

Protection of Human Rights Act, 1993

Chapter II - The National Human Rights Commission

(1) The Central Government shall constitute a body to be known as the National Human Rights Commission to exercise the powers conferred upon, and to perform the functions assigned to, it under this Act.

(2) The Commission shall consist of--

(a) a Chairperson who has been a Chief Justice of the Supreme Court;

(b) one Member who is, or has been, a Judge of the Supreme Court;

(c) one Member who is, or has been, the Chief Justice of a High Court;

(d) two Members to be appointed from amongst persons having knowledge of, or practical experience in, matters relating to human rights.

(3) The Chairperson of the National Commission for Minorities, the 1 [National Commission for the Scheduled Castes, the National Commission for the Scheduled Tribes] and the National Commission for Women shall be deemed to be Members of the Commission for the discharge of functions specified in clauses (b) to (j) of section 12.

(4) There shall be a Secretary-General who shall be the Chief Executive Officer of the Commission and shall exercise such powers and discharge such functions of the Commission 2 [(except judicial functions and the power to make regulations under section 40B) as may be delegated to him by the Commission or the Chairperson, as the case may be].

(5) The headquarters of the Commission shall be at Delhi and the Commission may, with the previous approval of the Central Government, establish offices at other places in India.

1. Substituted for the words "National Commission for the Scheduled Castes and Scheduled Tribes" by the Protection of Human Rights (Amendment) Act, 2006, w.e.f 23.11.2006.

2. Substituted for the words "as it may delegate to him" by the Protection of Human Rights (Amendment) Act, 2006, w.e.f 23.11.2006.

Section 4 - Appointment of Chairperson and other Members

(1) The Chairperson and 1 [the Members] shall be appointed by the President by warrant under his hand and seal:

Provided that every appointment under this sub-section shall be made after obtaining the recommendations of a Committee consisting of--

(a) the Prime Minister--Chairperson;

(b) Speaker of the House of People--Member;

- (c) Minister in-charge of the Ministry of Home Affairs in the Government of India--Member;
- (d) Leader of the Opposition in the House of the People--Member;
- (e) Leader of the Opposition in the Council of States--Member;
- (f) Deputy Chairman of the Council of State--Member:

Provided further that no sitting Judge of the Supreme Court or sitting Chief Justice of a High Court shall be appointed except after consultation with the Chief Justice of India.

(2) No appointment of a Chairperson or a Member shall be invalid merely by reason of 2 [any vacancy of any member in the Committee referred to in the first proviso to sub-section (1).]

1. Substituted for the words "other Members" by the Protection of Human Rights (Amendment) Act, 2006, w.e.f 23.11.2006.

2. Substituted for the words "vacancy in the Committee" by the Protection of Human Rights (Amendment) Act, 2006, w.e.f 23.11.2006.

Section 5 - Resignation and removal of Chairperson and Members

1 [(1) The Chairperson or any Member may, by notice in writing under his hand addressed to the President of India, resign his office.

(2) Subject to the provisions of sub-section (3), the Chairperson or any Member shall only be removed from his office by order of the President of India on the ground of proved misbehaviour or incapacity after the Supreme Court, on reference being made to it by the President, has, on inquiry held in accordance with the procedure prescribed in that behalf by the Supreme Court, reported that the Chairperson or the Member, as the case may be, ought on any such ground to be removed.

(3) Notwithstanding anything in sub-section (2), the President may, by order, remove from office the Chairperson or any Member if the Chairperson or such Member, as the case may be,--

(a) is adjudged an insolvent; or

(b) engages during his term of office in any paid employment outside the duties of his office; or.

(c) is unfit to continue in office by reason of infirmity of mind or body; or

(d) is of unsound mind and stands so declared by a competent court; or

(e) is convicted and sentenced to imprisonment for an offence which in the opinion of the President involves moral turpitude.]

1. Substituted for the following Section Protection of Human Rights (Amendment) Act, 2006, w.e.f 23.11.2006.

"Section 5 - Removal of a Member of the Commission: - (1) Subject to the provisions of sub-section (2), the Chairperson or any other Member of the Commission shall only be removed from his office by order of the President on the ground of proved misbehaviour or incapacity after the Supreme Court, on reference being made to it by the President, has, on inquiry held in accordance with the procedure prescribed in that behalf by the Supreme Court, reported that the Chairperson or such other Member, as the case may be, ought on any such ground to be removed.

