

CAYMAN ISLANDS



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**A BILL FOR A LAW TO AMEND THE FREEDOM OF INFORMATION
LAW (2015 REVISION) AS A CONSEQUENCE OF THE
CONSTITUTION OF THE OFFICE OF OMBUDSMAN; TO ABOLISH
THE OFFICE OF INFORMATION COMMISSIONER AND TRANSFER
THE INFORMATION COMMISSIONER'S POWERS AND
RESPONSIBILITIES TO THE OMBUDSMAN; AND TO MAKE
PROVISION FOR INCIDENTAL AND CONNECTED MATTERS**

THE FREEDOM OF INFORMATION (AMENDMENT) BILL, 2016

MEMORANDUM OF OBJECTS AND REASONS

This Bill seeks to amend the Freedom of Information Law (2015 Revision) as a consequence of the constitution of the office of Ombudsman. The Bill would abolish the office of Information Commissioner and transfer the Information Commissioner's powers and responsibilities to the Ombudsman.

Clause 1 of the Bill provides for the short title and commencement of the legislation.

Clause 2 deletes from the principal Law the definition of the term "Commissioner" since the legislation would no longer contain references to an Information Commissioner. The clause also defines the term "Ombudsman" for the purposes of the legislation.

Clauses 3 and 4 effect amendments to the principal Law for the purpose of removing the provisions relating to -

- (a) the establishment of the position of Information Commissioner;
- (b) the Information Commissioner's independence; and
- (c) the Information Commissioner's power to employ staff.

Clause 5 of the Bill amends section 39 of the principal Law to make provision for the transfer of the Information Commissioner's functions to the Ombudsman.

Clause 6 amends section 40 of the principal Law to transfer, from the Information Commissioner to the Ombudsman, the duty of laying audited accounts before the Legislative Assembly.

Clause 7 repeals section 41 of the principal Law in order to remove the provisions that protect the Information Commissioner from liability in damages.

Clause 8 of the Bill amends sections 42 to 48 of the principal Law to transfer, from the Information Commissioner to the Ombudsman, powers of enforcing the legislation, including the power -

- (a) to hear and decide an appeal against a public authority that is in contravention of the legislation;
- (b) to require the public authority to comply with the legislation; and
- (c) to conduct an investigation into any matter.

Clause 9 of the Bill abolishes the post of Information Commissioner and contains transitional provisions.

THE FREEDOM OF INFORMATION (AMENDMENT) BILL, 2016

ARRANGEMENT OF CLAUSES

1. Short title and commencement
2. Amendment of section 2 of the Freedom of Information Law (2015 Revision) – definitions
3. Amendment of heading to Part VI - Information Commissioner
4. Repeal of sections 35 to 38 - office of the Information Commissioner; independence and powers; Information Commissioner to be subject to Public Service Management Law (2013 Revision); staff
5. Amendment of section 39 - general activities
6. Amendment of section 40 – reports
7. Repeal of section 41 - protection of the Commissioner
8. Amendment of miscellaneous provisions - substitution of the word “Ombudsman” for the word “Commissioner”
9. Abolition of post of Information Commissioner; transitional provisions

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ENACTED by the Legislature of the Cayman Islands.

1. (1) This Law may be cited as the Freedom of Information (Amendment) Law, 2016. Short title and commencement

(2) This Law comes into force immediately after the coming into force of the Ombudsman Law, 2016.

2. The Freedom of Information Law (2015 Revision), in this Law referred to as the "principal Law", is amended in section 2 as follows - Amendment of section 2 of the Freedom of Information Law (2015 Revision) - definitions

- (a) by deleting the definition of the word "Commissioner"; and
- (b) by inserting, after the definition of the words "Minister responsible", the following definition -

“ "Ombudsman" means the person appointed by the Governor under section 3 of the Ombudsman Law, 2016;”.

The Freedom of Information (Amendment) Bill, 2016

- Amendment of heading to Part VI - Information Commissioner
3. The principal Law is amended in the heading to Part VI by deleting the words “Information Commissioner” and substituting the word “Ombudsman”.
- Repeal of sections 35 to 38 - office of the Information Commissioner; independence and powers; Information Commissioner to be subject to Public Service Management Law (2013 Revision); staff
4. The principal Law is amended by repealing sections 35, 36, 37 and 38.
- Amendment of section 39 - general activities
5. The principal Law is amended in section 39 by deleting the word “Commissioner” and substituting the word “Ombudsman”.
- Amendment of section 40 - reports
6. The principal Law is amended in section 40 as follows -
- (a) in subsections (1) and (3) by deleting the word “Commissioner” and substituting the word “Ombudsman”; and
 - (b) in subsection (2) by deleting the word “Commissioner’s” and substituting the word “Ombudsman’s”.
- Repeal of section 41 - protection of the Commissioner
7. The principal Law is amended by repealing section 41.
- Amendment of miscellaneous provisions - substitution of the word “Ombudsman” for the word “Commissioner”
8. The principal Law is amended as follows -
- (a) in sections 42, 43, 44, 45, 46, 47 and 48, by deleting the word “Commissioner” wherever it appears and substituting the word “Ombudsman”; and
 - (b) in sections 45, 46 and 47, by deleting the word “Commissioner’s” wherever it appears and substituting the word “Ombudsman’s”.
- Abolition of post of Information Commissioner; transitional provisions
9. (1) On the operative date, the post of Information Commissioner is abolished and the assets, liabilities, property and contracts of the office of the Information Commissioner, together with all functions and powers required to ensure the effectiveness and continuity of regulation, are transferred to the Ombudsman.
- (2) Every matter commenced under the former Law and partly dealt with by the Information Commissioner on the operative date, is to be continued and dealt with in all respects under the new Law and the provisions of the new Law are to apply accordingly.
- (3) Regulations which relate to the functions or powers of the Information Commissioner and which are in force on the day preceding the operative date,

shall continue to apply to the Ombudsman on and after the operative date, with all necessary changes being made, as if made under the new Law.

(4) On and after the operative date, a reference to the Information Commissioner in any other Law or in any document shall be read and construed as a reference to the Ombudsman.

(5) All things lawfully made or done under the former Law shall continue in force on and after the operative date and shall be deemed to have been made or done under the new Law.

(6) In this section -

“Information Commissioner” means the person appointed as such under section 35 of the former Law;

“former Law” means the principal Law in force immediately before the date of commencement of this Law;

“new Law” means the principal Law as amended by this Law;

“Ombudsman” means the person appointed by the Governor under section 3 of the Ombudsman Law, 2016; and

“operative date” means the date of commencement of this Law.

Passed by the Legislative Assembly the day of , 2017.

Speaker.

Clerk of the Legislative Assembly.