

# **Act relating to the Parliamentary Ombudsman for Public Administration (the Parliamentary Ombudsman Act)**

Act of 22 June 1962 No. 8 as subsequently amended, most recently by Act of 21 June 2013 No. 89.

## **Section 1. *Election of the Ombudsman***

After each general election, the Storting elects a Parliamentary Ombudsman for Public Administration, the Parliamentary Ombudsman. The Ombudsman is elected for a term of four years reckoned from 1 January of the year following the general election.

The Ombudsman must satisfy the conditions for appointment as a Supreme Court Judge. He must not be a member of the Storting.

If the Ombudsman dies or becomes unable to discharge his duties, the Storting will elect a new Ombudsman for the remainder of the term of office. The same applies if the Ombudsman relinquishes his office, or if the Storting decides by a majority of at least two thirds of the votes cast to deprive him of his office.

If the Ombudsman is temporarily unable to discharge his duties because of illness or for other reasons, the Storting may elect a person to act in his place during his absence. In the event of absence for a period of up to three months, the Ombudsman may authorise the Head of Division to act in his place.

If the Presidium of the Storting finds that the Ombudsman is disqualified to deal with a particular matter, it will elect a substitute Ombudsman to deal with the matter in question.

## **Section 2. *Instructions***

The Storting will issue general instructions for the activities of the Ombudsman. Apart from this the Ombudsman is to discharge his duties autonomously and independently of the Storting.

## **Section 3. *Purpose***

As the Storting's representative, the Ombudsman shall, as prescribed in this Act and in his instructions, endeavour to ensure that individual citizens are not unjustly treated by the public administration and help to ensure that the public administration respects and safeguards human rights.

### **Section 3a. *National preventive mechanism***

The Ombudsman is the national preventive mechanism as described in Article 3 of the Optional Protocol of 18 December 2002 to the UN Convention of 10 December 1984 against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

The Ombudsman shall establish an advisory committee for its function as the national preventive mechanism.

## **Section 4. *Sphere of responsibility***

The Ombudsman's sphere of responsibility encompasses the public administration and all persons engaged in its service. It also encompasses the conditions of detention for persons deprived of their liberty in private institutions when the deprivation of liberty is based on an order given by a public authority or takes place at the instigation of a public authority or with its consent or acquiescence.

The sphere of responsibility of the Ombudsman does not include:

- a) matters on which the Storting has reached a decision,
- b) decisions adopted by the King in Council,
- c) the activities of the courts of law,
- d) the activities of the Auditor General,
- e) matters that, as prescribed by the Storting, come under the Ombudsman's Committee or the Parliamentary Ombudsman for the Norwegian Armed Forces,
- f) decisions that as provided by statute may only be made by a municipal council, county council or cooperative municipal council itself, unless the decision is made by a municipal executive board, a county executive board, a standing committee, or a city or county government under section 13 of the Act of 25 September 1992 No. 107 concerning municipalities and county authorities. The Ombudsman may nevertheless investigate any such decision on his own initiative if he considers that is required in the interests of due process of law or for other special reasons.

In its instructions for the Ombudsman, the Storting may establish:

- a) whether specific public institutions or enterprises shall be regarded as belonging to the public administration or a part of the services of the state, the municipalities or the county authorities under this Act,
- b) that certain parts of the activity of a public agency or a public institution shall fall outside the sphere of the Ombudsman's responsibility.

### **Section 5.** *Basis for action*

The Ombudsman may consider cases either in response to a complaint or on his own initiative.

### **Section 6.** *Further provisions regarding complaints and time limits for complaints.*

Any person who believes he has been subjected to injustice by the public administration may bring a complaint to the Ombudsman.

Any person who is deprived of his personal freedom is entitled to complain to the Ombudsman in a sealed letter.

A complaint shall state the name of the complainant and must be submitted not later than one year after the administrative action or matter complained of was committed or ceased. If the complainant has brought the matter before a higher administrative agency, the time limit runs from the date on which this authority renders its decision.

The Ombudsman will decide whether a complaint provides sufficient grounds for dealing with the matter.

## **Section 7.** *Right to information*

The Ombudsman may require public officials and all others engaged in the service of the public administration to provide him with such information as he needs to discharge his duties. As the national preventive mechanism, the Ombudsman has a corresponding right to require information from persons in the service of private institutions such as are mentioned in section 4, first paragraph, second sentence. To the same extent he may require that minutes/records and other documents are produced.

