

**THIRD SUPPLEMENT TO THE GIBRALTAR
GAZETTE**

No. 4,124 of 6th November, 2014

B. 31/14

BILL

FOR

AN ACT to amend the Public Services Ombudsman Act 1998 and related matters.

ENCTED by the Legislature of Gibraltar.

Title and commencement.

1. This Act may be cited as the Public Services Ombudsman (Amendment) Act 2014 and comes into operation on the day appointed by the Government by notice in the Gazette and different days may be appointed for different purposes.

Amendment of the Public Services Ombudsman Act 1998.

2.(1) The Public Services Ombudsman Act 1998 is amended in accordance with this section.

(2) In section 2 in the definition of “action” after “failure to act,” insert “and in respect of a complaint against the Gibraltar Health Authority includes any action or omission of the Gibraltar Health Authority or any employee of the Gibraltar Health Authority or of any employee of the Government or any other person delivering medical services on behalf of the Gibraltar Health Authority concerning a specific event in relation to a specific patient,”.

(3) In section 7 for subsection (2) substitute—

“(2) Without prejudice to any other provision of this Act, the Ombudsman may—

- (a) authorise any officer appointed under subsection (1) to carry out any function conferred by this Act on the Ombudsman;
 - (b) designate that particular officers appointed under subsection (1) solely carry out functions under this act relating to the investigation of actions against the Gibraltar Health Authority.”.
- (4) In section 13 after sub-section (2) insert–
 - “(3) In respect of a complaint against the Gibraltar Health Authority in sub-section (1)(a)–
 - (a) the reference to an “administrative action” shall be read as a reference to an “action” as defined in section 2;
 - (b) the words “maladministration in connection with” shall not apply where the action is not of an administrative nature.”.
- (5) In section 14(1) in paragraph (b) after “board of enquiry” insert “(in particular any action in respect of a claim relating to medical negligence or malpractice)”.
- (6) After section 16 insert–
 - “Power to appoint clinical assessor.**
 - 16A.(1) If the complaint is against the Gibraltar Health Authority the Ombudsman may appoint at least one clinical assessor external to the Gibraltar Health Authority to advise him.
 - (2) No person who acts as clinical assessor to the Ombudsman shall be liable to any suit or any proceeding for any act or thing done or omitted to be done by him in that capacity.”.
- (7) In section 17 after subsection (2) insert–
 - “(3) Notwithstanding the generality of subsection (1), where the complaint is in respect of a complaint against the Gibraltar Health Authority, the Gibraltar Health Authority shall provide

to the Ombudsman, upon request by him, any and all records and documents relating or relevant (in the opinion of the Ombudsman) to the complaint including medical records and documents.”.

(8) After section 24 insert–

“Waiver of Confidentiality.

24A. Where a person refers a complaint against the Gibraltar Health Authority in relation to a clinical matter to the Ombudsman, that person (or where that person is not the person aggrieved, the person aggrieved) shall be deemed to have–

- (a) waived all rights against the Gibraltar Health Authority and its employees in respect of the confidentiality of any medical or personal information which the Gibraltar Health Authority or any of its employees are required to provide to the Ombudsman under this Act; and
- (b) authorised the Gibraltar Health Authority and its employees to provide all such information to the Ombudsman (notwithstanding any conflicting duty of confidentiality imposed by statute or otherwise).”.

Consequential repeal and transitional provision.

3.(1) The Gibraltar Health Authority (Complaints Review Panel) Act 2004 is repealed.

(2) Notwithstanding subsection (1), any proceedings pending before a panel constituted under the Gibraltar Health Authority (Complaints Review Panel) Act 2004 immediately before the coming into force of this section may be continued as if that Act had not been repealed.

EXPLANATORY MEMORANDUM

This Act amends the Public Services Ombudsman Act 1998 so as to pass responsibility for the investigation of complaints against the Gibraltar Health Authority for non-administrative matters to the Ombudsman.

**Printed by the Gibraltar Chronicle Printing Limited
Unit 3, New Harbours
Government Printers for Gibraltar,
Copies may be purchased at 6, Convent Place, Price £0.40**