

Bill 21
Mr. Ducharme

BILL 21

2003

OMBUDSMAN AMENDMENT ACT, 2003

(Assented to , 2003)

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

Amends RSA 2000 cO-8

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

2 Section 1 is repealed and the following is substituted:

Definitions

1 In this Act,

- (a) “accounting organization” means
 - (i) an accounting organization as defined in the *Regulated Accounting Profession Act*, and
 - (ii) a governing body, committee or tribunal of an accounting organization, a registrar, CIC chair, CIC secretary, discipline tribunal secretary, discipline tribunal chair, appeal tribunal secretary and appeal tribunal chair and any practice reviewer, investigator or person engaged by an accounting organization to perform any duty or exercise any powers under the *Regulated Accounting Profession Act*;
- (b) “administrative head”

- (i) when used in reference to an agency means the person designated by the Minister responsible for that agency to act as the head of that agency or, if a head is not so designated, the person who acts as the chief officer and is charged with the administration and operation of that agency,
 - (ii) when used in reference to an accounting organization means an executive head as defined in the *Regulated Accounting Profession Act*,
 - (iii) when used in reference to a health profession college means a registrar as defined in the *Health Professions Act*, and
 - (iv) when used in reference to a forestry college means a registrar as defined in the *Regulated Forestry Profession Act*;
- (c) “agency” means
- (i) a Provincial agency as defined in section 1 of the *Financial Administration Act*, but not including
 - (A) the governors of a university under the *Universities Act*,
 - (B) the board of governors of a public college under the *Colleges Act*,
 - (C) the Governors of the Banff Centre for Continuing Education,
 - (D) a provincial health board under the *Regional Health Authorities Act*,
 - (E) the Alberta Cancer Board,
 - (F) the Hospital Privileges Appeal Board, or
 - (G) the board of governors of a technical institute under the *Technical Institutes Act*,
- and

- (ii) a board, commission, corporation, office or other body designated as an agency in the regulations;
- (d) “department” means a department as defined in section 1 of the *Financial Administration Act*;
- (e) “forestry college” means
 - (i) a college as defined in the *Regulated Forestry Profession Act*, and
 - (ii) a council, panel, committee, tribunal, registrar, president, complaints director and hearings director of a forestry college and any officer, investigator or person engaged by a forestry college;
- (f) “health profession college” means
 - (i) a college as defined in the *Health Professions Act*, and
 - (ii) a council, panel, committee, tribunal, registrar, president, complaints director and hearings director of a health profession college and any officer, investigator or person engaged by a health profession college;
- (g) “Minister” means a member of the Executive Council;
- (h) “professional organization” means
 - (i) an accounting organization,
 - (ii) a health profession college, and
 - (iii) a forestry college;
- (i) “Standing Committee” means the Standing Committee on Legislative Offices.

Health Information Act

1.1 This Act prevails despite the *Health Information Act*, except section 94 of that Act.

3 Section 11 is amended

- (a) **in subsection (2) by striking out** “Provincial Treasurer” **and substituting** “Minister of Finance”;
- (b) **in subsection (3)**
 - (i) **by striking out** “on Legislative Offices”;
 - (ii) **by striking out** “Provincial Treasurer” **and substituting** “Minister of Finance”;
- (c) **in subsection (5) by striking out** “for the fiscal year in which the special warrant is signed”.

4 Section 12 is amended

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

12(1) It is the function and duty of the Ombudsman to investigate any decision or recommendation made, including any recommendation made to a Minister, or any act done or omitted, relating to a matter of administration and affecting any person or body of persons in the person’s or its personal capacity, in or by any department, agency or professional organization, or by any officer, employee or member of any department or agency in the exercise of any power or the performance of any function conferred on the officer, employee or member by any enactment.

- (b) **in subsection (3)(c) by striking out** “or organization” **and substituting** “, department, agency or professional organization”.

5 The following is added after section 12:

Patient concerns resolution process

12.1(1) In this section, “patient concerns resolution process” means a patient concerns resolution process of a health authority established in accordance with regulations governing that health authority.

