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CONGRESS OF THE PHILIPPINES }
Second Regular Session }

SENATE

S. No. 543

INTRODUCED BY SENATORS ANGARA, TAÑADA, RASUL,
GONZALES AND GUINGONA, JR.

AN ACT PROVIDING FOR THE FUNCTIONAL AND
STRUCTURAL ORGANIZATION OF THE OFFICE
OF THE OMBUDSMAN, AND FOR OTHER
PURPOSES

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

1 SECTION 1. *Title.*—This Act shall be known as “The
2 Ombudsman Act of 1988.”

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

6 Public office is a public trust. Public officers and em-
7 ployees must at all times be accountable to the people,
8 serve them with utmost responsibility, integrity, loyalty
9 and efficiency, act with patriotism and justice and lead
10 modest lives.

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1 SEC. 3. *Office of the Ombudsman.*—The independent
2 Office of the Ombudsman shall be composed of the Om-
3 budsman to be known as Tanodbayan, one Overall Deputy
4 to be known as Senior Deputy Tanodbayan and one Dep-
5 uty each for Luzon, Visayas and Mindanao. A separate
6 Deputy for the Armed Forces may likewise be appointed.
7 The Special Prosecutor shall be under the Office of the
8 Ombudsman.

9 SEC. 4. *Appointment.*—The Tanodbayan and his Dep-
10 uties, including the Special Prosecutor, shall be appointed
11 by the President from a list of at least six nominees
12 prepared by the Judicial and Bar Council, and from a list
13 of three nominees for each vacancy thereafter which shall
14 be filled within three (3) months after it occurs, each of
15 which list shall be published in a newspaper of general
16 circulation.

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

23 SEC. 5. *Qualifications.*—The Tanodbayan and his Dep-
24 uties, including the Special Prosecutor, shall be natural-

1 born citizens of the Philippines, at least forty (40) years
2 old, of recognized probity and independence, members of
3 the Philippine Bar, and must not have been candidates
4 for any elective national or local office in the immediately
5 preceding election whether regular or special. The Tanod-
6 bayan must have, for ten (10) years or more, been a
7 judge or engaged in the practice of law in the Philippines.

8 SEC. 6. *Rank and Salary*.—The Tanodbayan and his
9 Deputies shall have the same ranks and salaries as the
10 Chairman and Members, respectively, of a Constitutional
11 Commission. Their salaries shall not be decreased during
12 their term of office.

13 SEC. 7. *Term of Office*.—The Tanodbayan and his Dep-
14 uties, including the Special Prosecutor, shall serve for a
15 term of seven (7) years without reappointment.

16 SEC. 8. *Removal; Filling of Vacancy*.—(1) In accordance
17 with the provisions of Article XI of the Constitution, the
18 Tanodbayan may be removed from office on impeachment
19 for, and conviction of, culpable violation of the Constitu-
20 tion, treason, bribery, graft and corruption, other high
21 crimes, or betrayal of public trust.

22 (2) A Deputy, including the Special Prosecutor, after
23 due notice and hearing may be removed from Office by
24 the Tanodbayan upon the recommendation of a three-man

1 committee to be appointed by the Tanodbayan and whose
2 qualifications shall be the same as those of the appointive
3 members of the Judicial and Bar Council.

4 (3) In case of vacancy in the Office of the Ombudsman
5 due to death, resignation, removal or permanent disability
6 of the incumbent Tanodbayan, the Overall Deputy shall
7 serve as Acting Tanodbayan in a concurrent capacity until
8 a new Tanodbayan shall have been appointed for a full
9 term. In case the Overall Deputy cannot assume the role
10 of Acting Tanodbayan, the most senior Deputy in terms
11 of appointment shall assume the role of Acting Tanodbayan
12 until a new Tanodbayan shall have been appointed.

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

17 *SEC. 9. Prohibitions and Disqualifications.*—The Tanod-
18 bayan, his Deputies and the Special Prosecutor shall not,
19 during their tenure, hold any other office or employment.
20 They shall not, during said tenure, directly or indirectly
21 practice any other profession, participate in any business,
22 or be financially interested in any contract with, or in any
23 franchise, or special privilege granted by the government
24 or any subdivision, agency, or instrumentality thereof,
25 including government-owned or controlled corporations or

1 their subsidiaries. They shall strictly avoid conflict of
2 interest in the conduct of their office. They shall not be
3 qualified to run for any office in the election immediately
4 following their cessation from office. They shall not be
5 allowed to appear or practice before the Tanodbayan for
6 two (2) years following their cessation from office.

