

REPUBLIC



OF CYPRUS

3 of 1991
98(I) of 1994
101(I) of 1995
1(I) of 2000
36(I) of 2004
158(I) of 2011
45(I) of 2014.

**THE COMMISSIONER FOR
ADMINISTRATION LAWS 1991 TO 2014**
(English translation and consolidation)

**Office of the Law Commissioner
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NOTE FOR THE READER

The publication at hand by the Office of the Law Commissioner is an English translation and consolidation of the Commissioner for Administration Laws 1991 to 2014 [i.e. Laws 3/1991, 98(I)/1994, 101(I)/1995, 1(I)/2000, 36(I)/2004, 158(I)/2011, 45(I)/2014].

However useful the English translation of the consolidated Laws is in practice, it does not replace the original texts of the Laws since only the texts published in the Official Gazette of the Republic are authentic.

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**A LAW TO AMEND AND CONSOLIDATE THE
COMMISSIONER FOR ADMINISTRATION LAW**

The House of Representatives enacts as follows:

1. This Law may be cited as the Commissioner for Administration Laws, 1991 to 2014.

Short
title.
3 of 1991
98(I) of 1994
101(I) of 1995
1(I) of 2000
36(I) of 2004
158(I) of 2011
45(I) of 2014.

2. In this Law, unless the context otherwise requires:

Interpretation.

“action” includes an omission;

“Commissioner” means the Commissioner for Administration and Protection of Human Rights who exercises pursuant to this Law the functions and duties provided therein;

2 of 158(I) of 2011.

“local authority” means a municipal council, community council and defined area board and includes a sewage board and waterboard;

2(b) of 101 (I) of 1995.
2 of 1(I) of 2000.

“officer” means a person who holds a post or office in any service, on a permanent or temporary basis, or as a deputy or on a contractual basis;

“President” means the President of the Republic;

“service” means the Public Service which is accountable to the Republic and every local authority and includes the Public Education Service, the Police, the Army and the National Guard and any public corporation which is established under the law in the public interest, in so far as its administration is under the control of the Republic, but does not include-

2(a) of 101 (I) of 1995.

(a) The President of the Republic, the House of Representatives, the Council of Ministers, the Supreme Court and any other Court of Law;

(b) The Attorney-General, the Auditor-General, the Governor of the Central Bank and the Public Service Commission in relation to actions concerning the exercise of their functions which are prescribed by the Constitution;

(c) a Minister in relation to actions concerning-

(i) matters of general governmental policy;

(ii) his activities as a member of the Council of Ministers.

3.-(1) For the purposes of the exercise of the functions and of the conduct of the investigations provided by this Law, there shall be appointed by the President, on the recommendation of the Council of Ministers and with the prior consent of the majority of the House of Representatives, a citizen of the Republic of at least thirty

The Commissioner for Administration and Protection of Human Rights. 3 of 158(I) of 2011.

five years of age, with a high level of education and experience and with the highest integrity, as Commissioner for Administration.

(2)The appointment of the Commissioner shall be for a term of six years.

(3)The Commissioner may not hold any other post or office in the Republic or engage in any other occupation on payment.

(4)Before assuming his duties, the Commissioner shall make an affirmation before the President and in the presence of the President of the House of Representatives that he will carry out his duties faithfully.

(5)The Commissioner may, during his term of office, submit his resignation in writing to the President.

(6)The Commissioner shall retire at the end of the month in which he attains the age of sixty eight.

(7)During his term of office, the Commissioner may not be dismissed or withdraw from office, except for the same reasons and in the same way that judges of the Supreme Court may be dismissed or withdraw from office.

(8) In addition to the functions, duties and powers conferred upon him under this Law, the Commissioner may exercise any functions, duties and powers especially assigned to him by any law in force for the time being, in matters of equality between men and women, and equality and enjoyment of human rights and freedoms irrespective of race, ethnic origin, community, language, colour, religion, political or other beliefs, special needs, age and sexual orientation.

2 of 36 (1) of 2004.

