

REGISTERED No. M - 302  
L.-7646

**The Gazette**  **of Pakistan**

**EXTRAORDINARY  
PUBLISHED BY AUTHORITY**

---

---

**ISLAMABAD, TUESDAY, JUNE 5, 2012**

---

---

**PART I**

**Acts, Ordinances, President's Orders and Regulations**

**NATIONAL ASSEMBLY SECRETARIAT**

*Islamabad, the 5th June, 2012*

**No. F. 22(33)/2008-Legis.**—The following Acts of *Majlis-e-Shoora* (Parliament) received the assent of the President on the 30th May, 2012 and is hereby published for general information:—

ACT No. XVI OF 2012

*An Act to provide for the establishment of a  
National Human Rights Commission*

WHEREAS it is expedient to provide for the creation of a National Commission for Human Rights, for the purposes of promotion and protection of human rights as provided for in the Constitution of the Islamic Republic of Pakistan and the various international instruments to which Pakistan is a state party or shall become a state party;

(313)

[2615 (2012)/Ex Gaz.]

Price : Rs. 10.50

It is hereby enacted as follows:—

## CHAPTER-I

### PRELIMINARY

1. **Short title, extent and commencement.**—(1) This Act may be called the National Commission for Human Rights Act, 2012.

(2) It extends to the whole of Pakistan except Chapter V which shall extend to the Islamabad Capital Territory.

(3) It shall come into force at once.

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

- (a) “armed forces” means army, navy, air force and all other civil armed forces including military intelligence agencies;
- (b) “Chairperson” means the Chairperson of the Commission, as appointed under section 4;
- (c) “Commission” means National Commission for Human Rights constituted under section 3;
- (d) “human rights” means the rights relating to life, liberty and dignity of the individual guaranteed and included in the international instruments including political and women rights;
- (e) “member” means a member of the Commission and includes the Chairperson;
- (f) “prescribed” means prescribed by rules made under this Act; and
- (g) “public servant” means a public servant defined under section 21 of the Pakistan Penal Code (Act XLV of 1860).

## CHAPTER-II

### ESTABLISHMENT OF COMMISSION FOR HUMAN RIGHTS

3. **Establishment of Commission.**—(1) The Federal Government shall constitute a Commission to be known as the National Commission for Human Rights to exercise the powers and perform the functions under this Act.

- (2) The Commission shall consist of —
- (a) a Chairperson, who has been, or is qualified to be, a judge of the Supreme Court or a person having demonstrable knowledge of, or practical experience in, matters relating to human rights;
  - (b) one member from each Province, Federally Administrated Tribal Areas and Islamabad Capital Territory having demonstrable knowledge of, or practical experience in, matters relating to human rights;
  - (c) Chairperson of the National Commission on Status of Women;
  - (d) one member from minority communities; and
  - (e) a Secretary, who shall be appointed by the Commission:

Provided that of the total membership of the Commission, at-least two shall be women members.

(3) A member shall not be less than forty years of age and shall have knowledge and experience relating to human rights.

(4) The headquarters of the Commission shall be at Islamabad and it may establish its offices at other place or places in Pakistan as it may consider appropriate.

(5) The Commission shall be a body corporate having perpetual succession and a common seal with powers, among other, to acquire, hold and dispose of any property and shall sue and be sued by the said name.

(6) All members of the Commission shall work on full time basis on prescribed terms and conditions and the Chairman on ceasing to hold office shall be ineligible for holding any office of profit in the Government, Federal or Provincial, for a period of two years:

Provided that it shall not apply to the Chairperson of the National Commission on the Status of Women.

**4. Appointment of Chairperson and members.—**(1) The Federal Government shall, through public notice, invite suggestions for suitable persons for appointment as Chairperson and members of the Commission and, after proper scrutiny, shall submit a list of these persons to the Prime Minister and the Leader of the Opposition in the National Assembly.

(2) The Prime Minister shall in consultation with the Leader of the Opposition in the National Assembly forward three names for each post to a Parliamentary Committee for hearing and confirmation of any one person for each post:

Provided that in case there is no consensus between the Prime Minister and the Leader of the Opposition, each shall forward separate lists to the Parliamentary Committee.

(3) The Parliamentary Committee shall be constituted by the Speaker of the National Assembly consisting of the following four members, namely:—

- (a) two members from the Senate; and
- (b) two members from the National Assembly:

Provided that when the National Assembly is dissolved, the total membership of the Parliamentary Committee shall consist of the members from the Senate only as mentioned in paragraph (a) and the provisions of this section shall, *mutatis-mutandis*, apply:

Provided further that out of the four members of the Committee, two shall be from the Treasury Benches, one from each House and two from the Opposition Benches, one from each House. The nomination of members from the Treasury Benches shall be made by the Leader of the House and from the Opposition Benches by the Leader of the Opposition.

(4) The Parliamentary Committee shall regulate its own procedure.

(5) The Parliamentary Committee shall forward the names of the nominees confirmed by it to the President, who shall appoint the Chairperson and members accordingly.