7 No spouse or relative by consanguinity or affinity within
8 the fourth civil degree and no law, business or professional
9 partner or associate of the Tanodbayan, his Deputies or
10 Special Prosecutor within one year preceding the appoint-
11 ment may appear as counsel or agent on any matter
12 pending before the Office of the Ombudsman or transact
13 business directly or indirectly therewith.

14 This disqualification shall apply during the tenure of
15 the official concerned. This disqualification likewise ex-
16 tends to the law, business or professional firm for the
17 same period.

18 SEC. 10. *Disclosure of Relationship.*—It shall be the
19 duty of the Tanodbayan, his Deputies, including the Special
20 Prosecutor to make under oath, to the best of their knowl-
21 edge and/or information, a public disclosure of the
22 identities of, and their relationship with, the persons
23 referred to in the preceding section.

24 The disclosure shall be filed with the Office of the
25 President and the Office of the Ombudsman before the

1 appointee assumes office and every year thereafter. The
2 disclosures made pursuant to this section shall form part
3 of the public records and shall be available to any person
4 or entity upon request.

5 SEC. 11. *Structural Organization.*—The authority and
6 responsibility for the exercise of the mandate of the Office
7 of the Ombudsman and for the discharge of its powers and
8 functions shall be vested in the Tanodbayan, who shall
9 have supervision and control of the said Office.

10 (1) The Office of the Ombudsman shall consist of the
11 Office of the Tanodbayan, the Office of the Overall Deputy,
12 the Office of the Deputy for Luzon, the Office of the Deputy
13 for the Visayas, the Office of the Deputy for Mindanao,
14 the Office of the Deputy for the Armed Forces, and the
15 Office of the Special Prosecutor. The President may
16 appoint other Deputies as the necessity for it may arise,
17 as recommended by the Tanodbayan.

18 (2) The Office of the Ombudsman may organize such
19 directorates for administration and allied services (per-
20 sonnel, records, budget and finance, purchasing and prop-
21 erty, general services, security, legal, investigation and
22 research).

23 (3) The Office of the Overall Deputy shall oversee and
24 administer the operations of the different offices under the

1 Office of the Ombudsman. It shall likewise perform such
2 other functions and duties assigned to it by the Tanod-
3 bayan.

4 (4) The Office of the Special Prosecutor shall be com-
5 posed of the Special Prosecutor and his prosecution staff.
6 The office, under the supervision and control and upon
7 the authority of the Office of the Ombudsman, shall have
8 the following powers:

9 (a) To conduct preliminary investigation and prosecute
10 criminal cases within the jurisdiction of the Sandigan-
11 bayan;

12 (b) To enter into plea bargaining agreements; and

13 (c) To perform such other duties assigned to it by the
14 Tanodbayan.

15 The Special Prosecutor shall have the rank and salary
16 of a Deputy Tanodbayan.

17 (5) The position structure and staffing pattern of the
18 Office of the Ombudsman, including the Office of the Special
19 Prosecutor, shall be approved and prescribed by the Tanod-
20 bayan. The Tanodbayan shall appoint all officers and
21 employees of the Office of the Ombudsman, including those
22 of the Office of the Special Prosecutor, in accordance with
23 the civil service law, rules and regulations.

1 SEC. 12. *Official Stations.*—The Tanodbayan, the Overall
2 Deputy, the Deputy for Luzon, and the Deputy for the
3 Armed Forces, if any, shall hold office in Metropolitan
4 Manila; the Deputy for the Visayas, in Cebu City; and
5 the Deputy for Mindanao, in Malaybalay, Bukidnon. The
6 Tanodbayan Deputies shall visit the various regions within
7 their respective geographical areas at least once a year
8 as public interest may require.

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

18 SEC. 14. *Powers, Functions and Duties.*—The Office of
19 the Ombudsman shall have the following powers, func-
20 tions and duties:

21 (1) Investigate on its own, or on complaint by any
22 person, any act or omission of any public officer or em-
23 ployee, office or agency, when such act or omission appears

1 to be illegal, unjust, improper or inefficient, including the
2 power to conduct preliminary investigation and to direct
3 the filing of the criminal cases with the proper courts.
4 Preliminary investigation shall be started forthwith and
5 terminated within one hundred twenty (120) days from
6 the date of the filing of the complaint.