(9) For the purposes of the exercise of the functions, duties, and powers assigned to the Commissioner by virtue of any law in force for the time being, as prescribed by subsection (8), the Commissioner shall act as prescribed by and in accordance with the provisions of the said law, and in the exercise of the work assigned to him by virtue thereof, he shall have the Office and staff referred to in subsection (1) of section 4 of this Law, or and any additional staff, of officers who shall have such qualifications and shall serve under such terms, as shall be prescribed. 2 of 36 (I) of 2004.

4.-(1) In the exercise of his duties, the Commissioner shall have an Office which will be staffed by officers with such qualifications and such terms of service as shall be prescribed. Staff of Office.

(2) The staff of the Commissioner's Office are public servants and shall be appointed in accordance with the Public Service Law in force for the time being.

(3) The Commissioner shall have the power, provided that the principle of hierarchy is adhered to, to authorise in writing any officer of his Office to exercise on his behalf such of his powers and under such conditions, exceptions and reservations as he shall specify in the authorisation:

Provided that, the Commissioner shall have no power to delegate his right to submit any report provided by this Law.

5.-(1) Subject to the provisions of this Law and without prejudice to the provisions of any other law, the Commissioner shall have the power to: Functions of Commissioner.

(a) investigate complaints against any service or officer exercising an executive or administrative 2 of 98(I) of 1994.

function that an action of such service or officer violates human rights or was taken in violation of the law or the rules of proper administration and correct behaviour towards the administered, provided that a person is directly and personally affected by such action. The complaint is submitted within twelve months since the complainant became aware of the act or omission complained of;

3(a) of 1(I) of 2000.

- (b) investigate, upon order by the Council of Ministers, any matter which concerns the functioning of any service, in order to ascertain whether it functions efficiently and in accordance with the laws and the principles of proper administration;
- (c) investigates ex proprio motu matters of general interest;
- (d) as regards human rights issues for which he does not already have such powers under and in accordance with other specific laws establishing him as the national body for the prevention of torture and Commissioner for combating discrimination, he shall exercise the powers below for the promotion and protection of human rights, maintenance or expansion of their protection in the Republic and compliance of services with fundamental human rights principles:
- (i) Examines ex proprio motu and makes reports including views, suggestions and proposals regarding the situation of human rights in the Republic, in general, or specific human rights issues or any situation which constitutes violation of human rights,

4(a) of 158(I) of 2011.

- (ii) makes reports ex proprio motu including views, suggestions and proposals in the case where in the investigation of a complaint for violation of human rights under paragraph (a) of this subsection or in general in the exercise of powers conferred under this Law, ascertains that there is need for views, suggestions or proposals for promotion and protection of human rights, maintenance and expansion of their protection in the Republic and compliance of services with their fundamental principles,
- (iii) for the purposes of subparagraphs (i) and (ii) hereinabove, has contacts and consultations with non-governmental organizations and human rights institutions, relevant professional organizations and organized groups and other authorities and human rights' Commissioners in the Republic,
- (iv) attend meetings or other manifestations of states' national human rights institutions, organized from time to time within the framework of the United Nations, the Council of Europe and the European Union and co-operates with the human rights commissioners and other relevant institutions of the United Nations, the Council of Europe and the European Union as well as with organizations for promotion and protection of human rights in other countries.

(2)The following do not fall within the functions of the Commissioner -

- (a) any action certified by the competent Minister as concerning the relations of the Republic with any

other state or international organization or the defence, security or foreign policy of the Republic;

(b) any action in relation to which proceedings are pending before a Court of Law or the examination of a hierarchical recourse before a competent administrative authority in accordance with the provisions of any Law.

(3) The Commissioner shall decide at his own discretion and subject to the provisions of this Law, whether to initiate or to continue or discontinue an investigation in relation to a complaint submitted in accordance with paragraph (a) of subsection (1).

(4) Views, suggestions and proposals of the Commissioner under paragraph (d) of subsection (1) of this section may concern practical measures and legislative provisions for promotion and protection of human rights, maintenance and expansion of their protection and compliance of services with their fundamental principles.

4(b) of 158(I) of 2011.

