I immediately went to the Ministry of Agriculture to let them know of this development. I was then told that they would sort it out. To date nothing has been done despite the many times I have spoken to, and written to them.

What has been most disturbing though, is the fact that during this whole episode, not once has the ministry made any effort to contact me to sort this matter out although they made the errors in selling me land that did not belong to them. I initiated every move.

You will observe from my correspondence that I am willing to have this piece exchanged but even this has gone in the dormant mode.

As Ombudsman, I am sure that you will give this letter the attention it deserves, and I look forward to hearing from you soon.”

### **Investigation:**

I immediately took up the matter with the relevant officers of the Ministry of Agriculture. At first they had difficulty in locating the file. Eventually they did and said that the matter would have been taken to Cabinet so that alternative land could be allocated.

### **Outcome:**

It is my understanding that the alternative site identified by the complainant was not available but that every effort would have been made to re-locate him soon so that this long outstanding matter can be satisfactorily resolved. It is clear that all is not well in the Ministry as I continue to receive other complaints of a similar nature which have all been brought to their attention.

## Claim against Her Majesty's Prison Release of an Inmate

### Facts:

I received a letter of complaint from an inmate of Her Majesty's Prison concerning his release date which, according to him, should be earlier than the Prison's records show.

### Investigation:

The following are the facts obtained as a result of our investigations:-

The complainant was convicted and sentenced on 14<sup>th</sup> May, 1999 to 6 years imprisonment with a release date of 13<sup>th</sup> May, 2003 (based on a calculation of eight months per year). On the 17<sup>th</sup> January 2000 he was sentenced for 4 years on another charge to run consecutively which means that this would begin at the end of the first sentence the new release date now being 13<sup>th</sup> January, 2006. He appealed against the sentence and the appeal was dismissed, but the Appeal Court ruled that the sentence should start from the 17<sup>th</sup> January 2000, the date of his second conviction. The date for release based on this should be 16<sup>th</sup> September 2002. The date shown in the Prison records at the time of the prisoner's complaint, however, was 13<sup>th</sup> January 2006 based on the original consecutive sentencing. This means that the adjustment was not made in accordance with the Court's latest ruling as a result of the appeal.

The problem was referred by us to the Prison Authorities who in turn checked with the Registrar of the Court and the release date of 16<sup>th</sup> September of 2002 for the second conviction was confirmed. Since, however, the original date based on the first conviction was 13<sup>th</sup> May 2003 which is later than 16<sup>th</sup> September 2002, then 13<sup>th</sup> May 2003 should stand as the final date of release.

### Outcome:

As a consequence, as a result of our intervention the prisoner will now be eligible for release some two years eight months earlier than the 13<sup>th</sup> January 2006 date now in the records. The prison Authorities advised us that the records would be adjusted accordingly.

## Claim against Ministry of Agriculture, Lands and Fisheries & Ministry of Health

### Facts:

A complainant wrote to me in frustration concerning nuisance problems she had been experiencing at her residence.

She said that she purchased land since 1992 from the Ministry of Agriculture, Lands and Fisheries with the belief that it was a residential area. After a while, however, she noticed the establishment of a "Fowl farm" immediately east of her land. She realized the nuisance that this would cause and therefore brought the matter to the attention of the Permanent Secretary, Ministry of Agriculture by way of a letter which was also copied to the Lands Officer and the Chief Health Inspector.

In a second letter to the Permanent Secretary the complainant wrote:-

"In brief here is a description of what has become the norm of life. From since I have taken up residence 95% of my windows remain closed (all on the eastern/northern and southern sides), the window on the kitchen door is also kept closed. I have to run a fan in my bedroom constantly whenever I am at home. Turning off the fan at anytime only leaves me in great discomfort, not only from the heat, but the scent which lingers throughout the inside of what is supposed to be my proud accomplishment. I also burn scented candles on a regular basis (friends that stop by usually wonder aloud as to if I am working obeah), the traditions of the candles of course. Also I do not attempt to sit on my verandah, for in this case it is something for the brave. I love gardening (my stress reliever), but performing this childhood hobby for me is a task. Having to stay outside for long periods is rather unbearable. I can go on and on.

There is another who hurts more in all of this. I have a son who is asthmatic and I have to limit the hours that he spends at our home not because I enjoy being at home alone but there are times when the atmosphere is too intense for him to stay there. This is the most painful of all.

My writing you once more is to get some sort of relief and justification from this situation. I have been informed in the past that the appropriate action will be taken by your department. Mr. Burleigh, it is nine months and I am asking that something be done, and of course it needs to be rather soon. Our health is at a greater risk now, we are now subjected to frequent burning of dead fowls and exposed manure which not only attracts flies but also any moisture in the atmosphere creates a horrible odour.