7 (2) Direct, upon complaint or at its own instance, any
8 officer or employee of the Government, or of any sub-
9 division, agency or instrumentality thereof, as well as any
10 government-owned or controlled corporation with original
11 charter, to perform and expedite any act or duty required
12 by law, or to stop, prevent, and correct any abuse or
13 impropriety in the performance of duties.

14 (3) Direct the officer concerned to take appropriate
15 action against a public officer or employee at fault or
16 who neglects to perform an act or discharge a duty re-
17 quired by law, and recommend his removal, suspension,
18 demotion, fine, censure, or prosecution, and ensure com-
19 pliance therewith; or enforce its disciplinary authority
20 as provided in Section 18 of this Act: *Provided, That*
21 the refusal by any officer without just cause to comply
22 with an order of the Tanodbayan to remove, suspend,
23 demote, fine, censure, or prosecute an officer or employee
24 who is at fault or who neglects to perform an act or

1 discharge a duty required by law shall be a ground for
2 disciplinary action against said officer.

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

10 (5) Request any government agency for assistance and
11 information necessary in the discharge of its responsibili-
12 ties, and to examine, if necessary, pertinent records and
13 documents.

14 (6) Publicize matters covered by its investigation of the
15 matters mentioned in paragraphs (1), (2), (3) and (4)
16 hereof, when circumstances so warrant and with due pru-
17 dence: *Provided*, That the Tanodbayan under its rules and
18 regulations may determine what cases may not be made
19 public: *Provided, further*, That any publicity issued by the
20 Tanodbayan shall be balanced, fair and true.

21 (7) Determine the causes of inefficiency, red tape, mis-
22 management, fraud, and corruption in the Government,
23 and make recommendations for their elimination and the
24 observance of high standards of ethics and efficiency.

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

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

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

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

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

21 SEC. 15. *Applicability*.—The provisions of this Act shall
22 apply to all kinds of malfeasance, misfeasance, and non-
23 feasance that have been committed by any officer or em-
24 ployee as mentioned in Section 13 hereof, during his tenure
25 of office.

1 SEC. 16. *Immunities.*—In all hearings, inquiries, and
2 proceedings of the Tanodbayan, including preliminary in-
3 vestigations of offenses, no person subpoenaed to testify as
4 a witness shall be excused from attending and testifying
5 or from producing books, papers, correspondence, memo-
6 randa and other records on the ground that the testimony
7 or evidence, documentary or otherwise, required of him
8 may tend to incriminate him or subject him to prosecution:
9 *Provided,* That no person shall be prosecuted criminally
10 for or on account of any matter concerning which he is
11 compelled, after having claimed the privilege against
12 self-incrimination, to testify and produce evidence, docu-
13 mentary or otherwise.

14 Under such terms and conditions as it may determine,
15 taking into account the pertinent provisions of the Rules
16 of Court, the Tanodbayan may grant immunity from
17 criminal prosecution to any person whose testimony or
18 whose possession and production of documents or other
19 evidence may be necessary to determine the truth in any
20 hearing, inquiry or proceeding being conducted by the
21 Tanodbayan or under its authority, in the performance or
22 in the furtherance of its constitutional functions and statu-
23 tory objectives. The immunity granted under this and the
24 immediately preceding paragraph shall not exempt the

1 witness from criminal prosecution for perjury or false
2 testimony nor shall he be exempt from demotion or removal
3 from office.

4 Any refusal to appear or testify pursuant to the fore-
5 going provisions shall be subject to punishment for
6 contempt and removal of the immunity from criminal
7 prosecution.

8 SEC. 17. *Rules of Procedure.*—(1) The Office of the
9 Ombudsman shall promulgate its rules of procedure for
10 the effective exercise or performance of its powers, func-
11 tions, and duties.

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

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

19 SEC. 18. *Disciplinary Authority.*—(1) The Office of the
20 Ombudsman shall have concurrent disciplinary authority
21 with the Civil Service Commission, the heads of depart-
22 ments or agencies, instrumentalities, provinces, cities or
23 municipalities, and bureaus or offices granted administra-
24 tive disciplinary authority by special laws: *Provided, That*

1 where the Office of the Ombudsman first takes cognizance
2 of the administrative case, it shall have jurisdiction over
3 the same to the exclusion of all others: *Provided, further,*
4 That any decision, order or directive of the Office of the
5 Ombudsman on a case shall be a bar to the filing of another
6 case based on the same facts and on the same grounds with
7 any other disciplinary authorities and vice-versa.

