



LAWS OF MALAYSIA

ACT 597

HUMAN RIGHTS COMMISSION OF MALAYSIA ACT 1999



Date of Royal Assent27 August 1999

Date of Publication in the *Gazette*9 September 1999

This PDF Printed on: 11-08-2025 09:40:25



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Preamble

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.

[20 April 2000, PU(B) 122/2000]

ENACTED by the Parliament of Malaysia as follows:

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 purposes 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 authorised by the Commission and shall be authenticated by

the Secretary or such authorised person or by any officer authorised by the Secretary or such authorised 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 and 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 undertake 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 any place of detention, institution and other place in accordance with procedures as may be prescribed by written laws or specified in the guidelines relating to such place of detention, institution and place and to make necessary recommendations;

[(d) Subs. Act A1714:s.2]

(e) to issue public statements on human rights as and when necessary;

[(e) Am. Act A1714:s.2]

(ea) in respect of children-

(i) to receive any communication from children either directly or through any person or authority relating to the children's complaints

and needs and to act upon such complaints and needs; and

(ii) to establish and adopt mechanisms and procedures in promoting the participation of children in matters that concern them; and

[(ea) Ins. Act A1714:s.2]

(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, institution and other place under paragraph 2(d) shall not be refused by the person in charge of such place of detention, institution or place if the procedures prescribed by written laws or specified in the guidelines relating to such place of detention, institution or place have been complied with.

[(3) Ins. Act A1714:s.2]

(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 less than seven and not more than twenty members.

[(1) Am. Act A1714:s.3]

(2) The members of the Commission shall be appointed by the Yang di-Pertuan Agong on the recommendation of the Prime Minister who shall, before tendering his advice, consult the committee referred to in section 11A.

(3) The members of the Commission shall be appointed from amongst citizens of Malaysia who have knowledge or practical experience in human rights matters, comprising men and women of various religious or racial backgrounds, and persons with disabilities.

[(3) Subs. Act A1714:s.3]

(3A) The members of the Commission appointed under this section shall consist of at least one representative from amongst persons with disabilities and at least thirty per cent of representatives from amongst women.

[(3A) Ins. Act A1714:s.3]

(3B) Any person who is actively involved in politics and registered with any political party shall not be appointed as a member of the Commission.

[(3B) Ins. Act A1714:s.3]

(4) A member of the Commission shall hold office for a period of three years and is eligible for reappointment once for another period of three years.

(5) The Prime Minister may determine suitable mechanisms, including appropriate key performance indicators, to assess the performance of the members of the Commission in carrying out their functions and duties under this Act.

(6) Such assessment shall be taken into consideration-

(a) by the Prime Minister before tendering his advice to the Yang di-Pertuan Agong for the reappointment of any member of the Commission under subsection (4); and

(b) for the removal of any member of the Commission under section 10.

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 functions of the Chairman, or during any period of vacancy in the office of the Chairman, the Vice-Chairman shall perform the functions of the Chairman.

Chief Children Commissioner and Children Commissioners

6A (1) The Yang di-Pertuan Agong shall designate from amongst the members of the Commission appointed under section 5, a Chief Children Commissioner and two Children Commissioners to deal with human rights matters relating to children.

(2) The term of office of the Chief Children Commissioner and the Children Commissioners shall be their period of membership in the Commission.

(3) The functions of the Chief Children Commissioner and the Children Commissioners under this section shall be in addition to, and not in derogation of, their functions as members of the Commission.

(4) In carrying out their functions, the Chief Children Commissioner and the Children Commissioners shall be subject to the direction of the Chairman of the Commission.

[6A. Ins. Act A1714:s.4]

Meetings 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 meetings shall be two thirds of the number of members of the Commission.

(4) The members of the Commission shall use their best endeavours to arrive at all

decisions of the meetings 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, the Chief Children Commissioner and the Children Commissioners shall be paid such remuneration and allowances as the Yang di-Pertuan Agong may determine.

[(1) Am. Act A1714:s.5]

(2) Every member of the Commission, other than the members referred to in subsection (1), shall be paid allowances at such rates as the Yang di-Pertuan Agong may determine.

[(2) Am. Act A1714:s.5]

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 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 meetings 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 breached the code of conduct established under section 10A; or

[(ii) Am. Act A1714:s.6]

(iii) has acted in contravention of this Act and in conflict with his duties as a member of the Commission.

Code of conduct

10A (1) The Minister may establish a code of conduct which shall be observed by the members of the Commission.

(2) The code of conduct established under subsection (1) shall be published in the *Gazette*.

(3) If it comes to the knowledge of the Minister that there is an alleged breach of the code of conduct committed by any member of the Commission, the Minister shall refer the matter to the Prime Minister for the appointment of an investigation tribunal under section 10B.

[10A. Ins. Act A1714:s.7]

Investigation tribunal

10B (1) The investigation tribunal shall consist of three members appointed by the Prime Minister.

(2) The investigation tribunal shall have the power to conduct an investigation against the alleged breach of the code of conduct committed by the members of the Commission and shall make its findings and may make any recommendation based on its findings to the Prime Minister.

(3) The members of the investigation tribunal appointed under subsection (1) may be paid such allowances as the Prime Minister may determine.

(4) The investigation tribunal shall conduct its investigation in accordance with the procedures as may be prescribed by the Minister in the regulations.