I have sought some advice on the matter from various sources and I do not think that I should have to turn this matter into a legal battle. I have come to the conclusion that my responsibility is to bring grievances to the ones who sold me the property. And the duty of the vendor is to solve those grievances by doing the right thing. The right thing is to enforce the land covenants, which in the long run should be of benefit to all concerned whether directly or indirectly.

I trust that my pleas will not go unattended and that an end to this situation will be forthcoming.”

In her letter to me the complainant emphasized the following:-

1. The farm is being operated in a residential area.
2. There is regular burning of fowl parts (inclusive of intestines) with resulting emission of offensive odours.
3. Faeces from the birds are not properly stored and treated.
4. An alternative plot of land in another area has been allocated to the proprietor of the farm but although it has been cleaned several times in order to accommodate her, she has not moved in spite of being given several deadlines.

The proprietor was told by the Chief Health Inspector in a meeting not to bring anymore new chickens to the present location but this has been breached.

It should be noted that (a) other residents in the area have been also complaining and (b) the Ministry of Agriculture has involved the Chief Veterinary Officer and the Town and Country Planner in the discussions.

### **Investigation:**

I visited the site and observed the problem first hand.

I intervened by writing to the Minister of Agriculture and copying the letter to all of the various officials involved stressing the need for urgent attention, bearing in mind the health and financial implications.

### **Outcome:**

To date I have received official replies from the Chief Health Inspector who has reiterated all of the actions so far taken but which have not led to a solution. He promised to continue his efforts.

## **Claim against Central Board of Health**

### **In reference to waste disposal becoming a nuisance to resident property**

#### **Facts:**

Our Office received a complaint from a resident of Herberts pertaining to problems associated with waste disposal in front of her property being built at Herberts along the Herberts Highway.

#### **Investigation:**

A site visit was paid and it was observed that a small garbage container was placed not far from the complainant's house under construction and that garbage was placed in and around it. This led to a generally untidy appearance and offensive odours. The workmen complained that as a result they were sometimes unable to function. Moreover, the garbage posed a potential hazard to motorists.

I subsequently wrote to the General Manager of the National Solid Waste Authority stating:

*"We should be grateful if you would kindly look into the matter with a view to taking corrective action.*

*As you will appreciate a health issue is also involved and I am copying this letter to the Chief Health Inspector for any assistance he may be able to render.*

*In the meanwhile you may wish to consider placing a sign at the site in order to stop further dumping."*

#### **Outcome:**

Several follow-up visits were made to the site and it was observed that the situation gradually improved following our intervention. Indeed the problem now no longer exists and the complainant expressed her gratitude for the assistance rendered.

## Claim against Transport Board

### In respect of Damage to Vehicle while impounded on their premises

#### Facts:

On 20th November, 2007 a vehicle was confiscated by the Police since the owner was in violation of traffic laws. The car was not licensed or insured. The confiscated vehicle was impounded at the premises of the Transport Board. On November 28 having obtained the insurance certificate, the complainant returned to collect the vehicle, thereafter to have the vehicle licensed. The complainant discovered that several parts had been removed from the vehicle. These included car stereo system, horn, bumper, grill, lights and two (2) front seats.

The Transport Board did not advise her of the damage. She was left to discover the problem at the time when she arrived to retrieve her vehicle for licensing. The complainant was advised to speak to the supervisor who informed her that she would need to submit an estimate for repairs. This she provided on 14th December, 2007 and was further advised to see the General Manager. The Supervisor would arrange the meeting. Several weeks passed the complainant had learned that the Supervisor had not met with the General Manager on 28th December, 2006. She subsequently met with the General Manager who eventually agreed to pay for damages to the vehicle except for the stereo system. He would also pay for loss of use. He committed to doing this on 3rd January, 2007. On that date the cheque was still not ready.

On 8th January, 2007 the complainant received a call from the Parham Police Station. She received a report that her car, while was still at the motor pool had been broken into yet again and additional parts had been taken.

- (a) Computer Box
- (b) Integer Cooler
- (c) Turbo Timer

The complainant requested that she be allowed to retrieve the parts from this theft and itemized her claim to include both incidents as follows:-

- (a) Payment for stereo system
- (b) Payment for loss of use
- (c) Towing of vehicle
- (d) Computer Box

#### Investigation:

This Office got in touch with the General Manger for two reasons:

1. He had stopped communicating with the complainant.
2. Consideration of the matter had been inordinately delayed.



**Outcome:**

The General Manager agreed that his company own vacillation was responsible at least for the second break in of the vehicle. Vehicles sent in custody of the Transport Board are entitled to some protection.

He agreed to honour claims not exceeding \$9000.00. He however, referred the matter to the Board of Directors based on the complainants claim. She was granted compensation in the amount of \$10,000.00.

The Complainant accepted.

## **Claim against Antigua and Barbuda Royal Police Force Request for assistance to report to the Police**

In several instances complainants have claimed abuse by the Police. Some of these have been successfully investigated. A significant number of cases are works in progress.

