

CHAPTER 10:30 ZIMBABWE HUMAN RIGHTS COMMISSION ACT

Act 2/2012, 3/2016 (Part XXIX).

[Date of commencement: 12th October, 2012]

ARRANGEMENT OF SECTIONS

PART I

Preliminary

- [1.](#) Short title
- [2.](#) Interpretation

PART II

Zimbabwe Human Rights Commission and Staff

- [3.](#) Corporate status of Commission, etc.
- [4.](#) Functions of Commission
- [5.](#) Deputy Chairperson of Commission
- [6.](#) Executive Secretary, and other staff of Commission and consultants
- [7.](#) Independence and impartiality of Commission, Commissioners, etc.
- [8.](#) Reports of Commission

PART III

Procedure and Manner of Investigations by Commission

- [9.](#) Jurisdiction of Commission to conduct investigations
- [10.](#) Manner of making complaints
- [11.](#) Refusal to investigate
- [12.](#) Manner of conducting investigations
- [13.](#) Conflict of interest
- [14.](#) Proceedings after investigation
- [15.](#) Commission may institute actions for redress of human rights violations
- [16.](#) Commission may state case for High Court

PART IV

Financial Provisions

- [17.](#) Funds of Commission
- [18.](#) Accounts of Commission and appointment of internal auditor
- [19.](#) Audit of Accounts

PART V

Miscellaneous Provisions

- [20.](#) Removal of Commissioner from office
- [21.](#) Immunity
- [22.](#) Provincial, district and other offices of Commission
- [23.](#) Regulations
- [First Schedule](#) Provisions Applicable to Commissioners and Working Groups
- [Second Schedule](#) Ancillary Powers of Commission
- [Third Schedule](#) Oath of Secrecy

AN ACT to provide for the procedure of the Zimbabwe Human Rights Commission; to provide for the appointment of the Deputy Chairperson, Executive Secretary and staff of the Commission; and to provide for matters incidental to or connected with the foregoing.

WHEREAS sections 242 and 243 of the Constitution provide as follows -

242. Establishment and composition of Zimbabwe Human Rights Commission

(1) *There is a commission to be known as the Zimbabwe Human Rights Commission consisting of -*

(a) *a chairperson appointed by the President after consultation with the Judicial Service Commission and*

the Committee on Standing Rules and Orders; and

- (b) *eight other members appointed by the President from a list of not fewer than twelve nominees submitted by the Committee on Standing Rules and Orders.*

(2) *The chairperson of the Zimbabwe Human Rights Commission must be a person who has been qualified for at least seven years to practise as a legal practitioner in Zimbabwe.*

(3) *If the appointment of a chairperson to the Zimbabwe Human Rights Commission is not consistent with a recommendation of the Judicial Service Commission, the President must cause the Committee on Standing Rules and Orders to be informed as soon as practicable.*

(4) *Members of the Zimbabwe Human Rights Commission must be chosen for their integrity and their knowledge and understanding of and experience in, the promotion of human rights.*

243. Functions of Zimbabwe Human Rights Commission

(1) *The Zimbabwe Human Rights Commission has the following functions -*

- (a) *to promote awareness of and respect for human rights and freedoms at all levels of society;*
- (b) *to promote the protection, development and attainment of human rights and freedoms;*
- (c) *to monitor, assess and ensure observance of human rights and freedoms;*
- (d) *to receive and consider complaints from the public and to take such action in regard to the complaints as it considers appropriate;*
- (e) *to protect the public against abuse of power and maladministration by State and public institutions and by officers of those institutions;*
- (f) *to investigate the conduct of any authority or person, where it is alleged that any of the human rights and freedoms set out in the Declaration of Rights has been violated by that authority or person;*
- (g) *to secure appropriate redress, including recommending the prosecution of offenders, where human rights or freedoms have been violated;*
- (h) *to direct the Commissioner-General of Police to investigate cases of suspected criminal violations of human rights or freedoms and to report to the Commission on the results of any such investigation;*
- (i) *to recommend to Parliament effective measures to promote human rights and freedoms;*
- (j) *to conduct research into issues relating to human rights and freedoms and social justice; and*
- (k) *to visit and inspect -*
 - (i) *prisons, places of detention, refugee camps and related facilities; and*
 - (ii) *places where mentally disordered or intellectually handicapped persons are detained.*

[Preamble substituted by Part XXIX of No. 3 of 2016.]

PART I

Preliminary

1. Short title

This Act may be cited as the Zimbabwe Human Rights Commission Act [*Chapter 10:30*].

2. Interpretation

In this Act -

"authority or person", in relation to an authority or person against whom or which any complaint of a human rights violation has been made in terms of [section 9](#), means any person, body, organ, agency or institution, whether belonging to or employed by the State, a local authority or otherwise;

"Chairperson" means the Chairperson of the Commission appointed in terms of section 242 of the Constitution; [Definition of "[Chairperson](#)" amended by Part XXIX of No. 3 of 2016.]

"Commission" means the Zimbabwe Human Rights Commission established in terms of section 100R of the Constitution;

"Commissioner" means a member of the Commission, and includes the Chairperson;

"complaint" means a complaint of a human rights violation made to the Commission in terms of this Act and "complainant" shall be construed accordingly;

"Committee on Standing Rules and Orders" means the committee referred to in section 57 (2) of the Constitution;

"Deputy Chairperson" means the Deputy Chairperson of the Commission appointed in terms of [section 5 \(1\)](#);

"Executive Secretary" means the Executive Secretary of the Commission appointed in terms of [section 6 \(1\)](#);

"human rights violation" means a violation of -

- (a) the Declaration of Rights in the Constitution; or
- (b) any international human rights instrument that Zimbabwe is a party to;

"international human rights instrument" means any international treaty, convention, protocol or other agreement to which Zimbabwe is a party and -

- (a) is required in terms of the Constitution to be approved by Parliament; and
- (b) provides for any human right that is included in or additional to the Declaration of Rights in the Constitution;

"legal representative" means the representative recognised by law of any person who has died, or is an infant or a minor, or of unsound mind, or is otherwise under a disability;

"Minister" means the Minister responsible for Justice and Legal Affairs or any other Minister to whom the President may, from time to time, assign the administration of this Act;

"prescribe" means prescribed by regulations made in terms of [section 23](#);

"principal officer", in relation to an authority or person which is a Government Ministry or department or a statutory or corporate body, means the head of the Ministry or department in question, or the chairperson of the governing body or chief executive officer of the statutory or corporate body in question, by whatever title he or she may be called.

PART II

Zimbabwe Human Rights Commission and Staff

3. Corporate status of Commission, etc.

(1) The Zimbabwe Human Rights Commission shall be a body corporate capable of suing and being sued in its corporate name and, subject to this Act, of performing all acts that bodies corporate may by law perform.

(2) The [First Schedule](#) applies to the tenure of office and conditions of service of the Commissioners as well as to the procedure to be followed by the Commission at its meetings.

(3) The [Second Schedule](#) sets out the ancillary powers of the Commission.

4. Functions of Commission

In addition to the functions and powers set out in section 243 of the Constitution, the Commission shall have the following functions and powers -

- (a) to conduct investigations on its own initiative or on receipt of complaints;
- (b) to visit and inspect prisons, places of detention, refugee camps and related facilities in order to ascertain the condition under which inmates are kept there, and to make recommendations regarding those conditions to the Minister responsible for administering the law relating to those places or facilities;
- (c) to visit and inspect places where mentally disordered or intellectually handicapped persons are detained under any law in order to ascertain the conditions under which those persons are kept there, and to make recommendations regarding those conditions to the Minister responsible for administering the law relating to those places; and
- (d) to ensure and provide appropriate redress for violations of human rights and for injustice;
- (e) to co-operate with human rights institutions belonging to international, continental or regional organisations of which Zimbabwe is a member.

[[S. 4](#) amended by Part XXIX of No. 3 of 2016.]

5. Deputy Chairperson of Commission

(1) After consulting the Committee on Standing Rules and Orders, the President shall appoint a Deputy Chairperson from among the Commissioners.

(2) If the office of the Chairperson is vacant or the Chairperson is absent from duty, the Deputy-Chairperson shall act as Chairperson.

6. Executive Secretary, and other staff of Commission and consultants

(1) The Commission shall -

- (a) appoint an Executive Secretary; and
- (b) employ such other staff as may be necessary for the proper exercise of its functions, and engage consultants where necessary:

Provided that the Commission shall consult the Minister and the Minister responsible for Finance on the extent to which additional public moneys may be required for this purpose.

(2) In order for a person to be appointed as Executive Secretary of the Commission, he or she must -

- (a) be qualified to be appointed as a judge of the High Court or the Supreme Court; or
- (b) have a graduate or postgraduate qualification in human rights law or humanitarian law or a related discipline.

