

রেজিস্টার্ড নং ডি এ-১

বাংলাদেশ



গেজেট

অতিরিক্ত সংখ্যা
কর্তৃপক্ষ কর্তৃক প্রকাশিত

বুধবার, অক্টোবর ১, ২০১৪

গণপ্রজাতন্ত্রী বাংলাদেশ সরকার
লেজিসলেটিভ ও সংসদ বিষয়ক বিভাগ
আইন, বিচার ও সংসদ বিষয়ক মন্ত্রণালয়
মুদ্রণ ও প্রকাশনা শাখা।
প্রজ্ঞাপন

তারিখ, ২৩ সেপ্টেম্বর ২০১৪

নং ০৬-আইন-ভেটিং-১৬/১৪-অনুবাদ-২০১৪—সরকারি কার্যবিধিমালা, ১৯৯৬ এর প্রথম তফসিল (বিভিন্ন মন্ত্রণালয় এবং বিভাগের মধ্যে কার্যবন্টন) এর আইটেম ২৯ (খ) এর ক্রমিক ৫ এবং মন্ত্রিপরিষদ বিভাগের বিগত ০৩-০৭-২০০০ ইং তারিখের সভায় গৃহীত সিদ্ধান্ত বাস্তবায়নের নিমিত্তে “জাতীয় মানবাধিকার কমিশন আইন, ২০০৯ (২০০৯ সালের ৫৩ নং আইন) এর ৩১(১) ধারার বিধান অনুযায়ী” নিম্নরূপ ইংরেজী অনুবাদ সর্বসাধারণের জ্ঞাতার্থে প্রকাশ করিল।

মোহাম্মদ দেলোয়ার হোসেন
সহকারী সচিব।

(১৮৭২৭)

মূল্য : টাকা ১৬.০০

The National Human Rights Commission Act, 2009
Act No.53 of 2009

[14th July, 2009]

An Act to establish National Human Rights Commission

Whereas in the Constitution of the People's Republic of Bangladesh the main aim of the State is to protect, promote and ensure human rights; and

Whereas it is expedient and necessary to establish a Commission to be called the National Human Rights Commission and make provisions relating thereto for protecting, promoting and ensuring human rights properly;

It is hereby enacted as follows :—

Chapter I
Preliminary

1. **Short title and commencement.**—(1) This Act may be called the National Human Rights Commission Act, 2009.

(2) It shall be deemed to have come into force on the 1st September, 2008

2. **Definitions.**—In this Act, unless there is anything repugnant in the subject or context,—

- (a) “Commission” means the National Human Rights Commission;
- (b) “Chairman” means the Chairman of the Commission and the person acting as the Chairman of the Commission;
- (c) “public servant” means the public servant as defined in section 21 of the Penal Code;
- (d) “Penal Code” means the Penal Code, 1860 (XLV of 1860),
- (e) “rules” means rules made under this Act;
- (f) “human rights” means right to life, right to liberty, right to equality and right to dignity of a person guaranteed by the Constitution of the People's Republic of Bangladesh and such other human rights that are declared in different international human rights instruments ratified by the People's Republic of Bangladesh and are enforceable by the existing courts of Bangladesh;

- (g) “disciplined force” means the disciplined force mentioned in article 152(1) of the Constitution of the People’s Republic of Bangladesh;
- (h) “Member” means any Member of the Commission, and also includes the Chairman;
- (i) “Evidence Act” means the Evidence Act, 1872 (I of 1872);
- (j) “Constitution” means the Constitution of the People’s Republic of Bangladesh.

Chapter II

Establishment of Human Rights Commission

3. **Establishment of the National Human Rights Commission.**—(1) As soon as may be after the commencement of this Act, a Commission to be called the National Human Rights Commission shall be established for carrying out the purposes of , and in accordance with the Provisions of, this Act.

(2) The Commission shall be a statutory independent body having perpetual succession, with power, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and shall by the said name sue and be sued.