- (2) It is the function and duty of the Ombudsman to investigate any decision or recommendation made, or any act done or

omitted, relating to a patient concerns resolution process and affecting any person in the person's personal capacity, in or by

- (a) a health authority, or
- (b) an officer, employee or member of a health authority or a person engaged by a health authority in the exercise of any power or the performance of any function conferred on the officer, employee, member or person relating to the patient concerns resolution process.

(3) The Ombudsman may make an investigation relating to a patient concerns resolution process

- (a) on a complaint made to the Ombudsman by any person affected by a decision, recommendation, act or omission referred to in subsection (2), or
- (b) on the Ombudsman's own motion.

6 Section 16 is repealed and the following is substituted:

Notice of investigation

16(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 or professional organization affected, as the case may be, of the Ombudsman's intention to make the investigation.

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

(3) On the request of any Minister or administrative head in relation to an investigation or in any case where an investigation relates to a recommendation made to a Minister or administrative head, the Ombudsman shall consult that Minister or administrative head after making the investigation and before forming a final opinion on any of the matters referred to in section 21(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, agency or professional organization, the Ombudsman shall refer the matter to the deputy minister of the department or the administrative head of the agency or professional organization, as the case may be.

7 Section 18 is amended

- (a) by repealing subsections (1), (2), (3) and (4) and substituting the following:**

Evidence at investigation

18(1) Subject to this section and section 19, the Ombudsman may require any person who in the Ombudsman's opinion is able to give any information relating to any matter being investigated by the Ombudsman

- (a) to furnish the information to the Ombudsman, and
- (b) to produce any document, paper or thing that in the Ombudsman's opinion relates to the matter being investigated and that may be in the possession or under the control of that person,

whether or not that person is an officer, employee or member of a department, agency or professional organization, and whether or not the document, paper or thing is in the custody or under the control of a department, agency or professional organization.

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

(3) The Ombudsman may summon before the Ombudsman and examine on oath

- (a) any person who is an officer, employee or member of any department, agency or professional organization and who in the Ombudsman's opinion is able to give any information mentioned in subsection (1),
- (b) any complainant, and
- (c) any other person who in the Ombudsman's opinion is able to give any information mentioned in subsection (1),

and for that purpose may administer an oath.

(4) Any person who is bound by an Act to maintain secrecy in relation to, or not to disclose, any matter may be required by the Ombudsman to supply information or answer any question or produce any document, paper or thing that, in the Ombudsman's opinion, relates to the matter being investigated, and it is the duty of the person to comply with the requirement notwithstanding that person's duty to maintain secrecy or not to disclose the matter.

(b) by repealing subsection (5).

8 Section 21 is repealed and the following is substituted:

Procedure after investigation

21(1) This section applies when, after making an investigation under this Act, the Ombudsman is of the opinion that the decision, recommendation, act or omission that 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, 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 when the Ombudsman is of the opinion

- (a) that in the making of the decision or recommendation, or in the doing or omission of the act, a discretionary power was exercised
 - (i) for an improper purpose,
 - (ii) on irrelevant grounds, or
 - (iii) on the taking into account of irrelevant considerations,

or

- (b) that, in the case of a decision made in the exercise of a discretionary power, reasons should have been given for the decision.

(3) If, when this section applies, the Ombudsman is of the opinion

- (a) that the matter should be referred to the appropriate authority for further consideration,
- (b) that the omission should be rectified,
- (c) that the decision 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,
- (g) that the matter should be reheard or reconsidered by the appropriate authority, or

(h) that any other steps should be taken,

the Ombudsman shall report that opinion and the Ombudsman's reasons for it to the appropriate Minister and to the department or agency concerned or to the administrative head of the professional organization concerned, and may make any recommendations the Ombudsman thinks fit, and in that case the Ombudsman may request the department, agency or administrative head of the professional organization to notify the Ombudsman within a specified time of the steps, if any, that it proposes to take to give effect to the Ombudsman's recommendations.

(4) If within a reasonable time after the report is made under subsection (3) to the administrative head of a professional organization no action is taken that seems to the Ombudsman to be adequate and appropriate, the Ombudsman may, after considering the comments, if any, made by or on behalf of the professional organization, send a copy of the report to the appropriate Minister.