(3) The offices of the Executive Secretary and other members of staff shall be public offices but not form part of the Public Service.

(4) The Executive Secretary shall, subject to the general control of the Commission -

- (a) be responsible for carrying out the decisions of the Commission and the day-to-day administration and management of the affairs, staff and property of the Commission; and
- (b) be the custodian of the Commission's records; and
- (c) attend all meetings of the Commission, but shall have no vote on any matter before the Commission; and
- (d) perform such other functions as may be assigned by the Commission.

(5) The Executive Secretary shall swear and subscribe to the oath of secrecy set out in [Third Schedule](#), which shall be administered by the Chairperson.

7. Independence and impartiality of Commission, Commissioners, etc.

(1) A Commissioner or a member of staff of the Commission shall serve impartially and independently and exercise or perform his or her functions in good faith and without fear, favour, bias or prejudice and subject only to the Constitution and the law.

(2) Neither the State or any person, body, organ, agency or institution belonging to or employed by the State, a local authority or otherwise shall interfere with, hinder or obstruct the Commission, its Commissioners or any member of staff of the Commission, in the exercise or performance of its, his or her functions.

(3) The State and any person, body, organ, agency or institution, belonging to or employed by the State, shall afford the Commission such assistance as may be reasonably required for the protection of the independence, impartiality and dignity of the Commission.

(4) No person shall conduct an investigation or render assistance with regard thereto in respect of a matter in which he or she has any pecuniary or any other interest which might preclude him or her from exercising or performing his or her functions in a fair, unbiased and proper manner.

(5) If any person fails to disclose an interest contemplated in [subsection \(4\)](#) and conducts or renders assistance with regard to an investigation, while having an interest so contemplated in the matter being investigated the Commission may take such steps as it deems necessary to ensure a fair, unbiased and proper investigation.

8. Reports of Commission

(1) The Commission shall no later than sixty days after the end of each financial year submit to the Minister an annual report on its operations and activities during the preceding financial year.

(2) In addition, the Commission -

- (a) shall submit to the Minister any other report, and provide him or her with any other information, that he or she may require in regard to the operations and activities of the Commission; and

(b) may submit to the Minister any other report that it considers desirable.

(3) The Minister shall table before Parliament any report submitted to him or her by the Commission under [subsections \(1\) and \(2\)](#), no later than the thirtieth sitting day of whichever House of Parliament sits first after he or she has received such report.

PART III

Procedure and Manner of Investigations by Commission

9. Jurisdiction of Commission to conduct investigations

(1) The Commission may on its own initiative investigate any action or omission on the part of any authority or person that constitutes or may constitute a human rights violation.

(2) Any person affected by any actual or perceived human rights violation arising out of any action or omission on the part of any authority or person may make a written complaint to the Commission requesting it to investigate such action or omission.

(3) When a person by whom a complaint might have been made under this section has died or is for any reason unable to act for himself or herself, the complaint may be made by his or her legal representative or a member of his or her family or such other person as the Commission considers suitable to represent him or her.

(4) The Commission shall not investigate a complaint -

(a) unless the complaint is made within three years from the date on which the action or omission occurred:

Provided that such investigation shall not relate to an action or omission that occurred earlier than the 13th February, 2009; or

(b) where the action or omission complained of is the subject-matter of civil proceedings before any court of competent jurisdiction; or

(c) where the action complained of relates to the exercise of the prerogative of mercy; or

(d) where the action or omission complained of involves relations or dealings between the Government and a foreign Government, unless there has been an allegation of a human rights violation by a citizen or resident of Zimbabwe.

10. Manner of making complaints

(1) The Commission shall, in regulations prescribe the general manner in which complaints to it should be made, including the particulars required to be completed in a form specified by the Commission in those regulations.

(2) The Commission may require a complaint to be supported by such evidence and documentation as it may prescribe or in any particular case.

(3) The Commission shall not refuse to investigate a complaint solely on the grounds that the complaint is not in proper form or not in compliance with the prescribed requirements or that it is not accompanied by the required documentation.

11. Refusal to investigate

(1) The Commission shall refuse to investigate any complaint if it is satisfied that it is not authorised in terms of the Constitution and this Act to carry out an investigation.

(2) The Commission shall discontinue any investigation if it is satisfied by the evidence received that it is not authorised in terms of the Constitution and this Act to continue the investigation.

(3) If the Commission refuses to investigate a complaint or discontinues an investigation it shall, in writing -

(a) inform the complainant and any party complained against of its decision, stating its reasons for the decision; and

(b) if appropriate, advise the complainant of any other remedy that appears to it to be available to him or her.

12. Manner of conducting investigations

(1) Subject to [subsection \(6\)](#) (concerning non-disclosure of certain evidence) the Commission may in its discretion conduct an investigation in the form of a public or closed hearing, for which purpose the Commission shall have the following powers -

- (a) to issue summons to any authority or person or the principal officer thereof to attend before the Commission and to produce any document or record relevant to any investigation by the Commission; and
- (b) to put any questions to any authority or person or the principal officer which the Commission considers will assist its investigation of the complaint in question; and
- (c) to require any person questioned by it to answer such questions and to disclose any information within such person's knowledge which the Commission considers relevant to any investigation by it; and
- (d) to request the assistance of the police during an investigation.

(2) In conducting a hearing the Commission shall not be bound by the strict rules of evidence, and it may ascertain any relevant fact by any means which it thinks fit and which is not unfair or unjust to any party.

(3) The Commission shall afford the authority or person or the principal officer thereof, who is alleged to be responsible for the human rights violation, an adequate opportunity to respond to such allegations.

(4) Any person appearing before the Commission may be represented by a legal practitioner.

(5) Information obtained by the Commission or any member of its staff at a closed hearing shall not be disclosed to any person except -

- (a) without disclosing the identity of any person who gave the information in confidence, for the purposes of the investigation and for any report to be made thereon; or
- (b) for the purposes of any proceedings for perjury alleged to have been committed in the course of an investigation.

(6) The Minister may, at any stage during the investigation of a complaint by the Commission, produce to the Commission a certificate in writing signed by him or her to the effect that the disclosure of any evidence or documentation or class of evidence or documentation specified in the certificate is, in his or her opinion, contrary to the public interest on the grounds that it may prejudice the defence, external relations, internal security or economic interests of the State, whereupon the Commission shall make arrangements for evidence relating to that matter to be heard *in camera* at a closed hearing and shall take such other action as may be necessary or expedient to prevent the disclosure of that matter.

(7) Upon receipt of a certificate in terms of [subsection \(6\)](#) -

- (a) the Commission or any member of the staff of the Commission shall not communicate any such evidence or documentation to any other person for any purpose, unless the Minister allows the Commission to do so, subject to such conditions as he or she may fix; and
- (b) an aggrieved person may, in accordance with the Administrative Justice Act [*Chapter 10:28*] (No. 24 of 2004), appeal against such certificate, and the court hearing the appeal shall treat any evidence or documentation subject to the certificate in the manner specified in [section 8](#) ("Discretion to refuse or to restrict supply of reasons") of the Administrative Justice Act [*Chapter 10:28*] (No. 24 of 2004).

(8) Any person who -

- (a) has been summoned by the Commission to give evidence or to produce any documentation for the purposes of an investigation and who fails to attend or to remain in attendance until excused by the Commission from further attendance, or refuses without sufficient cause, the onus of proof whereof lies upon him or her, to be sworn as a witness or to answer fully and satisfactorily a question lawfully put to him or her, or to produce the evidence or documentation requested; or
- (b) gives false evidence to the Commissioners, knowing such evidence to be false or not knowing or believing it to be true;

shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

(9) For the avoidance of doubt it is declared that the law relating to the competence or compellability of any person on the grounds of privilege to give evidence, answer any questions or produce any book or document before the Commission, shall apply.

(10) Any Commissioner or member of staff who without being authorised to do so by the Commission, discloses any information, evidence or documentation referred to in [subsection \(5\)](#) or [\(6\)](#), or makes any use of such information for his or her benefit, shall be guilty of an offence and liable to a fine not exceeding level twelve or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

13. Conflict of interest

(1) No Commissioner shall participate in a hearing of a human rights violation or have a vote on any question before the Commission, whether or not involving any human rights violation, in which the Commissioner is aware that he or she has direct or indirect interest that may conflict with his or her functions as a Commissioner.

(2) A Commissioner who contravenes [subsection \(2\)](#) shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

14. Proceedings after investigation

(1) If, after conducting an investigation, the Commission is of the opinion that the action or omission which was the subject-matter of the investigation constitutes a human rights violation and that -

- (a) the action or omission relates to any decision or practice on the part of any person or authority which needs to be abolished, cancelled, reversed, varied or altered; or
- (b) the issue giving rise to the complaint should be given further consideration by the person or authority against whom or which the complaint was made; or
- (c) the action or omission should be rectified; or
- (d) any law on which the act or omission was based should be reconsidered; or
- (e) reasons should have been given for any decision complained against; or
- (f) any other steps should be taken in relation to the action or omission complained against;

the Commission shall report its opinion, together with its reasons, to the authority or person against whom the complaint was made and may make such recommendations as it thinks fit and shall also send a copy of its report and recommendations to the Minister.