The Ombudsman may require the taking of evidence by the courts of law, in accordance with the provisions of section 43, second paragraph, of the Courts of Justice Act. The court hearings are not open to the public.

## **Section 8.** *Access to premises, places of service, etc*

The Ombudsman is entitled to access to places of service, offices and other premises of any administrative agency and any enterprise that comes within his sphere of responsibility.

## **Section 9.** *Access to documents and duty of confidentiality*

The Ombudsman's case documents are public. The Ombudsman will make the final decision on whether a document is to be wholly or partially exempt from access. Further rules, including on the right to exempt documents from access, will be provided in the instructions to the Ombudsman.

The Ombudsman has a duty of confidentiality as regards information concerning matters of a personal nature to which he becomes party to during the course of his duties. The duty of confidentiality also applies to information concerning operational and commercial secrets, and information that is classified under the Security Act or the Protection Instructions. The duty of confidentiality continues to apply after the Ombudsman has left his position. The same duty of confidentiality applies to his staff and others who provide assistance.

## **Section 10.** *Completion of the Ombudsman's procedures in a case*

The Ombudsman is entitled to express his opinion on matters within his sphere of responsibility.

The Ombudsman may call attention to errors that have been committed or negligence that has been shown in the public administration. If he finds sufficient reason for so doing, he may inform the prosecuting authority or appointments authority of what action he believes should be taken in this connection against the official concerned. If the Ombudsman concludes that a decision must be considered invalid or clearly unreasonable or that it clearly conflicts with good administrative practice, he may express this opinion. If the Ombudsman believes that there is reasonable doubt relating to factors of importance in the case, he may make the appropriate administrative agency aware of this.

If the Ombudsman finds that there are circumstances that may entail liability to pay compensation, he may, depending on the situation, suggest that compensation should be paid.

The Ombudsman may let a case rest when the error has been rectified or with the explanation that has been given.

The Ombudsman shall notify the complainant and others involved in a case of the outcome of his handling of the case. He may also notify the superior administrative agency concerned.

The Ombudsman himself will decide whether, and if so in what manner, he will inform the public of his handling of a case.

As the national preventive mechanism, the Ombudsman may make recommendations with the aim of improving the treatment and the conditions of persons deprived of their liberty and of preventing torture and other cruel, inhuman or degrading treatment or punishment. The competent authority shall examine the recommendations and enter into a dialogue with the Ombudsman on possible implementation measures.

#### **Section 11.** *Notification of shortcomings in legislation and in administrative practice*

If the Ombudsman becomes aware of shortcomings in acts, regulations or administrative practice, he may notify the ministry concerned to this effect.

#### **Section 12.** *Reporting to the Storting*

The Ombudsman shall submit an annual report on his activities to the Storting. A report shall be prepared on the Ombudsman's activities as the national preventive mechanism. The reports will be printed and published.

The Ombudsman may when he considers it appropriate submit special reports to the Storting and the relevant administrative agency.

#### **Section 13.** *Pay, pension, other duties*

The Ombudsman's salary is fixed by the Storting or the agency so authorised by the Storting. The same applies to remuneration for a person appointed to act in his place under section 1, fourth paragraph, first sentence. The remuneration for a person appointed pursuant to the fourth paragraph, second sentence, may be determined by the Storting's Presidium. The Ombudsman's pension will be determined by law.

The Ombudsman may not hold any other public or private appointment or office without the consent of the Storting or the agency so authorised by the Storting.

#### **Section 14.** *Employees*

Employees at the Ombudsman's office will be appointed by the Presidium of the Storting on the recommendation of the Ombudsman or, in accordance with a decision of the Presidium, by an appointments board. Temporary appointments for up to six months will be made by the Ombudsman. The Presidium will lay down further rules regarding the appointments procedure and regarding the composition of the board.

The salary, pension and working conditions of employees will be fixed in accordance with the agreements and provisions that apply to employees in the central government administration.

**Section 15.**

1. This Act enters into force on 1 October 1962.
2. --.

# Instructions for the Parliamentary Ombudsman for Public Administration

**Implementing legislation:** Adopted by the Storting on 19 February 1980 under section 2 of the Act of 22 June 1962 No. 8 relating to the Parliamentary Ombudsman for Public Administration.

**Amendments:** Amended by administrative decisions of 22 October 1996 No. 1479, 14 June 2000 No. 1712, 2 December 2003 No. 1898, 12 June 2007 No. 1101 and 17 June 2013 No. 1251.

