

## **LAWS OF MALAYSIA**

### **Act 597**

### **HUMAN RIGHTS COMMISSION OF MALAYSIA ACT 1999**

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An Act to provide for the establishment of the Human Rights Commission of Malaysia; to set out the powers and functions of such commission for the protection and promotion of human rights in Malaysia; and to provide for matters connected therewith or incidental thereto.

ENACTED by the Parliament of Malaysia as follows:

- Part I
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## **Part I**

### **PRELIMINARY**

#### **Short title and commencement**

1. (1) This Act may be cited as the Human Rights Commission of Malaysia Act 1999.

(2) This Act shall come into operation on a date to be appointed by the Minister by notification published in the *Gazette*.

#### **Interpretation**

2. In this Act, unless the context otherwise requires-

“Government” means the Government of Malaysia;

“human rights” refers to fundamental liberties as enshrined in Part II of the Federal Constitution;

“Minister” means the Minister charged with the responsibility for human rights.

## Part II

### ESTABLISHMENT OF THE HUMAN RIGHTS COMMISSION OF MALAYSIA

#### Establishment of the Commission

3. (1) There is hereby established a Commission which shall be known as the Human Rights Commission of Malaysia (the "Commission").

(2) The Commission shall be a body corporate having perpetual succession and a common seal, which may sue and be sued in its name and, subject to and for the purpose of this Act, may enter into contracts and may acquire, purchase, take, hold and enjoy movable and immovable property of every description and may convey, assign, surrender, yield up, charge, mortgage, demise, reassign, transfer or otherwise dispose of, or deal with, any movable or immovable property or any interest therein vested in the Commission upon such terms as it deems fit.

(3) The Commission shall have a common seal which shall bear such device as the Commission shall approve and such seal may be broken, changed, altered or made anew as the Commission thinks fit.

(4) The common seal shall be kept in the custody of the Secretary to the Commission or such other person as may be authorized by the Commission and shall be authenticated by the Secretary or such authorized person or by any officer authorized by the Secretary or such authorized person in writing.

(5) All deeds, documents and other instruments purporting to be sealed with the common seal, authenticated as specified in subsection (4) shall until the contrary is proved, be deemed to have been validly executed.

(6) The common seal of the Commission shall be officially and judicially noticed.

#### Functions and powers of the Commission

4. (1) In furtherance of the protection and promotion of human rights in Malaysia, the functions of the Commission shall be –

- (a) to promote awareness of the provide education in relation to human rights;
- (b) to advise and assist the Government in formulating legislation and administrative directives and procedures and recommend the necessary measures to be taken;
- (c) to recommend to the Government with regard to the subscription or accession of treaties and other international instruments in the field of human rights; and
- (d) to inquire into complaints regarding infringements of human rights referred to in section 12.

(2) For the purpose of discharging its functions, the Commission may exercise any or all of the following powers:

- (a) to promote awareness of human rights and to undertaken research by conducting programmes, seminars and workshops and to disseminate and distribute the results of such research;
- (b) to advise the Government and/or the relevant authorities of complaints against such authorities and recommend to the Government and/or such authorities appropriate measures to be taken;

- (c) to study and verify any infringement of human rights in accordance with the provisions of this Act;
- (d) to visit places of detention in accordance with procedures as prescribed by the laws relating to the places of detention and to make necessary recommendations;
- (e) to issue public statement on human rights as and when necessary; and
- (f) to undertake any other appropriate activities as are necessary in accordance with the written laws in force, if any, in relation to such activities.

(3) The visit by the Commission to any place of detention under paragraph (2)(d) shall not be refused by the person in charge of such place of detention if the procedures provided in the laws regulating such places of detention are complied with.

(4) For the purpose of this Act, regard shall be had to the Universal Declaration of Human Rights 1948 to the extent that it is not inconsistent with the Federal Constitution.

### **Members of the Commission and term of office**

5. (1) The Commission shall consist of not more than twenty members.

(2) Members of the Commission shall be appointed by the Yang di-Pertuan Agong, on the recommendation of the Prime Minister.

(3) Members of the Commission shall be appointed from amongst prominent personalities including those from various religious and racial backgrounds.

(4) Every member shall hold office for a period of two years and is eligible for reappointment.

### **Chairman and Vice-Chairman**

6. (1) The Yang di-Pertuan Agong shall designate one of the members appointed under section 5 to be the Chairman of the Commission.

(2) The Chairman's term of office shall be his period of membership on the Commission.