**5. Term of office of Chairperson and of members.—**(1) A person appointed as Chairperson or a member shall hold office for a term of four years from the date on which he enters upon his office:

Provided that the term of office may be extended once in the manner provided in section 4.

(2) The Chairperson or a member may resign from his office in writing under his hand addressed to the President and on acceptance of the resignation, such vacancy shall be filled within sixty days.

6. **Removal of the Chairperson and members.**—The Chairman and members may be removed from office on the grounds and in the manner provided for in Article 209 of the Constitution of the Islamic Republic of Pakistan.

7. **Acting Chairperson.**—At any time when the Chairperson is absent or unable to perform the duties of his office for any reason, or in the event of the vacancy in the office of the Chairperson by reason of his death, resignation or otherwise, the members of the Commission shall elect an Acting Chairperson from amongst themselves until the incumbent Chairperson resumes his office, or as the case may be, until the appointment of a new Chairperson to fill such vacancy which shall not exceed sixty days.

8. **Terms and conditions of service of members including Chairperson.**—The salaries and allowances payable to, and terms and conditions of service of the members, other than *ex-officio* member, shall be such as may be prescribed by the Federal Government in consultation with the Commission:

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

### CHAPTER-III

#### MANAGEMENT AND PROCEDURES OF THE COMMISSION

9. **Functions of the Commission.**—The Commission shall perform all or any of the following functions, namely:—

- (a) *suo-moto* or on a petition presented to it by a victim or any person on his behalf, inquire into complaints of—
  - (i) violation of human rights or abetment thereof; or
  - (ii) negligence in the prevention of such violation, by a public servant;
- (b) intervene in any proceeding involving any allegation of violation of human rights pending before a court by making application for becoming a party to the proceedings before such court;
- (c) notwithstanding anything contained in any other law for the time being in force, the Commission or any person authorized by it may visit any jail, place of detention or any other institution or place under the control of the Government or its agencies, where convicts, under trial prisoners, detainees or other persons are lodged or detained for purposes of

ascertaining the legality of their detention as well as to find out whether the provisions of the applicable laws or other provisions relating to the inmates living conditions and their other rights are being complied with;

- (d) review the safeguards provided by or under the Constitution of the Islamic Republic of Pakistan or any other law for the time being in force for the protection of human rights and recommend adoption of new legislation, the amendment of existing laws and the adoption or amendment of administrative measures for their effective implementation:

Provided that if requested by the Government, the Commission may examine any legislation and submit its views thereon and comment on the implication of the same for legislation;

- (e) review the factors, including acts of terrorism, that inhibit the enjoyment of human rights and recommend appropriate remedial measures;
- (f) study treaties, other international instruments on human rights and reports submitted by the Government of Pakistan on them including the comments thereon, to make recommendations for their effective implementation;
- (g) undertake and promote research in the field of human rights, maintain database on the complaints on violence of human rights received and development of human rights norms;
- (h) spread human rights literacy among various sections of society and promote awareness of the safeguards available for the protection of these rights through publications, print and electronic media, seminars and other available means in all major languages of the country;
- (i) direct investigation and inquiry in respect of any incident of violation of human rights;
- (j) submit independent reports to the Government on the state of human rights in Pakistan for incorporation in reports to United Nations' bodies or committees;
- (k) develop a national plan of action for the promotion and protection of human rights; and
- (l) such other functions as it may consider necessary for the promotion of human rights.

**10. Procedure of the Commission.**—(1) The Commission shall regulate its own procedure.

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

(3) The quorum for a meeting of the Commission shall not be less than one-half of the total membership of the Commission.

(4) The decision of the Commission shall be taken by the majority of its members present and, in case of a tie, the member presiding the meeting shall have a casting vote.

**11. Advisory Committee.**—The Commission may constitute an advisory committee consisting of human rights activists, civil society organizations, members of bar associations, members of press clubs and such other representatives of the Federal and Provincial Governments as may be concerned with the functions of the Commission:

Provided that the members of the advisory committee shall perform their functions in an honorary capacity to assist the Commission in their areas of competence and expertise.

#### CHAPTER-IV

#### INQUIRIES AND INVESTIGATIONS

**12. Inquiry into complaints.**—(1) The Commission while inquiring into the complaints of violations of human rights may call for information or report from the Federal Government or a Provincial Government or any other authority or organization, subordinate thereto, within such time as may be specified by it:

Provided that if the information or report is not received within the time stipulated by the Commission, it may proceed to inquire into the complaint on its own:

Provided further that in case the complaint relates to areas that are security sensitive, the Commission shall obtain a report within fifteen days from the Federal Government and if the report is not received within thirty days the Commission may proceed to inquire into complaint on its own:

Provided also that if on receipt of information or report, the Commission is satisfied either that no further inquiry is required or that the required action has been

the complaint and inform the complainant accordingly.

(2) Without prejudice to anything contained in sub-section (1), if the Commission considers necessary, having regard to nature of the complaint, it may initiate an inquiry.