### **Case #1**

#### **Facts:**

This complainant was referred by the parent of one of her friends. She had been forced to move from place to place to avoid being taken by the police. She admitted that she had been in an altercation at her work place and had sought help from the police. At one point the police had decided that she needed the assistance of her union and even gave her a lift to a point within the vicinity of the union office.

Some time later, the police came to her home and pushed down the door. She was not at her home and she later learned that they had visited other family members' homes where she might normally be found with similar actions. She claimed that she feared for her life. She admitted that she had been involved in the altercation but thought that the matter had been settled until the police began searching for her.

#### **Investigation:**

The Office contacted the Supervising Officer at the Police Station and arranged for the complainant to submit in the presence of her lawyer. She later called the office to report that the police officer who received her was very polite and arranged for her to be officially charged for the infractions it was claimed she had committed.

#### **Outcome:**

She is awaiting her trial date.

### **Case #2**

#### **Facts:**

A young man came in to complain that he had been behind on child support and that the police were seeking him to lock him up. He had never received a summons to appear in court. He later learned that the mother of one of his sons was served the summons and as the date had passed, he disregarded the summons. He claims that he had fallen on hard times. He was imprisoned for fourteen (14) days.

The Police are still searching for him. He is afraid to surrender and would like to meet with the magistrate. He had no means of access and therefore came to the Ombudsman.

### **Investigation and Outcome:**

The Office spoke to the Police who agreed to meet with him at a specified time.

## **Case #3**

### **Facts:**

A resident complained about the inconvenience of accessing his own home and driveway due to excessive parking problems. He resides next door to a school and has complained constantly to the police about the uncooperative motorists who have a tendency to park on the zebra crossing or to block the entrance to his home.

### **Investigation:**

The office agreed to look into the matter. The traffic police was contacted.

### **Outcome:**

The police promised to assign an officer and to address the matter through notices on the radio. The proposed action was effective.

## Upgrading and Payment of Arrears

### **Facts:**

A government employee complained that he had been made aware of a Cabinet Decision that changed the rate of pay for officers performing similar tasks to himself. He applied to his Ministry for information in the matter as he had not been officially notified. Given the length of time and the non-response of the Ministry, the office agreed to investigate.

### **Investigation:**

The Ministry confirmed that the employee was entitled to an adjustment in salary in accordance with an existing Cabinet Decision.

### **Outcome:**

The complainant has since reported that he has received the outstanding arrears.

## Complaint made to Consumer Affairs

### Facts:

Villagers complained that they had approached the Department of Consumer Affairs for Assistance in a matter. They had contracted the reservation of their homes to a local contractor and having advanced him a portion of the money, they were dissatisfied with progress. The assistance they received was outstanding.

### Investigation:

The office arranged for an evaluator and asked him to present a report on his findings.

On the basis of his findings the couple looked forward to seeing some improvement on the work that was being carried out. Consumer Affairs and the evaluator had detailed to the contractor what the expected outcome of their intervention should be as the couple waited for the work to be done.

### Outcome:

It soon became apparent that the contractor would not complete the work and the couple had to hire a lawyer. They requested a copy of the evaluators report and were told that the departmental summary was what could be provided.

We agreed to work with consumers affairs Department to obtain eh report or at least a document which would be of use to the clients.

The Complainant received a report which they could take to the lawyers.

## **Claim against Citizens Welfare Division**

### **Request to support application for repatriation**

#### **Facts:**

The complainant was of the view that the Citizens Welfare Division was not moving swiftly to assist in the complainant's quest to have three (3) Antiguan children repatriated from the USA.

#### **Investigation:**

Ombudsman interviewed the Citizens Welfare Officer to determine the cause of the delay. The Citizens Welfare Officer pointed out that she had received no formal request but had agreed to facilitate the complaint. Notwithstanding the absence of official documentation the Citizen Welfare Officer was able to:

- Communicate with a case worker in U.S.
- Ascertain that the children was fostered temporarily while arrangements were going forward for their repatriations
- Carryout due diligence on the complainants home environment.

Citizens Welfare Officer was unable to move any faster with only a verbal request.

#### **Outcome:**

Office of the Ombudsman assisted in obtaining formal information and an official request for the Citizens Welfare Officer's file. The Ombudsman agreed to assist in the evaluation visit by the US Case Worker and recommended that in future there be more formal communication between CWO and complainant.

The children have not been repatriated although the US court has given its approval for the children to travel to and from the U.S and has determined that the system in the US will carry out and maintain greater surveillance over the children.

## **Claim against General Post Office In respect of items in Post Box**

### **Facts:**

A complainant sought the assistance of the Ombudsman to have contents of a Post Office Box restored to her.

She had been abroad and had made no provision to pay to retain Post Box. Upon return, she repaired to Post Office in search of a very important document which should have been sent to her box during her absence.

