

AN ACT PROVIDING FOR THE FUNCTIONAL AND STRUCTURAL
ORGANIZATION OF THE OFFICE OF THE OMBUDSMAN,
AND FOR OTHER PURPOSES
(Republic Act. 6770)

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

Section 1. Title. — This Act shall be known as "The Ombudsman Act of 1989."

Section 2. Declaration of Policy. — The State shall maintain honesty and integrity in the public service and take positive and effective measures against graft and corruption.

Public office is a public trust. Public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty, efficiency, act with patriotism and justice and lead modest lives.

Section 3. Office of the Ombudsman. — The Office of the Ombudsman shall include the Office of the Overall Deputy, the Office of the Deputy for Luzon, the Office of the Deputy for the Visayas, the Office of the Deputy for Mindanao, the Office of the Deputy for the Armed Forces, and the Office of the Special Prosecutor. The President may appoint other Deputies as the necessity for it may arise, as recommended by the Ombudsman.

Section 4. Appointment. — The Ombudsman and his Deputies, including the Special Prosecutor, shall be appointed by the President from a list of at least twenty-one (21) nominees prepared by the Judicial and Bar Council, and from a list of three (3) nominees for each vacancy thereafter, which shall be filled within three (3) months after it occurs, each of which list shall be published in a newspaper of general circulation.

In the organization of the Office of the Ombudsman for filling up of positions therein, regional, cultural or ethnic considerations shall be taken into account to the end that the Office shall be as much as possible representative of the regional, ethnic and cultural make-up of the Filipino nation.

Section 5. Qualifications. — The Ombudsman and his Deputies, including the Special Prosecutor, shall be natural-born citizens of the Philippines, at least forty (40) years old, of recognized probity and independence, members of the Philippine Bar, and must not have been candidates for any elective national or local office in the immediately preceding election whether regular or special. The Ombudsman must have, for ten (10) years or more, been a judge or engaged in the practice of law in the Philippines.

Section 6. Rank and Salary. — The Ombudsman and his Deputies shall have the same ranks, salaries and privileges as the Chairman and members, respectively, of a Constitutional Commission. Their salaries shall not be decreased during their term of office.

The members of the prosecution, investigation and legal staff of the Office of the Ombudsman shall receive salaries which shall not be less than those given to comparable positions in any office in the Government.

Section 7. Term of Office. — The Ombudsman and his Deputies, including the Special Prosecutor, shall serve for a term of seven (7) years without reappointment.

Section 8. Removal; Filling of Vacancy. — (1) In accordance with the provisions of Article XI of the Constitution, the Ombudsman may be removed from office on impeachment for, and conviction of, culpable violation of the Constitution, treason, bribery, graft and corruption, other high crimes, or betrayal of public trust.

(2) A Deputy, or the Special Prosecutor, may be removed from office by the President for any of the grounds provided for the removal of the Ombudsman, and after due process.

(3) In case of vacancy in the Office of the Ombudsman due to death, resignation, removal or permanent disability of the incumbent Ombudsman, the Overall Deputy shall serve as Acting Ombudsman in a concurrent capacity until a new Ombudsman shall have been appointed for a full term. In case the Overall Deputy cannot assume the role of Acting Ombudsman, the President may designate any of the Deputies, or the Special Prosecutor, as Acting Ombudsman.

(4) In case of temporary absence or disability of the Ombudsman, the Overall Deputy shall perform the duties of the Ombudsman until the Ombudsman returns or is able to perform his duties.

Section 9. Prohibitions and Disqualifications. — The Ombudsman, his Deputies and the Special Prosecutor shall not, during their tenure, hold any other office or employment. They shall not, during said tenure, directly or indirectly practice any other profession, participate in any business, or be financially interested in any contract with, or in any franchise, or special privilege granted by the Government or any subdivision, agency or instrumentality thereof, including government-owned or controlled corporations or their subsidiaries. They shall strictly avoid conflict of interest in the conduct of their office. They shall not be qualified to run for any office in the election immediately following their cessation from office. They shall not be allowed to appear or practice before the Ombudsman for two (2) years following their cessation from office.

