



Postal Industry Ombudsman Act 2006

No. 25, 2006

An Act to amend the *Ombudsman Act 1976*, and for related purposes

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)

Contents

1	Short title.....	1
2	Commencement.....	1
3	Schedule(s).....	3
Schedule 1—Amendments relating to the Postal Industry Ombudsman		4
Part 1—Amendment of the Ombudsman Act 1976		4
<i>Ombudsman Act 1976</i>		4
Part 2—Amendment of other Acts		23
<i>Migration Act 1958</i>		23
<i>Privacy Act 1988</i>		23
Part 3—Application and transitional provisions		24
Schedule 2—Other amendments of the Ombudsman Act 1976		25
<i>Ombudsman Act 1976</i>		25



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An Act to amend the *Ombudsman Act 1976*, and for related purposes

[Assented to 6 April 2006]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Postal Industry Ombudsman Act 2006*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with

column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent.	6 April 2006
2. Schedule 1	A single day to be fixed by Proclamation. However, if any of the provision(s) do not commence within the period of 6 months beginning on the day on which this Act receives the Royal Assent, they commence on the first day after the end of that period.	
3. Schedule 2, item 1	Immediately after the commencement of item 2 of Schedule 2 to the <i>Prime Minister and Cabinet Legislation Amendment (Application of Criminal Code) Act 2001</i> .	26 July 2001
4. Schedule 2, item 2	Immediately after the commencement of item 1 of Schedule 2 to the <i>Prime Minister and Cabinet Legislation Amendment (Application of Criminal Code) Act 2001</i> .	26 July 2001
5. Schedule 2, item 3	Immediately after the commencement of item 717 of Schedule 1 to the <i>Public Employment (Consequential and Transitional) Amendment Act 1999</i> .	5 December 1999
6. Schedule 2, item 4	Immediately after the commencement of Schedule 5 to the <i>A.C.T. Self-Government (Consequential Provisions) Act 1988</i> .	11 May 1989
7. Schedule 2, item 5	Immediately after the commencement of item 11 of Schedule 3 to the <i>National Crime Authority Legislation Amendment Act 2001</i> .	12 October 2001

Note: This table relates only to the provisions of this Act as originally passed by the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

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- (2) Column 3 of the table contains additional information that is not part of this Act. Information in this column may be added to or edited in any published version of this Act.

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Amendments relating to the Postal Industry Ombudsman

Part 1—Amendment of the Ombudsman Act 1976

Ombudsman Act 1976

1 Title

Omit “and a Defence Force Ombudsman”, substitute “, a Defence Force Ombudsman and a Postal Industry Ombudsman,”.

2 Subsection 3(1)

Insert:

ACA means the Australian Communications Authority.

3 Subsection 3(1)

Insert:

Australia Post means the Australian Postal Corporation.

4 Subsection 3(1) (at the end of the definition of *officer*)

Add:

Note: For the meaning of *officer* for the purposes of Part IIB, see section 19G.

5 Subsection 3(1)

Insert:

postal or similar service includes:

- (a) a postal service; and
- (b) a courier service; and
- (c) a packet or parcel carrying service.

6 Subsection 3(1)

Insert:

PPO (short for Private Postal Operator) means an entity (other than Australia Post) that provides a postal or similar service, whether or not that entity also provides other services.

7 Subsection 3(1) (at the end of the definition of *principal officer*)

Add:

Note: For the meaning of *principal officer* for the purposes of Part IIB, see section 19G.

8 Subsection 3(1)

Insert:

registered PPO means a PPO that is registered for the purposes of Part IIB (see section 19ZA).

Note: In certain circumstances, a PPO that is no longer registered for the purposes of Part IIB may still be treated as a registered PPO (see section 19J).

9 After subsection 3(6C)

Insert:

- (6D) For the purposes of this Act, action that is taken by an officer of a registered PPO is taken to have been taken by the registered PPO if the officer takes, or purports to take, the action because he or she is an officer of the registered PPO, whether or not:
- (a) the action is taken for or in connection with, or as incidental to, the provision of a postal or similar service by the registered PPO; or
 - (b) the taking of the action is within the duties of the officer.

10 Subsection 6(4F)

Repeal the subsection.