(5) Given that the Attorney-General of the Republic is the legal adviser of the Government under the provisions of the Constitution and the legal representative in the proceedings before the European Court of Human Rights and the other european and national courts and judicial authorities, it is understood that the exercise of the powers under the provisions of subsection (4) hereinabove and of paragraph (d) of subsection (1) of this section, can not influence or restrict, in any way, the exercise by the Attorney-General of his constitutional powers and the role, related jurisdictions and task performed thereby and his activities on human rights issues, inter alia, to advice on introducing legislative provisions and on taking measures and decisions in the light of the existing case-law of the courts, hereinabove, the

4(b) of 158(I) of 2011.

European Union *acquis* and every Convention on human rights and for the compatibility of the existing legislative provisions, measures and decisions with the said case-law, *acquis* and conventions.

6.-(1) The Commissioner shall submit every year to the President a report about the exercise of his functions which are referred to in this Law with comments and suggestions. A copy of the report shall be sent to the Council of Ministers and the House of Representatives. The report submitted under this subsection shall be published.

Reports.
3 of 98 (I)
of 1994.

(2) The Commissioner shall draw up a report about each specific case examined by him in which the complaint was found to be justified or a recommendation, comments, or suggestions were made.

4 of 1(I) of 2000.

(3) When the examination of a case requires a lengthy period of time, the Commissioner may submit an interim report, which shall include suggestions about the remedial measures which, in his judgment, are necessary until the final completion of the investigation and the submission of his final report.

(4) In the cases where an investigation has been carried out in accordance with paragraph (b) of subsection (1) of section 5, the report drawn up in accordance with subsection (2) of this section shall be submitted to the Council of Ministers and a copy thereof shall be sent to the House of Representatives.

(5) In the cases where an investigation has taken place under paragraph (a) of subsection (1) of section 5, the report drawn up under subsection (2) of this section shall be submitted to the competent authority and a copy thereof shall be sent to every interested person.

(6) Any comments, views or observations of the competent service shall be mentioned in every report submitted in relation to an investigation which has been carried out under paragraph (a) of subsection (1) of section 5.

(7) Where after the completion of an investigation carried out under paragraph (a) of subsection (1) of section 5, the Commissioner concludes that harm or injustice has been done to the interested person, he shall include in his report a suggestion or recommendation to the competent authority for the redress of the harm or injustice, and may at his discretion prescribe the time within which the said harm or injustice must be redressed.

(8) Following the submission of his report the Commissioner may consult in a suitable manner for the realization of his suggestions and for settlement of the problem of the interested person; in the case where the competent authority does not inform within the time-limit fixed as to its actions in relation to the application of the proposals, suggestions or recommendations of the Commissioner or does not accept their application and provided that the Commissioner deems that the grounds opposed on behalf of the competent service concerning non-acceptance are not fully justified, he shall submit the result of the consultations to the Council of Ministers and the House of Representatives, being able to make public the refusal or omission of the competent authority to comply with his proposals.

(9) Notwithstanding any provision of this Law, where after the completion of the investigation carried out under paragraph (a) of subsection (1) of section 5, the Commissioner concludes that the action against which the

complaint has been made violates the human rights of the interested person and may constitute a criminal offence, a copy of the report submitted to the competent authority under subsection (5) of this section shall be sent to the Council of Ministers, the House of Representatives and the Attorney - General of the Republic.

(10) Every month the Commissioner shall submit to the Council of Ministers and the House of Representatives a memorandum in summary form referring to each report submitted in relation to an investigation which has taken place under paragraph (a) of subsection (1) of section 5. The text of any report which, in the Commissioner's, judgment, concerns an important case, shall be attached to the memorandum.

6A. –(1) All services shall render any assistance to the work performed by the Commissioner under paragraph (d) of subsection (1) of section 5 as in subsection (7) of section 8 of this Law provided.

Rendering assistance by services to the Commissioner, submission of the reports by the Commissioner to the competent service and publication of reports.
5 of 158(I) of 2011.

(2) The reports made by the Commissioner, ex proprio motu, under paragraph (d) of subsection (1) of section 5 shall be submitted to the competent service or services which the views, suggestions and proposals of reports concern.

(3) The Commissioner may decide to publish any report submitted in accordance with the provisions of subsection (2) of this section.

(4) In the memorandum that the Commissioner submits every month to the Council of Ministers and the House of Representatives under subsection (10) of section 6 there is also made a summary reference to every report made by the Commissioner ex proprio motu under paragraph

(d) of subsection (1) of section 5.

