

GOVERNMENT OF ZAMBIA

ACT

No. 39 of 1996

Date of Assent: 20th November, 1996

An Act to provide for the functions and powers of the Human Rights Commission; to provide for its composition and to provide for matters connected with or incidental to the foregoing.

[12th December, 1996

ENACTED by the Parliament of Zambia.

Enactment

PART I
PRELIMINARY

1. This Act may be cited as the Human Rights Commission Act, 1996, and shall come into operation on such date as the President may, by statutory instrument, appoint.

Short title
and
commence-
ment

2. In this Act unless the context otherwise requires—

Interpreta-
tion

“ appropriate authority ” means the authority to whom a recommendation is made by the Commission under section *thirteen*;

“ appointed date ” means such date as the President may appoint under section *one*;

“ Chairperson ” means the person appointed as Chairperson under section *five*;

“ Commission ” means the Human Rights Commission established under the Constitution;

“ Commissioner ” means a person appointed Commissioner under section *five*;

“ Deputy Director ” means a person appointed as Deputy Director under section *eighteen*;

“ Director ” means the person appointed as Director under section *eighteen*;

“ Secretary ” means the Secretary to the Commission referred to in section *eighteen*;

“ Staff ” means the staff of the Commission appointed under section *eighteen*; and

“ Vice-Chairperson ” means the person appointed as Vice-Chairperson under section *five*.

PART II

THE HUMAN RIGHTS COMMISSION

Extent of
Commission's
autonomy

3. The Commission shall not, in the performance of its duties, be subject to the direction or control of any person or authority.

Seal of
Commission

4. (1) The seal of the Commission shall be such device as may be determined by the Commission and shall be kept by the Secretary.

(2) The affixing of the seal shall be authenticated by the Chairperson or the Vice-Chairperson and any other person authorised in that behalf by a resolution of the Commission.

(3) Any document purporting to be under the seal of the Commission or issued on behalf of the Commission shall be received in evidence and shall be deemed to be so executed or issued, as the case may be, without further proof, unless the contrary is proved.

Composition
of Commission

5. (1) The Commission shall consist of the following Commissioners:

(a) the Chairperson;

(b) the Vice-Chairperson; and

(c) not more than five other Commissioners.

(2) The Commissioners shall be appointed by the President, subject to ratification by the National Assembly.

(3) The Chairperson and Vice-Chairperson shall be persons who have held, or are qualified to hold, high judicial office.

Oath on
appointment

6. (1) Every Commissioner shall, on appointment affirm or take an oath in Form 1 as set out in Part I of the Schedule, and such oath shall be administered by the President.

(2) The Secretary and other members of staff shall on appointment, affirm or take an oath in Form 2 as set out in Part II of the Schedule and such oath shall be administered by a Commissioner for Oaths.

Tenure of
office and
vacancy

7. (1) A Commissioner referred to in subsection (1) of section *five* shall be appointed for a term not exceeding three years, subject to renewal:

Provided that the first Commissioners shall be appointed for periods ranging from one to three years in order to facilitate retirement by rotation.

(2) A Commissioner may be removed from office for inability to perform the functions of the Commissioner's office, whether arising from infirmity of body or mind, incompetence or for misbehaviour.

(3) A Commissioner may resign upon giving one month's notice in writing to the President.

(4) The office of a Commissioner shall become vacant—

- (a) if the Commissioner is absent without reasonable excuse from three consecutive meetings of the Commission of which the Commissioner has had notice;
- (b) if the Commissioner is an declared bankrupt; or
- (c) upon the Commissioner's death.

8. If the office of a Commissioner becomes vacant before the expiry of the term of office, the President, may, subject to ratification by the National Assembly, appoint another person to be a Commissioner, for the unexpired term, in place of the Commissioner who vacates the office.

Filling of
casual
vacancy

9. The functions of the Commission shall be to—

- (a) investigate human rights violations;
- (b) investigate any maladministration of justice;
- (c) propose effective measures to prevent human rights abuse;
- (d) visit prisons and places of detention or related facilities with a view to assessing and inspecting conditions of the persons held in such places and make recommendations to redress existing problems;
- (e) establish a continuing programme of research, education, information and rehabilitation of victims of human rights abuse to enhance the respect for and protection of human rights;
- (f) do all such things as are incidental or conducive to the attainment of the functions of the Commission.