No spouse or relative by consanguinity or affinity within the fourth civil degree and no law, business or professional partner or associate of the Ombudsman, his Deputies or Special Prosecutor within one (1) year preceding the appointment may appear as counsel or agent on any matter pending before the Office of the Ombudsman or transact business directly or indirectly therewith.

This disqualification shall apply during the tenure of the official concerned. This disqualification likewise extends to the law, business or professional firm for the same period.

Section 10. Disclosure of Relationship. — It shall be the duty of the Ombudsman, his Deputies, including the Special Prosecutor to make under oath, to the best of their knowledge and/or information, a public disclosure of the identities of, and their relationship with the persons referred to in the preceding section.

The disclosure shall be filed with the Office of the President and the Office of the Ombudsman before the appointee assumes office and every year thereafter. The disclosures made pursuant to this section shall form part of the public records and shall be available to any person or entity upon request.

Section 11. Structural Organization. — The authority and responsibility for the exercise of the mandate of the Office of the Ombudsman and for the discharge of its

powers and functions shall be vested in the Ombudsman, who shall have supervision and control of the said office.

(1) The Office of the Ombudsman may organize such directorates for administration and allied services as may be necessary for the effective discharge of its functions. Those appointed as directors or heads shall have the rank and salary of line bureau directors.

(2) The Office of the Overall Deputy shall oversee and administer the operations of the different offices under the Office of Ombudsman. It shall likewise perform such other functions and duties assigned to it by the Ombudsman.

(3) The Office of the Special Prosecutor shall be composed of the Special Prosecutor and his prosecution staff. The Office of the Special Prosecutor shall be an organic component of the Office of the Ombudsman and shall be under the supervision and control of the Ombudsman.

(4) The Office of the Special Prosecutor shall, under the supervision and control and upon the authority of the Ombudsman, have the following powers:

- (a) To conduct preliminary investigation and prosecute criminal cases within the jurisdiction of the Sandiganbayan;
- (b) To enter into plea bargaining agreements; and
- (c) To perform such other duties assigned to it by the Ombudsman.

The Special Prosecutor shall have the rank and salary of a Deputy Ombudsman.

(5) The position structure and staffing pattern of the Office of the Ombudsman, including the Office of the Special Prosecutor, shall be approved and prescribed by the Ombudsman. The Ombudsman shall appoint all officers and employees of the Office of the Ombudsman, including those of the Office of the Special Prosecutor, in accordance with the Civil Service Law, rules and regulations.

Section 12. Official Stations. — The Ombudsman, the Overall Deputy, the Deputy for Luzon, and the Deputy for the Armed Forces shall hold office in Metropolitan Manila; the Deputy for the Visayas, in Cebu City; and the Deputy for Mindanao, in Davao City. The Ombudsman may transfer their stations within their respective geographical regions, as public interest may require.

Section 13. Mandate. — The Ombudsman and his Deputies, as protectors of the people, shall act promptly on complaints filed in any form or manner against officers or employees of the Government, or of any subdivision, agency or instrumentality thereof, including government-owned or controlled corporations, and enforce their administrative, civil and criminal liability in every case where the evidence warrants in order to promote efficient service by the Government to the people.

Section 14. Restrictions. — No writ of injunction shall be issued by any court to delay an investigation being conducted by the Ombudsman under this Act, unless there is a prima facie evidence that the subject matter of the investigation is outside the jurisdiction of the Office of the Ombudsman.

No court shall hear any appeal or application for remedy against the decision or findings of the Ombudsman, except the Supreme Court, on pure question of law.

Section 15. Powers, Functions and Duties. — The Office of the Ombudsman shall have the following powers, functions and duties:

(1) Investigate and prosecute on its own or on complaint by any person, any act or omission of any public officer or employee, office or agency, when such act or omission appears to be illegal, unjust, improper or inefficient. It has primary jurisdiction over cases cognizable by the Sandiganbayan and, in the exercise of his primary jurisdiction, it may take over, at any stage, from any investigatory agency of Government, the investigation of such cases;

(2) Direct, upon complaint or at its own instance, any officer or employee of the Government, or of any subdivision, agency or instrumentality thereof, as well as any government-owned or controlled corporations with original charter, to perform and expedite any act or duty required by law, or to stop, prevent, and correct any abuse or impropriety in the performance of duties;