(5) The annual report that the Commissioner submits to the President with a copy thereof to the Council of Ministers and the House of Representatives, for the exercise of his functions under subsection (1) of section 6, shall also include his views, suggestions and proposals contained in reports which he has made ex proprio motu under paragraph (d) of subsection (1) of section 5.

7. In the exercise of his duties, the Commissioner shall communicate directly with the President, the Ministers, the Independent Officers of the Republic, and the Presidents and members of the Boards of Directors or Committees of public corporations or other public organisations.

Right of
Commissioner to
communicate.

8.-(1) Where the Commissioner conducts an investigation under this Law, he shall afford to the competent service or to any officer or any other person who is alleged to have taken or authorized the action complained of, the opportunity to comment on any allegation relating to this action.

Obligation of
services of the
Republic and
procedure.

(2) If at any stage of the investigation, the Commissioner decides that there is sufficient evidence to justify the submission by him of a report or recommendation which may have an adverse effect on any service or officer or any other person, the Commissioner shall afford to them the opportunity to be heard.

(3) If at any stage of the investigation or after its completion, the Commissioner decides that a criminal or disciplinary offence may have been committed by any officer, he shall refer the matter to the Attorney-General of the Republic or to the competent authority, as the case may be, so that the appropriate measures may be taken.

(4) The investigations conducted by the Commissioner under this Law shall not be open to the public.

(5) Subject to the provisions of this Law, the procedure for conducting an investigation shall be such as the Commissioner considers appropriate in the circumstances of the case and, without prejudice to the generality of this provision, the Commissioner shall, subject to the provisions of this Law, have the power to receive information from such persons and in such manner as he thinks fit, and may determine whether any person may be represented, by an advocate or otherwise, in the investigation.

(6) The investigation of a complaint under the provisions of this Law shall not affect any action taken by the competent service or any power or duty it has to investigate further any matter which constitutes the subject of the investigation.

(7) Subject to the provisions of this Law, all services, if so requested by the Commissioner, shall offer every assistance necessary to the Commissioner in the execution of his duties.

(8) The Commissioner may, following a refusal or omission of the service to render the necessary assistance to the work performed thereby, fix a reasonable time-limit according to the circumstances, within which he calls upon the service to co-operate; in the case where no action was taken during the prescribed time-limit, the non-co-operation of the service in the conduct of the investigation, shall be the subject of a special report of the Commissioner to the competent minister, who provides for the necessary assistance to be rendered to the work of the Commissioner.

3 of 45(I) of
2014.

(9) Refusal of any officer working in a service to co-operate with the Commissioner, in the conduct of the investigation, acting on his behalf under the provisions of this Law, when that co-operation is required due to the officer's duties and functions, shall constitute the disciplinary offence of breach of duty.

3 of 45(I) of
2014.

9.-(1) Subject to the provisions of this Law and notwithstanding the provisions of any other law, no service or officer is allowed to invoke the duty of confidentiality during an investigation conducted by the Commissioner, unless the information or answer to a question or the document or part of a document required concerns the relations of the Republic with any other state or international organisation, or the defence, security or foreign policy of the Republic, or which the Secretariat of the Council of Ministers certifies as concerning the procedure, consultations or decisions of the Council of Ministers or any Ministerial or other Committee appointed by the Council of Ministers.

Evidence.

(2) Notwithstanding the provisions of subsection (1), a Minister may give written notice to the Commissioner that, in his opinion, the disclosure of a specific document or piece of information would be detrimental to the defence or security of the Republic or to the public interest. In such a case the Commissioner shall not disclose to any person the particular document or piece of information.

(3) During an investigation, conducted in accordance with this Law and subject to the provisions thereof, the Commissioner shall have the power to call any officer or any other person to give evidence or to furnish any information or to produce any documents which the Commissioner considers relevant to the investigation; and such an officer or such a person shall be obliged to appear before the Commissioner at the time specified by the Commissioner.

(4) Unless otherwise provided in this Law, no person shall be compelled, for the purposes of an investigation under this Law, to give information or to answer a question or to produce a document which he would not be compelled to give, answer or produce in proceedings before any Court.