(2) Notwithstanding anything in sub-section (1), the President may by order remove from office the Chairperson or any other Member if the Chairperson or such other Member, as the case may be,--

(a) is adjudged an insolvent; or

(b) engages during his term of office in any paid employment outside the duties of his office; or

(c) is unfit to continue in office by reason of infirmity of mind or body; or

(d) is of unsound mind and stands so declared by a competent court; or

(e) is convicted and sentenced to imprisonment for an offence which in the opinion of the President involves moral turpitude."

Section 6 - Term of office of Chairperson and Members

1(1) A person appointed as Chairperson shall hold office for a term of five years from the date on which he enters upon his office or until he attains the age of seventy years, whichever is earlier.

(2) A person appointed as a Member shall hold office for a term of five years from the date on which he enters upon his office and shall be eligible for re-appointment for another term of five years:

Provided that no Member shall hold office after he has attained the age of seventy years.

(3) On ceasing to hold office, a Chairperson or a Member shall be ineligible for further employment under the Government of India or under the Government of any State."

1. Substituted for following section by the Protection of Human Rights (Amendment) Act, 2006, w.e.f 23.11.2006.

"Section 6 - Term of office of Chairperson and Members :-

(1) A person appointed as Chairperson shall hold office for a term of five years from the date on which he enters upon his office or until he attains the age seventy years, whichever is earlier.

(2) A person appointed as a Member shall hold office for a term of five years from the date on which he enters upon his office and shall be eligible for reappointment for another term of five years:

Provided that no Member shall hold office after he has attained the age of seventy years.

(3) On ceasing to hold office, a Chairperson or a Member shall be ineligible for further employment under the Government of India or under the Government of any State."

Section 7 - Member to act as Chairperson or to discharge his functions in certain circumstances

(1) In the event of the occurrence of any vacancy in the office of the Chairperson by reason of his death, resignation or otherwise, the President may, by notification, authorise one of the Members to act as the Chairperson until the appointment of a new Chairperson to fill such vacancy.

(2) When the Chairperson is unable to discharge his functions owing to absence on leave or otherwise, such one of the Members as the President may, by notification, authorise in this behalf, shall discharge the functions of the Chairperson until the date on which the Chairperson resumes his duties.

Section 8 - Terms and conditions of service of Chairperson and Members

1[The salaries and allowances payable to, and the other terms and conditions of service of, the Chairperson and Members shall be such as may be prescribed:

Provided that neither the salary and allowances nor the other terms and conditions of service of the Chairperson or a Member shall be varied to his disadvantage after his appointment.]

1. Substituted for following section by the Protection of Human Rights (Amendment) Act, 2006, w.e.f 23.11.2006.

"Section 8 - Terms and conditions of service of Chairperson and Members:-

The salaries and allowances payable to, and other terms and conditions of service of, the Members shall be such as may be prescribed:

Provided that neither the salary and allowances nor the other terms and conditions of service of a Member shall be varied to his disadvantage after his appointment.

Section 9 - Vacancies, etc., not to invalidate the proceedings of Commission

No act or proceedings of the Commission shall be questioned or shall be invalidated merely on the ground of existence of any vacancy or defect in the Constitution of the Commission.

Section 10 - Procedure to be regulated by the Commission

(1) The Commission shall meet at such time and place as the Chairperson may think fit.

1(2) Subject to the provisions of this Act and the rules made thereunder, the Commission shall have the power to lay down by regulations its own procedure.]

(3) All orders and decisions of the Commission shall be authenticated by the Secretary-General or any other officer of the Commission duly authorised by the Chairperson in this behalf.

1. Substituted for the following by the Protection of Human Rights (Amendment) Act, 2006, w.e.f 23.11.2006.

" (2) The Commission shall regulate its own procedure. "

Section 11 - Officers and other staff of the Commission

(1) The Central Government shall make available to the Commission--

(a) an officer of the rank of Secretary to the Government of India who shall be the Secretary-General of the Commission; and

(b) such police and investigative staff under an officer not below the rank of a Director General of Police and such other officers and staff as may be necessary for the efficient performance of the functions of the Commission.

(2) Subject to such rules as may be made by the Central Government in this behalf, the Commission may appoint such other administrative, technical and scientific staff as it may consider necessary.

(3) The salaries, allowances and conditions of service of the officers and other staff appointed under sub-section (2) shall be such as may be prescribed.