8 (2) The Office of the Ombudsman shall exercise dis-
9 ciplinary authority in administrative proceedings against
10 public officers and employees based on the following
11 grounds:

12 (a) Unjustifiably refraining from instituting prosecu-
13 tion against violators of the law.

14 (b) Tolerating the commission of offenses.

15 (c) Causing any undue injury to any party, including
16 the Government, or giving any private party any unwar-
17 ranted benefits, advantage or preference in the discharge
18 of his official, administrative or quasi-judicial functions
19 through manifest partiality, evident bad faith or gross
20 inexcusable negligence.

21 (d) Agreeing to perform, or performing, in considera-
22 tion of any offer, promise, gift or present, an act con-
23 stituting a crime, in connection with the performance of
24 his official duties.

1 (e) Accepting a gift in consideration of the execution
2 of an act which does not constitute a crime, in connection
3 with the performance of his official duty.

4 (f) Agreeing to refrain, or refraining from doing some-
5 thing which is his official duty to do, in consideration
6 of a gift or promise.

7 (g) Persuading, inducing or influencing another public
8 officer to perform an act constituting a violation of rules
9 and regulations duly promulgated by competent authority
10 or an offense in connection with the official duties of the
11 latter, or allowing himself to be persuaded, induced, or
12 influenced to commit such violation or offense.

13 (h) Directly or indirectly requesting or receiving any
14 gift, present, share, percentage, or benefit, for himself or
15 for any other person, in connection with any contract or
16 transaction between the Government and any other party,
17 wherein the public officer or employee in his official capa-
18 city has to intervene under the law.

19 (i) Directly or indirectly requesting or receiving any
20 gift, present or other pecuniary or material benefit, for
21 himself or for another, from any person for whom the
22 public officer or employee, in any manner or capacity, has
23 secured a license, in consideration of the help given or to
24 be given.

1 (j) Knowingly approving or granting any license, per-
2 mit, privilege or benefit in favor of any person not qualified
3 for, or not legally entitled to, such license, permit, privilege
4 or advantage, or of a representative or dummy of one
5 who is not so qualified or entitled.

6 (k) Accepting gifts offered to him by reason of his
7 office.

8 (l) Accepting, or having any member of his family accept,
9 employment in a private enterprise which has pending
10 official business with him during the pendency thereof or
11 within one year after its termination.

12 (m) Entering into an agreement with any interested
13 party or speculator, or making use of any other scheme to
14 defraud the Government, in dealing with any person with
15 regard to furnishing supplies, the making of contracts, or
16 the adjustment or settlement of accounts relating to public
17 property or funds.

18 (n) Demanding, directly or indirectly, the payment of
19 sums different from or larger than those authorized by
20 law in the collection of taxes, licenses, fees, and other
21 imposts.

22 (o) Failing voluntarily to issue a receipt, as provided
23 by law, for any sum of money collected by him officially, in
24 the collection of taxes, licenses, fees, and other imposts.

1 (p) Collecting or receiving, directly or indirectly, by way
2 of payment or otherwise, things or objects of a nature
3 different from that provided by law, in the collection of
4 taxes, licenses, fees, and other imposts.

5 (q) Entering, on behalf of the Government, into any
6 contract or transaction manifestly and grossly disadvan-
7 tageous to the same, whether or not the public officer
8 profited or will profit thereby.

9 (r) Committing any of the frauds or deceits as penalized
10 by law.

11 (s) Appropriating for private gain public funds or
12 property.

13 (t) Misappropriating public funds or property.

14 (u) Consenting or through abandonment or negligence,
15 permitting any other person to take such public funds or
16 property.

17 (v) Failing to render account by an accountable public
18 officer.

19 (w) Leaving the Philippines for the purpose of residing
20 abroad without securing from the Commission on Audit a
21 certificate showing that his accounts as an accountable
22 officer for public funds or property have been finally settled
23 or for the purpose of absconding from his financial obliga-
24 tions to the government.

1 (x) Applying any public funds or property under his
2 administration to any public use other than that for which
3 such funds or property were appropriated by law or
4 ordinance.