(3) Direct the officer concerned to take appropriate action against a public officer or employee at fault or who neglect to perform an act or discharge a duty required by law, and recommend his removal, suspension, demotion, fine, censure, or prosecution, and ensure compliance therewith; or enforce its disciplinary authority as provided in Section 21 of this Act: Provided, That the refusal by any officer without just cause to comply with an order of the Ombudsman to remove, suspend, demote, fine, censure, or prosecute an officer or employee who is at fault or who neglects to perform an act or discharge a duty required by law shall be a ground for disciplinary action against said officer;

(4) Direct the officer concerned, in any appropriate case, and subject to such limitations as it may provide in its rules of procedure, to furnish it with copies of documents relating to contracts or transactions entered into by his office involving the disbursement or use of public funds or properties, and report any irregularity to the Commission on Audit for appropriate action;

(5) Request any government agency for assistance and information necessary in the discharge of its responsibilities, and to examine, if necessary, pertinent records and documents;

(6) Publicize matters covered by its investigation of the matters mentioned in paragraphs (1), (2), (3) and (4) hereof, when circumstances so warrant and with due prudence: Provided, That the Ombudsman under its rules and regulations may determine what cases may not be made public: Provided, further, That any publicity issued by the Ombudsman shall be balanced, fair and true;

(7) Determine the causes of inefficiency, red tape, mismanagement, fraud, and corruption in the Government, and make recommendations for their elimination and the observance of high standards of ethics and efficiency;

(8) Administer oaths, issue subpoena and subpoena duces tecum, and take testimony in any investigation or inquiry, including the power to examine and have access to bank accounts and records;

(9) Punish for contempt in accordance with the Rules of Court and under the same procedure and with the same penalties provided therein;

(10) Delegate to the Deputies, or its investigators or representatives such authority or duty as shall ensure the effective exercise or performance of the powers, functions, and duties herein or hereinafter provided;

(11) Investigate and initiate the proper action for the recovery of ill-gotten and/or unexplained wealth amassed after February 25, 1986 and the prosecution of the parties involved therein.

The Ombudsman shall give priority to complaints filed against high ranking government officials and/or those occupying supervisory positions, complaints involving grave offenses as well as complaints involving large sums of money and/or properties.

Section 16. Applicability. — The provisions of this Act shall apply to all kinds of malfeasance, misfeasance, and non-feasance that have been committed by any officer or employee as mentioned in Section 13 hereof, during his tenure of office.

Section 17. Immunities. — In all hearings, inquiries, and proceedings of the Ombudsman, including preliminary investigations of offenses, no person subpoenaed to testify as a witness shall be excused from attending and testifying or from producing books, papers, correspondence, memoranda and/or other records on the ground that the testimony or evidence, documentary or otherwise, required of him, may tend to incriminate him or subject him to prosecution: Provided, That no person shall be prosecuted criminally for or on account of any matter concerning which he is compelled, after having claimed the privilege against self-incrimination, to testify and produce evidence, documentary or otherwise.

Under such terms and conditions as it may determine, taking into account the pertinent provisions of the Rules of Court, the Ombudsman may grant immunity from criminal prosecution to any person whose testimony or whose possession and production of documents or other evidence may be necessary to determine the truth in any hearing, inquiry or proceeding being conducted by the Ombudsman or under its authority, in the performance or in the furtherance of its constitutional functions and statutory objectives. The immunity granted under this and the immediately preceding paragraph shall not exempt the witness from criminal prosecution for perjury or false testimony nor shall he be exempt from demotion or removal from office.

Any refusal to appear or testify pursuant to the foregoing provisions shall be subject to punishment for contempt and removal of the immunity from criminal prosecution.

Section 18. Rules of Procedure. — (1) The Office of the Ombudsman shall promulgate its rules of procedure for the effective exercise or performance of its powers, functions, and duties.

(2) The rules of procedure shall include a provision whereby the Rules of Court are made suppletory.

(3) The rules shall take effect after fifteen (15) days following the completion of their publication in the Official Gazette or in three (3) newspapers of general circulation in the Philippines, one of which is printed in the national language.

