

COMMISSION ON HUMAN RIGHTS AND ADMINISTRATIVE JUSTICE ACT

1993 (ACT 456)

Section 1-Establishment of the Commission.

There is established by this Act a body to be known as the Commission on Human Rights and Administrative Justice in this Act referred to as "the Commission".

Section 2-Composition of the Commission.

(1) The Commission shall consist of

(a) a Commissioner for Human Rights and Administrative Justice in this Act referred to as "the Commissioner"; and

(b) two Deputy Commissioners for Human Rights and Administrative Justice, in this Act referred to as "the Deputy Commissioners".

(2) The President shall, acting in consultation with the Council of State appoint the Commissioner and the Deputy Commissioners.

Section 3-Qualification of Commissioners.

(1) A person shall not be qualified for appointment as a Commissioner or a Deputy Commissioner for Human Rights and Administrative Justice, unless he is³/₄

(a) in the case of the Commissioner, qualified for appointment as a Justice of the Court of Appeal; and

(b) in the case of a Deputy Commissioner, qualified for appointment as a Justice of the High Court.

(2) The Commissioner and Deputy Commissioners shall not while holding office as Commissioners hold any other public office.

Section 4-Terms and Conditions of Service of Commissioners.

(1) The Commissioner and Deputy Commissioners shall enjoy the terms and conditions of service of a Justice of the Court of Appeal and High Court respectively.

(2) The Commissioner and Deputy Commissioners shall cease to hold office upon attaining the ages of seventy and sixty-five years respectively.

(3) Where the Commissioner or a Deputy Commissioner dies, resigns or is removed from office or is for any other reason unable to perform the functions of his office, the President shall, acting in consultation with the Council of State, appoint a person qualified to be appointed Commissioner or Deputy Commissioner to perform those functions until the appointment of a new Commissioner or Deputy Commissioner.

Section 5-Removal of Commissioners.

The procedure for the removal of the Commissioner and Deputy Commissioners shall be the same as that provided for the removal of a Justice of the Court of Appeal and a Justice of the High Court respectively under article 146 of the Constitution.

Section 6-Independence of Commission and Commissioners.

Except as provided by the Constitution or by any other law not inconsistent with the Constitution, the Commission and the Commissioners shall, in the performance of their functions not be subject to the direction or control of any person or authority.

Section 7-Functions of the Commission.

The functions of the Commission are-

(a) to investigate complaints of violations of fundamental rights and freedoms, injustice, corruption, abuse of power and unfair treatment of any person by a public officer in the exercise of his official duties;

(b) to investigate complaints concerning the functioning of the Public Services Commission, the administrative organs of the State, the offices of the Regional Co-ordinating Council and the District Assembly, the Armed Forces, the Police Service and the Prisons Service in so far as the complaints relate to the failure to achieve a balanced structuring of those services or fair administration in relation to those services;

(c) to investigate complaints concerning practices and actions by persons, private enterprises and other institutions where those complaints allege violations of fundamental rights and freedoms under the Constitution;

(d) to take appropriate action to call for the remedying, correction and reversal of instances specified in paragraphs (a), (b) and (c) of this subsection through such means as are fair, proper and effective, including^{3/4}

(i) negotiation and compromise between the parties concerned;

(ii) causing the complaint and its finding on it to be reported to the superior of an offending person;

(iii) bringing proceedings in a competent court for a remedy to secure the termination of the offending action or conduct, or the abandonment or alteration of the offending procedures; and

(iv) bringing proceedings to restrain the enforcement of such legislation or regulation by challenging its validity if the offending action or conduct is sought to be justified by subordinate legislation or regulation which is unreasonable or otherwise ultra vires;

(e) to investigate allegations that a public officer has contravened or has not complied with a provision of Chapter Twenty-four (Code of Conduct for Public Officers) of the Constitution;

(f) to investigate all instances of alleged or suspected corruption and the misappropriate steps, including reports to the Attorney-General and the Auditor-General, resulting from such investigation;

(g) to educate the public as to human rights and freedoms by such means as the Commissioner may decide, including publications, lectures and symposia; and

(h) to report annually to Parliament on the performance of its functions.

(2) All costs and expenses related to investigations conducted by the Commission into a complaint shall be borne by the Commission.

Section 8-Special Powers of Investigation.

(1) The Commission shall for the purposes of performing its functions under this Act, have power-

(a) to issue subpoenas requiring the attendance of any person before the Commission and the production of any document or record relevant to any investigation by the Commission;

(b) to cause any person contemptuous of any such subpoena to be prosecuted before a competent court;

(c) to question any person in respect of any subject matter under investigation before the Commission;

(d) to require any person to disclose truthfully and frankly any information within his knowledge relevant to any investigation by the Commissioner.

(2) The Commissioner shall not investigate-

(a) a matter which is pending before a court or judicial tribunal; or

(b) a matter involving the relations or dealings between the Government and any other Government or an international organisation; or

(c) a matter relating to the exercise of the prerogative of mercy.

Section 9-Initiation of Legal Proceedings.

For the purposes of performing his functions under the Constitution, this Act and any other law, the Commissioner may bring an action before any court in Ghana and may seek any remedy which may be available from that court.

Section 10-Regional and District Branches of Commission.

(1) There shall be established in each Region and District of Ghana Regional and District branches respectively of the Commission.

(2) There shall be appointed by the Commission an officer who shall be the head of a Regional or District branch of the Commission.

(3) The Commission may create such other lower structures as would facilitate its operations.

Section 11-Functions of Regional and District Representative of Commission.

(1) A representative of the Commission in a Regional or District office of the Commission shall

(a) receive complaints from the public in the Region or District;

(b) make such on-the-spot investigation as may be necessary; and

(c) discharge any other duties relating to the functions of the Commission that may be assigned

to him by the Commissioner.

Section 12-Provisions Relating to Complaints.

(1) A complaint to the Commission shall be made in writing or orally to the national offices of the Commission or to a representative of the Commission in the Regional or District branch.

(2) Where a complaint is made in writing it shall be signed by the complainant or his agent.

(3) Where a complaint is made orally, the person to whom the complaint is made shall reduce the complaint into writing and shall append his signature and the signature or thumbprint of the complainant.

(4) Notwithstanding any law to the contrary, where a letter written by^{3/4}

(a) a person in custody; or

(b) a patient in a hospital, is addressed to the Commission, it shall be immediately forwarded, unopened and unaltered to the Commission by the person for the time being in charge of the place or institution where the writer of the letter is detained or of which he is a patient.

(5) A complaint under this Act may be made by any individual or a body of persons whether corporate or unincorporated.