(5) No evidence or answer to a question or statement given or made by any officer or other person during an investigation conducted by the Commissioner shall be admissible as evidence against any person before any Court or in any other investigation or proceedings.

10. The Commissioner may order the payment to any person appearing before him in order to testify or provide information or produce documents:

Payment of expenses or allowance.

- (a) of travel and subsistence expenses which he may have incurred; and
- (b) of allowance by way of compensation for the compulsory rest from work.

11. Any person who-

Offences.

- (a) without lawful excuse fails to provide information relevant to an investigation conducted by the Commissioner;
- (b) without lawful excuse refuses to appear before the Commissioner or to produce any particulars required by the Commissioner, or willingly obstructs the provision thereof;
- (c) provides any information or particulars knowing them

to be untrue or which he has adequate reason to believe that they are untrue;

- (d) without lawful excuse obstructs in any way an investigation conducted by the Commissioner;
- (e) insults, obstructs or harasses the Commissioner or any person involved in an investigation;
- (f) refuses to employ any person, dismisses or threatens to dismiss him from his post, influences or threatens to influence him, intimidates or compels him or imposes a fine or other punishment on him for the reason that this person:
 - (i) has submitted or intends to submit any complaint to the Commissioner;
 - (ii) has provided or presented or intends to provide or present any information or documents before the Commissioner;
 - (iii) has testified or intends to testify before the Commissioner,

is guilty of an offence and is liable to imprisonment not exceeding one year or to a fine not exceeding five thousand euros (€5.000) or to both such imprisonment and fine.

4 of 45(I) of 2014.

12.-(1) No legal proceedings may be brought against the Commissioner in relation to any act done by him or any opinion expressed by him or report submitted by him in the exercise of his functions, provided that he has exercised his functions and powers under this Law in good faith and within their limits.

Protection of Commissioner.

(2) The Commissioner or any member of the staff of his Office may not be called to testify before a Court or in any proceedings of a legal nature in respect of any matter that has come to his knowledge in the exercise of his duties.

13. Subject to the provisions of this Law, the Commissioner and every member of his staff shall treat as confidential every matter, document or information obtained by him in the performance of his duties, as well as every report submitted under this Law, and shall not disclose or transmit any such matter, document or information except for the purposes of an investigation to be conducted or report to be submitted in accordance with this Law.

Duty of confidentiality.

14.-(1) The Commissioner shall receive remuneration equal to that of the Auditor-General and shall have the same benefits as him.

Salary and bonus on retirement.
5 of 1(I) of 2000.

(2) The Commissioner, upon retirement, shall be entitled to receive a pension and bonus estimated on the same basis as those received by the President of the Public Service Commission.

15.-(1) The Council of Ministers may make Regulations to be published in the Official Gazette of the Republic, for the better carrying into effect of the provisions of this Law, and in particular in order:

Regulations.

- (a) to prescribe any matter which under the provisions of this Law is required or may be prescribed;
- (b) to guide the Commissioner in the performance of his duties.

(2) Regulations made under this Law shall be laid before

the House of Representatives. If within sixty days of such laying the House of Representatives does not by resolution amend or annul, in whole or in part, the Regulations so laid, they shall, on the expiration of the aforesaid period, be published in the Official Gazette of the Republic and shall come into force as from such publication. In the event of their amendment, in whole or in part, by the House of Representatives, such Regulations shall be published in the Official Gazette of the Republic as amended by the House of Representatives, and shall come into force as from their publication.

16. Until such time as the staff of the Commissioner's Office is appointed, the Office may be temporarily staffed through secondments of a number of public servants or other government employees.

Transitional provisions.

17.-(1) The provisions of this Law shall not affect the provisions of any other law, administrative act or rules of law providing for the right to institute proceedings before any Court or for a hierarchical recourse before any administrative authority or for the conduct of an investigation by a Commission of Inquiry or any other proceedings, and nothing in this Law shall limit or affect in any way such remedy, right or proceedings.

Savings.

(2) The investigations conducted by the Commissioner shall not suspend any procedure related to the action under investigation or any time limit set for the institution of legal proceedings or the submission of a hierarchical resource.

18. The Commissioner for Administration Law, 1972, is hereby repealed.

Repeal.
107 of 1972.