(2) In particular, the Commission may, where it considers it necessary, recommend -

- (a) the release of a person from prison; or
- (b) the payment of compensation to a victim of a human rights violation, or to such victim's family; or
- (c) that the complainant seek redress in a court of law.

(3) The Commission may request the authority or person in relation to whom or which it made any recommendation to notify it, within a specified time, of the steps, if any, that it proposes to take to give effect to its recommendation.

(4) If, within a reasonable time after a report is made in terms of [subsection \(1\)](#), no action is taken which, in the opinion of the Commission, is adequate and appropriate, the Commission may, if it thinks fit after considering the comments, if any, made by or on behalf of any authority or person affected, submit a special report on the case to the Minister for the Minister to present to the President and lay before Parliament.

15. Commission may institute actions for redress of human rights violations

(1) The Commission may, if it thinks fit, where it has completed an investigation of any human rights violation -

- (a) on its own initiative in terms of [section 9 \(1\)](#); or
- (b) on the basis of a complaint;

in its own name or on behalf of any complainant or class of complainants pursue any action in any court of competent jurisdiction for the redress of any human rights violation, for which purpose it shall, where it acts on the basis a complaint, be cited as a joint party with the complainant or class of complainants in question.

(2) Where the Commission institutes any action against the State or any authority or person belonging to or employed by the State, the provisions of the State Liabilities Act [*Chapter 8:14*] shall apply to such action.

16. Commission may state case for High Court

(1) If any question arises as to whether the Commission has jurisdiction to initiate, continue or discontinue an investigation or to exercise powers in connection therewith, the Commission may state a special case on the question for the decision of the High Court.

(2) In any case so stated the Commission shall state -

- (a) the facts which it has established; and

(b) the view of the law which it proposes to adopt in relation to the facts.

(3) Any expenses incurred by the Commission in the determination of any question referred to in [subsection \(1\)](#) shall be met from the funds of the Commission.

PART IV *Financial Provisions*

17. Funds of Commission

(1) The funds of the Commission shall consist of -

- (a) moneys appropriated by Act of Parliament for the salaries and allowances payable to and in respect of members of the Commission and the recurrent administrative expenses of the Commission; and
- (b) any other moneys that may be payable to the Commission from moneys appropriated for the purpose by Act of Parliament; and
- (c) any donations, grants, bequests or loans made by any person or organisation or any government of any country to the Commission with the approval of the Minister; and
- (d) any other moneys that may vest in or accrue to the Commission, whether in terms of this Act or otherwise.

(2) The Commission shall apply its funds to the fulfilment of its functions.

(3) Moneys not immediately required by the Commission may be invested in such a manner as the Commission, with the approval of the Minister and the Minister responsible for finance, considers appropriate.

18. Accounts of Commission and appointment of internal auditor

(1) The Commission shall ensure that proper accounts and other records relating to such accounts are kept in respect of all the Commission's activities, funds and property, including such particular accounts and records as the Minister may direct.

(2) As soon as possible after the end of each financial year, the Commission shall prepare and submit to the Minister a statement of accounts in respect of that financial year or in respect of such other period as the Minister may direct.

(3) Section 80 of the Public Finance Management Act [*Chapter 22:19*] (No. 11 of 2009), shall apply, with such changes as may be necessary, to the appointment of an internal auditor to the Commission in all respects as if the Commission were a Ministry or department of a Ministry.

19. Audit of Accounts

(1) The accounts of the Commission shall be audited by the Auditor-General, who for that purpose shall have the functions conferred on him or her by [sections 7](#) and [8](#) of the Audit Office Act [*Chapter 22:18*] (No. 12 of 2009).

[\[Sub-s. \(1\)\]](#) amended by Part XXIX of No. 3 of 2016.]

(2) Any person under the authority or supervision of the Commission who refuses to provide the Auditor-General with an explanation or information required by him or her for the purposes of an audit or knowingly provides the Auditor-General with a false explanation or information, or an explanation or information that the person has no grounds for believing to be true, shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

[\[Sub-s. \(2\)\]](#) amended by Part XXIX of No. 3 of 2016.]

(3) Notwithstanding anything contained in [subsection \(1\)](#), the Auditor-General may appoint a suitably qualified person to audit the accounts of the Commission and if he or she does so -

- (a) [subsections \(1\)](#) and [\(2\)](#) shall apply in respect of the person so appointed as if he or she were the Auditor-General; and

[\[Para. \(a\)\]](#) amended by Part XXIX of No. 3 of 2016.]

- (b) any expenses incurred by the person so appointed in carrying out his or her audit shall be met from the funds of the Commission.

[\[Sub-s. \(3\)\]](#) amended by Part XXIX of No. 3 of 2016.]

20. Removal of Commissioner from office

(1) A Commissioner may be removed from office for inability to discharge the functions of his or her office, whether arising from infirmity of body or mind or any other cause, or for misbehaviour, and shall not be so removed except in accordance with this Act.

(2) A Commissioner shall be removed from office by the President if the question of his or her removal from office has been referred to a tribunal appointed under [subsection \(4\)](#) and that tribunal has advised the President that he or she ought to be removed from office for inability to discharge the functions of his or her office or for misbehaviour.

(3) If the question of removing a Commissioner has been referred to a tribunal appointed under [subsection \(4\)](#), the President may suspend that person from performing the functions of his or her office and any such suspension -

- (a) may at any time be revoked by the President; and
- (b) shall cease to have effect if the tribunal advises the President that the person should not be removed.

(4) The tribunal referred to in this section shall consist of a chairperson and two other members appointed by the President, and -

- (a) the chairperson shall be a person who is or has been a judge of the Supreme Court or the High Court;
- (b) at least one of the other members shall be a person who is and has been for not less than seven years, whether continuously or not, qualified to practise as a legal practitioner in Zimbabwe.

(5) In computing, for the purposes of [subsection \(4\) \(b\)](#), the period during which any person has been qualified to practise as a legal practitioner, any period during which he or she was qualified to practise as an advocate or attorney in Zimbabwe shall be included.

21. Immunity

No legal proceedings shall lie against the Commission or any Commissioner or the Executive Secretary or any person acting under the direction of the Commission in respect of anything which is done in good faith and without gross negligence in pursuance of this Act.

22. Provincial, district and other offices of Commission

The Commission shall endeavour to establish a principal office and offices at provincial, district and other administrative levels as it considers fit for the better performance of its functions.

23. Regulations

(1) The Commission may make regulations -

- (a) prescribing anything which by this Act and its Constitutional mandate is required or permitted to be prescribed or which, in its opinion, is necessary or convenient to be prescribed for the carrying out or giving effect to this Act; and
- (b) providing for the conditions of service of the Executive Secretary and the staff of the Commission.

(2) The regulations of the Commission shall not have effect until they have been approved by the Minister and published in the *Gazette*.

ARRANGEMENT OF PARAGRAPH

- [1.](#) Interpretation in [First Schedule](#)
- [2.](#) Disqualifications for appointment to Commission
- [3.](#) Terms of office and conditions of service of Commissioners
- [4.](#) Vacation of office by Commissioners
- [5.](#) Filling of vacancies
- [6.](#) Procedure at meetings of Commission
- [7.](#) Working Groups of Commission
- [8.](#) Minutes of Proceedings
- [9.](#) Validity of decisions and acts of Commission and Working Groups

1. Interpretation in [First Schedule](#)

In this Schedule -

"Working Group" means any group established in terms of [paragraph 7](#).

2. Disqualifications for appointment to Commission

(1) A person shall not be qualified for appointment as a member of the Commission, nor shall he or she hold office as an appointed member, if -

- (a) he or she is not a citizen of Zimbabwe or ordinarily resident in Zimbabwe; or
- (b) he or she is a member of any other statutory body; or
- (c) he or she is a member of Parliament; or
- (d) he or she is a member of a local authority or is in the full-time employment of a local authority; or
- (e) in terms of a law in force in any country -
 - (i) he or she has been adjudged or otherwise declared insolvent or bankrupt and has not been rehabilitated or discharged; or
 - (ii) he or she has made an assignment or composition with his or her creditors which has not been rescinded or set aside; or
- (f) he or she has been sentenced in any country to a term of imprisonment imposed without the option of a fine, whether or not any portion thereof has been suspended, and has not received a free pardon.

