



*Tonga*

**COMMISSIONER FOR PUBLIC  
RELATIONS (AMENDMENT) ACT 2016**

**Act 11 of 2016**





## COMMISSIONER FOR PUBLIC RELATIONS (AMENDMENT) ACT 2016

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## COMMISSIONER FOR PUBLIC RELATIONS (AMENDMENT) ACT 2016

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### AN ACT TO AMEND THE COMMISSIONER FOR PUBLIC RELATIONS ACT 2001

I assent,  
TUPOU VI,  
24<sup>th</sup> November 2016.

**BE IT ENACTED** by the King and Legislative Assembly of Tonga in the  
Legislature of the Kingdom as follows:

#### **1 Short Title and Interpretation**

- (1) This Act may be cited as the Commissioner for Public Relations (Amendment) Act 2016.
- (2) In this Act, the Commissioner for Public Relations Act 2001, as amended, shall be referred to as the “Principal Act”.

#### **2 Change from Commissioner for Public Relations Act to Ombudsman Act**

Section 1(1) of the Principal Act is amended by deleting the words “Commissioner for Public Relations Act” and replacing them with the words “Ombudsman Act”.

### **3 Change from Commissioner for Public Relations to Ombudsman**

The Principal Act is amended by deleting in every place where it occurs, the words “Commissioner for Public Relations” and “Commissioner” and replacing them with the word “Ombudsman”.

### **4 Section 2 amended**

Section 2 of the Principal Act is amended –

- (a) by inserting the following word and its definition in the appropriate place –  
““**Speaker**” means the Speaker of the Legislative Assembly;”; and
- (b) by deleting the word “statutory body” and its definition.

### **5 Section 3 replaced**

Section 3 of the Principal Act is repealed and replaced with the following –

#### **“3 Ombudsman**

- (1) The Ombudsman shall be appointed after due recruitment process by the Speaker with the consent of the Legislative Assembly.
- (2) In the event of the absence or incapacity of the Ombudsman or if the office of Ombudsman is vacant, the Speaker with the consent of the Legislative Assembly, shall appoint a person to temporarily perform the duties of the Ombudsman.
- (3) A person is not eligible to be appointed as Ombudsman or to act in that capacity unless the person is a person –
  - (a) of integrity, resolution and high standing in the community;
  - (b) with extensive experience in law, government administration and governance;
  - (c) having been admitted to practice as a law practitioner in Tonga or in a Commonwealth country; and
  - (d) who is not subject to a court declared debt, or has been declared by a court, or a court appointed receiver, as bankrupt.”.

### **6 Section 4 amended**

Section 4 of the Principal Act is amended by deleting the word “Cabinet” and replacing it with the words “Speaker with the consent of the Legislative Assembly”.

**7 Section 5 amended**

Section 5(3) of the Principal Act is amended by deleting the words “His Majesty in Council” and replacing it with “the Speaker”.

**8 Section 6 amended**

Section 6 of the Principal Act is repealed and replaced with the following –

**“6 Vacancy in office and removal**

- (1) The office of the Ombudsman becomes vacant if the holder –
  - (a) dies;
  - (b) completes a term of office and is not re-appointed; or
  - (c) resigns.
- (2) The Ombudsman shall be removed from office by simple resolution of the Legislative Assembly if the person holding the Ombudsman is -
  - (a) declared bankrupt by a Court;
  - (b) adjudged to have neglected his duty or committed misconduct after due investigation;
  - (c) certified by a medical officer to have a disability that is likely to impact on his ability to fulfil his obligations.”.

**9 Section 8 amended**

Section 8 of the Principal Act is amended by deleting subsection (1) and replaced with the following –

- “(1) There shall be paid to the Ombudsman out of public money, a salary and allowances as provided under a contract of employment between the Ombudsman and the Speaker, as recommended by the Remuneration Authority.”.

**10 Section 9 amended**

Section 9 of the Principal Act is amended –

- (a) by deleting the word “Cabinet” and replacing it with the words “the Legislative Assembly”; and
- (b) by deleting –
  - (i) in the English version only, the words “King Taufa’ahau Tupou IV” wherever they appear and replacing them with the words “the King”; and

- (ii) in the Tongan version only, the words “ko Taufā’ahau Tupou IV” and the words “ko Taufā’ahau IV”.