11 After Part IIA

Insert:

Part IIB—Establishment, functions, powers and duties of the Postal Industry Ombudsman

Division 1—Preliminary

19G Definitions

In this Part:

officer means:

- (a) in relation to Australia Post:
 - (i) a person who is employed in the service of, or is a member of the staff of, Australia Post, whether or not he or she is employed by Australia Post; or
 - (ii) a person authorised by Australia Post to exercise any powers or perform any functions of Australia Post on behalf of Australia Post; or
- (b) in relation to a registered PPO:
 - (i) if the registered PPO is an individual—the individual or an employee of the individual; or
 - (ii) if the registered PPO is a body corporate—a director, the secretary or an employee of the registered PPO; or
 - (iii) if the registered PPO is a partnership—a partner in, or an employee of, the partnership.

principal officer means:

- (a) in relation to Australia Post—the Managing Director of Australia Post; or
- (b) in relation to a registered PPO:
 - (i) if the registered PPO is an individual—the individual; or
 - (ii) in any other case—the individual primarily responsible for the management of the registered PPO.

19H Action taken by contractors

- (1) Subsections (2) and (3) apply if:
 - (a) a contractor, or an employee of a contractor, in relation to a postal services contract with Australia Post or a registered PPO, takes action with respect to the provision of a postal or similar service; and
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- (b) the contractor, or the employee, took the action to fulfil or purport to fulfil an obligation under:
 - (i) if the contractor is responsible under another contract for the provision of services covered by the postal services contract—the other contract; or
 - (ii) otherwise—the postal services contract.

Attribution of action to Australia Post or registered PPO

- (2) For the purposes of this Part, the action is taken to have been taken by Australia Post or the registered PPO (as the case may be).

Persons taken to be officers of Australia Post or registered PPO

- (3) For the purposes of this Part, the following are taken to be officers of Australia Post or the registered PPO (as the case may be) in relation to that action:
 - (a) the person who took the action;
 - (b) if the person who took the action was the employee of a contractor—the contractor;
 - (c) if paragraph (b) applies and the contractor is:
 - (i) a body corporate—the directors and the secretary of the body corporate; or
 - (ii) a partnership—the partners in the partnership.

Contractors and postal services contracts

- (4) In this section:

contractor, in relation to a postal services contract, means a person who is:

- (a) a party to the postal services contract; or
- (b) both:
 - (i) a party to a contract (the **subcontract**) with a person who is a contractor, in relation to the postal services contract, because of a previous application of this definition; and
 - (ii) responsible under the subcontract for the provision of services covered by the postal services contract.

postal services contract means a contract relating to the provision of postal or similar services within Australia.

19J Continued application of this Act to deregistered PPOs

- (1) This section applies if:
 - (a) a registered PPO took action at a particular time; and
 - (b) the Postal Industry Ombudsman receives a complaint in respect of that action within 12 months after that time; and
 - (c) the PPO applies after that time, under subsection 19ZC(1), to no longer be registered for the purposes of this Part (whether or not the application was made before the complaint was received).
- (2) This Act applies as if the PPO were a registered PPO in relation to that complaint.

19K Part IIB not to affect operation of other provisions of this Act

This Part does not, by implication, affect the operation of other provisions in this Act.

Division 2—Establishment and functions of the Postal Industry Ombudsman

19L Establishment of office of Postal Industry Ombudsman

- (1) For the purposes of this Act, there is to be a Postal Industry Ombudsman.
- (2) The office of Postal Industry Ombudsman is to be held by the person who holds the office of Commonwealth Ombudsman.
- (3) The reference in subsection (2) to the person who holds the office of Commonwealth Ombudsman includes a reference to a person for the time being acting in that office because of an appointment under section 29.

19M Functions of Postal Industry Ombudsman

- (1) The functions of the Postal Industry Ombudsman are to investigate complaints made to him or her under this Act and to perform such other functions as are conferred on him or her by this Act.
- (2) Subject to this Act, the Postal Industry Ombudsman:

- (a) is to investigate action that he or she is authorised by this Act to investigate and in respect of which a complaint has been made to him or her (other than a complaint excluded by subsection (4)); and
 - (b) may, on his or her own initiative, investigate action that he or she is authorised by this Act to investigate.
- (3) The Postal Industry Ombudsman is authorised by this Act to investigate action taken by:
- (a) Australia Post; or
 - (b) a registered PPO;
- with respect to the provision of a postal or similar service.
- (4) A complaint is excluded by this subsection if:
- (a) the complaint was made by Australia Post in respect of action taken by a registered PPO; or
 - (b) the complaint was made by a registered PPO in respect of action taken by Australia Post or another registered PPO; or
 - (c) the complaint was made more than 12 months after the action was taken.
- (5) Paragraph (2)(b) applies only if the Postal Industry Ombudsman starts the investigation no later than 12 months after the action was taken.