Section 19. Administrative Complaints. — The Ombudsman shall act on all complaints relating, but not limited to acts or omissions which:

- (1) Are contrary to law or regulation;
- (2) Are unreasonable, unfair, oppressive or discriminatory;
- (3) Are inconsistent with the general course of an agency's functions, though in accordance with law;
- (4) Proceed from a mistake of law or an arbitrary ascertainment of facts;
- (5) Are in the exercise of discretionary powers but for an improper purpose; or
- (6) Are otherwise irregular, immoral or devoid of justification.

Section 20. Exceptions. — The Office of the Ombudsman may not conduct the necessary investigation of any administrative act or omission complained of if it believes that:

- (1) The complainant has an adequate remedy in another judicial or quasi-judicial body;
- (2) The complaint pertains to a matter outside the jurisdiction of the Office of the Ombudsman;
- (3) The complaint is trivial, frivolous, vexatious or made in bad faith;
- (4) The complainant has no sufficient personal interest in the subject matter of the grievance; or
- (5) The complaint was filed after one (1) year from the occurrence of the act or omission complained of;

Section 21. Officials Subject to Disciplinary Authority; Exceptions. — The Office of the Ombudsman shall have disciplinary authority over all elective and appointive officials of the Government and its subdivisions, instrumentalities and agencies, including Members of the Cabinet, local government, government-owned or controlled corporations and their subsidiaries, except over officials who may be removed only by impeachment or over Members of Congress, and the Judiciary.

Section 22. Investigatory Power. — The Office of the Ombudsman shall have the power to investigate any serious misconduct in office allegedly committed by officials removable by impeachment, for the purpose of filing a verified complaint for impeachment, if warranted.

In all cases of conspiracy between an officer or employee of the government and a private person, the Ombudsman and his Deputies shall have jurisdiction to include such private person in the investigation and proceed against such private person as the evidence may warrant. The officer or employee and the private person shall be tried jointly and shall be subject to the same penalties and liabilities.

Section 23. Formal Investigation. — (1) Administrative investigations conducted by the Office of the Ombudsman shall be in accordance with its rules of procedure and consistent with due process.

(2) At its option, the Office of the Ombudsman may refer certain complaints to the proper disciplinary authority for the institution of appropriate administrative proceedings against erring public officers or employees, which shall be terminated within the period prescribed in the civil service law. Any delay without just cause in acting on any referral made by the Office of the Ombudsman shall be a ground for administrative action against the officers or employees to whom such referrals are addressed and shall constitute a graft offense punishable by a fine of not exceeding five thousand pesos (P5,000.00).

(3) In any investigation under this Act the Ombudsman may (a) enter and inspect the premises of any office, agency, commission or tribunal; (b) examine and have access

to any book, record, file, document or paper; and (c) hold private hearings with both the complaining individual and the official concerned.

Section 24. Preventive Suspension. — The Ombudsman or his Deputy may preventively suspend any officer or employee under his authority pending an investigation, if in his judgment the evidence of guilt is strong, and (a) the charge against such officer or employee involves dishonesty, oppression or grave misconduct or neglect in the performance of duty; (b) the charges would warrant removal from the service; or (c) the respondent's continued stay in office may prejudice the case filed against him.

The preventive suspension shall continue until the case is terminated by the Office of the Ombudsman but not more than six (6) months, without pay, except when the delay in the disposition of the case by the Office of the Ombudsman is due to the fault, negligence or petition of the respondent, in which case the period of such delay shall not be counted in computing the period of suspension herein provided.

Section 25. Penalties. — (1) In administrative proceedings under Presidential Decree No. 807, the penalties and rules provided therein shall be applied.

(2) In other administrative proceedings, the penalty ranging from suspension without pay for one (1) year to dismissal with forfeiture of benefits or a fine ranging from Five thousand pesos (P5,000.00) to twice the amount malversed, illegally taken or lost, or both at the discretion of the Ombudsman, taking into consideration circumstances that mitigate or aggravate the liability of the officer or employee found guilty of the complaint or charges.

Section 26. Inquiries. — (1) The Office of the Ombudsman shall inquire into acts or omissions of a public officer, employee, office or agency which, from the reports or complaints it has received, the Ombudsman or his Deputies consider to be:

- (a) contrary to law or regulation;
- (b) unreasonable, unfair, oppressive, irregular or inconsistent with the general course of the operations and functions of a public officer, employee, office or agency;
- (c) an error in the application or interpretation of law, rules or regulations, or a gross or palpable error in the appreciation of facts;
- (d) based on improper motives or corrupt considerations;
- (e) unclear or inadequately explained when reasons should have been revealed;
or
- (f) inefficiently performed or otherwise objectionable.