(3) A Vice-Chairman shall be elected by the members of the Commission from amongst themselves.

(4) Where the Chairman of the Commission is for any reason unable to perform the function of the Chairman, or during any period of vacancy in the office of the Chairman, the Vice-Chairman shall perform the function of the Chairman.

### **Meeting of the Commission**

7. (1) The Chairman of the Commission shall preside at all meetings of the Commission.

(2) If the Chairman is absent from any meeting, the Vice-Chairman of the Commission shall preside at such meeting.

(3) The quorum at all meeting shall be two thirds of the number of the members of the Commission.

(4) The members of the Commission shall use their best endeavours to arrive at all decisions of the meeting by consensus failing which the decision by a two-thirds majority of the members present shall be required.

(5) The Commission shall determine the conduct of its own proceedings.

### **Remuneration**

**8.** (1) The Chairman of the Commission shall be paid such remuneration and allowances as the Yang di-Pertuan Agong may determine.

(2) Every member of the Commission shall be paid allowances at such rates as the Yang di-Pertuan Agong may determine.

### **Vacation of office**

**9.** The office of a member of the Commission shall become vacant –

- (a) upon the death of the member;
- (b) upon the member resigning from such office by the letter addressed to the Yang di-Pertuan Agong;
- (c) upon the expiration of his term of office; or
- (d) upon the member being removed from office on any of the grounds specified in section 10.

### **Disqualification**

**10.** A member of the Commission may be removed from office by the Yang di-Pertuan Agong if –

- (a) the member is adjudged insolvent by a court of competent jurisdiction;
- (b) the Yang di-Pertuan Agong, after consulting a medical officer or a registered medical practitioner, is of the opinion that the member is physically or mentally incapable of continuing his office;
- (c) the member absents himself from three consecutive meeting of the Commission without obtaining leave of the Commission or, in the case of the Chairman, without leave of the Minister;
- (d) the Yang di-Pertuan Agong, on the recommendation of the Prime Minister, is of the opinion that the member-
  - (i) has engaged in any paid office or employment which conflicts with his duties as a member of the Commission;
  - (ii) has misbehaved or has conducted himself in such a manner as to bring disrepute to the Commission; or
  - (iii) has acted in contravention of this Act and in conflict with his duties as a member of the Commission.

### **Resignation**

**11.** A member of the Commission may at any time resign his office by a letter addressed to the Yang di-Pertuan Agong.

## Part III

### POWERS OF INQUIRY OF THE COMMISSION

#### Commission may inquire on own motion or on complaint

12. (1) The Commission may, on its own motion or on a complaint made to it by an aggrieved person or group of persons or a person acting on behalf of an aggrieved person or a group of persons, inquire into allegation of the infringement of the human rights of such person or group of persons.

(2) The Commission shall not inquire into any complaint relating to any allegation of the infringement of human rights which-

- (a) is the subject matter of any proceedings pending in any court, including any appeals; or
- (b) has been finally determined by any court.

(3) If the Commission inquires into an allegation under subsection 12(1) and during the pendency of such inquiry the allegation becomes the subject matter of any proceedings in any court, the Commission shall immediately cease to do the inquiry.

#### Procedure where infringement is not disclosed or is disclosed

13. (1) Where an inquiry conducted by the Commission under section 12 does not disclose the infringement of human rights, the Commission shall record that finding and shall forthwith inform the person making the complaint.

(2) Where an inquiry conducted by the Commission under section 12 discloses the infringement of human rights, the Commission shall have the power to refer the matter, where appropriate, to the relevant authority or person with the necessary recommendations.

#### Powers relating to inquiries

14. (1) The Commission shall, for the purposes of an inquiry under this Act, have the power-

- (a) to procure and receive all such evidence, written or oral, and to examine all such persons as witnesses, as the Commission thinks necessary or desirable to procure or examine;
- (b) to require that the evidence, whether written or oral, of any witness be given on oath or affirmation, such oath or affirmation being that which could be required of the witness if he were giving evidence in a court of law, and to administer or cause to be administered by an officer authorized in that behalf by the Commission an oath or affirmation to every such witness;
- (c) to summon any person residing in Malaysia to attend any meeting of the Commission to give evidence or produce any document or other thing in his possession, and to examine him as a witness or require him to produce any document or other thing in his possession;
- (d) to admit notwithstanding any of the provisions of the Evidence Act 1950 [Act 56], any evidence, whether written or oral, which may be inadmissible in civil or criminal proceedings; and
- (e) to admit or exclude the public from such inquiry or any part thereof.

