

1996 BILL 213

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Fourth Session, 23rd Legislature, 45 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

# BILL 213

OMBUDSMAN AMENDMENT ACT, 1996

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MR. SAPERS

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First Reading .....

Second Reading .....

Committee of the Whole .....

Third Reading .....

Royal Assent .....

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*Bill 213*  
*Mr. Sapers*

## **BILL 213**

1996

### **OMBUDSMAN AMENDMENT ACT, 1996**

*(Assented to \_\_\_\_\_, 1996)*

HER MAJESTY, by and with the advice and consent of the  
Legislative Assembly of Alberta, enacts as follows:

*1 The Ombudsman Act is amended by this Act.*

*2 Section 1 is amended*

*(a) by repealing clause (a) and substituting the following:*

*(a) "authority" means an authority set out in the Schedule  
and includes officers and employees of the authority;*

*(b) by adding the following after clause (a):*

*(a.1) "chief officer" means*

*(i) in the case of a department, the deputy minister of  
the department, and*

*(ii) in the case of an authority other than a  
department, the administrative head of the  
authority;*

## Explanatory Notes

1 Amends chapter 0.7 of the Revised Statutes of Alberta, 1980

2 Section 1(a) presently:

*1(a) "agency" means a Provincial agency as defined in section 1 of the Financial Administration Act but does not include*

*(i) the board of a university under the Universities Act,*

*(ii) the board of a public college under the Colleges Act,*

*(iii) the Governors of the Banff Centre for Continuing Education,*

*(iv) repealed 1994 cR-9.07 s25(28),*

*(iv.1) a provincial health board under the Regional Health Authorities Act,*

*(v) the Alberta Cancer Board,*

*(vi) repealed 1994 cR-9.07 s25(28),*

*(vii) the Hospital Privileges Appeal Board, and*

*(viii) the board of a technical institute under the Technical Institutes Act;*

3 *Section 15 is amended*

(a) *by repealing subsection (1) and substituting the following:*

**15(1)** Before investigating any matter under this Act, the Ombudsman shall inform the chief officer of the authority affected of his intention to make the investigation.

(b) *by repealing subsection (4) and substituting the following:*

**(4)** If, during or after an investigation, the Ombudsman is of the opinion that there is evidence of any breach of duty or misconduct on the part of any officer or employee of an authority, he shall take the matter to the chief officer of the authority.

4 *Section 17(2) is repealed and the following substituted:*

**(2)** When the Ombudsman requires the production of a document, paper or thing under subsection (1), he may require it to be produced at a place designated by him and may require that it be left in his possession for the purposes of his investigation but, on the request of the chief officer of the authority, the Ombudsman shall return the document, paper or thing to the authority as quickly as possible, but not later than 48 hours after the receipt of the request, subject to his right to again require its production in accordance with this section.

5 *Section 25(2) is repealed and the following is substituted:*

**(2)** Before entering on any premises pursuant to subsection (1), the Ombudsman shall notify the chief officer of the authority that occupies the premises of his intention to do so.

6 *Section 27(3) is repealed and the following is substituted:*

**(3)** The Ombudsman shall not, in a report made under this

3 Section 15 presently reads:

*15(1) Before investigating any matter under this Act, the Ombudsman shall inform the deputy minister of the department or the administrative head of the agency affected, as the case may be, of his intention to make the investigation.*

*(2) The Ombudsman may, in his discretion, at any time during or after an investigation consult any Minister who is concerned in the matter of the investigation.*

*(3) On the request of any Minister in relation to an investigation or in any case where an investigation relates to a recommendation made to a Minister, the Ombudsman shall consult that Minister after making the investigation and before forming a final opinion on any of the matters referred to in section 20(1) or (2).*

*(4) If, during or after an investigation, the Ombudsman is of the opinion that there is evidence of any breach of duty or misconduct on the part of any officer or employee of any department or agency, he shall refer the matter to the deputy minister of the department or the administrative head of the agency, as the case may be.*

4 Section 17(2) presently reads:

*17(2) When the Ombudsman requires the production of a document, paper or thing under subsection (1), he may require it to be produced at a place designated by him and may require that it be left in his possession for the purposes of his investigation but, on the request of the deputy minister of the department or the administrative head of the agency, the Ombudsman shall return the document, paper or thing to the department or agency as quickly as possible, but not later than 48 hours after the receipt of the request, subject to his right to again require its production in accordance with this section.*

5 Section 25(2) presently reads:

*25(2) Before entering on any premises pursuant to subsection (1), the Ombudsman shall notify the deputy minister of the department or, as the case may require, the administrative head of the agency that occupies the premises of his intention to do so.*

6 Section 27(3) presently reads:

*(3) The Ombudsman shall not, in a report made under this section,*

section, express any opinion or make any comment that is adverse to

- (a) any authority or any officer or employee of an authority, or
- (b) any other person or group of persons,

unless prior to making the report to the Legislature or publishing the report pursuant to subsection (2), as the case may be, the Ombudsman has given that authority, officer, employee, person or group of persons an opportunity to know the nature of the opinion or comment and to make representations to him in respect of it either personally or by counsel.

*7 In the following provisions, "department or agency" is struck out wherever it occurs and "authority" is substituted:*

*Section 11(1);  
Section 17(3);  
Section 20(3), (4) and (5);  
Section 25(1);  
Section 27(2).*

*8 The following is added after section 31:*

**32** The Lieutenant Governor in Council may by order add authorities to the Schedule.

*9 This Act comes into force on Proclamation.*

*express any opinion or make any comment that is adverse to*

- (a) any department or any officer or employee of a department,*
- (b) any agency or any member or employee of an agency, or*
- (c) any other person or group of persons,*

*unless prior to making the report to the Legislature or publishing the report pursuant to subsection (2), as the case may be, the Ombudsman has given that department, agency, officer, member, employee, person or group of persons an opportunity to know the nature of the opinion or comment and to make representations to him in respect of it either personally or by counsel.*

**7** Consequential amendments.

**SCHEDULE**  
**(Section 1(a))**

**Authorities**

1. A Provincial agency as defined in section 1 of the *Financial Administration Act*.
2. A department as defined in section 1 of the *Financial Administration Act*.
3. A regional health authority under the *Regional Health Authorities Act*.
4. A community health council established under the *Regional Health Authorities Act*.
5. A subsidiary health corporation as defined in section 1 of the *Regional Health Authorities Act*.
6. A municipality as defined in section 1 of the *Municipal Government Act*.
7. Schools and boards, under the *School Act*.
8. A board, commission, corporation, office or other body that is party to a contract with a Minister under which the powers, duties or functions of the Minister or a public official under an enactment are exercised by the board, commission, corporation, office or other body instead of by the Minister or the public official.
9. A delegated person as defined in section 1 of Schedule 10 of the *Government Organization Act*.