5 (y) Failing to make payment by a public officer
6 or employee who is under obligation to make such pay-
7 ment from government funds in his possession.

8 (z) Refusing to make delivery by a public officer or
9 employee who has been ordered by competent authority to
10 deliver any property in his custody or under his adminis-
11 tration.

12 (aa) Neglecting or refusing, after due demand or re-
13 quest, without sufficient justification, to act within a
14 reasonable time on any matter pending before him.

15 (bb) Consenting to the escape of a prisoner in his
16 custody or charge.

17 (cc) Infidelity in the custody of prisoners or detainees,
18 or their maltreatment.

19 (dd) Infidelity in the custody of documents.

20 (ee) Unauthorized revelation of official secrets or classi-
21 fied documents or information.

22 (ff) Divulging valuable information of a confidential
23 character, acquired by his office or by him on account of

1 his official position, to unauthorized persons, or releasing
2 such information in advance of its authorized release date.

3 (gg) Disobedience, refusal of assistance or to discharge
4 public office.

5 (hh) Anticipation, prolongation, and abandonment of the
6 duties and powers of public office.

7 (ii) Usurpation of powers, authorities and functions
8 and unlawful appointments.

9 (jj) Abuses against chastity.

10 (kk) Acts of gambling contrary to law.

11 (ll) Ostentatious display of wealth and flagrantly con-
12 spicuous consumption.

13 (mm) All other acts and omissions constituting an
14 offense committed by public officers and employees in the
15 performance of their functions and duties punishable under
16 other pertinent laws, or which may be considered unjust,
17 improper, inefficient or inimical to the public service.

18 In all cases where the complaint is based on grounds
19 under subsections (c), (j), (m) and (q) of this section,
20 the Tanodbayan may require the complainant to exhaust
21 administrative remedies under existing laws and regula-
22 tions before giving due course to the complaint.

23 SEC. 19. *Officials Subject to Disciplinary Authority;*
24 *Exceptions.*—The Office of the Ombudsman shall have
25 disciplinary authority over elective and appointive officials

1 or employees of the government and its subdivisions, instru-
2 mentalities and agencies, including local governments,
3 government-owned or controlled corporations and their
4 subsidiaries. Directors, trustees or representatives of the
5 private sector in government agencies and directors or
6 trustees representing the Government in any corporation in
7 which it has equity interest shall also be subject to the
8 disciplinary authority of the Office of the Ombudsman.

9 In the case of Members of Congress, they shall be subject
10 to the disciplinary authority of each House in accordance
11 with their respective rules and in the case of Members
12 of the Judiciary, they shall be subject to the disciplinary
13 authority of the Supreme Court in accordance with Section
14 11 of Article VIII of the Constitution.

15 SEC. 20. *Investigatory Power Over Certain Officials.*—
16 The Office of the Ombudsman shall have the power to
17 investigate any serious misconduct in office allegedly com-
18 mitted by officials removable by impeachment, or by the
19 Members of Congress for the purpose of initiating the
20 proper criminal or civil action or filing a verified complaint
21 for impeachment if warranted.

22 In all cases of conspiracy between an officer or employee
23 of the government and a private person, the Tanodbayan
24 and his Deputies shall have jurisdiction to include such

1 private person in the investigation and proceed against
2 such private person as the evidence may warrant. The
3 officer or employee and the private person shall be tried
4 jointly and shall be subject to the same penalties and
5 liabilities.

6 SEC. 21. *Formal Investigation.*—(1) Formal investiga-
7 tions conducted by the Office of the Ombudsman shall be
8 in accordance with its rules of procedure and consistent
9 with due process. The affidavits of the complainants,
10 respondents and witnesses may be used as their direct
11 testimony subject to the right of cross-examination by any
12 party adversely affected by them.

13 (2) At its option, the Office of the Ombudsman may
14 refer certain complaints to the proper disciplinary
15 authority for the institution of appropriate administrative
16 proceedings against erring public officers or employees,
17 which shall be terminated within the period prescribed in
18 the civil service law. Any delay without just cause in
19 acting on any referral made by the Office of the Ombuds-
20 man shall be a ground for administrative action against
21 the officers or employees to whom such referrals are
22 addressed.

23 (3) In any investigation under this Act the Ombudsman
24 may (a) enter and inspect the premises of any office, agency,

1 commission or tribunal; (b) examine and have access to
2 any book, record, file, document or paper; and (c) hold
3 private hearings with both the complaining individual and
4 the official concerned.