(3) The Commission shall have an official seal which shall be kept under the authority of the Secretary of the Commission.

4. **Office of the Commission.**—The Head office of the Commission shall be at Dhaka and the Commission may, if necessary, establish its offices in Division, District and Upazilla level.

5. **Constitution of the Commission.**—(1) The Commission shall consist of a Chairman and not more than six Members.

(2) The Chairman and one Member of the Commission shall be full-time and other Members shall be honorary.

(3) Among the Members at least one shall be a woman and one shall be from the ethnic groups.

(4) The Chairman shall be the Chief Executive of the Commission.

6. Appointment, terms of office, resignation, etc. of the Chairman and Members.—(1) The President shall, upon recommendation of the selection committee, appoint the Chairman and the Members of the Commission:

Provided that no person shall be eligible for appointment to the post of the Chairman or Member of the Commission or shall hold office if he is less than 35 (thirty five) years of age and over 70 (seventy) years of age.

(2) The Chairman and the Members shall, subject to the Provisions of this section, be appointed from amongst the persons who have remarkable contribution in the field of legal or judicial activities, human rights, education, social service or human welfare.

(3) The Chairman and the Members of the Commission shall hold office for a term of three years from the date on which they enter upon their office:

Provided that a person shall not be appointed for more than two terms as a Chairman or a Member of the Commission.

(4) The Chairman or any Member may, before completion of his tenure prescribed under sub-section (3), resign his office by writing under his hand addressed to the President.

(5) If any vacancy occurs in the office of the Chairman or if the Chairman is unable to discharge the functions of his office on account of absence, illness or any other cause, the full-time Member shall act as Chairman until a newly appointed Chairman holds office or until the Chairman resumes the functions of his office, as the case may be.

7. The Selection Committee.—(1) To make recommendation on the appointment of the Chairman and Members, a selection committee shall consist of the following seven Members, namely :—

- (a) Speaker of the House of the Nation, who shall also be its president;
- (b) Minister, Ministry of Law, Justice and Parliamentary Affairs;
- (c) Minister, Ministry of Home Affairs;
- (d) Chairman, Law Commission;
- (e) Cabinet Secretary, Cabinet Division;
- (f) two Members of Parliament, nominated by the Speaker of the House of the Nation, out of whom one shall belong to the Ruling Party and the other from the Opposition Party.

(2) The Ministry of Law, Justice and Parliamentary Affairs shall provide the selection committee with necessary secretarial assistance for performing its functions.

(3) To constitute a quorum at a meeting of the selection committee, at least 4 (four) Members shall be present.

(4) For the purpose of making recommendation on the appointment of the Chairman and the Members, the selection committee shall recommend two names against each vacant post on the basis of the decision of the majority of the votes of the Members present in the meeting, and in case of equality of votes, the person presiding over the meeting shall have right to exercise casting vote.

(5) The selection committee may determine the procedure of its meeting.

8. removal of the Chairman and any Member.—(1) The Chairman or any Member of the Commission shall not be removed from his office except in like manner and on the like grounds as a Judge of the Supreme Court.

(2) Notwithstanding anything contained in sub-section (1), the President may remove the Chairman or any other Member from his office, if he—

- (a) is declared insolvent by any competent court; or
- (b) in case of the Chairman and the full-time Member, engages himself in any post extraneous to his own duties during his term of office for remuneration; or
- (c) is declared by a competent court to be of unsound mind; or
- (d) is convicted of any offence involving moral turpitude.

9. Vacancies in the post of the Member not to invalidate acts or proceedings.—No act or proceeding of the Commission shall be invalid or be called in question merely on the ground of any vacancy in the post of the Member, or any defect in the constitution of, the Commission.

10. Salaries, allowances etc, of the Members.—(1) The Chairman shall be entitled to such salaries, allowances and other privileges as are admissible to a Judge of the Appellate Division of the Supreme Court.