(2) For the purposes of [subparagraph \(1\) \(b\)](#) -

- (a) a person who is appointed to a council, board or other authority which is a statutory body or which is responsible for the administration of the affairs of a statutory body shall be regarded as a member of that statutory body;
- (b) "statutory body" means -
 - (i) any commission established by the Constitution; or
 - (ii) any body corporate established directly by or under an Act for special purposes specified in that Act, the membership of which consists wholly or mainly of persons appointed by the President, a Vice-President, a Minister or any other statutory body or by a commission established by the Constitution.

3. Terms of office and conditions of service of Commissioner

(1) A Commissioner shall hold office for a term of five years and shall be eligible for reappointment for another term of office not exceeding five years.

(2) For the avoidance of doubt, it is declared that the terms of office of Commissioners shall be regarded as full terms of office.

4. Vacation of office by Commissioners

(1) The office of a Commissioner shall become vacant upon -

- (a) the death of the Commissioner; or
- (b) the resignation from office in writing under the Commissioner's hand addressed to the President; or
- (c) the Commissioner is convicted of an offence and is sentenced to a term of imprisonment without the option of a fine; or
- (d) the Commissioner is absent without good cause from three consecutive meetings of the Commission of which he or she has received due notice; or
- (e) the Commissioner is declared insolvent by a court of competent jurisdiction; or

- (f) the Commissioner takes up, whilst in office, an appointment to a which will render him or her incapable of qualifying for appointment as Commissioner; or
- (g) the Commissioner is removed from office by a tribunal.

(2) For the purposes of [subparagraph \(1\)](#) a Commissioner shall be have resigned his or her office and his or her office shall become vacant -

- (a) if he or she becomes disqualified for appointment to the Commission in terms of paragraph 2 (1) (d), (b), (c), (d), (e) or (f); or
- (b) on the date he or she begins to serve a sentence of imprisonment, whether or not any portion was suspended, imposed without the option of a fine -
 - (i) in Zimbabwe, in respect of an offence; or
 - (ii) outside Zimbabwe, in respect of conduct which, if committed in Zimbabwe, would have constituted an offence.

(3) The President shall notify the termination of the appointment of any Commissioner under this Act in the *Gazette*.

5. Filling of vacancies

On the death of, or the vacation of office by, a Commissioner, the President shall fill the vacancy within three months.

6. Procedure at meetings of Commission

(1) Subject to [subparagraph \(2\)](#), the Commission shall meet -

- (a) at such dates, times and places as may be fixed by the Chairperson:

Provided that the Commission shall meet at least once in every three months; and

- (b) written notice shall be sent to each Commissioner not later than seven days before the meeting and shall specify the business for which the meeting has been convened.

(2) The Chairperson -

- (a) may convene a special meeting of the Commission at any time; and
- (b) shall convene a special meeting of the Commission on the written request of not fewer than two Commissioners, which meeting shall be convened for a date not sooner than seven days and not later than thirty days after the Chairperson's receipt of the request.

(3) Written notice of a special meeting convened in terms of [subparagraph \(2\)](#) shall be sent to each Commissioner not later than forty-eight hours before the meeting and shall specify the business for which the meeting has been convened:

Provided that a failure by a Commissioner to receive such a notice, or an inadvertent failure to send such a notice to a Commissioner, shall not invalidate the meeting.

(4) No business shall be discussed at a special meeting convened in terms of [subparagraph \(2\)](#) other than -

- (a) such business as may be determined by the Chairperson, where he or she convened the meeting in terms of [subparagraph \(2\) \(a\)](#); or
- (b) the business specified in the request for the meeting, where the Chairperson convened the meeting in terms of [paragraph \(2\) \(b\)](#).

(5) The Chairperson or, in his or her absence, Commissioner designated by him or her, shall preside at all meetings of the Commission.

(6) At any meeting of the Commission, five of Commissioners shall form a quorum.

(7) The Commission will endeavour to make decisions by consensus among the Commissioners present at a meeting of the Commission at which a quorum is present, failing which anything authorised or required to be done by the Commission shall be decided by a majority vote of the members at the meeting.

(8) At all meetings of the Commission each Commissioner present shall have one vote on each question before the Commission:

Provided that, in the event of an equality of votes, the Chairperson or person presiding at the meeting shall have a casting vote in addition to his or her deliberative vote.

(9) With the approval of the Commission, the Chairperson may invite any person to attend a meeting of the Commission, where the Chairperson considers that the person has special knowledge or experience in any matter to be considered at that meeting.

(10) A person invited to attend a meeting of the Commission in terms of [subparagraph \(9\)](#) may take part in

the meeting as if he or she were a member of the Commission, but he or she shall not have a vote on any question before the meeting.

(11) Any proposal circulated among all Commissioners and agreed to in writing by a majority of them shall have the same effect as a resolution passed at a duly constituted meeting of the Commissioners and shall be incorporated into the minutes of the next succeeding meeting of the Commission:

Provided that, if a Commissioner requires that such a proposal to be placed before a meeting of the Commission, this subparagraph shall not apply to the proposal.

(12) Except as otherwise provided in this paragraph, the procedure for the convening and conduct of meetings of the Commission shall be as fixed from time to time by the Commission.

7. Working Groups of Commission

(1) For the better exercise of its functions the Commission may establish one or more Working Groups in which the Commission may vest such of its functions as it considers appropriate:

Provided that the vesting of any function in a Working Group shall not divest the Commission of that function and the Commission may amend or rescind any decision of the Working Group in the exercise of that function.

(2) On the establishment of a Working Group, the Commission -

- (a) shall appoint at least one member of the Commission as a member of the Working Group, and that member or one of those members, as the case may be, shall be chairperson of the Working Group; and
- (b) may appoint as members of the Working Group persons who are not members of the Commission and may fix terms and conditions of their appointment.

(3) The Working Groups established in terms of [subsection \(1\)](#) shall be based on human rights thematic areas including -

- (a) Children's Rights;
- (b) Gender Equality and Women's Rights;
- (c) Civil and Political Rights;
- (d) Economic Social and Cultural Rights; and
- (e) any other thematic area, which the Commission may consider necessary.

(4) Meetings of a Working Group may be convened at any time and at any place by the chairperson of the Working Group.

(5) If the chairperson of a Working Group is absent from any meeting of the Working Group, the members present may elect one of their number to preside at that meeting as chairperson.

(6) A majority of members of a Working Group shall form a quorum at any meeting of the Working Group.

(7) Anything authorised or required to be done by a Working Group may be decided by a majority vote at a meeting of the Working Group at which a quorum is present.

(8) At all meetings of a Working Group each member present shall have one vote on each question before the Working Group:

Provided that in the event of an equality of votes the chairperson or person presiding at the meeting shall have a casting vote in addition to his or her deliberative vote.

(9) Subject to this paragraph, the procedure to be followed at any meeting of a Working Group shall be as fixed by the Commission.

8. Minutes of proceedings

(1) The Commission shall cause minutes to be taken at its meetings and the meetings of its Working Groups and enter them in books kept for the purpose of recording minutes.

(2) Any minutes which purport to be signed by the person presiding at the meeting to which the minutes relate or by the person presiding at the next following meeting of the Commission or the Working Group concerned, as the case may be, shall be accepted for all purposes as *prima facie* evidence of the proceedings and decisions taken at the meeting concerned.

(3) The Commission and any Working Group of the Commission shall cause copies of all minutes that have been signed to be sent to the Minister for his or her information.

9. Validity of decisions and acts of Commission and Working Groups

No decision or act of the Commission and any Working Group or act done under their authority shall be invalid solely because -

- (a) the Commission or Working Group consisted of less than the number of persons for which provision is made in [paragraphs 6](#) and [7](#); or
- (b) a disqualified person acted as a Commissioner or member of a Working Group at the time the decision was taken or the act was done or authorised;

if the decision was taken or the act was done or authorised by a majority vote of the persons who at the time were entitled to act as Commissioners or members of a Working Group.

Second Schedule ANCILLARY POWERS OF COMMISSION

(Section 3 (3))

1. To acquire premises necessary or convenient for the exercise of its functions and for that purpose to buy, take on lease or in exchange, hire or otherwise acquire immovable property and any interest therein and any rights, concessions, grants, powers and privileges in respect thereof.

2. To buy, take in exchange, hire or otherwise acquire movable property necessary or convenient for the exercise of its functions.

3. To maintain, alter or improve property acquired by it.

4. To mortgage any assets, or part of any assets and, with the approval of the Minister, to sell, exchange, lease, dispose or turn to account or otherwise deal with any assets or part of any assets which are not required for the exercise of its functions for such consideration as it may determine.

5. To open bank accounts in the name of the Commission and to draw, make, accept, endorse, discount, execute and issue for the purposes of its functions promissory notes, bills of exchange, securities and other negotiable or transferable instruments.

6. To insure against losses, damages, risks and liabilities which it may incur.

7. With the approval of Minister, to establish and administer such funds and reserves not specifically provided for in this Act as the Commission considers appropriate or necessary for the proper exercise of its functions.