19N Discretion to investigate complaints as Commonwealth Ombudsman or as Postal Industry Ombudsman

- (1) This section applies if a complaint has been made to the Postal Industry Ombudsman or the Commonwealth Ombudsman with respect to action taken by Australia Post.

Postal Industry Ombudsman may transfer complaint to Commonwealth Ombudsman

- (2) Subsection (3) applies if:
- (a) the complaint was made to the Postal Industry Ombudsman; and
 - (b) in the opinion of the Postal Industry Ombudsman, it would be more appropriate to deal with, or to continue to deal with, the complaint or part of the complaint in his or her capacity as the Commonwealth Ombudsman.

- (3) The Postal Industry Ombudsman may:
- (a) either:
 - (i) decide not to deal with the complaint, or part of the complaint; or
 - (ii) if he or she has started to deal with the complaint—decide not to deal further with the complaint, or part of the complaint; and
 - (b) transfer the complaint, or part of the complaint, to the Commonwealth Ombudsman.
- (4) A complaint that is transferred under subsection (3) is taken to be a complaint that was made to the Commonwealth Ombudsman.

Commonwealth Ombudsman may transfer complaint to Postal Industry Ombudsman

- (5) Subsection (6) applies if:
- (a) the complaint was made to the Commonwealth Ombudsman; and
 - (b) the complaint was made no later than 12 months after the action was taken; and
 - (c) in the opinion of the Commonwealth Ombudsman, it would be more appropriate to deal with, or to continue to deal with, the complaint or part of the complaint in his or her capacity as the Postal Industry Ombudsman.
- (6) The Commonwealth Ombudsman may:
- (a) either:
 - (i) decide not to deal with the complaint, or part of the complaint; or
 - (ii) if he or she has started to deal with the complaint—decide not to deal further with the complaint, or part of the complaint; and
 - (b) transfer the complaint, or part of the complaint, to the Postal Industry Ombudsman.
- (7) A complaint that is transferred under subsection (6) is taken to be a complaint that was made to the Postal Industry Ombudsman.
- (8) In forming an opinion under paragraph (2)(b) or (5)(c), the person holding the office of the Commonwealth Ombudsman and of the

Postal Industry Ombudsman must have regard to the functions and duties of each of those offices.

Notice of transferral to be given to complainant

- (9) If the Commonwealth Ombudsman or the Postal Industry Ombudsman transfers a complaint, or part of a complaint, he or she must give notice of the transfer, in writing, to the complainant.

19P Discretion to refer complaint to another statutory office-holder

- (1) This section applies if:
- (a) Australia Post or a registered PPO has taken action; and
 - (b) before or after starting to investigate that action under paragraph 19M(2)(a), the Postal Industry Ombudsman becomes of the opinion that:
 - (i) a statutory office-holder (other than the Postal Industry Ombudsman or the Commonwealth Ombudsman) has the function of investigating, reviewing or enquiring into action of that kind; and
 - (ii) the action could be more conveniently or effectively dealt with by that statutory office-holder.
- (2) The Postal Industry Ombudsman may decide not to investigate the action, or not to investigate the action further, as the case may be, and, if the Postal Industry Ombudsman so decides, he or she must transfer the complaint to that other statutory office-holder.
- (3) If the Postal Industry Ombudsman transfers a complaint under subsection (2), the Postal Industry Ombudsman must, as soon as is reasonably practicable:
- (a) give notice of the transfer, in writing, to the complainant; and
 - (b) give to the other statutory office-holder any information or documents that relate to the complaint and are in the possession or under the control of the Postal Industry Ombudsman.
- (4) In this section:

statutory office-holder means a person who holds any office or appointment under a law of the Commonwealth, or under a law of a State or Territory.

19Q Discretion not to investigate certain complaints

- (1) This section applies if:
 - (a) a complaint has been made to the Postal Industry Ombudsman with respect to action taken by Australia Post or by a registered PPO; and
 - (b) in the opinion of the Postal Industry Ombudsman:
 - (i) the complaint is frivolous or vexatious or was not made in good faith; or
 - (ii) the complainant does not have a sufficient interest in the subject matter of the complaint; or
 - (iii) an investigation, or further investigation, of the action is not warranted having regard to all the circumstances.
- (2) The Postal Industry Ombudsman may, in his or her discretion:
 - (a) decide not to investigate the action; or
 - (b) if he or she has started to investigate the action—decide not to investigate the action further.