(2) The full-time Member shall be entitled to such salaries, allowances and other privileges as are admissible to a Judge of the High Court Division of the Supreme Court.

(3) The honorary Members shall be entitled to such honorarium and allowances for discharging other duties including for attending the meeting of the Commission at the rates as may be determined by the Commission.

11. Meeting of the Commission.—(1) The Commission shall, subject to the provisions of this Act, determine the procedure of its meetings.

(2) The Chairman shall preside over all the meetings of the Commission and in his absence the full-time Member shall preside over the meeting.

(3) To constitute a quorum at a meeting, the Chairman and at least 3 (three) Members shall be present.

(4) For taking decision in the meeting of the Commission, each Member shall have one vote and, in case of equality of votes, the person presiding over the meeting shall have a second or casting vote.

(5) There shall be at least one meeting of the Commission in two months.

Chapter III

Power to inquiry and functions of the Commission

12. Functions of the Commission.—(1) The Commission shall perform all or any of the following functions, namely:—

- (a) to inquire, suo-moto or on a petition submitted to it by the person affected or any person on his behalf, into any allegation of violation of human rights or abetment thereof, by a person, any state owned or any government agency or institution or organization;
- (b) to inquire, suo-moto or on a petition submitted to it by the person affected or any person on his behalf, into any allegation of violation of human rights or abetment thereof or negligence in resisting violation of human rights by a public servant;
- (c) to inspect the living condition of the inhabitants of the jails or correction centers and the places where people are confined for custody, treatment and other different welfare, and to make necessary recommendation to the Government thereon for the development of those places and conditions;
- (d) to review the safeguards of human rights provided by the Constitution or any other law for the time being in force and to make recommendation to the Government for their effective implementation;

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- (e) to review the matters, including acts of terrorism that inhibit the safeguards of human rights and to make recommendation to the Government for their appropriate remedial measures;
 - (f) to research treaties and other international instruments on human rights and to make recommendation to the Government for their effective implementation;
 - (g) to examine the proposals for new legislation for verifying their conformity with international human rights standards and to make recommendation for necessary amendment to the appropriate authority for ensuring their uniformity with the international human rights instruments;
 - (h) to advise the Government for ratifying or signing the international human rights instruments and to ensure its implementation;
 - (i) to research into the field of human rights and to take part in its execution in educational and professional institutions;
 - (j) to publicize human rights literacy among various sections of society and to promote awareness of the safeguards available for the protection of those through publications and other available means;
 - (k) to encourage the efforts of non-governmental organizations and institutions working in the field of human rights and coordinate the activities of the organizations and institutions;
 - (l) to inquire and investigate into complaint related to the violation or probability of violation of human rights and to resolve the issue through mediation and conciliation;
 - (m) to advise and assist the Government by providing necessary legal and administrative directions for protection and promotion of human rights;
 - (n) to make recommendation to the Government so that the measures to be taken according to the laws of the land in force and administrative programs for ensuring human rights may be of international standard and level;

- (o) to advise and assist the organizations or institutions working in the field of human rights and generally the civil society for application of human rights;
- (p) to raise public awareness through research, seminar, symposium, workshop and such other activities and to publish and disseminate the outcomes thereof;
- (q) to provide training to the members of the law enforcing agencies regarding protection of human rights;
- (r) to provide legal assistance to the aggrieved person or any other person on behalf of the aggrieved person to lodge a complaint before the Commission; and
- (s) to perform such other functions, as may be considered necessary for the promotion of human rights.

(2) Notwithstanding anything contained in sub-section (1), the following matters shall not be included in the functions or duties of the Commission, namely :—

- (a) any matter relating to the cases pending before nay court;
- (b) any matter to be dealt with by the Ombudsman under the Ombudsman Act, 1980 (Act No. XV of 1980);
- (c) any matter relating to the service of the public servants of the Republic and any employee engaged in the service of a statutory public authority which is triable in any tribunal established under the Administrative Tribunals Act, 1980 (Act No. VII of 1980).