(5) If, within a reasonable time after the report is made to the appropriate Minister and the department or agency under subsection (3) or to the administrative head of a professional organization under subsection (3) and to the appropriate Minister under subsection (4), no action is taken that seems to the Ombudsman to be adequate and appropriate, the Ombudsman, in the Ombudsman's discretion after considering the comments, if any, made by or on behalf of the department, agency or professional organization, may send a copy of the report and recommendations to the Lieutenant Governor in Council and may afterwards make any report to the Legislature on the matter that the Ombudsman thinks fit.

(6) The Ombudsman shall attach to every report sent or made under subsection (5) a copy of any comments made by or on behalf of the department, agency or professional organization concerned.

9 The following is added after section 21:

Power to reconsider matters

21.1(1) On the recommendation of the Ombudsman under section 21(3), a department, agency or professional organization may

- (a) rehear a matter or reconsider a decision or recommendation made by the department or agency or professional organization or an officer, employee or member of it, and
- (b) quash, confirm or vary that decision or recommendation or any part of it.

(2) If a matter is reheard or reconsidered pursuant to subsection (1), the provisions of the enactment governing the original hearing or consideration apply to the rehearing or reconsideration.

(3) This section applies notwithstanding any provision in any Act to the effect that

- (a) any decision, recommendation, act or omission referred to in section 12(1) is final,
- (b) no appeal lies in respect of it, or
- (c) no proceeding or decision of the person, department, agency or professional organization whose decision, recommendation, act or omission it is may be challenged, reviewed, quashed or called in question.

10 Section 22(1) is repealed and the following is substituted:

Results of investigation to complainant

22(1) If the Ombudsman makes a recommendation under section 21(3) and no action that seems to the Ombudsman to be adequate and appropriate is taken on the recommendation within a reasonable time, the Ombudsman shall inform the complainant of the recommendation and make whatever comments on the matter the Ombudsman thinks fit.

11 Section 26 is repealed and the following is substituted:

Entry of premises

26(1) For the purposes of this Act, the Ombudsman may at any time enter on any premises occupied by any department, agency or professional organization and inspect the premises and, subject to sections 18 and 19, carry out in those premises any investigation that is within the Ombudsman's jurisdiction.

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

12 Section 28 is repealed and the following is substituted:**Annual report**

28(1) The Ombudsman shall in each year make a report to the Legislature on the exercise of the Ombudsman's functions under this Act.

(2) The Ombudsman may, from time to time, in the public interest or in the interests of any person, department, agency or professional organization, publish reports relating

- (a) generally to the exercise of the Ombudsman's functions under this Act, or
- (b) to any particular case investigated by the Ombudsman,

whether or not the matters to be dealt with in any such report have been the subject of a report to the Legislature.

(3) The Ombudsman shall not, in a report made under this section, 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 officer, member or employee of an agency,
- (c) any professional organization, or

(d) 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, professional organization, officer, member, employee, person or group of persons an opportunity to know the nature of the opinion or comment and to make representations to the Ombudsman in respect of it either personally or by counsel.

13 Section 29(b) is amended by striking out “Select”.

14 The following is added after section 33:

Power to make regulations

34 The Lieutenant Governor in Council may make regulations designating boards, commissions, corporations, offices or other bodies as agencies for the purposes of this Act.

15 The *Cancer Programs Act* is amended in section 22 by adding the following after clause (d):

(d.1) respecting the patient concerns resolution process that is to be provided by the board;

16 The *Regional Health Authorities Act* is amended in section 24 by adding the following after clause (c):

(c.1) respecting the patient concerns resolution process that is to be provided by a regional health authority;

17(1) Subject to subsection (2), the *Veterinary Profession Amendment Act, 2002* is amended by repealing section 22 and substituting the following:

22 The *Ombudsman Act* is amended in section 1

(a) in clause (b) by striking out “and” at the end of subclause (iii), by adding “and” at the end of

subclause (iv) and by adding the following after subclause (iv):

- (v) when used in reference to a veterinary association means the Registrar as defined in the *Veterinary Profession Act*;

(b) in clause (h) by striking out “and” at the end of subclause (ii), by adding “and” at the end of subclause (iii) and by adding the following after subclause (iii):

- (iv) a veterinary association;

(c) by adding the following after clause (i):

- (j) “veterinary association” means
 - (i) the Alberta Veterinary Medical Association, and
 - (ii) the Council, a board, committee or tribunal and the Registrar, Executive Director, Complaints Director and Hearings Director of the Alberta Veterinary Medical Association and any officer, investigator or person engaged by the Alberta Veterinary Medical Association.