Division 3—Powers and duties of the Postal Industry Ombudsman

19R Application of other provisions of this Act to the Postal Industry Ombudsman

- (1) Subject to this section, the provisions covered by subsection (3) apply in relation to the Postal Industry Ombudsman.
- (2) Unless the contrary intention appears, the provisions covered by subsection (3) apply as if:
 - (a) a reference in any of those provisions to the Ombudsman were a reference to the Postal Industry Ombudsman; and
 - (b) a reference in any of those provisions to any of the following were a reference to Australia Post or a registered PPO:
 - (i) a Department;
 - (ii) a prescribed authority;
 - (iii) a Department or a prescribed authority; and
 - (c) a reference in any of those provisions to an officer were a reference to an officer within the meaning of this Part; and

- (d) a reference in any of those provisions to a principal officer were a reference to a principal officer within the meaning of this Part.
- (3) The provisions covered by this subsection are:
- (a) Part I, other than the following provisions:
 - (i) subsections 3(2) to (5A);
 - (ii) subsections 3(6A) to (6C);
 - (iii) subsections 3(7A) and (7B);
 - (iv) subsections 3(9) to (18);
 - (v) section 3A; and
 - (b) Part II, other than the following provisions:
 - (i) sections 4 and 5;
 - (ii) subsection 6(1);
 - (iii) subsections 6(4A) to (4H);
 - (iv) subsections 6(6) to (15);
 - (v) section 6A;
 - (vi) paragraph 8(7A)(b);
 - (vii) subsections 8(8) to (10);
 - (viii) sections 8A and 8B;
 - (ix) paragraph 9(4)(ab);
 - (x) sections 10, 10A and 11;
 - (xi) subsections 11A(1) and (5);
 - (xii) sections 14 to 18;
 - (xiii) subsection 19(8); and
 - (c) subsection 31(1); and
 - (d) Part IV, other than the following provisions:
 - (i) section 34;
 - (ii) subsections 35(7) and (7A);
 - (iii) paragraph 35A(3)(a).
- (4) Each provision of this Act specified in column 1 of the table applies in relation to the Postal Industry Ombudsman in accordance with the table:

Schedule 1 Amendments relating to the Postal Industry Ombudsman
Part 1 Amendment of the Ombudsman Act 1976

Application of Act to Postal Industry Ombudsman

	Column 1	Column 2	Column 3
Item	This provision of this Act...	applies in relation to the Postal Industry Ombudsman as if a reference in that provision to...	were a reference to...
1	subsection 7A(1)	paragraph 5(1)(b)	paragraph 19M(2)(b)
2	subsection 11A(4)	the Minister	the Minister and the Minister administering the <i>Australian Postal Corporation Act 1989</i>
3	subsections 12(4) and (5)	section 15	section 19V
4	subsection 35(6A)	paragraph 6(4A)(e) or (4D)(e)	paragraph 19P(3)(b)
5	subsection 35B(2) (paragraph (a) of the definition of <i>listed disclosure method</i>)	Division 2 of Part II	section 19V, 19W or 19X
6	subsection 35B(2) (paragraph (b) of the definition of <i>listed disclosure method</i>)	section 6 or 6A	section 19N or 19P

- (5) For the purposes of this Part, subsection 3(6) applies in relation to the Postal Industry Ombudsman as if a reference in that subsection to a prescribed authority were a reference to Australia Post.

19S Powers of the Postal Industry Ombudsman under section 9

The Postal Industry Ombudsman may exercise his or her powers under section 9 for any of the following purposes:

- (a) to determine whether he or she may investigate action under this Part;
- (b) to decide whether or not to investigate action, or to investigate action further, under this Part;
- (c) to start or further the conduct of an investigation under this Part;

- (d) to prepare a report in relation to an investigation under this Part;
- (e) if he or she has exercised a power for any of the purposes mentioned in paragraphs (a) to (d)—to ascertain what action has been taken by Australia Post or by a registered PPO following the exercise of that power.

19T Duty to accord procedural fairness

The Postal Industry Ombudsman must comply with the rules of procedural fairness when exercising a power under this Act.