Functions of
Commission

10. (1) The Commission shall have powers to investigate any human rights abuses—

- (a) on its own initiative; or
- (b) on receipt of a complaint or allegation under this Act by—
 - (i) an aggrieved person acting in such person's own interest;
 - (ii) an association acting in the interest of its members;
 - (iii) a person acting on behalf of an aggrieved person; or
 - (iv) a person acting on behalf of and in the interest of a group or class of persons.

Powers of
Commission

(2) The Commission shall have powers to—

- (a) issue summons or orders requiring the attendance of any authority before the Commission and the production of

any document or record relevant to any investigation by the Commission;

(b) question any person in respect of any subject matter under investigation before the Commission;

(c) require any person to disclose any information within such person's knowledge relevant to any investigation by the Commission; and

(d) recommend the punishment of any officer found by the Commission to have perpetrated an abuse of human rights.

(3) A witness summoned under subsection (2), shall be examined under oath and such oath shall be administered by the Chairperson.

(4) Subject to subsection 5, the Commission may where it considers it necessary recommend—

(a) the release of a person from detention;

(b) the payment of compensation to a victim of human rights abuse, or to such victim's family;

(c) that an aggrieved person seek redress in a court of law; or

(d) such other action as it considers necessary to remedy the infringement of a right.

(5) Notwithstanding subsection 4, the Commission shall not have powers where a matter is pending before a court.

Complaints

11. (1) A complaint or allegation referred to in paragraph (b) of subsection (1) of section *ten* may be made orally or in writing and shall be addressed to the Secretary who shall, in the case of an oral complaint or allegation, reduce the same to writing.

(2) Every complaint or allegation shall—

(a) be signed or thumb-printed by the person making it; and

(b) bear the complainant's name and address.

(3) A complaint or allegation shall not be received by the Commission unless it is made within a period of two years from the date on which the facts giving rise to any such complaint or allegation become known to the person making the complaint or the allegation.

(4) The Commission may refuse to conduct, or may decide to discontinue an investigation where it is satisfied that the complaint or allegation is malicious, frivolous, vexatious or the particulars accompanying it are insufficient to allow a proper investigation to be conducted, and shall indicate accordingly in the report.

THE HUMAN RIGHTS COMMISSION ACT, 1996

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

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2. Interpretation

PART II

THE HUMAN RIGHTS COMMISSION

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PART III

DIRECTORATE OF THE COMMISSION

18. Director, Deputy Director and other staff
19. Prohibition of disclosure of information by staff to unauthorised persons
20. Immunity of Commissioners and staff
21. Offences

(3) If any person having information which to such person's knowledge has been published or disclosed in contravention of subsection (1), unlawfully publishes or communicates any such information to any other person, such person shall be guilty of an offence, and shall be liable, upon conviction, to a fine not exceeding ten thousand penalty units or to imprisonment for a term not exceeding three years, or to both.

PART III

THE DIRECTORATE OF THE COMMISSION

Director,
Deputy
Director and
other staff

18. (1) The Commission shall appoint a Director and a Deputy Director of the Commission.

(2) The Director shall be—

(a) the Secretary to the Commission;

(b) responsible for the management and administration of the Commission;

(c) a qualified advocate;

(d) a full-time officer; and

(e) responsible for the implementation of any matters referred to such Director by the Commission.

(3) The Commission may appoint, on such terms and conditions as it may determine, such other staff as it may consider necessary for the performance of its functions under this Act.

(4) The Public Service Regulations shall apply to the staff appointed by the Commission.

(5) The Commission may engage the services of such advisors and experts as it thinks necessary.

Prohibition
of disclosure
of informa-
tion by staff
to
unauthorised
persons

19. Section *seventeen* shall apply, with the necessary modifications, to the staff.

Immunity of
Commis-
sioners and
staff

20. (1) No proceedings, civil, or criminal, shall lie against any Commissioner or the staff, for anything done in the exercise of such person's functions under Act.