5 SEC. 22. *Preventive Suspension.*—The Tanodbayan or his
6 Deputy may preventively suspend any officer or employee
7 under his authority pending an investigation, if in his
8 judgment the evidence of guilt is strong, and (a) the
9 charge against such officer or employee involves dishonesty,
10 oppression or grave misconduct or neglect in the per-
11 formance of duty; (b) the charges would warrant removal
12 from the service; or the respondent's continued stay in
13 office may prejudice the case filed against him.

14 The preventive suspension shall continue until the case
15 is terminated by the Office of the Ombudsman but not
16 more than ninety (90) days in cases where it exercises
17 concurrent jurisdiction with the Civil Service Commis-
18 sion, except when the delay in the disposition of the
19 case by the Office of the Ombudsman is due to the fault,
20 negligence or petition of the respondent, in which case
21 the period of such delay shall not be counted in com-
22 puting the period of suspension herein provided.

23 SEC. 23. *Penalties.*—(1) In administrative proceedings
24 under Presidential Decree No. 807, the penalties and
25 rules provided therein shall be applied.

1 (2) In other administrative proceedings, the penalty
2 ranging from suspension without pay for one year to dis-
3 missal with forfeiture of benefits or a fine ranging from five
4 thousand pesos (P5,000.00) to twice the amount malversed,
5 illegally taken or lost, or both at the discretion of the
6 Tanodbayan, taking into consideration circumstances that
7 mitigate or aggravate the liability of the officer or em-
8 ployee, shall be imposed on the officer or employee found
9 guilty of the complaint or charges.

10 SEC. 24. *Inquiries.*—(1) The Office of the Ombudsman
11 shall inquire into acts or omissions of a public officer,
12 employee, office or agency which, from the reports or
13 complaints it has received, the Tanodbayan or his Deputies
14 consider to be:

15 (a) contrary to law or regulation;

16 (b) unreasonable, unfair, oppressive, irregular or in-
17 consistent with the general course of the operations and
18 functions of a public officer, employee, office or agency;

19 (c) an error in the application or interpretation of
20 law, rules or regulations, or a gross or palpable error in
21 the appreciation of facts;

22 (d) based on improper motives or corrupt considerations;

23 (e) unclear or inadequately explained when reasons
24 should have been revealed; or

1 (f) inefficiently performed or otherwise objectionable.

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

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

20 (a) expedite the performance of duty;

21 (b) cease or desist from the performance of a preju-
22 dicial act;

23 (c) correct the omission;

24 (d) explain fully the administrative act in question; or

1 (e) take any other step as may be necessary under
2 the circumstances to protect and preserve the rights of
3 the complainant.

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

9 SEC. 25. *Effectivity and Finality of Orders, Decisions*
10 *and Appeals.*—(1) All provisional orders of the Office
11 of the Ombudsman are immediately effective and executory
12 unless otherwise stated. The decision of the Ombudsman
13 shall not become executory until after the resolution of
14 any motion for reconsideration as provided herein.

15 (2) A motion for reconsideration of any order, di-
16 rective or decision of the Office of the Ombudsman must
17 be filed within five (5) days after notice and shall be
18 entertained only on any of the following grounds:

19 (a) Newly discovered evidence which could not, with
20 reasonable diligence, have been discovered and produced
21 at the trial or hearing and which, if presented, would
22 probably alter the result;

23 (b) Errors of law or irregularities have been com-
24 mitted prejudicial to the interest of the movant. The

1 motion for reconsideration shall be resolved within three
2 (3) days from filing: *Provided*, That only one motion
3 for reconsideration shall be entertained.

4 (3) Findings of fact by the Office of the Ombudsman
5 when supported by substantial evidence are conclusive.

6 (4) In all administrative disciplinary cases, orders,
7 directives, or decisions of the Office of the Ombudsman
8 may be appealed to the Supreme Court by filing a peti-
9 tion for *certiorari* within ten (10) days from notice
10 of the order, directive or decision or denial of the motion
11 for reconsideration in accordance with Section 45 of the
12 Rules of Court.