8. To pay such remuneration and allowances and grant such leave of absence and to make such gifts, bonuses and the like to members of the Commission as it considers fit.

9. To provide pecuniary benefits for members of the Commission on their retirement, resignation, discharge or other termination of service or in the event of their sickness or injury and for their dependants, and for that purpose to effect policies of insurance, provident funds or make such other provision as may be necessary to secure for its members and their dependants any or all of the pecuniary benefits to which the provisions of this paragraph relate.

10. To purchase, take on lease or in exchange or otherwise acquire land for residential purposes or dwellinghouses for use or occupation by members of the Commission.

11. To construct dwellings, outbuildings or improvements for use or occupation by members of the Commission.

12. To provide or guarantee loans made to members of the Commission for the purchase of dwelling-houses or land for residential purposes, the construction of dwelling-houses and the improvement of dwelling houses or land which are the property of its members, subject to any conditions that may be imposed by the Commission from time to time.

13. To provide security in respect of loans by the deposit of securities, in which the Commission may invest such money as it may consider necessary for the purpose.

14. Subject to any conditions that may be imposed by the Commission from time to time, to provide loans to any members of the Commission -

- (a) for the purpose of purchasing vehicles, tools or other equipment to be used by the members in carrying out their duties; or
- (b) not exceeding six months' salary or wages payable to the members concerned, for any purpose on such security as the Commission thinks adequate.

15. To do anything for the purpose of improving the skill, knowledge or usefulness of members of the Commission, and in that connection to provide or assist other persons in providing facilities for training, education and research, including the awarding of scholarships for such training.

16. To provide such services as the Commission considers appropriate and to charge for such services such fees as the Commission, may from time to time determine.

17. To engage in any activity, either alone or in conjunction with other organisations or international

agencies, to promote better understanding of human rights violation issues.

18. To provide advice or assistance, including training facilities, to the other human rights organisations from other countries.

19. To do anything which by this Act or any other enactment is required or permitted to be done by the Commission.

20. Generally to do all such things that are conducive to the performance of the functions of the Commission in terms of this Act or any other enactment.

Third Schedule OATH OF SECRECY

(Section 6 (5))

Oath of Secrecy of Executive Secretary

I, _____, having been appointed as Executive Secretary of the Human Rights Commission do swear [*or solemnly affirm*] that I will not, directly or indirectly, reveal any matters relating to such functions to any unauthorised persons or otherwise in the course of my duty.

So help me God.

CHAPTER 10:30 ZIMBABWE HUMAN RIGHTS COMMISSION ACT

INDEX TO SUBSIDIARY LEGISLATION

REGULATION

[S.I. 77 of 2016](#)

Zimbabwe Human Rights Commission (General) Regulations

S.I. 77 of 2016: Zimbabwe Human Rights Commission (General) Regulations

ARRANGEMENT OF REGULATIONS

[PART I](#)

Preliminary

- [1.](#) Title.
- [2.](#) Interpretation.

[PART II](#)

Administration

- [3.](#) Regions.
- [4.](#) Regional offices of Commission.

[PART III](#)

Lodging and Investigation of Complaints

- [5.](#) Persons who may lodge complaint.
- [6.](#) Form of complaint.
- [7.](#) Lodging of complaint.
- [8.](#) Acknowledgement of receipt of complaint.
- [9.](#) Confidentiality.
- [10.](#) Assessment of complaint.
- [11.](#) Appeal against rejection of complaint.

12. Investigation of complaint.
13. Procedure at close of investigation by appropriate officer.

PART IV

Resolution of Complaints through Negotiation, Conciliation or Mediation

14. Initiation of process of negotiation, conciliation or mediation.
15. Recording of agreement reached through negotiation, conciliation or mediation.
16. Procedure on failure of negotiation, conciliation or mediation.

PART V

Hearings

17. Informal hearings.
18. Convening of formal hearing.
19. Persons presiding over formal hearing.
20. Procedure at formal hearing.
21. Announcement of findings following formal hearing.
22. Notification to parties and other persons of findings of formal hearing.
23. Submission of record of formal hearing to Commission.
24. Report following formal hearing.

PART VI

Conclusion of Complaints

25. When complaint is concluded.
26. Reports by Commission on agreements following negotiation, conciliation or mediation.

PART VII

General

27. Violation of human rights or freedoms.
28. Investigations may be instituted by Commission.
29. Monitoring of observance of human rights and freedoms.
30. Service of documents.
31. Duties to be carried out promptly.
32. Costs.
33. Publicity.
Schedule. Form of Summons.

IT is hereby notified that the Minister of Justice, Legal and Parliamentary Affairs has, in terms of section 23 of the Zimbabwe Human Rights Commission Act [Chapter 10:30], approved the following regulations made by the Zimbabwe Human Rights Commission-

PART I

Preliminary

1. Title

These regulations may be cited as the Zimbabwe Human Rights Commission (General) Regulations, 2016.

2. Interpretation

(1) In these regulations-

"appropriate officer", in relation to a particular function, means the member of the Commission's staff assigned by the Commission to perform that function;

"assessment" means the process by which the Commission screens a complaint in order to decide whether it has jurisdiction to deal with it, and to make an initial finding on its merits;

"business day" means any day other than a Saturday, a Sunday or a public holiday;

"complaint" means an oral, written, telephonic or electronic communication to the Commission alleging an act or omission which-

- (a) violates or threatens to violate a human right or freedom; or
- (b) amounts to maladministration or abuse of power;

"complainant" means a person who lodges a complaint;

"finding" means a conclusion reached by the Commission after an assessment or investigation regarding any-

- (a) violation of a human right or freedom; or
- (b) maladministration or abuse of power;

"formal hearing" means a formal hearing conducted in terms of section 12 of the Act;

"informal hearing" means a hearing, other than a formal hearing, conducted in in terms of section 18;

"investigation" means an investigation referred to in section 9 of the Act;

"organ of government" means-

- (a) a Ministry or department of the State; or
- (b) a provincial or metropolitan council or local authority; or
- (c) a statutory body; or
- (d) a body corporate whose operations or activities are substantially controlled by the State or by a person on behalf of the State, whether through ownership of a majority of shares in the body corporate or otherwise;

"organisation" includes any association of persons, whether corporate or unincorporated;

"region" means a region described in section 3;

"respondent" means any person who is responsible, or is alleged to be or suspected of being responsible, for-

- (a) a violation of a human right or freedom; or
- (b) maladministration or abuse of power.

PART II

Administration

3. Regions

For the purpose of receiving and dealing with complaints, the Commission shall divide Zimbabwe into two regions, namely-

- (a) the Northern Region, comprising the provinces of Harare, Manicaland, Mashonaland Central, Mashonaland East and Mashonaland West; and
- (b) the Southern Region, comprising the provinces of Bulawayo, Masvingo, Matabeleland North, Matabeleland South and Midlands.

Provided that the Commission shall progressively set up offices in every district for ease of access by the public.

4. Regional offices of Commission

The Commission shall establish one or more offices in each region for the purpose of receiving and dealing with complaints arising from that region, and shall make all necessary arrangements to ensure that the public is kept aware of their locations and is able-

- (a) to attend them during ordinary business hours on all business days; and
- (b) to contact them at all reasonable times by post, telephone or electronic means.

PART III

Lodging and Investigation of Complaints

5. Persons who may lodge complaint

A complaint may be lodged with the Commission by-

- (a) any person affected by a violation of a human right or freedom or by maladministration or abuse of power; or
- (b) where the person referred to in [paragraph \(a\)](#) is for any reason unable or unwilling to lodge a complaint, by-
 - (i) any person acting on that person's behalf, or
 - (ii) any person acting in the public interest, or
 - (iii) any association in the interests of its members.

6. Form of complaint

(1) A complaint shall be made in writing, in a prescribed manner.

(2) If for any reason the complainant is unable or unwilling to make a written complaint or to complete the form, the appropriate officer to whom the complaint is made shall complete the form on the basis of whatever information the complainant has given him or her, and the complaint shall be processed as if the complainant had completed the form.

(3) A complaint shall not be rejected solely on the ground that it has not been made in the prescribed manner.