Example 1: If the Postal Industry Ombudsman sets out a critical opinion of a person in a report under section 19V, he or she must give that person an opportunity to appear and make submissions to him or her (see subsection 8(5)).

Example 2: The Postal Industry Ombudsman must accord procedural fairness to a person if he or she sets out a critical opinion of the person:

- (a) in disclosing information, or making a statement, under subsection 35A(1); or
- (b) in referring to an investigation in a report under section 19X.

19U Disclosure of identifying information

The Postal Industry Ombudsman must not, in referring to an investigation in a report under section 19V or 19X, disclose the name of a complainant or any other matter that would enable a complainant to be identified, unless it is fair and reasonable in all the circumstances to do so.

19V Postal Industry Ombudsman may report to Australia Post or registered PPO

- (1) This section applies if:
 - (a) an investigation under this Act into action taken by Australia Post or a registered PPO (the *investigated body*) has been completed; and
 - (b) the Postal Industry Ombudsman is of the opinion that the action taken:
 - (i) appears to have been contrary to law; or
 - (ii) was unreasonable, unjust, oppressive or improperly discriminatory; or

- (iii) was otherwise, in all the circumstances, wrong; and
 - (c) the Postal Industry Ombudsman is of the opinion that:
 - (i) some particular action could be, and should be, taken to rectify, mitigate or alter the effects of the action taken; or
 - (ii) a policy or practice on which the action taken was based should be altered; or
 - (iii) reasons should have been, but were not, given for the action taken; or
 - (iv) any other thing should be done in relation to the action taken.
- (2) The Postal Industry Ombudsman must report accordingly to the investigated body.
- (3) The Postal Industry Ombudsman:
 - (a) must include in the report his or her reasons for the opinions specified in the report; and
 - (b) may also include in the report any recommendations he or she thinks fit to make.
- (4) The Postal Industry Ombudsman may ask the investigated body to give him or her, within a specified time, particulars of any action that the investigated body proposes to take with respect to the matters and recommendations included in the report.
- (5) The investigated body may give the Postal Industry Ombudsman comments about the report.
- (6) The Postal Industry Ombudsman must give a copy of:
 - (a) the report; and
 - (b) any comments given under subsection (5);to the Minister administering the *Australian Postal Corporation Act 1989*.

19W Minister to table certain reports in Parliament

- (1) This section applies if:
 - (a) the Postal Industry Ombudsman has given a report under section 19V to an investigated body; and

- (b) action that is, in the opinion of the Postal Industry Ombudsman, adequate and appropriate in the circumstances is not taken with respect to the matters and recommendations included in the report within a reasonable time after the report was given to the investigated body.
- (2) The Postal Industry Ombudsman may request the Minister administering the *Australian Postal Corporation Act 1989* to cause copies of the report to be laid before each House of the Parliament.
- (3) If the Postal Industry Ombudsman makes a request under subsection (2), the Minister administering the *Australian Postal Corporation Act 1989* must cause copies of:
 - (a) the report; and
 - (b) any comments given under subsection 19V(5) before the request was made;to be laid before each House of the Parliament within 15 sitting days of that House after that Minister receives the request.

19X Annual reports

- (1) The Postal Industry Ombudsman has the same powers and duties under this section as the Ombudsman has under subsections 19(1) to (7B) with respect to the submission of reports relating to:
 - (a) his or her operations; and
 - (b) the exercise of his or her powers and the performance of his or her functions.
- (2) For the purposes of subsection (1), the powers and duties of the Ombudsman do not include his or her powers and duties with respect to reports relating to the Australian Capital Territory.
- (3) A report relating to the operations of the Postal Industry Ombudsman during a year may be included in a report under section 19 relating to the operations of the Ombudsman during that year.
- (4) A report relating to the operations of the Postal Industry Ombudsman during a year must:
 - (a) identify the number of complaints received by the Postal Industry Ombudsman under this Part during that year; and

- (b) if the Postal Industry Ombudsman has investigated action under paragraph 19M(2)(a)—identify:
 - (i) the number of such investigations started during that year; and
 - (ii) the number of such investigations completed during that year; and
- (c) if the Postal Industry Ombudsman has investigated action under paragraph 19M(2)(b)—identify:
 - (i) the number of such investigations started during that year; and
 - (ii) the number of such investigations completed during that year; and
- (d) include details of the circumstances and number of occasions where the Postal Industry Ombudsman has made a requirement of a person under section 9 (as that section applies because of sections 19R and 19S) during that year; and
- (e) include details of the circumstances and number of occasions where the holder of the office of Postal Industry Ombudsman has decided under subsection 19N(3) to deal with, or to continue to deal with, a complaint or part of a complaint in his or her capacity as the holder of the office of Commonwealth Ombudsman during that year; and
- (f) include details of recommendations made during that year in reports under section 19V; and
- (g) include statistical information about actions taken during that year as a result of such recommendations.