The Post Office claimed not to know anything about the contents of the box which had been voided and reassigned. We agreed to investigate the matter.

### **Investigation:**

The Post Office informed us that it is customary to store unclaimed items in a specified area. They promised to assign an officer to renew the search for the complainants' items.

### **Outcome:**

The items were subsequently located and delivered.

## **Claim against Immigration Department Request to restore Immigration Problem**

### **Facts:**

A native Antiguan had married a Jamaican and adopted her 5 year old daughter. The child is now 15 years old. The family had traveled to Jamaica in 2003 and the girl in question had been left behind with her grandmother. She returned to Antigua aged 15 in 2006 but was pregnant. She was detained by the immigration authorities and not permitted to land. Her passport was confiscated. The Office of the ombudsman agreed to investigate the matter.

### **Investigation:**

The matter was discussed with the Chief Immigration Officer. The Parents presented documents to identify the girl as a minor in their care.

### **Outcome:**

Immigration gave permission for the young woman to land and to reside with her parents. Her passport was restored.



## **Claim against Mental Hospital (Ministry of Health) Discharge of Patient**

### **Facts:**

A complainant feels that her relative, a mentally ill person was being discharged from the Mental Hospital to her home in as much as she has sought their assistance to hold him until she could make proper arrangements for his accommodation. She claims that the sick man was just delivered to her home without notice. She further claims that he has homicidal tendencies as she was unable to keep him. She showed photographs of the level of damage that he has wrought on her home and claims to feel very insecure. Office of the Ombudsman Agreed to investigate.

### **Investigation:**

The patient had been discharged. The Ministry of Health agreed that the Social Worker will be designated the Case Worker.

### **Outcome:**

Arrangements were made for him to be admitted to a private "Home" and the relevant Government entity assisted the Complainant in organizing authorization of the transfer of his retiring Benefits Social Security or Central Government Pension to cover his upkeep.

The Hospital will be kept informed of his health needs through his case worker.

## Challenges faced by the Office of the Ombudsman

The very mention of the name Ombudsman may evoke a sense of fear, respect, curiosity or even indifference among many persons within our society. No matter the expectation, the Ombudsman has a responsibility to be fair and equitable in his approach to conducting an investigation and submitting his recommendations.

It may come as a surprise to some but the Ombudsman faces many challenges in the execution of his functions as mandated by law. The creation of the Office is enshrined in the Constitution of Antigua and Barbuda 1981 and was envisaged as a pillar in the ongoing process of building a more progressive system of democracy, accountability and good governance. However, the fact that we have inherited, and in some cases perfected, the systemic deficiencies and inadequacies from our colonial predecessors. There are innate difficulties that hinder the restructuring of the public service to conform to modern conditions and tendencies thereby, limiting the quality of the service provided to the public. Thus, the work of the Ombudsman is made no less arduous.

The Role of the Ombudsman is primarily to investigate complaints and to make recommendations on his findings. The Ombudsman does not enforce the law, not even the recommendations that he himself makes. The recommendations are not binding upon the public officer to whom they are directed but rather should be construed as highly persuasive. Hence, it is expected that corresponding recommendations will be observed and implemented. The fact that the recommendations are not binding does not make them disregardable. Any attempt to do so would constitute a clear demonstration of defiance against the spirit and intent of the law. The Ombudsman Act, 1994 No. 5 of 1994. Section 22 establishes penalties for offences relating to obstructive behaviour against the duties of the Ombudsman.

The law also allows the Ombudsman to elevate an issue that is unaddressed by the Heads of Ministries, Divisions Statutory Bodies to the concerned ministers or the Prime Minister if the matter remains unanswered and ultimately to Speaker of the House in order to lay such a report to the Parliament.

Although the Ombudsman has never had to resort to these measures the response time to communication leaves much to be desired and the process outlined above can be cumbersome to say the least when expeditious resolution is the objective.

It must be noted that the most common factor evidenced during the course of an investigation, which constitutes a serious hindrance to achieving a more timely resolution to cases, is the tardiness of public officials in responding to correspondences. This attitude is counter-productive on many levels and should not only be seen as tacit obstruction to an investigative process but also as irresponsible and unacceptable behaviour for public servants.

The Office continues to be a watchdog for fairness and justice for instances of maladministration for all who utilize the services provided by the Office.

The challenges that the Ombudsman faces discharging his duties are not insurmountable. Despite the legislative and administrative inadequacies, and the magnitude of the task the Ombudsman is

undaunted and continues to advance the awareness and need for higher levels of efficiency in providing service to the public. The Ombudsman charges both providers and users of these services to embrace a more progressive and conciliatory approach in the dynamic relationship that is formed between them.