(2) Subject to the provisions of this Act, a Commissioner or a staff member shall not be called to give evidence before any court or tribunal in respect of anything coming to such person's knowledge in the exercise of such person's functions under this Act.

(3) For the avoidance of any doubts, nothing in this section shall protect any Commissioner or the staff, for anything done outside the functions of such person's office.

21. (1) A person who—

Offences

(a) is a witness before the Commission and without lawful excuse refuses to be sworn or affirmed, or having been sworn or affirmed refuses to answer fully and satisfactorily any question lawfully put to such person;

(b) gives false testimony in any material particular to any matter under investigation;

(c) insults, interrupts or otherwise obstructs any Commissioner or any member of staff in the performance of such person's functions under this Act; or

(d) disobeys any order made under this Act;

shall be guilty of an offence, and shall be liable, upon conviction, to a fine not exceeding ten thousand penalty units, or to imprisonment for a term not exceeding three years, or to both.

PART IV

FINANCIAL AND OTHER PROVISIONS

22. (1) The funds of the Commission shall consist of such moneys as may—

Funds of
Commission

(a) be appropriated by Parliament for the purposes of this Act;

(b) be paid to the Commission by way of grants or donations; and

(c) vest in or accrue to the Commission.

(2) The Commission may subject to the approval of the President—

(a) accept money by way of grants or donations from any source; and

(b) raise by way of loans or otherwise, such moneys as it may require for the discharge of its functions.

(3) There shall be paid from the funds of the Commission—

(a) the salaries, allowances, pensions and loans of the Commissioners and staff;

(b) such reasonable travelling, transport and subsistence allowances for the Commissioners and members of any committee of the Commission, when engaged in the business of Commission; and

(c) any other expenses incurred by the Commission in the performance of its functions.

(4) A person summoned as a witness under this Act, may on the order of the Commission be paid such allowances as may be prescribed by the Commission.

Financial
year

23. The financial year of the Commission shall be the period of twelve months ending on 31st December in each year.

Accounts

24. (1) The Commission shall cause to be kept proper books of account and other records relating to its accounts.

(2) The accounts of the Commission shall be audited annually by independent auditors appointed by the Commission.

(3) The auditors' fees shall be paid by the Commission.

Annual
report

25. (1) As soon as is practicable, but not later than ninety days after the end of the financial year, the Commission shall submit to the President a report concerning its activities during the financial year.

(2) The report referred to in subsection (1) shall include information on the financial affairs of the Commission and there shall be appended to the report—

(a) an audited balance sheet;

(b) an audited statement of income and expenditure; and

(c) such other information as the President may require.

(3) The President shall not later than seven days after the first sitting of the National Assembly next after receipt of the report referred to in subsection (1), lay the report before the National Assembly.

Rules

26. The Commission may, by statutory instrument, make rules for the—

(a) appointment, including the power to confirm appointments of persons, to any office in respect of which it is charged with responsibility under this Act;

(b) disciplinary control of persons holding or acting in such offices;

(c) termination of appointments and the removal of such persons from office;

(d) practice and procedure of the Commission in the exercise, of its functions under this Act; and

(e) delegation of its functions or powers.

27. The Commission may, by statutory instrument, make regulations for the better carrying out of the purposes of this Act. Regulations

SCHEDULE

Form 1

PART I
(Section (6) (1))

OATH OF HUMAN RIGHTS COMMISSION

I, having been appointed as Chairperson/Commissioner of the Human Rights Commission will, discharge the functions of the office of Chairperson/Commissioner of the Human Rights Commission and that I will not, directly or indirectly, reveal any matters relating to such functions to any unauthorised persons or otherwise than in the course of duty.

So HELP ME GOD

Sworn/Affirmed before me this day of.....

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President

SCHEDULE

Form 2

PART II
(Section (6) (2))

OATH OF SECRETARY OR STAFF OF COMMISSION

I, having been appointed to exercise the functions of Secretary of the Commission/a member of the staff of the Commission, do swear/affirm that I will not, directly or indirectly, reveal to any unauthorised person or otherwise than in the course of duty the contents or any part of the contents of any document, communication or information whatsoever which may come to my knowledge in the course of my duties as such.

So HELP ME GOD

Sworn/Affirmed before me this day of.....

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Commissioner for Oaths