



ANALYSIS

Title 1. Short Title and commencement	2. Protection and privileges of witnesses, etc
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1997, No. 72

An Act to amend the Ombudsmen Act 1975

[16 September 1997]

BE IT ENACTED by the Parliament of New Zealand as follows:

1. Short Title and commencement—(1) This Act may be cited as the Ombudsmen Amendment Act 1997, and is part of the Ombudsmen Act 1975 (“the principal Act”).

(2) This Act comes into force on the day after the date on which it receives the Royal assent.

2. Protection and privileges of witnesses, etc—Section 19 of the principal Act is amended by inserting, after subsection (5), the following subsections:

“(5A) In any investigation carried out under this Act pursuant to the Official Information Act 1982 or the Local Government Official Information and Meetings Act 1987, nothing in subsection (5) prevents an Ombudsman from—

“(a) Requiring, under subsection (1), the furnishing of any information or the production of any document, paper, or thing for which privilege is claimed by any person; and

“(b) Considering the information or inspecting any such document, paper, or thing—

for the purpose of determining whether the information, document, paper, or thing would be properly withheld, but not so as to give the Ombudsman any information, or enable the Ombudsman to make any use of the information, document,

paper, or thing that he or she would not, apart from this subsection, be entitled to.

“(5B) On the production of any information, document, paper, or thing pursuant to subsection (5A), the Ombudsman—

“(a) Must not release the information, document, paper, or thing, or any information derived from the document, paper, or thing to any person other than—

“(i) The producer of the information, document, paper, or thing; or

“(ii) Any barrister or solicitor engaged by the Ombudsman for the purpose of providing legal advice as to whether the information, document, paper, or thing would be properly withheld by that producer under subsection (5); or

“(iii) A court:

“(b) May give his or her opinion only to the producer of the information, document, paper or thing and the complainant as to whether or not the claim of privilege is valid:

“(c) Must not take into account the information or any information in the document, paper, or thing in forming any opinion concerning the release of any other information, unless the Ombudsman considers the claim of privilege is not valid and has notified the person concerned of that decision.”

This Act is administered in the Ministry of Justice.