**ANTIGUA AND BARBUDA**  
**OMBUDSMAN ACT, 1994**  
**Arrangement of Sections**

**Section**

- 1. Short title.**
- 2. Interpretation.**
- 3. Appointment and terms of Office of Ombudsman.**
- 4. Disqualification.**
- 5. Functions of Ombudsman.**
- 6. Mode of Complaint.**
- 7. Procedure in respect of Investigation.**
- 8. Evidence.**
- 9. Disclosure of certain matters not to be required.**
- 10. Ombudsman may refuse to investigate.**
- 11. Application of Act.**
- 12. Procedure after investigation.**
- 13. Complainant to be informed of result of investigation.**
- 14. Proceedings not to be questioned or to be subject to review.**
- 15. Proceedings privileged.**
- 16. Power to visit premises.**
- 17. Delegation of powers.**
- 18. Staff.**
- 19. Funds.**
- 20. Oath and Secrecy of Information.**
- 21. Annual report.**
- 22. Offences and penalties**
- 23. Rights under Act do not affect other rights, etc.**
- 24. Regulations.**

**SCHEDULE**



[ L.S. ]

I Assent,

J.B. Carlisle  
Governor-General.

11th August, 1994.

**ANTIGUA AND BARBUDA**

**No. 5 of 1994**

AN ACT to provide for an Ombudsman to investigate administrative decisions and acts of officers of the Government and Statutory bodies; and otherwise to give effect to section 66 of the Constitution and for other matters connected with or incidental to the foregoing.

[ 18th August, 1994 ]

ENACTED by the Parliament of Antigua and Barbuda as follows —

1. This Act may be cited as the Ombudsman Act, 1994 and comes into operation on such date as the Governor-General may by proclamation appoint.
2. In this Act —

“House” means the House of Representatives;

“Ombudsman” means an officer of Parliament appointed under section 66 of the Constitution;

“Statutory body” means any local government, commission, a body corporate established by an Act of Parliament and a company limited by liability of which the Government is the majority shareholder or any other body as may be prescribed by Parliament.

3. (1) The Ombudsman shall be appointed by resolutions of each House of Parliament.

(2) The terms and conditions of his service shall be specified in the Resolution.

(3) The Salary of the Ombudsman shall not be reduced while he is in office.

4. A person shall not be qualified to be appointed as an Ombudsman if he has served as a Member of Parliament for two consecutive terms or more immediately proceeding the appointment.

5. (1) The functions of the Ombudsman is to investigate any complaint relating to any decision or recommendation made or any act done or omitted by any officer of the Government or to be aggrieved, or appears to the Ombudsman to have sustained injustice as a result of the exercise of the administrative function of that officer or body.

(2) The Ombudsman may make any such investigation on a complaint made to him by any aggrieved person or by any Member of Parliament to whom a complaint is made by any aggrieved person.

(3) The powers conferred upon the Ombudsman by this Act may be exercised notwithstanding any provision in any Act to the effect that any such decision, recommendation, act or omission is final, or that no appeal lies in respect thereof, or that no proceeding or decision of the officer or body whose decision, recommendation, act or omission it shall be challenged, reviewed, quashed or called in question.

(4) Nothing in this Act empowers the Ombudsman to investigate any complaint relating to a decision, recommendation, act or omission of an officer or body —

(a) in respect of which there is, under any Act, a right to appeal or objection, or a right to apply for a hearing or review, or a right to appeal on the merits of the case, to any court or to any tribunal constituted by or under any Act, until that right or appeal or objection or application has been exercised in to particular case, or until after time after the exercise of the rights has expired;

(b) in respect of which the person aggrieved has or had a remedy by way of proceedings in any court establishment under any Act;

(c) in respect of any person acting as legal adviser to the Crown or acting as Counsel to the crown in relation to any proceedings;

(d) in respect of any other matter as is specified in the Schedule.

If any question arises whether the Ombudsman has jurisdiction to investigate any case or class of cases under this Act, he may, if he thinks fit, apply to the High Court for a declaratory order determining the question.

(1) All complaints to the Ombudsman and requests for investigations by him shall be made in writing.

(2) Notwithstanding anything provided by or under any written law, where any letter written by any person detained on a charge or after conviction of any offence is addressed to the Ombudsman, it shall be immediately forwarded, unopened to the Ombudsman by the person for the time being in charge of the place where the writer is detained.

7. (1) Where the Ombudsman proposes to conduct an investigation he shall afford to the principal

officer of the government department or division or statutory body concerned an opportunity to make, orally or in writing as the Ombudsman thinks fit, representations which are relevant to the matter in question and the Ombudsman shall not, as a result of such an investigation, make any report or recommendation which may adversely affect any person without his having had an opportunity to make the representations.

(2) Every such investigation shall be conducted in private.

(3) It shall not be necessary for the Ombudsman to hold any hearing and, subject as hereinbefore provided, no person is entitled as of right to be heard by the Ombudsman. The Ombudsman may obtain information from such person and in such manner, and make such inquiries as he thinks fit.