13. Reference from the Supreme Court.—(1) The Supreme Court may refer any matter arising out of an application made under article 102 of the Constitution, to the Commission for submitting report upon inquiry.

(2) The Commission shall, after making an inquiry into the matter referred under sub-section (1), submit a report to the Supreme Court within the time frame, if any, mentioned in the reference.

14. Measures to be taken in case of revelation of human rights violation.—(1) If any human rights violation is revealed from the inquiry of the Commission, the Commission may take measures to resolve it through mediation and conciliation.

(2) If the mediation and conciliation under sub-section (1) do not succeed, the Commission shall—

- (a) recommend to the appropriate authority to file any case or to take any other proceeding against the human rights violator;
- (b) recommend to the appropriate authority or person to prevent and take remedial measures for protecting the violation of human rights.

(3) The Commission shall not make any recommendation under this section without giving the opportunity of being heard to the person who has been accused of violation of human rights or is about to violate human rights.

(4) The Commission shall send a copy of its recommendation made under this section to the complainant.

(5) The Commission may require the person or authority to whom or to which the recommendation is sent for action to send a follow up report on the measures taken according to the recommendation and it shall be the duty of such person or authority to comply with such requisition.

(6) If any person or authority to whom or to which the recommendation is sent under this section from the Commission, fails to submit the report required, or if the Commission considers the action taken or proposed to be taken is insufficient, the Commission shall, if it considers appropriate, send the report with full description of the issue to the president and the president shall cause a copy of the report to be laid before the parliament.

15. Appointment of mediators or conciliators.—(1) If any issue is sent under this Act for mediation or conciliation, the Commission may appoint one or more persons to mediate or conciliate between the parties.

(2) The Procedure of appointment and power of the mediator and conciliator shall be prescribed by rules.

(3) The Commission may issue direction to the concerned parties to be present before the mediator or conciliator for mediation or conciliation.

(4) The sessions of the mediators and conciliators may be held in open or in camera.

(5) If the issue is not resolved through mediation or conciliation or any party objects for the mediation or conciliation, the mediator or conciliator shall inform the matter to the Commission.

(6) If any settlement is reached through mediation or conciliation, the mediator or conciliator shall inform the matter to the Commission.

(7) In order to execute the settlement made under sub-section (6), the Commission may, along with other instructions, give instructions of imposing such fine as it deems fit.

16. Power to inquiry.—For the purposes of investigation and inquiry under this Act, the Commission shall have the same powers in respect of the following matters as of a Civil Court under the Code of Civil Procedure, 1908 (Act No. V of 1908), namely:—

- (a) summoning and ensuring the attendance of the witnesses and to examine the witnesses;
- (b) calling for submitting written documents or taking oral evidence on oath;
- (c) calling for any person living in Bangladesh to give evidence being present before any meeting of the Commission and to produce any document which remains in his possessions;
- (d) providing authorization for or against the public participation in an investigation or inquiry.

17. Investigation as to complaint.—(1) The Commission may, while making an investigation into the complaints of violation against human rights, require a report or information from the Government or any authority or organization under it within the time specified by the Commission.

(2) If the Commission does not get the report or information within the time specified under sub-section (1), the Commission may, on its own initiative, start the investigation.

(3) On receipt of information within the time specified under sub-section(1), if the Commission is satisfied,—

- (a) that the matter does not require further investigation; or
- (b) that the Government or the authority, as the case may be, has taken proper action or has started to undertake proper action;

then the Commission shall not undertake any step to investigate the matter.

18. Procedure to be followed in case of disciplined force.—(1) Notwithstanding anything contained in any other provisions of this Act, the Commission may, suo-moto or on any application, require the Government to submit a report in respect of the allegation of violation of human rights against the disciplined force or any member thereof.