## **Section 1. *Purpose***

(See section 3 of the Parliamentary Ombudsman Act)

The Parliamentary Ombudsman for Public Administration shall seek to ensure that individual citizens are not unjustly treated by the public administration and that senior officials, officials and others engaged in the service of the public administration do not make errors or neglect their duties.

## **Section 2. *Sphere of responsibility***

(See section 4 of the Parliamentary Ombudsman Act)

The Norwegian Parliamentary Intelligence Oversight Committee shall not be considered as part of the public administration for the purposes of the Parliamentary Ombudsman Act. The Ombudsman shall not consider complaints concerning the intelligence, surveillance and security services that the Committee has already considered.

The Ombudsman shall not consider complaints about cases dealt with by the Storting's ex gratia payments committee.

The exception for the activities of the courts of law under section 4, first paragraph, c), of the also includes decisions that may be brought before a court by means of a complaint, appeal or other judicial remedy.

0 Amended by Storting decisions of 22 October 1996 No. 1479, 2 December 2003 No. 1898 (in force from 1 January 2004), 17 June 2013 No. 1251 (in force from 1 July 2013).

## **Section 3. *Formulating and substantiating complaints***

(See section 6 of the Parliamentary Ombudsman Act)

Complaints may be submitted directly to the Ombudsman. A complaint should be made in writing and be signed by the complainant or a person acting on their behalf. In the event that the Ombudsman receives an oral complaint, he shall ensure that it is immediately recorded in writing and signed by the complainant.

As far as possible, the complainant should provide an account of the grounds for the complaint and present evidence and other documents in the case.

## **Section 4. *Exceeding the time limit for complaints.***

(See section 6 of the Parliamentary Ombudsman Act)

If the time limit for a complaint under section 6 of the Act – 1 (one) year – has been exceeded, this does not prevent the Ombudsman from taking up the matter on his own initiative.

## **Section 5. *Conditions for considering a complaint.***

If a complaint is made concerning a decision that the complainant is entitled to have reviewed by a higher administrative body, the Ombudsman shall not deal with the complaint unless he finds that there are special grounds for considering it immediately. The Ombudsman shall give the complainant advice on their right to have the decision reviewed through administrative channels. If the complainant is unable to have the decision reviewed because the time limit for complaints has been exceeded, the Ombudsman shall decide whether the circumstances indicate that he should nevertheless consider the case.

If a complaint concerns other matters that can be brought before a higher administrative authority or specific regulatory body, the Ombudsman should direct the complainant to take up the case with the competent authority or to submit the case to the authority in question, unless the Ombudsman finds special grounds for considering the case immediately himself.

The provisions of the first and second paragraphs do not apply if the King is the only complaints body available.

### **Section 6. *Investigating complaints***

(See sections 7 and 8 of the Parliamentary Ombudsman Act)

Complaints which the Ombudsman considers further should as a general rule be presented to the administrative body or official concerned. The same applies to subsequent statements and information from the complainant. The administrative body or official concerned must always be given the opportunity to comment before the Ombudsman issues an opinion as set out in section 10, second and third paragraphs, of the Parliamentary Ombudsman Act.

The Ombudsman will decide what measures should be taken in order to clarify the circumstances of the case. He may obtain the information he considers necessary in accordance with the provisions of section 7 of the Parliamentary Ombudsman Act, and may set a deadline for complying with an order to provide information or submit documents, etc. He may also make further inquiries of the administrative body or enterprise to which the complaint applies, see section 8 of the Parliamentary Ombudsman Act.

The complainant is entitled to familiarise himself with the statements and information provided in the case, unless he is not entitled to do so under the rules applicable to the administrative body involved.

If the Parliamentary Ombudsman obtain an expert opinion if he finds this necessary for on special reasons.

### **Section 7. *Notifying a complainant when a complaint is not investigated***

(See section 6, fourth paragraph, of the Parliamentary Ombudsman Act)

If the Parliamentary Ombudsman finds that there are no grounds for dealing with a complaint, the complainant shall be notified immediately. In such cases, the Ombudsman should, as far as possible, advise the complainant of any other legal avenues that may exist or forward the case to the appropriate authority himself.

### **Section 8. *Cases considered on the Ombudsman's own initiative***

(See section 5 of the Parliamentary Ombudsman Act)

If the Ombudsman finds reason to do so, he may further investigate proceedings, decisions or other matters on his own initiative. The provisions of section 6, first, second and fourth paragraphs, shall apply correspondingly to such investigations.