(2) The Office of the Ombudsman shall receive complaints from any source in whatever form concerning an official act or omission. It shall act on the complaint immediately and if it finds the same entirely baseless, it shall dismiss the same and inform the complainant of such dismissal citing the reasons therefor. If it finds a reasonable ground to investigate further, it shall first furnish the respondent public officer or employee with a summary of the complaint and require him to submit a written answer within seventy-two (72) hours from receipt thereof. If the answer is found satisfactory, it shall dismiss the case.

(3) When the complaint consists in delay or refusal to perform a duty required by law, or when urgent action is necessary to protect or preserve the rights of the complainant, the Office of the Ombudsman shall take steps or measures and issue such orders directing the officer, employee, office or agency concerned to:

- (a) expedite the performance of duty;
- (b) cease or desist from the performance of a prejudicial act;
- (c) correct the omission;
- (d) explain fully the administrative act in question; or
- (e) take any other steps as may be necessary under the circumstances to protect and preserve the rights of the complainant.

(4) Any delay or refusal to comply with the referral or directive of the Ombudsman or any of his Deputies, shall constitute a ground for administrative disciplinary action against the officer or employee to whom it was addressed.

Section 27. Effectivity and Finality of Decisions. — (1) All provisional orders of the Office of the Ombudsman are immediately effective and executory.

A motion for reconsideration of any order, directive or decision of the Office of the Ombudsman must be filed within five (5) days after receipt of written notice and shall be entertained only on any of the following grounds:

(1) New evidence has been discovered which materially affects the order, directive or decision;

(2) Errors of law or irregularities have been committed prejudicial to the interest of the movant. The motion for reconsideration shall be resolved within three (3) days from filing: Provided, That only one motion for reconsideration shall be entertained.

Findings of fact by the Office of the Ombudsman when supported by substantial evidence are conclusive. Any order, directive or decision imposing the penalty of public censure or reprimand, suspension of not more than one (1) month's salary shall be final and unappealable.

In all administrative disciplinary cases, orders, directives, or decisions of the Office of the Ombudsman may be appealed to the Supreme Court by filing a petition for certiorari within ten (10) days from receipt of the written notice of the order, directive or decision or denial of the motion for reconsideration in accordance with Rule 45 of the Rules of Court.

The above rules may be amended or modified by the Office of the Ombudsman as the interest of justice may require.

Section 28. Investigation in Municipalities, Cities and Provinces. — The Office of the Ombudsman may establish offices in municipalities, cities and provinces outside Metropolitan Manila, under the immediate supervision of the Deputies for Luzon, Visayas and Mindanao, where necessary as determined by the Ombudsman. The investigation of complaints may be assigned to the regional or sectoral deputy concerned or to a special investigator who shall proceed in accordance with the rules or special instructions or directives of the Office of the Ombudsman. Pending investigation, the deputy or investigator may issue orders and provisional remedies which are immediately executory subject to review by the Ombudsman. Within three (3) days after

concluding the investigation, the deputy or investigator shall transmit, together with the entire records of the case, his report and conclusions to the Office of the Ombudsman. Within five (5) days after receipt of said report, the Ombudsman shall render the appropriate order, directive or decision.

Section 29. Change of Unjust Laws. — If the Ombudsman believes that a law or regulation is unfair or unjust, he shall recommend to the President and to Congress the necessary changes therein or the repeal thereof.

Section 30. Transmittal/Publication of Decision. — In every case where the Ombudsman has reached a decision, conclusion or recommendation adverse to a public official or agency, he shall transmit his decision, conclusion, recommendation or suggestion to the head of the department, agency or instrumentality, or of the province, city or municipality concerned for such immediate action as may be necessary. When transmitting his adverse decision, conclusion or recommendation, he shall, unless excused by the agency or official affected, include the substance of any statement the public agency or official may have made to him by way of explaining past difficulties with or present rejection of the Ombudsman's proposals.