(4) In filing the complaint, the complainant shall provide such of the following information as is applicable and as he or she can reasonably be expected to provide-

- (a) whether the complainant is personally affected by the violation, maladministration or abuse complained of, or is acting on another person's behalf or in the public interest; and
- (b) the following personal information concerning the complainant and, if he or she is acting on another person's behalf, that of the person he or she is acting on behalf of-
 - (i) his or her full names and national registration number, and
 - (ii) his or her physical and postal address and telephone or cellphone number, and
 - (iii) where the person is an organisation, its nature and the business or activities it carries on:

Provided that, if the complainant fears any form of reprisal for making the complaint, he or she may omit any or all of such information, and the complaint shall be processed notwithstanding the omission;

and

- (c) if the complainant is acting on another person's behalf, the reason why that other person is not lodging the complaint; and
 - (d) the following information regarding the violation, maladministration or abuse complained of-
 - (i) the nature of the violation, maladministration or abuse, and
 - (ii) the date on which and place at which the violation, maladministration or abuse occurred or arose, and
 - (iii) particulars of the person responsible for the violation, maladministration or abuse;
- and
- (e) particulars of any person who may provide information relevant to the complaint; and
 - (f) information regarding any steps the complainant has taken to try to resolve the issues arising from the violation, maladministration or abuse complained of; and
 - (g) the remedy or redress, if any, which the complainant seeks through lodging the complaint.

(5) An appropriate officer may require a complainant to furnish such additional information and documents as may reasonably be required to make an assessment or to resolve the complaint.

(6) An appropriate officer with whom a complaint has been lodged shall provide the complainant with all reasonable assistance in completing the complaint form and in providing any additional information and documents that may be required.

(7) Where an appropriate officer completes the complaint form on behalf of a complainant or assists a complainant in completing it, he or she shall keep a full written record of what he or she has done.

7. Lodging of complaint

(1) A complaint shall be lodged at a regional office of the Commission in the region in which the violation, maladministration or abuse of office complained or occurred:

Provided that, if a complaint is lodged at a different regional office, the appropriate officer who receives it shall take all reasonable steps to transfer it to the correct office, and the complaint shall be dealt with at that office as if it had been lodged there.

(2) A complaint shall be regarded as lodged at an office for the purpose of [subsection \(1\)](#) if-

- (a) it is made orally at the office or by telephone to the office; or
- (b) it is reduced to writing and handed in at the office; or
- (c) it is sent to the office by post, telefacsimile or any electronic means; or
- (d) the complainant completes a complaint form online via the Commission's website and transmits it electronically to the Commission.

8. Acknowledgement of receipt of complaint

Within seven days after a complaint has been lodged in terms of section 7, an appropriate officer shall send the complainant a written acknowledgement of the complaint, specifying the reference number assigned to the complaint.

9. Confidentiality

(1) If a complainant, when lodging a complaint or at any stage thereafter, requests in writing that his or her personal particulars be kept confidential, the Commission and all members of the Commission's staff shall, subject to this section, take all reasonable steps to comply with that request.

(2) Where a complainant is a child or a person with a mental disability, the Commission and all members of the Commission's staff shall, subject to this section, take all reasonable steps to keep the complainant's personal particulars confidential.

(3) Subject to [subsection \(1\)](#), where the Commission considers that the disclosure of the complainant's personal particulars is necessary in order to resolve the complaint, an appropriate officer shall, in writing-

- (a) inform the complainant which particulars the Commission considers must be disclosed and the reasons for such disclosure; and
- (b) request the complainant's written consent to disclose the said particulars.

(4) Subject to [subsection \(2\)](#), where the Commission considers that disclosure of the personal particulars of a complainant who is a child is necessary in order to resolve the complaint, an appropriate officer shall, in writing-

- (a) inform the complainant's guardian which particulars the Commission considers must be disclosed and the reasons for such disclosure; and
- (b) request the complainant's guardian to give written consent for the disclosure of the said particulars.

(5) If a person refuses to consent to the disclosure of particulars, having been requested to do so in terms of [subsection \(3\)](#) or [\(4\)](#), the Commission may decline to deal with the complaint.

(6) If the Commission declines to deal with a complaint in terms of [subsection \(5\)](#), it shall inform the complainant in writing within seven days of its decision and state the reason for such decision.

10. Assessment of complaint

(1) After a complaint has been lodged in terms of section 7, the officer who received it shall submit it to an appropriate officer for assessment.

(2) If the appropriate officer considers that additional information would facilitate the assessment of a complaint, he or she shall forth with attempt to obtain the information from the complainant, and if the complainant fails or refuses to provide the information the appropriate officer shall endeavour to assess the complaint on the available information but, if that is impossible, may reject the complaint.

- (3) After assessing a complaint, the appropriate officer-
- (a) shall reject the complaint if the Commission, in terms of section 9 of the Act, has no jurisdiction to investigate it;
 - (b) may reject the complaint on any of the following grounds-
 - (i) that the complaint does not *prima facie* show that a violation of a human right or freedom or any maladministration or abuse of power has occurred or is likely to occur,
 - (ii) that the subject matter of the complaint has already been settled between the complainant and the respondent, whether by agreement, arbitration or a judgment of a competent court,
 - (iii) that the subject matter of the complaint would more appropriately be dealt with by-
 - (A) another Commission or body; or
 - (B) a statutory or contractual dispute-resolution mechanism readily available to the complainant;
 - (c) may, without rejecting the complaint, refer it to another Commission or body which, in the appropriate officer's opinion, can more appropriately deal with the subject matter of the complaint;

and in all other cases the appropriate officer, subject to this section, shall accept the complaint on behalf of the Commission:

Provided that, if the appropriate officer is in doubt as to whether or not to accept the complaint, he or she shall refer it to the Commission for decision.

- (4) If, after assessing a complaint, an appropriate officer-
- (a) rejects the complaint, the appropriate officer shall notify the complainant in writing of that fact, giving reasons for the rejection and advising the complainant of his or her right to appeal against the rejection in terms of section 11;
 - (b) rejects the complaint but considers that-
 - (i) some other body can deal with the subject matter of the complaint, or
 - (ii) some other form of redress, such as instituting legal proceedings or utilising some other dispute-resolution mechanism, is open to the complainant;the appropriate officer shall, in addition to notifying and advising the complainant as of the provided in [paragraph \(a\)](#), inform the complainant existence and availability of that other body or form of redress.
 - (c) refers the complaint to another body which he or she considers can more appropriately deal with the subject matter of the complaint, the appropriate officer shall inform the complainant of what he or she has done.

(5) If, on assessing a complaint, an appropriate officer is unable to decide whether to accept it or reject it, he or she shall refer it to the Commission for a decision.

(6) Upon a complaint being referred to it in terms of [subsection \(5\)](#), the Commission shall consider it in conjunction with any comments from the appropriate officer and shall accept or reject the complaint in accordance with this section.

(7) In deciding whether to accept or reject the complaint in terms of [subsection \(6\)](#), the Commission may direct the appropriate officer to request the complainant to supply the Commission with additional information it may require before it reaches a decision on the complaint.

(8) If the Commission decides to reject a complaint, the appropriate officer shall notify the complainant of the rejection of his or her complaint in writing and state the reasons for such rejection.

11. Appeal against rejection of complaint

(1) Any person who is aggrieved by the rejection of a complaint by an appropriate officer, may appeal against the rejection to the Commission.

(2) An appeal in terms of [subsection \(1\)](#) shall be made in writing within three months after the complainant was notified of the rejection of the complaint and shall specify the grounds on which he or she considers the complaint should have been accepted.

(3) In an appeal in terms of [subsection \(1\)](#), the Commission may confirm or set aside the rejection appealed against or make such order or give such direction as it considers appropriate to ensure the proper resolution of the matter, and shall notify-

- (a) the appropriate officer against whose decision the appeal was made of the outcome of the appeal

and the directions given, if any; and

- (b) the appropriate officer shall, within seven days of the decision on the appeal, notify the complainant of the outcome of the appeal in writing:

Provided that, before reaching a decision in an appeal, the Commission may do all or any of the following-

- (a) invite representations from the aggrieved party; or
- (b) refer the matter back to the appropriate officer for further consideration; or
- (c) itself make such further consideration into the matter as it deems fit.

12. Investigation of complaint

(1) Upon acceptance of a complaint, the Commission shall appoint an appropriate officer to investigate it.

(2) Upon being appointed to investigate a complaint, the appropriate officer shall-

- (a) inform the complainant of his or her appointment and, where necessary, request the complainant to furnish more information or documents to facilitate the investigation; and
- (b) notify the respondent in writing that the Commission is investigating a complaint against him or her, informing the respondent of-
 - (i) the complainant's identity, unless it is to be kept confidential in terms of section 9, and
 - (ii) the nature and circumstances of the violation, maladministration or abuse of office complained of, in sufficient detail to enable the respondent to respond adequately to the allegations made against him or her in the complaint,

and shall request the respondent to respond, in writing, to the allegations within a reasonable period specified by the appropriate officer.

(3) After complying with [subsection \(2\)](#), the appropriate officer shall conduct such investigation into the complaint as may be necessary, in the light of any further information and documents provided by the complainant and any response received from the respondent.

(4) For the purpose of an investigation referred to in [subsection \(3\)](#), the appropriate officer may, with the consent of the affected person or on his or her own initiative-

- (a) interview any person; and
- (b) visit and inspect any place; and
- (c) receive or make a copy of any document; and
- (d) receive any article,

and shall duly record the information received and or observations made and take measures to ensure the safe custody of any document or article received.