## 11 Section 10 amended

Section 10 of the Principal Act is repealed and replaced with the following—

### “10 Staff

- (1) The Ombudsman may employ such persons as are necessary for the performance of the Ombudsman functions, duties and powers under such terms and conditions of employment that the Ombudsman may determine.
- (2) The remuneration and other monetary benefits of the Ombudsman’s staff shall be fixed by the Ombudsman as recommended by the Remuneration Authority.”.

## 12 Section 11 amended

Sections 11(8) of the Principal Act is amended by deleting the words “His Majesty in Council” and replacing them with “The Speaker”.

## 13 New section 13A inserted

The Principal Act is amended by inserting immediately after section 13, the following new section 13A –

### “13A Preliminary inquiries

- (1) The Ombudsman may make preliminary inquiries for the purpose of deciding whether an investigation should be carried out under this Act in relation to a complaint against a Department or organisation’s recommendation, action or omission.
- (2) If a complaint has been made under section 11 of this Act, the Ombudsman may, by way of a preliminary inquiry with respect to the complaint, require the complainant or other witnesses to provide further written particulars of the complaint within the time specified by the Ombudsman.”.

## 14 Section 17 amended

Section 17 of the Principal Act is amended –

- (a) in subsection (1), by inserting after the word “functions” the words “except for the purpose of giving effect to this Act”; and
- (b) by repealing subsection (3), and replacing it with the following –



- “(3) Notwithstanding subsections (1) and (2), the Ombudsman may disclose such matters as in his opinion ought to be disclosed -
- (a) for the purposes of an investigation;
  - (b) to the appropriate Government authority, where he is of the opinion that there is criminal or corrupt conduct; or
  - (c) in order to establish grounds for the Ombudsman’s conclusions and recommendations.”.

**15 Section 18 amended**

Section 18(4) of the Principal Act is amended by deleting –

- (a) the words “Prime Minister” and replacing them with the word “Speaker; and
- (b) the words “Privy Council” and replacing them with the words “Legislative Assembly”.

**16 Section 25 amended**

Section 25 of the Principal Act is amended by deleting the words “Prime Minister” wherever it occurs and replacing them with the word “Speaker”.

**17 Sections 29 amended**

Sections 29 of the Principal Act is amended by deleting the words “His Majesty in Council” and replacing them with the words “The Speaker”.

**18 New Section 30 inserted**

The Principal Act is amended by inserting immediately after section 29, the following new section 30 –

**“30 Reports**

The Ombudsman may from time to time, in the public interest, or in the interest of any person, Department or organisation, publish reports or other information relating to the exercise of his functions or to any particular case or cases investigated by him, whether or not the matters to be dealt with have been the subject of a report tabled in the Legislative Assembly under this Act.”.

**19 New section 31 inserted**

The Principal Act is amended by inserting immediately after section 30, the following new section 31 –

**“31 Transitional**

- (1) Any investigation, action, enquiry, proceeding or the like in progress by the Commissioner for Public Relations before the commencement of the Commissioner for Public Relations (Amendment) 2016 Act shall continue in the name of the Ombudsman.
- (2) The person holding the role of Commissioner for Public Relation before the commencement of the Commissioner for Public Relations (Amendment) Act 2016, shall be deemed to have been appointed under section 3 of this Act as the Ombudsman, until he end of his term of appointment, unless terminated earlier.”.

## 20 Schedule replaced

The Principal Act is amended by repealing the Schedule and replacing it with the following –

**“SCHEDULE**  
**(Section 2)**

**ORGANISATIONS TO WHICH THIS ACT APPLIES**

- (i) Tonga Communications Corporation;
- (ii) Tonga Post and Fast Print Limited;
- (iii) Tonga Export Quality Management Limited;
- (iv) Friendly Islands Shipping Agency;
- (v) Tonga Development Bank;
- (vi) Waste Authority Limited;
- (vii) Tonga Broadcasting Commission;
- (viii) Tonga Water Board;
- (ix) Tonga Market Corporation Limited;
- (x) Tonga Assets Managers & Associates Limited;
- (xi) Tonga Power Limited;
- (xii) Ports Authority Tonga;
- (xiii) Tonga Airports Limited;
- (xiv) Tonga Cable Limited;

- (xv) Retirement Fund Board;
- (xvi) Tonga Tourism Authority;
- (xvii) A Community Water Supply Committee under the Public Health Act or Regulations under that Act; and
- (xviii) Remuneration Authority.”.

Passed by the Legislative Assembly this 27<sup>th</sup> day of October 2016.