(4) Where, during and after any investigation, the Ombudsman is of the opinion that there is evidence of any breach of duty, misconduct or violation of a criminal offence on the part of any officer or employee of any government department or division or statutory body, the Ombudsman may refer the matter to the authority competent to take such disciplinary or other proceedings against him as may be appropriate.

(5) Subject to this Act, the Ombudsman may regulate his procedure in such manner as he considers appropriate in the circumstances of the case.

(6) Where any person is required under this Act by the Ombudsman to attend before him for the purposes of an investigation, the Ombudsman shall cause to be paid to such person, out of allowances and expenses, subject to qualifications and exceptions corresponding to those that are for the time being prescribed for attendance in the High Court, so, however that the functions as are so prescribed and assigned to the Registrar of the High Court shall, for the purposes of this subsection, be exercisable by the Ombudsman and he may, if he thinks fit, disallow, in whole or in part, the payment of any amount under this subsection.

(7) For the purpose of this Act a complaint may be made by a person aggrieved himself or, if he is dead or for any reason unable to act for himself, by any person duly authorized to represent him.

(8) (1) The Ombudsman may from time to time require any officer, employee or member of any government department or division or statutory body who, in his opinion is able to give any information relating to any matter that is being investigated by the Ombudsman, to provide him with any such information, and to produce any documents or things which in the Ombudsman's opinion relate to any such matter and which may be in the possession or under the control of that person.

(2) The Ombudsman may summon before him and examine on oath —

(a) any person who is an officer or employee or member of any government department or division or statutory body and who in the Ombudsman's opinion is able to give any relevant information.

(b) any complainant; or

(c) any other person who in the Ombudsman's opinion is able to give any

relevant information,

and for that purpose may administer an oath. Every such examination by the Ombudsman shall be deemed to be a judicial proceeding for the purposes of the Perjury Act.

(3) Subject to subsection (4) no person who is bound by the provisions of any written law, other than the Official Secrets Act, 1911 to 1939 of the United Kingdom in so far as it forms part of the Laws of Antigua and Barbuda or any Act replacing the same, to maintain secrecy in relation to, or not disclose any matter, shall be required to supply any information to or answer any questions put by the Ombudsman in relation to that matter, or to produce to the Ombudsman any document or paper or thing relating to it, where compliance with that requirement would be in breach of the obligation of secrecy or non-disclosure.

(4) With the previous consent in writing of any complainant, any person to whom subsection (3) applies may be required by the Ombudsman to supply any information or answer any question or produce any document or paper or thing relating only to the complainant, and it shall be the duty of the person to comply with that requirement.

(5) Except on the trial of any person for an offence under the Perjury Act in respect of his sworn testimony, or for an offence under section 22, no statement made or answer given by that or any person in the course of any inquiry by, or any proceedings before, the Ombudsman under the Constitution or this Act shall be admissible in evidence against any person in any court or at any inquiry or in any other proceedings and no evidence in respect of proceedings before the Ombudsman shall be given against any person.

(6) No person shall be liable to prosecution for an offence against the Official Secrets Act 1911 to 1939 of the United Kingdom, or any act replacing the same, or any written law, other than this Act by reason of his compliance with any requirement of the Ombudsman under this section.

9. (1) Where the Attorney General certifies that the giving of any information of any information or the answering of any question or the production of any document or paper or thing —

(a) might prejudice the security, defence or international relations of Antigua and Barbuda (including Antigua and Barbuda relations with the Government of any other country or with any international organizations);

(b) will involve the disclosure of the deliberations of Cabinet; or

(c) will involve the disclosure of proceedings of Cabinet, or any committee of Cabinet, relating to matters of a secret or confidential nature, and would be injurious to the public interest,

the Ombudsman shall not require the information or answer to be given or, as the case may be, the document or paper or thing to be produced.

(2) Subject to subsection (1), no rule of law which authorizes or requires the withholding of any document or paper, or the refusal to answer any question, on the ground that the disclosure of the document or paper or the answering of the question would be injurious to the public interest shall apply



to any investigation by or proceedings before the Ombudsman.

10. (1) If, in the course of the investigation of any complaint within his jurisdiction, it appears to the Ombudsman —

- (a) that under the law or existing administrative practice there is an adequate remedy for the complainant, whether or not he has availed himself of it; or
- (b) that, having regard to all the circumstances of the case, any further investigation is unnecessary,

he may in his discretion refuse to investigate the matter further.

(2) Without limiting the generality of the powers conferred on the Ombudsman by this act, the Ombudsman may in his discretion decide not to investigate, or, as the case may require, not to further investigate, any complaint if it relates to any decision, recommendation, act or omission of which the complainant has had knowledge for more than twelve months before the complaint is received by the Ombudsman, or, if in his opinion,

- (a) the subject-matter of the complaint is trivial;
- (b) the complaint is frivolous or vexatious or is not made in good faith; or
- (c) the complainant has not a sufficient personal interest in the subject-matter of the complaint.