(5) If an investigation is instituted in respect of an alleged breach of the code of conduct committed by a member of the Commission under this section, the Yang di-Pertuan Agong may, on the recommendation of the Prime Minister, suspend the member of the Commission from carrying out his functions until the investigation tribunal makes its findings under subsection (8) or until a decision is made by the Yang di-Pertuan Agong in respect of subparagraph 10(d) (ii), whichever is the later.

(6) If a member of the Commission is suspended from carrying out his functions under subsection (5), he shall only be entitled to receive not less than half of his remuneration or allowances, as the case may be, during the period of his suspension.

(7) For the purposes of investigation under this section, the investigation tribunal may-

(a) gather any evidence relating to the allegation of breach of the code of conduct and examine any person that the investigation tribunal considers necessary;

(b) require any person to attend any meeting of the investigation tribunal to give evidence or produce any document or other things in his possession; or

(c) take any action as may be necessary to obtain further clarification on matters relating to the investigation.

(8) Upon completion of the investigation”

(a) if the investigation tribunal finds that there is a breach of the code of conduct by the member of the Commission, the investigation tribunal shall recommend to the Prime Minister that the member of the Commission be removed from being a member of the Commission; or

(b) if the investigation tribunal finds that there is no breach of the code of conduct by the member of the Commission, the investigation tribunal shall dismiss the matter and inform the Prime Minister accordingly.

(9) In the case of suspension of a member of the Commission under subsection (5), if the investigation tribunal finds that there is no breach of the code of conduct by the member of the Commission, the member of the Commission shall be entitled to receive any part of his remuneration or allowances, as the case may be, which has not been paid to him during the period of his suspension.

[10B. Ins. Act A1714:s.7]

Resignation

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

Committee to be consulted with regard to appointment

11A (1) For the purpose of subsection 5(2), there is established a committee consisting of the following persons:

(a) the Chief Secretary to the Government who shall be the Chairman;

(b) the Chairman of the Commission; and

(c) three other members of civil society who have knowledge of or practical experience in human rights matters, to be appointed by the Prime Minister.

(2) The members of the committee referred to in subsection (1) shall serve the committee for such period and on such terms and conditions as may be specified in the instrument of appointment.

(2A) The members of the committee may be paid such allowances as the Prime Minister may determine.

[(2A) Ins. Act A1714:s.8]

(3) The members of the committee referred to in paragraph (1)(c) may include former judges and former members of the Commission.

(4) The following persons shall not be appointed as members of the committee under

paragraph (1)(c):

(a) any person who is actively involved in politics and registered with any political party; and

(b) any person who is or was an enforcement officer.

(5) The committee may determine the conduct of its own proceedings.

(6) For the purpose of this section, "enforcement officer" means an officer of-

(a) any Ministry, Department, Agency or any other body set up by the Federal Government, including a unit, section, division, department or agency of such Ministry, Department, Agency or body, conferred with enforcement functions by any written law or having enforcement powers;

(b) a body established by a Federal law which is conferred with enforcement functions by that Federal law or any other written law;

(c) a unit, section, division, department or agency of a body established by Federal law having enforcement functions; or

(d) the joint service established under Article 133 of the Federal Constitution who is performing enforcement functions.

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 an 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.

(3) Where the Commission has referred any infringement of human rights to the relevant authority or person under subsection (2), the relevant authority or person shall inform the Commission of any action taken by the relevant authority or person in relation to the infringement of human rights.

[(3) Ins. Act A1714:s.9]

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 authorised 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 the person summoned is a person detained at a place of detention under any written law, or is being placed at any institution or other place, such summons shall be issued in accordance with written laws or guidelines, as the case may be, applicable to such place of detention, institution or place.

[(2) Subs. Act A1714:s.10]

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.

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 not 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 functions 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 organisation only for the purpose of promoting awareness of and providing education in relation to human rights as may 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 (1) The Minister may, after consultation with the Commission, make regulations for the purpose of carrying out or giving effect to the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), regulations may be made for the following purposes:

(a) to prescribe the procedures for the conduct of inquiries under this Act; and

(b) to provide for matters relating to investigation by the investigation tribunal including-

(i) the procedures for the conduct of investigation by the investigation tribunal; and

(ii) the opportunity for representation to be made by the member of the Commission to whom the investigation relates before a finding is made by the investigation tribunal.

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 publication in the *Gazette*.

Note: Savings and transitional

Act A1353:s.4

(1) Notwithstanding subsection 5(4) of the principal Act as introduced by this Act, a member of the Commission who was appointed or reappointed before the coming into operation of this Act and who has not completed his term of office immediately before the coming into operation of this Act, may continue to hold office for the remainder of his term of office.

(2) Notwithstanding subsection 5(4) of the principal Act as introduced by this Act-

(a) a member of the Commission who was appointed for the first time before the coming into operation of this Act and is holding office at the time of the coming into operation of this Act is eligible to be reappointed once for a period of three years under subsection 5(4) of the principal Act as introduced by this Act upon the expiry of his term of office;

(b) a member of the Commission who has been reappointed before the coming into operation of this Act is not eligible to be reappointed under subsection 5(4) of the principal Act as introduced by this Act upon the expiry of his term of office under the reappointment.

List of Amendments

Amending Law	Short title	In force from
Act A1353	Human Rights Commission of Malaysia (Amendment) Act 2009	17 February 2010 [PU(B) 68/2010]
Act A1714	Human Rights Commission of Malaysia (Amendment) Act 2024	10 July 2024 [PU(B) 247/2024]