13 (5) An appeal shall not stop the order, directive or
14 decision from becoming executory, and in case the penalty
15 is suspension or removal, the respondent officer or employee
16 shall be considered as having been under preventive sus-
17 pension during the pendency of the appeal. Should the
18 appeal be resolved in his favor, he shall be entitled to
19 reinstatement without loss of seniority rights and pay-
20 ment of all back salaries or wages with legal interest,
21 not exceeding the period of three (3) years without
22 conditions on qualifications.

23 (6) The Supreme Court shall be the sole authority
24 which can issue a writ of injunction against the Office
25 of the Ombudsman.

1 SEC. 26. *Investigation in Municipalities, Cities and*
2 *Provinces.*—Subject to availability of funds, the Office
3 of the Ombudsman may establish offices in highly ur-
4 banized cities and capitals of provinces outside Metro
5 Manila under the immediate supervision of the Deputies
6 for Luzon, Visayas and Mindanao. The investigation of
7 administrative disciplinary complaints may be assigned
8 to the Deputy concerned or to a special investigator who
9 shall proceed in accordance with the rules or special
10 instructions or directives of the Office of the Ombudsman.
11 Pending investigation, the Deputy or investigator may
12 issue such orders and provisional remedies which are
13 immediately executory subject to review by the Tanod-
14 bayan. Within three (3) days after concluding the in-
15 vestigation, the Deputy or investigator shall transmit,
16 together with the entire records of the case, his report
17 and conclusions to the Office of the Ombudsman. Within
18 five (5) days after receipt of said report, the Tanod-
19 bayan shall render the appropriate order, directive or
20 decision.

21 SEC. 27. *Designation of Investigators and Prosecutors.*—
22 (1) The Tanodbayan may utilize the personnel of his
23 office and with the consent of the Department head con-
24 cerned, designate or deputize any fiscal, state prosecutor
25 or lawyer in the government service to act as special

1 investigator or prosecutor to assist in the investigation
2 and prosecution of certain cases: *Provided*, That no such
3 fiscal, prosecutor or lawyer shall be so designated or
4 deputized if he has a pending criminal or administrative
5 case in the Office of the Ombudsman or in his department
6 or office. Those designated or deputized to assist him
7 as herein provided shall be under his supervision and
8 control.

9 (2) The Tanodbayan and his investigators and prose-
10 cutors, whether regular members of his staff or desig-
11 nated by him as herein provided, shall have authority
12 to administer oaths, to issue *subpoena ad testificandum*
13 and *subpoena duces tecum*, to summon and compel wit-
14 nesses to appear and testify under oath before them
15 and/or to bring books, documents and other things under
16 their control, and to secure the attendance or presence
17 of any absent or recalcitrant witness.

18 (3) The Office of the Ombudsman shall prescribe a
19 system of rating the efficiency, effectiveness, honesty and
20 integrity of the investigators and prosecutors of the ad-
21 ministrative and criminal or anti-graft cases it conducts
22 on a quarterly basis, indicating therein the number of
23 cases they received, investigated, prosecuted and disposed
24 of during the quarter. An investigator or prosecutor

1 shall explain in writing to the Tanodbayan or his Deputy
2 concerned any delay in the disposition of cases assigned
3 to him.

4 SEC. 28. *Rights and Duties of Witness.*—(1) A person
5 required by the Tanodbayan to provide the information
6 shall be paid the same fees and travel allowances as are
7 extended to witnesses whose attendance has been required
8 in the trial courts. Upon request of the witness, the
9 Tanodbayan shall also furnish him such security for his
10 person and his family as may be warranted by the cir-
11 cumstances. For this purpose, the Tanodbayan may call
12 upon any police or constabulary unit to provide the said
13 security at their expense.

14 (2) A person who, with or without service or com-
15 pulsory process, provides oral or documentary information
16 requested by the Tanodbayan shall be accorded the same
17 privileges and immunities as are extended to witnesses
18 in the courts, and shall likewise be entitled to the assistance
19 of counsel while being questioned.

20 (3) If a person refuses to respond to the Tanodbayan's
21 or his Deputy's *subpoena*, or refuses to be examined,
22 or engages in obstructive conduct, the Tanodbayan or
23 his Deputy shall issue an order directing the person to
24 appear before him to show cause why he should not be

1 punished for contempt. The same proceedings shall be
2 had, the same penalties may be imposed by the Tanod-
3 bayan or his Deputy, and the person charged may purge
4 himself of the contempt as in the case of a person who
5 is cited for contempt before the regular courts.