(3) In any case where the Ombudsman decides not to investigate or further investigate a complaint, he shall inform the complainant in writing of that decision, and may if he thinks fit state his reason therefore.

11. (1) This Act does not apply to any decision or recommendation made or any act done or omitted by any officer or body prior to the coming into force of this Act.

(2) Notwithstanding subsection (1) the Ombudsman may request a department, or a division of the Government or any Statutory body to re-examine any complaint which relates to a decision, recommendation, act or omission to which this Act does not apply but which in the question of the Ombudsman continues to affect any person adversely in his personal capacity.

(3) Any department, division of government or statutory body which is requested to re-examine any complaint mentioned in subsection (2) may submit a report of its findings to the Ombudsman within the time specified in the request.

12. (1) This section applies in every case where, after making an investigation under this Act, the Ombudsman is of the opinion that the decision, recommendation, act or omission which was the subject-matter of the investigation —

- (a) appears to have been contrary to law;

(b) was unreasonable, unjust, oppressive, or improperly discriminatory, or was in accordance with a rule of law or a provision of any Act or a practice that is or may be unreasonable, unjust, oppressive, or improperly discriminatory;

(c) was based wholly or partly on a mistake of law or fact; or

(d) was wrong.

(2) This section also applies in any case where the Ombudsman is of opinion that in the making of the decision or recommendation, or in the doing or omission of the act, a discretionary power has been exercised for an improper purpose or on irrelevant considerations, or that, in the case of a decision made in the exercise of any discretionary power, reasons should have been given for the decision.

(3) if in any case to which this section applies the Ombudsman is of opinion —

(a) that the matter should be referred to the appropriate authority for further consideration;

(b) that the omission should be rectified;

© that the decision or recommendation should be cancelled or varied;

(d) that any practice on which the decision, recommendation, act or omission was based should be altered;

(e) that any law on which the decision, recommendation, act or omission was based should be reconsidered;

(f) that reasons should have been given for the decision or recommendation; or

(g) that any other steps should be taken,

the ombudsman shall report his opinion, and his reasons therefore, to the appropriate government department or division or statutory body, and may make such recommendation as he thinks fit and he may request the government department or division or statutory body to notify him, within a specified time, of the steps, if any, that it proposes to take to give effect to his recommendations and the Ombudsman shall also send a copy of his report and recommendations to the Minister concerned.

(4) If within a reasonable time after the report is made no action is taken which seems to the Ombudsman to be adequate and appropriate, the Ombudsman, shall, after considering the comments, if any, made by or on behalf of any government department or division or statutory body affected, send a copy of the report and recommendations to the Prime Minister, and if the Prime Minister fails to provide the Ombudsman with a satisfactory explanation within a reasonable time, the Ombudsman shall make a report to the Speaker who shall cause the report to be laid before the House of Representatives.

(5) The House shall examine the report and after hearing from the Prime Minister and the Minister concerned resolve to accept or reject the report.

(6) The Ombudsman shall attached to every report sent or made under subsection (4), a copy of any comments made by or on behalf of the government department or division or the statutory body concerned.

13. (1) Where, upon any investigation following a complaint, the Ombudsman makes a recommendation under section 12 (3) and no action which seems to the Ombudsman to be adequate and appropriate is taken thereon within a reasonable time, the Ombudsman shall inform the complainant of his recommendation, and make such comments on the matter as he thinks fit.

(2) The Ombudsman shall in any case inform the complainant, in such manner and at such time as he thinks proper, of the result of the investigation.

14. No proceedings of the Ombudsman shall be held bad for want of form, and, except on the ground of lack of jurisdiction, no proceeding or decision of the Ombudsman is liable to be challenged, reviewed, quashed or called in question in any court.

15. (1) No proceedings lie against the Ombudsman or against any person holding any office or appointment under the Ombudsman for anything he may do or report or say in the course of the exercise of his functions under this Act, unless it is shown that he acted in bad faith.

(2) The Ombudsman, and any such person as aforesaid shall not be called to give evidence in any court, or in any proceedings of a judicial nature, in respect of anything coming to his knowledge in the exercise of his functions under this Act.

(3) Anything said or any information supplied or any document or thing produced by any person in the course of any inquiry by or proceedings before the Ombudsman under this act is privileged in the same manner as if the inquiry or proceedings were proceedings in a court.

16. (1) For the purposes of this Act, the Ombudsman may at any time enter upon any premises occupied by any government department or division or statutory body and inspect the premises and conduct interviews or examine any document specifically relevant to the complaint.

(2) Before entering any premises under subsection 91), the Ombudsman shall notify the head of the government department or division or statutory body occupying the premises of his purpose.