(2) If section 2 of this Act comes into force after section 22 of the *Veterinary Profession Amendment Act, 2002* comes into force, subsection (1) is repealed and section 1 of the *Ombudsman Act*, as enacted by section 2 of this Act, is amended

(a) in clause (b) by striking out “and” at the end of subclause (iii), by adding “and” at the end of subclause (iv) and by adding the following after subclause (iv):

- (v) when used in reference to a veterinary association means the Registrar as defined in the *Veterinary Profession Act*;

(b) in clause (h) by striking out “and” at the end of subclause (ii), by adding “and” at the end of subclause (iii) and by adding the following after subclause (iii):

- (iv) a veterinary association;

(c) by adding the following after clause (i):

- (j) “veterinary association” means
 - (i) the Alberta Veterinary Medical Association, and
 - (ii) the Council, a board, committee or tribunal and the Registrar, Executive Director, Complaints Director and Hearings Director of the Alberta Veterinary Medical Association and any officer, investigator or person engaged by the Alberta Veterinary Medical Association.

18 On the coming into force of section 5,

(a) section 1 of the *Ombudsman Act*, as enacted by section 2 of this Act, is amended

(i) in clause (b) by adding the following after subclause (i):

- (i.1) when used in reference to a health authority that is the Alberta Cancer Board means the chief executive officer appointed under the *Cancer Programs Act*,
- (i.2) when used in reference to a health authority that is a provincial health board means
 - (A) a person designated by the board to act as the administrative head or chief executive officer of the board, or
 - (B) the official administrator or a person designated by the official administrator to act as the administrative head or chief executive officer of the board,
- (i.3) when used in reference to a health authority that is a regional health authority means
 - (A) a person designated by the regional health authority to act as the administrative head or chief executive officer of the regional health authority, or

- (B) the official administrator or a person designated by the official administrator to act as the administrative head or chief executive officer of the regional health authority,

(ii) by adding the following after clause (e):

(e.1) “health authority” means

- (i) the Alberta Cancer Board continued under the *Cancer Programs Act*,
- (ii) a provincial health board established pursuant to regulations made under section 17(1)(a) of the *Regional Health Authorities Act* for the purpose of delivering health services, and
- (iii) a regional health authority established under the *Regional Health Authorities Act*,

(iii) in clause (h) by adding the following after subclause (i):

(i.1) a health authority,

(b) section 12 of the *Ombudsman Act*, as amended by section 4 of this Act, is amended

- (i) in subsection (1) by striking out “It is the function” and substituting “Subject to subsection (2.1), it is the function”;**
- (ii) in subsection (2) by striking out “The Ombudsman may make” and substituting “Subject to subsection (2.1), the Ombudsman may make”;**

(iii) by adding the following after subsection (2):

(2.1) Subsections (1) and (2) do not apply to a professional organization that is a health authority.

(c) section 21.1(3)(a) of the *Ombudsman Act*, as enacted by section 9 of this Act, is amended by adding “or 12.1(2)” after “section 12(1)”;

(d) section 28(3) of the *Ombudsman Act*, as enacted by section 12 of this Act, is amended by striking out “or” at the end of clause (c) and by adding the following after clause (c):

(c.1) any officer, employee or member of a health authority or person engaged by a health authority, or

19 Sections 5, 15 and 16 come into force on Proclamation.

Explanatory Notes

1 Amends chapter O-8 of the Revised Statutes of Alberta 2000.

2 Section 1 presently reads:

1 In this Act,

(a.01) “accounting organization” means

- (i) an accounting organization as defined in the Regulated Accounting Profession Act;*
- (ii) a governing body, committee or tribunal of an accounting organization, registrar, CIC chair, CIC secretary, discipline tribunal secretary, discipline tribunal chair, appeal tribunal secretary and appeal tribunal chair and any practice reviewer, investigator or a person engaged by an accounting organization to perform any duty or exercise any powers under this Act;*