Section 31. Designation of Investigators and Prosecutors. — The Ombudsman may utilize the personnel of his office and/or designate or deputize any fiscal, state prosecutor or lawyer in the government service to act as special investigator or prosecutor to assist in the investigation and prosecution of certain cases. Those designated or deputized to assist him herein provided shall be under his supervision and control.

The Ombudsman and his investigators and prosecutors, whether regular members of his staff or designated by him as herein provided, shall have authority to administer oaths, to issue subpoena and subpoena duces tecum, to summon and compel witnesses to appear and testify under oath before them and/or bring books, documents and other things under their control, and to secure the attendance or presence of any absent or recalcitrant witness through application before the Sandiganbayan or before any inferior or superior court having jurisdiction of the place where the witness or evidence is found.

Section 32. Rights and Duties of Witness. — (1) A person required by the Ombudsman to provide the information shall be paid the same fees and travel allowances as are extended to witnesses whose attendance has been required in the trial courts. Upon request of the witness, the Ombudsman shall also furnish him such security for his person and his family as may be warranted by the circumstances. For this purpose, the Ombudsman may, at its expense, call upon any police or constabulary unit to provide the said security.

(2) A person who, with or without service or compulsory process, provides oral or documentary information requested by the Ombudsman shall be accorded the same privileges and immunities as are extended to witnesses in the courts, and shall likewise be entitled to the assistance of counsel while being questioned.

(3) If a person refuses to respond to the Ombudsman's or his Deputy's subpoena, or refuses to be examined, or engages in obstructive conduct, the Ombudsman or his Deputy shall issue an order directing the person to appear before him to show cause why he should not be punished for contempt. The contempt proceedings shall be conducted pursuant to the provisions of the Rules of Court.

Section 33. Duty to Render Assistance to the Office of the Ombudsman. — Any officer or employee of any department, bureau or office, subdivision, agency or instrumentality of the Government, including government-owned or controlled corporations and local governments, when required by the Ombudsman, his Deputy or the Special Prosecutor shall render assistance to the Office of the Ombudsman.

Section 34. Annual Report. — The Office of the Ombudsman shall render an annual report of its activities and performance to the President and to Congress to be submitted within thirty (30) days from the start of the regular session of Congress.

Section 35. Malicious Prosecution. — Any person who, actuated by malice or gross bad faith, files a completely unwarranted or false complaint against any government official or employee shall be subject to a penalty of one (1) month and one (1) day to six (6) months imprisonment and a fine not exceeding five thousand pesos (P5,000.00).

Section 36. Penalties for Obstruction. — Any person who willfully obstructs or hinders the proper exercise of the functions of the Office of the Ombudsman or who willfully misleads or attempts to mislead the Ombudsman, his Deputies and the Special Prosecutor in replying to their inquiries shall be punished by a fine of not exceeding five thousand pesos (P5,000.00).

Section 37. Franking Privilege. — All official mail matters and telegrams of the Ombudsman addressed for delivery within the Philippines shall be received, transmitted, and delivered free of charge: Provided, That such mail matters when addressed to private persons or nongovernment offices shall not exceed one hundred and twenty (120) grams. All mail matters and telegrams sent through government telegraph facilities containing complaints to the Office of the Ombudsman shall be transmitted free of charge, provided that the telegram shall contain not more than one hundred fifty (150) words.

Section 38. Fiscal Autonomy. — The Office of the Ombudsman shall enjoy fiscal autonomy. Appropriations for the Office of the Ombudsman may not be reduced below the amount appropriated for the previous years and, after approval, shall be automatically and regularly released.

Section 39. Appropriations. — The appropriation for the Office of the Special Prosecutor in the current General Appropriations Act is hereby transferred to the Office of the Ombudsman. Thereafter, such sums as may be necessary shall be included in the Annual General Appropriations Act.

Section 40. Separability Clause. — If any provision of this Act is held unconstitutional, other provisions not affected thereby shall remain valid and binding.

Section 41. Repealing Clause. — All laws, presidential decrees, letters of instructions, executive orders, rules and regulations insofar as they are inconsistent with this Act, are hereby repealed or amended as the case may be.

Section 42. Effectivity. — This Act shall take effect after fifteen (15) days following its publication in the Official Gazette or in three (3) newspapers of general circulation in the Philippines.

Approved, November 17, 1989.