(5) Any person who appears before an appropriate officer in an investigation referred to in [subsection \(3\)](#) shall be entitled to be represented by a legal practitioner at his or her own expense, and the appropriate officer shall ensure that the person is aware of that right.

(6) An appropriate officer shall take reasonable steps to keep the complainant informed about the progress of an investigation referred to in [subsection \(3\)](#).

(7) An appropriate officer who is conducting an investigation referred to in [subsection \(3\)](#) shall keep a proper record of whatever he or she does in the course of the investigation.

13. Procedure at close of investigation by appropriate officer

(1) After concluding an investigation in terms of section 12, the appropriate officer shall refer the record of the complaint to the Commission, together with-

- (a) the record of the investigation; and
- (b) any additional documents collected in the course of the investigation; and
- (c) his or her recommendations regarding the complaint; for a decision on how to proceed:

Provided that, if so authorised by the Commission, the appropriate officer may attempt to resolve the complaint by negotiation, conciliation or mediation.

(2) On receipt of the record in terms of [subsection \(1\)](#), the Commission may-

- (a) reject the complaint on any of the grounds set out in section 10 (3) (a) or (b), if the committee considers that the investigation has shown that the complaint should be rejected; or
- (b) refer the complaint to another Commission or body which, in the Commission opinion, can more appropriately deal with the subject-matter of the complaint; or
- (c) attempt to resolve the complaint by negotiation, conciliation, mediation or the holding of a formal hearing.

(3) If the Commission rejects a complaint or refers it to another Commission or body, the Commission shall notify the complainant in writing of that fact, giving reasons for the rejection and advising the complainant of his or her right to appeal against the rejection in terms of section 11.

(4) In resolving a complaint, an appropriate officer or the Commission shall adopt the method which, in the opinion of the officer or the Commission, as the case may be, is best suited to achieve a result that is fair and satisfactory, taking due account of-

- (a) the degree of co-operation shown by the parties during the investigation; and
- (b) the likelihood of the parties participating meaningfully in the resolution process; and
- (c) the public interest; and
- (d) any other relevant consideration.

(5) The Commission shall keep records of any action it takes in terms of this section.

PART IV

Resolution of Complaints through Negotiation, Conciliation or Mediation

14. Initiation of process of negotiation, conciliation or mediation

(1) Where a decision has been taken to resolve a complaint by negotiation, conciliation or mediation-

- (a) the appropriate officer, if so authorised by the Commission, shall forthwith assume the role of negotiator, conciliator or mediator, as the case may be, in an attempt to resolve the complaint by that process; or
- (b) the Commission may appoint a Commissioner to act as negotiator, conciliator or mediator.

(2) Any process of negotiation, conciliation or mediation carried out in terms of these regulations shall be conducted in accordance with generally accepted practices for the process concerned and, in particular, the negotiator, conciliator or mediator shall observe the rules of natural justice.

15. Recording of agreement reached through negotiation, conciliation or mediation

(1) If negotiator, conciliator or mediator succeeds in getting the parties to agree to a resolution of a complaint, he or she shall ensure that their agreement is recorded and is signed by both parties.

(2) After an agreement has been signed in terms of [subsection \(1\)](#) the negotiator, conciliator or mediator shall, together with any comments he or she may wish to make on it, refer the agreement to the Commission for adoption.

16. Procedure on failure of negotiation, conciliation or mediation

(1) If the negotiator, conciliator or mediator fails for any reason to resolve a complaint, or believes that he or she will be unable to resolve it for any reason, he or she shall-

- (a) report that fact to the Commission, providing the Commission with a written explanation of the reasons for the failure or anticipated failure; and
- (b) notify the complainant and the respondent of what he or she has done and the reasons for doing so, and inform them that they may submit written representations in the matter to the Commission within a period specified by him or her.

(2) On receipt of a report in terms of [subsection \(1\)](#), and after considering any representations submitted by the complainant and the respondent in terms of that subsection, the Commission may-

- (a) give directions' to the negotiator, conciliator or mediator as to alternative methods of resolving the complaint, and the negotiator, conciliator or mediator shall act accordingly; or

- (b) if the complainant obstructed the process of negotiation, conciliation or mediation or was otherwise responsible for the failure or anticipated failure of the process, discontinue the process altogether; or
- (c) direct that the issues arising from the complaint should be the subject of a formal hearing in terms of section 12 of the Act; or
- (d) direct that the Commission should institute proceedings in a competent court for the resolution of all or any of the issues arising from the complaint,

and shall cause the complainant and the respondent to be notified of its decision in writing within 7 days of the date of such decision.

PART V

Hearings

17. Informal hearings

(1) At any stage during an investigation, an appropriate officer or a Commissioner appointed by the Commission may hold an informal hearing-

- (a) to obtain any information for the purpose of the investigation; or
- (b) to try to resolve the complaint that is being investigated.

(2) An informal hearing shall be convened by the appropriate officer or the appointed Commissioner informing the parties, and any other person who is to be interviewed or questioned at the hearing, of the date on which and the time and place at which the hearing is to be held.

(3) An informal hearing shall be conducted by the appropriate officer or the appointed Commissioner who convened it or by a Commissioner or an officer appointed by the Commission.

(4) Members of the public shall not be permitted to attend an informal hearing unless the person conducting the hearing, with the consent of the complainant and the respondent, permits them to attend.

(5) The procedure at an informal hearing shall be as informal as possible, but-

- (a) the rules of natural justice shall be observed; and
- (b) the complainant and the respondent and anyone else appearing before the hearing must be permitted, at their own expense, to be represented by a legal practitioner or by any other suitable person of their own choice.

(6) Persons who are interviewed or questioned at an informal hearing shall not be required to give their evidence or answers on oath.

(7) The person conducting an informal hearing shall keep, or cause to be kept, a proper record of the proceedings.

18. Convening of formal hearing

(1) Where the Commission has resolved to hold a formal hearing into a complaint or any issue arising from a complaint, it shall cause the complainant and the respondent to be given at least 7 days' written notice of the date on which, the time and place at which the hearing will be held.

(2) In the notice referred to in [subsection \(1\)](#), the Commission shall invite the complainant and the respondent to bring to the hearing any person whom they consider can give evidence regarding the complaint that is being investigated.

(3) For the purpose of securing the attendance of any person at a formal hearing, the Commission may issue a summons in the form set out in [the Schedule](#), and may require a police officer or an appropriate officer to serve it on that person.

(4) The provisions of the Criminal Procedure and Evidence Act [*Chapter 9:07*] relating to the service of subpoenas shall apply, with any necessary changes to the service of a summons in terms of [subsection \(3\)](#).

19. Persons presiding over formal hearing

(1) The Commission, or a panel of three or more Commissioners selected by the Commission or by the Chairperson of the Commission, shall preside over a formal hearing:

Provided that no person who has been involved in the assessment or processing of a complaint shall preside over a formal hearing into that complaint.

(2) Where a panel of three or more Commissioners is selected to preside over a formal hearing, the Commission or the Chairperson of the Commission, as the case maybe, shall assign to one of the selected Commissioners the role of chairing the formal hearing.

20. Procedure at formal hearing

(1) In this section-

"Chairperson" means the Commissioner assigned to chair a formal hearing in terms of section 19 (2).

(2) Subject to section 12 of the Act, a formal hearing shall be conducted in accordance with procedures fixed by the Commission or by the Chairperson:

Provided that-

- (i) the proceedings shall be inquisitorial in nature, and the persons presiding over the hearing shall be entitled to question anyone appearing before the hearing,
- (ii) the proceedings shall be conducted in English, unless the Chairperson directs otherwise,
- (iii) if the complainant or respondent, or anyone who is giving evidence or information to the hearing, has difficulty in understanding the language in which the proceedings are being conducted, he or she shall be provided with an interpreter,
- (iv) the complainant and the respondent shall be entitled, through the Chairperson or directly if the Chairperson so permits, to put questions to anyone appearing before the hearing,
- (v) the rules of natural justice shall be observed, and in particular the complainant and respondent shall be given a reasonable opportunity to respond to allegations made against them,
- (vi) the complainant and the respondent and anyone else appearing before the hearing shall be entitled to be represented, at their own expense, by a legal practitioner or by any other suitable person of their own choice, who shall be given reasonable access to all documents held or received by the Commission in relation to the issues to be decided at the hearing.

(3) Unless the persons presiding over a formal hearing direct otherwise in terms of section 12 of the Act, members of the public shall be permitted to attend the hearing and the proceedings of the hearing may be published without restriction.