19Y Postal Industry Ombudsman may notify employer of misconduct

- (1) This section applies if the Postal Industry Ombudsman becomes of the opinion, either before or after completing an investigation under this Act, that there is evidence that a person who is an officer of Australia Post or of a registered PPO, has engaged in misconduct.
- (2) If the Postal Industry Ombudsman is of the opinion that the evidence is, in all the circumstances, of sufficient force to justify his or her doing so, the Postal Industry Ombudsman may bring the evidence to the notice of:

- (a) if the person is the principal officer of Australia Post—the Minister administering the *Australian Postal Corporation Act 1989*; or
- (b) if the person is an officer of Australia Post but not the principal officer of Australia Post—the principal officer of Australia Post; or
- (c) if the person is an officer of a registered PPO—the principal officer of that PPO.

19Z Limitation on liability where information or documents provided in good faith or when required to do so

- (1) A person is neither liable to a proceeding, nor subject to a liability, under an enactment merely because the person, in good faith and in relation to the Postal Industry Ombudsman's functions or powers:
 - (a) gives information to the Postal Industry Ombudsman (other than in accordance with a requirement under section 9); or
 - (b) gives a document or other record to the Postal Industry Ombudsman (other than in accordance with a requirement under section 9).

Note: For information, documents or other records given in accordance with a requirement under section 9, see subsections 9(4) and (5).

- (2) To avoid doubt, subsection (1) does not prevent the person from being liable to a proceeding, or being subject to a liability, for conduct of the person that is revealed by the information, document or record given to the Postal Industry Ombudsman.
- (3) This section does not limit section 37.

Division 4—Register of PPOs

19ZA Registration of PPOs

- (1) The Postal Industry Ombudsman is to establish and maintain a Register of PPOs.
- (2) A PPO may apply, in writing, to the Postal Industry Ombudsman to be registered for the purposes of this Part.

- (3) If the Postal Industry Ombudsman receives an application under subsection (2), the Postal Industry Ombudsman must include that PPO on the Register of PPOs.
- (4) A PPO is taken to be registered for the purposes of this Part from the time when the Postal Industry Ombudsman includes that PPO on the Register.

19ZB Information to be included in Register

- (1) The Postal Industry Ombudsman must include the following information in the register:
 - (a) the name of the PPO;
 - (b) if the PPO has an ABN (within the meaning of the section 41 of the *A New Tax System (Australian Business Number) Act 1999*)—that ABN;
 - (c) the date on which the PPO was included on the Register.
- (2) A registered PPO must notify the Postal Industry Ombudsman of any changes to the information included in relation to that PPO in the Register.

19ZC Deregistration of PPOs

- (1) A registered PPO may apply, in writing, to the Postal Industry Ombudsman to no longer be registered for the purposes of this Part.
- (2) If the Postal Industry Ombudsman receives an application under subsection (1) on a particular date (the **deregistration date**):
 - (a) the Postal Industry Ombudsman must enter the deregistration date in the Register of PPOs; and
 - (b) the Postal Industry Ombudsman must remove the PPO from the Register of PPOs 12 months after the deregistration date; and
 - (c) the PPO is taken to no longer be registered for the purposes of this Part from the deregistration date.

Note: In certain circumstances, a PPO that is no longer registered for the purposes of this Part may still be treated as a registered PPO (see section 19J).

19ZD Register may be maintained by electronic means

- (1) The Register may be maintained by electronic means.
- (2) The Register is to be made available for inspection on the Internet.

Division 5—Fees for investigations

19ZE Fees for investigations

- (1) The Postal Industry Ombudsman may, on behalf of the Commonwealth, charge Australia Post or a registered PPO fees in relation to an investigation:
 - (a) that was conducted under paragraph 19M(2)(a), into action taken by Australia Post or the registered PPO (as the case may be); and
 - (b) that has been completed.

Note: In certain circumstances, a PPO that is no longer registered for the purposes of this Part may still be treated as a registered PPO (see section 19J).