(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) *a provincial health board under the Regional Health Authorities Act,*
- (v) *the Alberta Cancer Board,*
- (vi) *the Hospital Privileges Appeal Board, and*
- (vii) *the board of a technical institute under the Technical Institutes Act;*

(a.1) *“college” means*

- (i) *a college as defined in the Health Professions Act;*
- (ii) *a council, panel, committee, tribunal, registrar, president, complaints director and hearings director of a college and any officer, investigator or person engaged by a college;*

(b) *“department” means a department as defined in section 1 of the Financial Administration Act;*

(b.1) *“forestry college” means*

- (i) *a college as defined in the Regulated Forestry Profession Act;*
- (ii) *a council, panel, committee, tribunal, registrar, president, complaints director and hearings director of a forestry college and any officer, investigator or person engaged by a forestry college;*

(b.2) *“forestry registrar” means a registrar as defined in the Regulated Forestry Profession Act;*

- (b.01) *“executive head”, when used in reference to an accounting organization, means an executive head as defined in the Regulated Accounting Profession Act;*
- (c) *“Minister” means the Minister determined under section 16 of the Government Organization Act as the Minister responsible for this Act;*
- (c.1) *“registrar” means registrar as defined in the Health Professions Act;*
- (d) *“Standing Committee” means the Standing Committee on Legislative Offices.*

3 Section 11 presently reads in part:

(2) The Standing Committee shall review each estimate submitted pursuant to subsection (1) and, on completion of the review, the

chair of the Committee shall transmit the estimate to the Provincial Treasurer for presentation to the Assembly.

(3) If at any time the Legislative Assembly is not in session the Standing Committee on Legislative Offices, or if there is no Standing Committee, the Provincial Treasurer,

- (a) reports that the Ombudsman has certified that in the public interest an expenditure of public money is urgently required in respect of any matter pertaining to the Ombudsman’s office, and*
- (b) reports that either*
 - (i) there is no supply vote under which an expenditure with respect to that matter may be made, or*
 - (ii) there is a supply vote under which an expenditure with respect to that matter*

may be made but the authority available under the supply vote is insufficient,

the Lieutenant Governor may order a special warrant to be prepared to be signed by the Lieutenant Governor authorizing the expenditure of the amount estimated to be required.

(5) When a special warrant is prepared and signed under subsection (3) on the basis of a report referred to in subsection (3)(b)(i), the authority to spend the amount of money specified in the special warrant for the purpose specified in the special warrant is deemed to be a supply vote for the purposes of the Financial Administration Act for the fiscal year in which the special warrant is signed.

4 Section 12 presently reads in part:

12(1) It is the function and duty of the Ombudsman to investigate any decision or recommendation made, including any recommendation made to a Minister, or any act done or omitted, relating to a matter of administration and affecting any person or body of persons in the person's or its personal capacity, in or by any department or agency, or by any officer, employee or member of any department or agency or by a college or by an accounting organization, in the exercise of any power or the performance of any function conferred on the officer, employee or member by any enactment.

(2) The Ombudsman may make an investigation either on a complaint made to the Ombudsman by any person or on the Ombudsman's own motion, and the Ombudsman may commence an investigation notwithstanding that the complaint may not on its face be against a decision, recommendation, act or omission as mentioned in subsection (1).

(3) The powers and duties conferred on the Ombudsman by this Act may be exercised and performed notwithstanding any provision in any Act to the effect

- (a) *that any decision, recommendation, act or omission mentioned in subsection (1) is final,*
- (b) *that no appeal lies in respect of it, or*
- (c) *that no proceeding or decision of the person or organization whose decision, recommendation, act or omission it is may be challenged, reviewed, quashed or called in question.*

5 Patient concerns resolution process.

6 Section 16 presently reads:

16(1) Before investigating any matter under this Act, the Ombudsman shall inform the deputy minister of the department, administrative head of the agency or executive head of the accounting organization affected, as the case may be, of the Ombudsman's intention to make the investigation.

(2) The Ombudsman may, in the Ombudsman's discretion, at any time during or after an investigation consult any Minister or forestry

registrar or registrar or executive head of an accounting organization who is concerned in the matter of the investigation.