(4) A direction prohibiting or limiting public attendance at a formal hearing or the publication of its proceedings shall not be made unless the persons presiding over the hearing consider it is necessary or appropriate to do so-

- (a) in light of the factors set out in section 3 (2) of the Courts and Adjudicating Authorities (Publicity Restriction) Act [*Chapter 7:04*]; or
- (b) to ensure the successful conduct of the hearing; or
- (c) to facilitate the functioning of the Commission.

(5) At the commencement of a formal hearing, the Chairperson shall explain the purpose of the hearing and the procedure to be followed, and shall outline the complaint and the issues to be decided at the hearing.

(6) The Chairperson may require persons appearing before a formal hearing to give their evidence on oath, and for that purpose may administer the oath to them.

(7) The Chairperson of a formal hearing may adjourn the hearing for the purpose of considering the evidence received at the hearing.

(8) The Chairperson shall keep, or cause to be kept, a proper record of the proceedings at a formal hearing.

(9) Before a formal hearing is closed after all the evidence have been received, the complainant and the respondent shall be given a reasonable opportunity to address the persons presiding over the hearing.

21. Announcement of findings following formal hearing

After evidence has been received at a formal hearing and the parties have been given an opportunity to deliver their closing addresses, the persons presiding over the hearing shall consider the evidence and then, either orally or in writing-

- (a) summarise the evidence and information; and
- (b) state their findings on the complaint, giving full reasons for the findings; and

- (c) specify any remedial action proposed:

Provided that the Chairperson shall ensure that where the summary and statement are made orally, they are reduced to writing.

22. Notification to parties and other persons of findings of formal hearing

After the findings of a formal hearing have been stated in terms of section 21, an appropriate officer shall-

- (a) send a copy of the statement to the complainant and respondent and to any other person interested in the matter; and
- (b) invite the complainant and respondent, and every other person who is sent a copy, to submit a written response to the Commission within such reasonable time as the appropriate officer may specify.

23. Submission of record of formal hearing to Commission

(1) Upon the expiry of the time for submitting responses in terms of section 22 (b), the Chairperson of the formal hearing shall lay before the Commission the record of the hearing and any responses that may have been received, together with any comments he or she and the other persons presiding over the hearing may wish to make in regard to the responses.

(2) The Commission shall consider the documents laid before it in terms of [subsection \(1\)](#) and-

- (a) issue a report in terms of section 24; or
- (b) if the Commission considers it needs further information before issuing a report, direct-
 - (i) that the formal hearing be reconvened in order to obtain the information, or
 - (ii) that an appropriate officer should obtain the information.

(3) Where the Commission makes a direction in terms of [subsection \(2\) \(b\)](#), it shall, within 7 days thereof, inform the complainant and the respondent of the direction and of any further steps that are to be taken as a result of it.

24. Report following formal hearing

(1) A report issued by the Commission following a formal hearing shall-

- (a) summarise the evidence; and
- (b) state the Commission's findings on the complaint; and
- (c) specify any remedial action ordered by the Commission:

Provided that instead of restating the summary and findings of the persons who presided at the hearing, the Commission may refer to them by reference.

(2) Having issued a report in terms of [subsection \(1\)](#), the Commission shall-

- (a) within 7 days thereof, send a copy of it to the complainant and the respondent and to any other person who is interested in the report; and
- (b) ensure that it is filed for record purposes.

PART VI

Conclusion of Complaints

25. When complaint is concluded

A complaint shall be regarded as concluded for the purposes of these regulations-

- (a) if the complaint is rejected following an assessment or investigation; or
- (b) if, following an investigation, the Commission finds that-
 - (i) there was no substance in the complaint, or

- (ii) the violation, maladministration or abuse of power complained of has been remedied satisfactorily; or
- (c) if the complainant withdraws the complaint and the Commission is satisfied that he or she has done so voluntarily and that there is no need for further investigation or action by the Commission; or
- (d) upon the complaint being referred to another Commission or body; or
- (e) if the complaint is resolved through negotiation, conciliation or mediation; or
- (f) when the Commission issues a final order or gives a final direction in regard to the complaint; or
- (g) if the Commission institutes proceedings in a court of law for the resolution of the complaint, when the court issues a final order in regard to the complaint.

26. Reports by Commission on agreements following negotiation, conciliation or mediation

(1) Where an agreement reached after negotiation, conciliation or mediation has been referred to the Commission in terms of section 15 (2), the Commission may issue a report on it outlining its provisions and, if the Commission thinks it appropriate to do so, adding its own comments on it.

(2) The Commission shall ensure that a copy of any report issued in terms of [subsection \(1\)](#) is sent to the complainant, the respondent and every person interested in the report.

PART VII

General

27. Violation of human rights or freedoms

(1) Any reference in these regulations to a violation of a human right or freedom or to maladministration or abuse of power shall be construed as including an alleged, suspected or threatened such violation, maladministration or abuse.

(2) A person shall be regarded as affected by-

- (a) a violation of a human right or freedom; or
- (b) maladministration or abuse of power; if he or she-
 - (i) has been, is being or is likely to be prejudiced or potentially prejudiced by the violation, maladministration or abuse of power, or
 - (ii) has reasonable grounds to believe that he or she has been, is being or is likely to be prejudiced or potentially prejudiced by the violation, maladministration or abuse of power.

(3) Without limiting the ordinary meaning of the expression, a person shall be regarded as interested in a report for the purposes of these regulations if-

- (a) the person's conduct is criticised in the report; or
- (b) the report recommends or directs a change in the procedure or manner in which the person does anything; or
- (c) the report recommends or directs the person to take any measures or do anything.

28. Investigations may be instituted by Commission

The Commission may initiate an investigation into any-

- (a) violation of a human right or freedom; or
- (b) maladministration or abuse of power,

even if no complaint has been lodged in respect of the violation, maladministration or abuse, and these regulations shall apply, with any necessary changes, in relation to such an investigation.

29. Monitoring of observance of human rights and freedoms

(1) The Executive Secretary shall monitor-

- (a) observance of human rights and freedoms in Zimbabwe; and
- (b) implementation of recommendations made by the Commission in its reports,

and shall report regularly to the Commission on such observance and implementation.

(2) To assist the Executive Secretary in his or her function under [subsection \(1\)](#), the Commission may establish one or more committees consisting of-

- (a) members of the Civil Service and the security services; and
- (b) representatives of the commercial, industrial, agricultural and mining sectors; and
- (c) representatives of employers and employees; and
- (d) representatives of organisations, bodies and persons concerned with the promotion and protection of human rights and freedoms,

and shall fix the terms and conditions of service of the members of such committees.

(3) On the recommendation of the Executive Secretary or a committee established in terms of [subsection \(2\)](#), the Commission may require any person or organisation, including an organ of government, to report to the Commission on measures they have taken to give effect to human rights and freedoms or any recommendation of the Commission.

(4) If any organisation fails or refuses to comply with a requirement under [subsection \(3\)](#), the Commission shall report the failure or refusal to Parliament.

30. Service of documents

(1) Any document that is required to be served under these regulations may be served by an appropriate officer or by a police officer whom the Commission calls upon to do so.

(2) Where a document referred to in [subsection \(1\)](#) requires any person to do anything, the document shall be served on the person in reasonable time to enable him or her to do the thing.

(3) Sections 382 and 383 of the Criminal Procedure and Evidence Act [*Chapter 9:07*] relating to the service of documents shall apply, with any necessary changes, to the service of the documents referred to in [subsection \(1\)](#).

31. Duties to be carried out promptly

Anything that is required to be done under these regulations shall be done without delay.

32. Costs

The Commission shall not charge a fee for dealing with complaints under these regulations.

33. Publicity

(1) The Commission shall ensure that-

- (a) the form in which complaints are to be made is published as widely as possible and in a manner that will bring it to the attention of all sections of the public; and
- (b) complaint forms are available for the public to use at all the Commission's offices.

(2) Where the Commission issues or ratifies a report, it shall ensure that the report is published so as to bring it to the attention of as wide a section of the public as possible, in order to acquaint the public with the Commission's work and inform them about the human rights and freedoms to which they are entitled.

Schedule
FORM OF SUMMONS
(Section 18)

[Telephone and cell numbers]

[Postal and physical address]

SUMMONS

To:

[Name of person summoned]

Of:

[Address of person summoned]

You are hereby summoned to appear before a hearing of the Zimbabwe Human Rights Commission to be held at

on the [date] at [Place] [time].
The hearing has been convened to investigate

[State subject matter of complaint or other matter that is being investigated]

You are required to bring with you:

[If the person summoned is required to bring any document or article, describe it]

Signed at: [place] on the [date].
For the Zimbabwe Human Rights Commission

[Reverse of form]

Return of Service

To be filled in by the appropriate officer or police officer who served this summons on the person named therein:

On the [date] and at [place]
I served this summons on the person named therein, by:

[State how the summons was served]

Signed:

Authorised officer/Police officer

Name and designation/rank