(2) If any report is asked for under sub-section (1), the Government shall submit a report on the concerned matter to the Commission.

(3) On receipt of the report under sub-section (2), the Commission,—

- (a) if satisfied, shall not undertake any further step into the matter;
- (b) if it deems necessary, may make recommendation to the Government for actions to be taken into the matter.

(4) If any recommendation is received under sub-section (3) from the Commission, the Government shall inform the Commission in writing about the actions taken into the matter within 6 (six) months from the date of such receipt of the recommendation.

(5) On receipt of the report under sub-section (4) the Commission shall provide its copy to the complainant or his representative, as the case may be.

19. Action to be taken after inquiry.—(1) Notwithstanding any provision contained contrary to this Act, if the allegation proved true after inquiry, the Commission may—

- (a) recommend to the Government to initiate proceeding for prosecution or to take any other legal action against the concerned person and, at the same time, shall mention the type of case or legal action that should be appropriate to be taken in perspective of the matter, in the recommendation;
- (b) cause a petition to be submitted on behalf of the aggrieved person before the High Court Division of the Supreme Court, or on its own initiative, submit a petition before such Division if any order or instruction is issuable under article 102 of the Constitution.

(2) The Commission may under sub-section (1) recommend to the Government or the concerned authority to sanction such amount of temporary grant to the affected person or his family as the Commission may consider appropriate.

(3) The Commission shall provide a copy of the inquiry report to the aggrieved person or his representative.

(4) The Commission shall furnish a copy of the inquiry report with recommendation made under sub-section (1) and (2) to the Government or to the concerned authority and the Government or the concerned authority shall, within a period of three months from receiving the report, inform the Commission regarding the action taken or proposed to be taken on the basis of such recommendation.

Provided that if the Government or the authority contradicts with the Commission, or fails or refuses to take decision according to the recommendation of the Commission, the Government or the authority shall inform the Commission regarding the reasons of such contradiction, inability or refusal within the aforesaid time limit.

(5) The Commission shall publish the summary of its inquiry report and its decision or recommendation on the report in such manner as it deems fit :

Provided that if the Commission is satisfied that it is necessary to publish the inquiry report on the whole or any part thereof for general information considering its importance, it shall publish the whole or any part thereof, as the case may be :

Provided further that if the Commission is satisfied that, it is not necessary to publish the summary of any report, it shall not be necessary to publish anything of the report.

(6) The Commission shall have the right to compete as a party to any case or legal proceeding involving allegation of violating human rights pending before any court.

20. Privileges of the witness giving evidence to the Commission.—(1) The person giving evidence to the Commission shall enjoy the same privileges as of a person giving evidence to the court.

(2) No suit or prosecution shall lie against any person for his statement or deposition which is recorded as evidence before the Commission and that statement or deposition shall not be used in any proceeding of criminal or civil nature ; but if there is any false evidence in his statement or deposition, he shall not be discharged of any offence of giving false evidence.

21. **Service of summons.**—(1) Each summons under this Act shall be issued under the signature of the Chairman or any Member or any officer of the Commission authorized by it in this behalf.

(2) Each summons shall be issued and served to the person specified therein and, if it is not possible, to the last known residential address of that person by delivery or by registered post.

(3) The Person to whom the summons is served, shall remain present before the Commission in such time and place as mentioned therein, and shall answer all the questions put to him by the Commission, and produce all the documents asked for and available in his custody pursuant to the summons.

22. **Annual report of the Commission.**—(1) The Commission shall submit an annual report on its affairs of the pervious year to the President on or before 30th March of each year.

(2) There shall be a memorandum with the report to be submitted under sub-section (1), wherein, among others, the reasons of not taking necessary actions or measures by the Government or the concerned authority, if no such action or measure is taken in accordance with the recommendations of the Commission, shall be recorded in writing in so as far it is known to the Commission.