(3) On the request of any Minister or forestry registrar or registrar or executive head of an accounting organization in relation to an investigation or in any case where an investigation relates to a recommendation made to a Minister or forestry registrar or registrar or executive head of an accounting organization, the Ombudsman shall consult that Minister or forestry registrar or registrar or executive head of an accounting organization after making the investigation and before forming a final opinion on any of the matters referred to in section 21(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 accounting organization, department, agency or forestry college or college, the Ombudsman shall refer the matter to the deputy minister of the department, administrative head of the agency or forestry registrar or registrar or the executive head of the accounting organization, as the case may be.

7 Section 18 presently reads:

18(1) Subject to this section and section 19, the Ombudsman may require any person who in the Ombudsman's opinion is able to give any information relating to any matter being investigated by the Ombudsman

- (a) to furnish the information to the Ombudsman, and*
- (b) to produce any document, paper or thing that in the Ombudsman's opinion relates to the matter being investigated and that may be in the possession or under the control of that person,*

whether or not that person is an officer, employee or member of an accounting organization, department, agency or forestry college or college and whether or not the document, paper or thing is in the custody or under the control of an accounting organization, department, agency or forestry college or college.

(2) When the Ombudsman requires the production of a document, paper or thing under subsection (1), the Ombudsman may require it to be produced at a place designated by the Ombudsman and may

require that it be left in his or her possession for the purposes of his or her investigation but, on the request of the deputy minister of the department or the administrative head of the agency or the forestry

registrar or the person who produced the document, paper or thing or the executive head of the accounting organization or the person who produced the document, paper or thing, the Ombudsman shall return the document, paper or thing to the department or agency or accounting organization or person or forestry college or person as quickly as possible, but not later than 48 hours after the receipt of the request, subject to the Ombudsman's right to again require its production in accordance with this section.

(3) The Ombudsman may summon before him or her and examine on oath

- (a) any person who is an officer or employee or member of any accounting organization, department, agency or forestry college or college and who in the Ombudsman's opinion is able to give any information mentioned in subsection (1),*
- (b) any complainant, and*
- (c) any other person who in the Ombudsman's opinion is able to give any information mentioned in subsection (1),*

and for that purpose may administer an oath.

(4) Subject to subsection (5), a person who is bound by an Act to maintain secrecy in relation to, or not to disclose, any matter is not required to

- (a) supply any information to or answer any question put by the Ombudsman in relation to that matter, or*
- (b) produce to the Ombudsman any document, paper or thing relating to it,*

if compliance with that requirement would be in breach of the obligation of secrecy or non-disclosure.

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

(6) Every person has the same privileges in relation to the giving of information, the answering of questions and the production of documents, papers and things under this Act as witnesses have in any court.

(7) Except on the trial of a person for perjury, no statement made or answer given by that or any other person in the course of an inquiry by or any proceedings before the Ombudsman is 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.

(8) No person is liable to prosecution for an offence against any Act by reason of the person's compliance with any requirement of the Ombudsman under this section.

8 Section 21 presently reads:

21(1) This section applies when, after making an investigation under this Act, the Ombudsman is of the opinion that the decision, recommendation, act or omission that 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, 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 when the Ombudsman
is of the opinion*

- (a) that in the making of the decision or
recommendation, or in the doing or omission
of the act, a discretionary power has been
exercised*
 - (i) for an improper purpose,*
 - (ii) on irrelevant grounds, or*
 - (iii) on the taking into account of irrelevant
considerations,*

or

- (b) that, in the case of a decision made in the
exercise of a discretionary power, reasons
should have been given for the decision.*

*(3) If, when this section applies, the Ombudsman is
of the opinion*

- (a) that the matter should be referred to the
appropriate authority for further
consideration,*
- (b) that the omission should be rectified,*
- (c) that the decision 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*
- (g) *that any other steps should be taken,*

the Ombudsman shall report that opinion and the Ombudsman's reasons for it to the appropriate Minister and to the department or agency concerned or to the appropriate forestry registrar or to the appropriate registrar or to the executive head of the appropriate accounting organization, and may make any recommendations the Ombudsman thinks fit and in that case the Ombudsman may request the department or agency or executive head of the accounting organization or forestry registrar to notify the Ombudsman within a specified time of the steps, if any, that it proposes to take to give effect to the Ombudsman's recommendations.