- (2) The amount of a fee:
 - (a) must not be more than the amount that, in the opinion of the Postal Industry Ombudsman, represents the costs incurred by the Postal Industry Ombudsman in conducting the investigation; and
 - (b) must not be such as to amount to taxation.
- (3) The Minister administering the *Australian Postal Corporation Act 1989* may make a written determination specifying the total amount of fees that may be charged under this section in relation to investigations that the Postal Industry Ombudsman completed during a specified financial year.
- (4) A determination made under subsection (3) is not a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.
- (5) If a determination has been made under subsection (3) for a financial year, the total amount of fees charged under this section in relation to investigations that the Postal Industry Ombudsman completed during that financial year must not exceed the amount specified in the determination.

- (6) The regulations may:
 - (a) prescribe one or more methods to be used in working out the amount of a fee; and
 - (b) prescribe the time by which a fee is due and payable.
- (7) A fee is payable to the ACA on behalf of the Commonwealth.
- (8) The ACA must, as soon as practicable, bank any amount it receives under subsection (7) in an official account within the meaning of the *Financial Management and Accountability Act 1997*.
- (9) A fee:
 - (a) is a debt due to the ACA on behalf of the Commonwealth; and
 - (b) is recoverable by the ACA, on behalf of the Commonwealth, in a court of competent jurisdiction.

12 After subsection 34(2)

Insert:

- (2A) The Postal Industry Ombudsman may, either generally or as otherwise provided by the instrument of delegation, by instrument in writing, delegate to a person all or any of his or her powers under this Act, other than his or her powers under sections 19V and 19W and his or her powers referred to in section 19X.

13 Subsections 34(3) and (4)

Omit “(1) or (2)”, substitute “(1), (2) or (2A)”.

14 Subsections 34(3) and (4)

Omit “or Defence Force Ombudsman”, substitute “, Defence Force Ombudsman or Postal Industry Ombudsman”.

Part 2—Amendment of other Acts

Migration Act 1958

15 Paragraph 193(3)(b)

Omit “the person.”, substitute “the person; and”.

16 At the end of subsection 193(3)

Add:

- (c) a person covered by subsection (1) has not made a complaint to the Postal Industry Ombudsman, paragraph 7(3)(b) of the *Ombudsman Act 1976* (as that paragraph applies because of section 19R of that Act) does not apply to the person.

Privacy Act 1988

17 At the end of paragraph 50(2)(a)

Add:

- (iii) to the Postal Industry Ombudsman under the *Ombudsman Act 1976*; or

18 Subsection 50(2)

Omit “the Human Rights and Equal Opportunity Commission, the Ombudsman, or the Public Service Commissioner” (wherever occurring), substitute “the Human Rights and Equal Opportunity Commission, the Ombudsman, the Postal Industry Ombudsman or the Public Service Commissioner”.

19 At the end of paragraph 50(3)(a)

Add:

- (iii) to the Postal Industry Ombudsman under the *Ombudsman Act 1976*; or

Part 3—Application and transitional provisions

20 Application

- (1) The amendments made by Part 1 of this Schedule apply in relation to action taken by Australia Post or a registered PPO after the commencement of this Part.
- (2) The amendments made by items 17, 18 and 19 of this Schedule apply in relation to complaints made after the commencement of this Part.

21 Transitional—reports under section 19X

The first report under section 19X of the *Ombudsman Act 1976* relating to the operations of the Postal Industry Ombudsman during a year must relate to the operations of the Postal Industry Ombudsman during the period that:

- (a) started on the commencement of this Part; and
- (b) ended on the 30 June first occurring after that commencement.

Schedule 2—Other amendments of the Ombudsman Act 1976

Ombudsman Act 1976

1 Subsection 3(1) (definition of *enactment*)

Omit “section 3AA”, substitute “section 3B”.

**2 Subsection 3(1) (paragraph (b) of the definition of
prescribed authority)**

Omit “section 3AB”, substitute “section 3A”.

3 Subsection 19F(1)

Omit “subsections 31(2) and (3)”, substitute “subsection 31(2)”.

4 Subsection 34(6)

Repeal the subsection.

**5 Subsection 35B(2) (paragraph (a) of the definition of *listed
disclosure method*)**

Omit “Part 2”, substitute “Part II”.

*[Minister’s second reading speech made in—
Senate on 17 November 2004
House of Representatives on 8 September 2005]*

(190/04)