6 SEC. 29. *Duty to Render Assistance to the Office of*
7 *the Ombudsman.*—Any officer or employee, with highly
8 technical or specialized qualifications or expertise, of any
9 department, commission, bureau or office, subdivision,
10 agency or instrumentality of the Government, including
11 government-owned or controlled corporations and local gov-
12 ernments, whose service is urgently needed by the Tanod-
13 bayan shall, with the approval of his department head,
14 render assistance to the Office of the Ombudsman: *Provided,*
15 *however,* That no such officer or employee may be detailed
16 or his services required when his office or the head
17 thereof is under investigation by the Tanodbayan or his
18 Deputy.

19 SEC. 30. *Malicious Prosecution.*—Any person who, ac-
20 tuated by malice or gross bad faith, files a completely
21 unwarranted or false complaint against any government
22 official or employee shall be punished by imprisonment
23 of one (1) month and one (1) day to six (6) months
24 and by a fine not exceeding five thousand pesos (P5,000.00).

1 SEC. 31. *Transmittal of Decision.*—In every case where
2 the Tanodbayan has reached a decision, conclusion or
3 recommendation, he must put such decision, conclusion or
4 recommendation in writing, briefly stating the finding of
5 facts and circumstances supporting the same and the law
6 on which it is based. He shall thereafter transmit such
7 decision, conclusion or recommendation to the head of
8 the department, agency or instrumentality or of the prov-
9 ince, city or municipality concerned for the latter's im-
10 mediate and necessary action. The decision, conclusion
11 or recommendation must be personally signed by the
12 Tanodbayan or his deputy.

13 SEC. 32. *Change of Unjust Laws and Regulations.*—If
14 the Tanodbayan believes that a law or regulation is unfair
15 or unjust, he shall recommend to the President and to
16 Congress the necessary changes therein or the repeal
17 thereof.

18 SEC. 33. *Franking Privilege.*—All official mail matters
19 and telegrams of the Tanodbayan addressed for delivery
20 within the Philippines, shall be received, transmitted, and
21 delivered free of charge: *Provided*, That such mail matter
22 when addressed to private persons or non-government offices
23 shall not exceed one hundred and twenty (120) grams. All
24 mail matters and telegrams containing complaints to the

1 Office of the Ombudsman shall be transmitted at the maxi-
2 mum charge of one peso and fifty centavos (₱1.50) and
3 ten pesos (₱10.00), respectively: *Provided*, That the tele-
4 gram shall contain not more than one hundred and fifty
5 (150) words: *Provided, further*, That the telegram is duly
6 certified as to the sender's identity and address by a
7 municipal judge, mayor, election registrar or a notary
8 public of the municipality or city where the sender resides.

9 SEC. 34. *Fiscal Autonomy*.—The Office of the Ombuds-
10 man shall enjoy fiscal autonomy. Appropriations for the
11 Office of the Ombudsman, after approval, shall be auto-
12 matic and released quarterly in full at the beginning of
13 every quarter.

14 SEC. 35. *Annual Report to the President and Congress*.—
15 The Office of the Ombudsman shall render an annual report
16 of its activities and performance including the performance
17 rating mentioned in Section 27 hereof, to the President
18 and to Congress to be submitted within thirty (30) days
19 from the start of the regular session of the Congress.

20 SEC. 36. *Appropriations*.—The appropriation for the
21 Office of the Special Prosecutor in the 1988 General Appro-
22 priations Act is hereby transferred to the Office of the
23 Ombudsman. Thereafter, such amount as shall be necessary
24 shall be included in the annual General Appropriations Act.

1 SEC. 37. *Separability Clause*.—If any provision of this
2 Act is held unconstitutional, other provisions not affected
3 thereby shall remain valid and in effect.

4 SEC. 38. *Repealing Clause*.—All laws, presidential de-
5 crees, letters of instructions, executive orders, rules and
6 regulations insofar as they are inconsistent with this Act,
7 are hereby repealed: *Provided*, That the provisions of this
8 Act shall be in addition to and shall not limit or affect the
9 provisions of any other Act under which any remedy,
10 procedure or right is provided for any person for the
11 inquiry into or investigation of any matter.

12 SEC. 39. *Effectivity*.—This Act shall take effect after
13 fifteen (15) days following its publication in the *Official*
14 *Gazette* or in three (3) newspapers of general circulation
15 in the Philippines.

Approved.

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