(3.1) If within a reasonable time after the report is made under subsection (3) to a forestry registrar no action is taken that seems to the Ombudsman to be adequate and appropriate, the Ombudsman may, after considering the comments, if any, made by or on behalf of the forestry college, send a copy of the report to the appropriate Minister.

(3.1) If within a reasonable time after the report is made under subsection (3) to a registrar no action is taken that seems to the Ombudsman to be adequate and appropriate, the Ombudsman may, after considering the comments, if any, made by or on behalf of the college send a copy of the report to the appropriate Minister.

(3.1) If within a reasonable time after the report is made under subsection (3) to the executive head of an accounting organization no action is taken that seems to the Ombudsman to be adequate or appropriate, the Ombudsman may, after considering the comments, if any, made by or on behalf of the

accounting organization send a copy of the report to the appropriate Minister.

(4) If within a reasonable time after the report is made to the Minister and department, agency or forestry registrar under subsection (3) and to the appropriate Minister under subsection (3.1) to the Minister and department, agency or forestry college or registrar under subsection (3) and to the appropriate Minister under subsection (3.1) to the Minister and department, agency or forestry college or executive head of an accounting organization under subsection (3) and to the appropriate Minister under subsection (3.1) no action is taken that seems to the Ombudsman to be adequate and appropriate, the Ombudsman, in the Ombudsman's discretion after considering the comments, if any, made by or on behalf of the accounting organization, department or agency or forestry college affected, may send a copy of the report and recommendations to the

Lieutenant Governor in Council and may afterwards make any report to the Legislature on the matter that the Ombudsman thinks fit.

(5) The Ombudsman shall attach to every report sent or made under subsection (4) a copy of any comments made by or on behalf of the accounting organization, department, agency or forestry college or college concerned.

9 Power to reconsider matters.

10 Section 22(1) presently reads:

22(1) If the Ombudsman makes a recommendation under section 21(3) or (3.1) or (3.1) and no action that seems to the Ombudsman to be adequate and appropriate is taken on the recommendation within a reasonable time, the Ombudsman shall inform the complainant of the recommendation and make whatever comments on the matter the Ombudsman thinks fit.

11 Section 26 presently reads:

26(1) For the purposes of this Act, the Ombudsman may at any time enter on any premises occupied by any accounting organization, department, agency or forestry college or college and inspect the premises and, subject to sections 18 and 19, carry out in those premises any investigation that is within the Ombudsman's jurisdiction.

(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 or the forestry college or the college or the executive head of the accounting organization that occupies the premises of the Ombudsman's intention to do so.

12 Section 28 presently reads:

28(1) The Ombudsman shall in each year make a report to the Legislature on the exercise of the Ombudsman's functions under this Act.

(2) The Ombudsman may, from time to time, in the public interest or in the interests of any person or accounting organization or department or agency or forestry college, publish reports relating

(a) generally to the exercise of the Ombudsman's functions under this Act, or

(b) to any particular case investigated by the Ombudsman,

whether or not the matters to be dealt with in any such report have been the subject of a report to the Legislature.

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

(b.1) *any forestry college, or*

(b.1) *any college, or*

(b.1) *any accounting organization, 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, forestry college, college, accounting organization, officer, member, employee, person or group of persons an opportunity to know the nature of the opinion or comment and to make representations to the Ombudsman in respect of it either personally or by counsel.

13 Section 29 presently reads:

29 The Legislative Assembly may,

(a) *of its own volition, or*

(b) *on the recommendation of the Select Standing Committee,*

make rules for the guidance of the Ombudsman in the exercise of the Ombudsman's functions and duties.

14 Power to make regulations.

15 Amends chapter C-2 of the Revised Statutes of Alberta 2000 by giving the Minister additional regulation-making power.

16 Amends chapter R-10 of the Revised Statutes of Alberta 2000 by giving the Minister additional regulation-making power.

17(1) Amends consequential amendment to the Ombudsman Act in the Veterinary Profession Amendment Act, 2002 (SA 2002 c26).

(2) Amends section 1 with respect to the veterinary profession.

18 Amends the Ombudsman Act on the coming into force of section 5 to add provisions relating to the concerns resolution process of health authorities.

19 Coming into force.