(3) The Attorney General may by notice to the Ombudsman exclude the application of subsection (10, to any specified exercise of the powers mentioned in subsection (1), if in his opinion the application of subsection (1) might be prejudicial to the public interest.

(4) Where a notice is given under subsection (3) and in the opinion of the Ombudsman, it is necessary to take an action apparently prevented by the notice, the Ombudsman may apply to a judge of the High Court for an Order, setting aside the notice in respect of such action and, where the judge is satisfied that such action would not be prejudicial to the public interest, he may make the order.

17. (1) The Ombudsman may, in writing, delegate to any person holding any office under him, any of his powers under this Act except the power of delegation under this section and the power to make report under this Act.

(2) every delegation under this section is revocable at will and no such delegation prevents the exercise by the Ombudsman of any power so delegated.

(3) Every such delegation may be subject to such restrictions and conditions as the Ombudsman thinks fit.

(4) In the event that the Ombudsman, by whom any such delegation is made, ceases to hold office, the delegation continues in effect so long as the delegate continues in office or until the delegation is revoked by a succeeding Ombudsman.

(5) Any person purporting to exercise any power of the Ombudsman by virtue of a delegation under this section shall, when required so to do, produce evidence of his authority of exercise the power.

18. (1) Subject to the approval of the Governor-General, the Ombudsman may employ such officers and other employees as the Ombudsman considers necessary for the efficient operation of his office, and may determine their salary and remuneration and terms and conditions of employment.

(2) Any officer employed under subsection (1), shall be a public officer subject to the laws relating to public servants.

19. The funds of the Office of the Ombudsman shall be from moneys appropriated for the purpose by Parliament.

20. (1) Before commencing the duties of his office, the Ombudsman shall take the oath administered by the Speaker of the House of Representatives in accordance with section 66 (3) of the Constitution.

(2) Any person who performs the functions appertaining to the Office of the Ombudsman or of any office of employment thereunder—

(a) Shall regard as secret, classified and confidential all documents, information and things which have been disclosed to any person in the execution of any of the provisions of this Act, except that no disclosure made by any such person in proceedings for an offence under section 8 (2), or which the Ombudsman considers requisite to make in the discharge of any of his functions and for the purpose of executing any of the said provisions or the provisions of section 7 (4) or section 22, shall be deemed inconsistent with any duty imposed by this paragraph;

(b) shall not be called upon to give evidence in respect of, or produce any such documents, information or things in any proceedings, other than proceedings mentioned in the exception to paragraph (a).

21. (1) The Ombudsman shall report annually upon the affairs of his office to the President of the Senate and the Speaker of the House of Representatives, who shall respectively cause the report to be laid before each House of Parliament if it is in session or, if not, at the next ensuing session.

(2) The Ombudsman may, from time to time in the public interest, publish reports relating generally to the exercise of his functions or to a particular case or cases investigated by him, whether or not the matters to be dealt with in such reports may have been the subject of a report to Parliament.

22. A person is liable on summary conviction to a fine of one thousand dollars or to imprisonment of six months who —

- (a) without lawful jurisdiction or excuse, willfully obstructs, hinders or resists the Ombudsman or any other person in the exercise of his powers under this Act;
- (b) without lawful jurisdiction or excuse refuses or willfully fails to comply with any lawful requirement of the Ombudsman or any other person under this Act;
- (c) willfully makes any false statement to or mislead the Ombudsman or any other person in the exercise of his powers under this Act; or
- (d) in a manner inconsistent with his duty under section 20 (a), deals with any documents, information or things mentioned in that paragraph.

23. The provisions of this Act are in addition to the provisions of any other Act or rule of law under which any remedy or right of appeal or objection is provided for any person, or any procedure is provided for the inquiry into or investigation of any matter, and nothing in this Act limits or effects any such remedy or right of appeal or objection or procedure.

24. (1) The Ombudsman may make Regulations for the proper carrying into effect of this Act, including, in particular, for prescribing anything required or authorized to be prescribed.

(2) The Ombudsman may make the contravention of any regulation made under this section an offence punishable by a fine of two thousand dollars or by imprisonment for six months or both such fine and imprisonment.

(3) Any regulation made by the Ombudsman under this section shall be laid before the House as soon as may be after the making thereof and shall be subject to negative resolution.

## SCHEDULE

### **Matters not subject to investigation by the Ombudsman**

- 1. The exercise of the powers conferred on the Governor-General by the Constitution.
- 2. Any action taken by the public officer responsible for the extradition of any person.

3. Any action taken with respect to orders or directions to Antigua and Barbuda Defence Force or members thereof, or any proceedings under the Defence Act.
4. Any decision or action of the Public Service Commission relating to appointment, removal and disciplinary control of any person.
5. Any decision or action of the Public Service Board of Appeal.
6. Any decision or recommendation made or action taken by the Director of Public Prosecutions.