**Section 8a. *Special provisions relating to the Parliamentary Ombudsman as national preventive mechanism***

The Ombudsman may receive assistance from persons with specific expertise in connection with its function as the national preventive mechanism in accordance with section 3a of the Parliamentary Ombudsman Act.

The Ombudsman shall establish an advisory committee to provide expertise, information, advice and input in connection with its function as the national preventive mechanism.

The advisory committee shall include members with expertise on children, human rights and psychiatry. The committee must have a good gender balance and each sex shall be represented by a minimum of 40 % of the membership. The committee may include both Norwegian and foreign members.

0 Added by Storting decision of 17 June 2013 No. 1251 (in force from 1 July 2013).

**Section 9. *Completion of the Ombudsman's procedures in a case***

(See section 10 of the Parliamentary Ombudsman Act)

The Ombudsman shall personally make a decision in all cases that are accepted following a complaint or that he has considered on his own initiative. He may nevertheless give specific members of staff the authority to complete cases that clearly must be rejected or that clearly do not provide sufficient grounds for further consideration.

The Ombudsman's decision is issued in a statement in which he gives his opinion on the questions that apply in the case and that come within his sphere of responsibility, see section 10 of the Parliamentary Ombudsman Act.

0 Amended by Storting decision of 2 December 2003 No. 1898 (in force from 1 January 2004).

**Section 10. *Instructions for employees at the Ombudsman's office***

(See section 2 of the Parliamentary Ombudsman Act)

The Ombudsman will issue out further instructions for his staff. He may give the employees the authority to make the necessary preparations for cases that are dealt with by the Ombudsman.

**Section 11. *Access to the Parliamentary Ombudsman's case documents***

1. The Ombudsman's case documents are public unless otherwise provided by the duty of confidentiality or the exceptions listed in subsections 2, 3 and 4 below. The term 'the Ombudsman's case documents' means documents prepared in connection with the Ombudsman's handling of a case. Case documents prepared or obtained during the public administration's handling of the case are not publicly available through the Ombudsman.

2. Case documents from the Ombudsman's case documents may be exempted from public disclosure when special reasons so indicate.

3. The Parliamentary Ombudsman's internal case documents may be exempted from public disclosure.

4. Documents exchanged between the Storting and the Ombudsman and that concern the Ombudsman's budget and internal administration may be exempted from public disclosure.

5. Access may be requested to the public content of the records the Ombudsman maintains for registering documents in cases that are opened. The Archives Act of 4 December 1992 No.



126 and the Archives Regulations of 11 December 1998 No. 1193 apply correspondingly to the Ombudsman's activities to the extent they are appropriate.

0 Amended by Storting decision of 14 June 2000 No. 1712 (in force from 1 January 2001).

## **Section 12. *Annual report to the Storting***

(See section 12 of the Parliamentary Ombudsman Act)

The Ombudsman's annual report to the Storting shall be submitted by 1 April each year and shall cover the Ombudsman's activities in the period 1 January–31 December of the previous year.

The report shall contain a summary of procedures in cases which the Ombudsman considers to be of general interest, and shall mention those cases in which he has called attention to shortcomings in acts, regulations or administrative practice, or has issued a special report under section 12, second paragraph, of the Parliamentary Ombudsman Act. In the annual report, the Ombudsman shall also provide information on activities to oversee and monitor that the public administration respects and safeguards human rights.

If the Ombudsman finds reason to do so, he may refrain from mentioning names in the report. The report shall in any case not include information that is subject to the duty of confidentiality.

The account of cases where the Ombudsman has expressed an opinion as mentioned in section 10, second, third and fourth paragraphs, of the Parliamentary Ombudsman Act, shall summarise any response by the relevant administrative body or official the complaint, see section 6, first paragraph, third sentence.

A report concerning the Ombudsman's activities as the national preventive mechanism shall be issued before 1 April each year. This report shall cover the period 1 January–31 December of the previous year.

0 Amended by Storting decision of 14 June 2000 No. 1712 (in force from 1 January 2001), 12 June 2007 No. 1101 (in force from 1 July 2007), 17 June 2013 No. 1251 (in force from 1 July 2013).

## **Section 13. Entry into force**

These instructions enter into force on 1 March 1980. From the same date, the Storting's Instructions to the Parliamentary Ombudsman of 8 June 1968 are repealed.