(3) if at any stage of the inquiry, the Commission—

- (a) considers it necessary to inquire into the conduct of any person; or
- (b) is of the opinion that the reputation of any person is likely to be prejudicially affected by the inquiry,

it shall give to that person a reasonable opportunity of being heard in the inquiry and to produce evidence in his defence:

Provided that nothing in this section shall apply where the credit of a witness is being impeached.

**13. Powers relating to inquiries.**—(1) The Commission shall, while inquiring into complaints under this Act, have all the powers of a civil court trying a suit under the Code of Civil Procedure, 1908 (Act V of 1908), in respect of the following matters, namely:—

- (a) summoning and enforcing the attendance of witnesses and examining them on oath;
- (b) discovery and production of documents;
- (c) receiving evidence on affidavits;
- (d) requisitioning any public record or copy thereof from any court or office;
- (e) issuing commissions for the examination of witnesses or documents; and
- (f) any other matter which may be prescribed.

(2) The Commission shall have power to require any person, subject to any privilege which may be claimed by that person under any law for the time being in force, to furnish information on such points or matters as, in the opinion of the Commission, may be useful for, or relevant to, the subject-matter of the inquiry and



any person so required shall be deemed to be legally bound to furnish such information within the meaning of section 176 and section 177 of the Pakistan Penal Code (Act XLV of 1860).

(3) The Commission shall be deemed to be a civil court to the extent that is described in sections 175, 178, 179, 180 and 228 of the Pakistan Penal Code, 1860 (Act XLV of 1860). If the offence is committed in the view or presence of the Commission, the Commission may, after recording the facts constituting the offence and the statement of the accused as provided for in the Code of Criminal Procedure, 1898 (Act V of 1898), forward the case to a Magistrate having jurisdiction to try the same and the Magistrate to whom any such case is forwarded shall proceed to hear the complaint against the accused as if the case has been forwarded to him under section 346 of the Code of Criminal Procedure, 1898 (Act V of 1898).

(4) Every proceeding before the Commission shall be deemed to be a judicial proceeding within the meaning of sections 193, 196 and 228 of the Pakistan Penal Code, 1860 (Act XLV of 1860).

(5) The Commission shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1898 (Act V of 1898).

**14. Procedure with respect to armed forces.—**(1) Notwithstanding anything contained in any other law for the time being in force while dealing with the complaints of human rights violations by the members of the armed forces, the Commission shall adopt the following procedure, namely:—

- (a) it may either on its own motion or on receipt of a petition, seek a report from the Federal Government on complaint or violation;
- (b) after the receipt of the report it may either not proceed with the complaint or, as the case may be, make its recommendations to the Federal Government.

(2) The Federal Government shall inform the Commission of the action taken on the aforesaid recommendations within three months or such extended time as the Commission may deem appropriate.

(3) The Commission shall publish its report together with its recommendations made under paragraph (b) of sub-section (1) and the action taken by the Federal Government.

(4) The Commission shall provide a copy of the report published under sub-section (3) to the petitioner or his representative.

15. **Procedure with respect to intelligence agencies.**—(1) Notwithstanding anything contained in this Act, the functions of the Commission do not include inquiring into the act or practice of intelligence agencies and where a complaint is made to the Commission alleging that an act or practice of such an agency is inconsistent with or contrary to any human right, the Commission shall refer the complaint to the competent authority concerned.

(2) The procedure thereafter shall be the same as in sub-section (1) of section 14 with respect to the armed forces.

16. **Independence of the Commission.**—(1) The Commission and every member of its staff shall function without political or other bias or interference and shall, unless this Act expressly otherwise provides, be independent and separate from any government, administrations, or any other functionary or body directly or indirectly representing the interests of any such entity.

(2) If at any stage during the course of proceedings at any meeting of the Commission, it appears that a member has or may have a financial or personal interest which may cause a substantial conflict of interests in the performance of his functions as such, the member shall forthwith and fully disclose the nature of his interest and absent himself from that meeting so as to enable the remaining members to decide whether the member should be precluded from participating in the meeting by reason of that interest. Such a disclosure and the decision taken by the remaining members shall be entered on the record of the proceedings.

(3) If a member fails to disclose any conflict of interest as required under sub-section (2) and is present at a meeting of the Commission or in any manner participates in the proceedings, such proceedings in relation to the relevant matter shall, as soon as such non-disclosure is discovered, be reviewed and be varied or set aside by the Commission without the participation of the member concerned and such conduct on the part of the member shall be treated as misconduct.

17. **Investigation.**—(1) Notwithstanding anything contained in any other law for the time being in force, the Commission may, for the purpose of conducting an investigation into a matter which is the subject of a complaint, requisition the services of any officer or investigation agency of the Federal Government or a Provincial Government with their concurrence.

(2) For the purposes of investigating into any matter which is the subject of a complaint, any officer or agency whose services are requisitioned under sub-section (1) shall, under the direction and control of the Commission,—

- (a) summon and enforce the attendance of any person and examine him;
- (b) require the discovery and production of any document; and