(2) Notwithstanding paragraph (1)(c), where a person summoned is a person under detention under any other written law, such summons shall be issued in accordance with the laws applicable in relation to the place of detention.

### **Evidence before the Commission**

**15.** (1) A person who gives evidence before the Commission shall, in respect of such evidence, be entitled to all the privileges to which a witness giving evidence before a court of law is entitled in respect of evidence given by him before such court.

(2) No person shall, in respect of any evidence written or oral given by that person to or before the Commission, be liable to any action or proceeding, civil or criminal in any court except when the person is charged with giving or fabricating false evidence.

## **Part IV**

### **STAFF OF THE COMMISSION**

#### **Appointment of Secretary and the staff**

**16.** (1) The Commission shall appoint a Secretary to the Commission.

(2) The Commission may appoint such other officers and servants as may be necessary to assist the Commission in the discharge of its functions under this Act.

#### **Delegation of powers**

**17.** The Commission may delegate to any officer referred to in subsection 16(2) any of its powers, and the officer to whom such powers are delegated may exercise those powers subject to the direction of the Commission.

#### **Protection of members, officers and servants of the Commission**

**18.** (1) No action, suit, prosecution or proceeding shall be instituted in any court against the Commission or against any member, officer, or servant of the Commission in respect of any act, neglect or default done or committed by him in such capacity provided that he at the time had carried out his functions in good faith.

(2) Any member, officer or servant of the Commission shall be required to produce in any court, any document received by, or to disclose to any court, any matter or thing coming to the notice of the Commission in the course of any inquiry conducted by the Commission under this act.

(3) No action or proceeding, civil or criminal shall be instituted in any court against any member of the Commission in respect of any report made by the Commission under this Act or against any other person in respect of the publication by such person of a substantially true account of such report.

(4) Chapters IX and X of the Penal Code [*Act 574*] shall apply to members, officers and servants of the Commission as if references to “public servant” had been replaced with “member, officer or servant of the Commission”.

## Part V

### GENERAL

#### Funds

19. (1) The Government shall provide the Commission with adequate funds annually to enable the Commission to discharge its function under this Act.

(2) The Commission shall not receive any foreign fund.

(3) Notwithstanding subsection (2), the Commission may receive funds without any conditions from any individual or organization only for the purpose of promoting awareness of and providing education in relation to human rights as many be approved by the Commission.

(4) The Commission shall cause proper audited accounts to be kept of its income and expenditure, and assets and liabilities.

(5) The financial year of the Commission shall be the calendar year.

(6) Any expenses incurred by the Commission in any action or proceeding, civil or criminal, brought by or against the Commission before any court shall be paid out of the funds of the Commission and any costs paid to, or recovered by, the Commission in any such action or proceeding, civil or criminal, shall be credited to the funds of the Commission.

(7) Any expenses incurred by any member, officer or servant of the Commission, in any civil action or proceeding, brought against him in any court in respect of any act which is done or purported to be done by him under this Act or on the direction of the Commission shall be paid out of the funds of the Commission unless such expenses are recovered by him in such civil action or proceeding.

#### Application of Act 240

20. The Statutory Bodies (Accounts and Annual Reports) Act 1980 [*Act 240*] shall apply to the Commission.

#### Annual Report

21. (1) The Commission shall not later than the first meeting of Parliament of the following year, submit an annual report to Parliament of all its activities during the year to which the report relates.

(2) The report shall contain a list of all matters referred to it, and the action taken in respect of them together with the recommendations of the Commission in respect of each matter.

(3) The Commission may, whenever it considers it necessary to do so, submit special reports to Parliament in respect of any particular matter or matters referred to it, and the action taken in respect thereof.

#### Regulations

22. The Minister may make regulations for the purpose of carrying out or giving effect to the provisions of this Act, including for prescribing the procedure to be followed in the conduct of inquiries under this Act.

#### Power to make disciplinary regulations

23. (1) The Commission may, with the approval of the Minister, make such regulations as it thinks necessary or expedient to provide for the discipline of the officers and servants of the Commission.

(2) Where any disciplinary regulations are made under this section, the Commission shall cause notice of the effect of those regulations to be given in such manner as it thinks necessary for bringing it to the notice of all officers and servants of the Commission who are affected by those regulations and those regulations shall, notwithstanding sections 19 and 20 of the Interpretation Acts 1948 and 1967 [Act 388], have effect as soon as the notice has been given without publications in *Gazette*.