Chapter IV

Officers, etc, of the Commission

23. **Officers and employees of the Commission.**—(1) There shall be a Secretary to the Commission.

(2) The Commission may, under this Act, appoint such other officers and employees as it considers necessary for the efficient performance of its functions.

(3) Salary, allowances and other terms and conditions of the services of the Secretary and other officers and employees of the Commission shall be prescribed by rules:

Provided that the salary, allowances and other terms and conditions of the services of the Secretary and other officers and employees shall be determined by the Government until such rules are made.

(4) The Government may, on request of the Commission, appoint any officer and employee of the Republic to the Commission on deputation.

24. **Human Rights Commission Fund.**—(1) There shall be a fund to be known as the Human Rights Commission Fund for carrying out the purposes of this Act.

(2) The management and administration of the Human Rights Commission Fund, hereinafter referred to as the fund in this section, shall, subject to the provisions of this section and rules, vest in the Commission.

(3) Salary, allowances and other monetary facilities in accordance with the terms and conditions of the services of the Members, officers and employees of the Commission and other necessary expenses of the Commission shall be disbursed from the fund.

(4) The following money shall be credited to the fund, such as:—

- (a) annual grant made by the Government;
- (b) grants provided by the local authorities.

25. **Financial freedom of the Commission.**—(1) The Government shall allocate a specific amount of money for the Commission in each financial year; and it shall not be necessary for the Commission to take prior approval from the Government to spend such allocated money for the approved and specified heads.

(2) The provisions of this section shall not be construed as to have prejudiced the rights of the Auditor-General under article 128 of the Constitution.

26. **Audit and Accounts.**—(1) The Commission shall maintain its accounts properly and prepare an annual statement of its accounts.

(2) The accounts of the Commission shall be audited by the Comptroller and Auditor-General of Bangladesh, hereinafter referred to as the Auditor-General, every year, and a copy of the audit report shall be submitted to the Government and to the Commission.

(3) For the purpose of an audit under sub-section (2), the Auditor-General or any person authorized by him in this behalf shall have access to all records, documents, cash or bank balance, securities, stores and other property of the Commission, and may examine any Member or any other officer or employee of the Commission.

27. **Public Servant.**—The Chairman, Members, Secretary, other officers and employees and every officer assigned to work under this Act by the Commission shall be deemed to be public servant within the meaning of section 21 of the Penal Code.

28. **Delegation of Powers.**—The Commission may, subject to the terms and conditions determined by it, delegate any of its powers to the Chairman, any Member or the Secretary.

29. **Protection of actions taken in good faith.**—No suit or prosecution or other legal proceedings shall lie against the Government, the Commission, any Member, any officer or employee of the Government or the Commission or against any publication, report or activity made or performed under the authority of the Government and the Commission, for anything which is, in good faith, done under this Act or rules made thereunder, which may cause or likely to be caused any damage to any person.

30. **Power to make rules.**—The Commission may, with prior approval of the President and by notification in the *Official Gazette*, make rules for carrying out the purposes of this Act.

31. **Publication of Authentic English Text.**—(1) After the commencement of this Act, the Government shall, by notification in the *Official Gazette*, Publish an English text to be called the Authentic English Text of this Act.

(2) In case of any conflict between the Bangla and the English text, the Bangla text shall prevail.

32. **Provision relating to savings.**—(1) Anything done or any action taken under the National Human Rights Commission Ordinance, 2007 (Ordinance No. XL of 2007) hereinafter referred to as the said Ordinance, shall, subject to the provisions of this Act, be deemed to have been done or taken under this Act.

(2) Notwithstanding the expiry of this said Ordinance under the provision of clause (2) of article 93 of the Constitution of the People's Republic of Bangladesh, anything done or any action taken after such expiry, in continuation or purported to be continuation of the said Ordinance, shall, subject to the provisions of this Act, be deemed to have been done or taken under this Act.