

STATUTORY INSTRUMENT

Supplement to the Sierra Leone Gazette Vol. CXXXIX, No. 49
dated 9th October, 2008

THE HUMAN RIGHTS COMMISSION OF SIERRA LEONE (COMPLAINTS, INVESTIGATIONS AND INQUIRIES) RULES, 2008

ARRANGEMENT OF RULES

Rule No.

PART I-PRELIMINARY

1. Interpretation.

PART II-FILING OF COMPLAINTS

2. Persons etc. entitled to file complaints.
3. Time for filing complaints.
4. Complaints not to be admitted.
5. Form of complaints.
6. Request to be joined as complainant.
7. Substitution of complainant.
8. Striking off of persons.
9. Procedures after filing of complaints.
10. Commission to acknowledge receipt of complaints.
11. Complaints to be amended.
12. No fees to be charged for complaints.
13. Assessment of complaints.
14. Investigation of complaints.
15. Interim measures.
16. Resolution of complaints before investigation.
17. Mediation.
18. Person to be compelled to answer questions etc.
19. Assistance by legal practitioner.
20. Records of interviews etc to be kept.
21. Entry of premises.

22. Procedures after completion of investigations.
23. Commission to review investigation reports and determine complaints.
24. Rules of evidence.
25. Decision to be based on balance of probabilities.
26. Raising of objections and observance of natural justice.
27. Admissibility of evidence.
28. Time limits for resolution, voluntary withdrawal and administrative closure of complaints.
29. Closure of complaints.
30. Withdrawal of complaints.
31. Closure of complaints.

PART III-PROCEDURE FOR HEARING OF COMPLAINTS

32. Hearing following investigation report.
33. Preparation of cases.
34. Parties to appear before Commission etc.
35. Non-attendance of complainant.
36. Non-attendance of respondent.
37. Non-attendance by parties.
38. Presence of parties.
39. Records to be taken etc.
40. Conclusion of hearing.
41. Hearing to be in public.

PART IV-PROCEDURE FOR INQUIRY INTO SYSTEMIC OR GROSS VIOLATION OF HUMAN RIGHTS

42. Commission to conduct public inquiry.
43. Terms of reference.
44. Framing of issues.
45. Notification of interested parties and the general public.
46. Methods of collecting evidence.
47. Written statements
48. Statement takers.

49. Oral evidence.
50. Notice of matters requiring explanation.
51. Questioning of witnesses.
52. Focus groups and seminars.
53. Record of hearings.
54. Visit to sites, places and services.
55. Hearing to be in public.
56. Reports.

PART V-MISCELLANEOUS PROVISIONS

57. Service and notification of persons.
58. Compulsion to furnish information, documents or articles.
59. Expenses of witnesses.
60. Contempt.
61. Perjury.
62. Enforcement of decisions, orders or directives of Commission.
63. Legal representation or representation by an adviser.
64. Place of businesses of Commission.
65. Flexibility in applying Rules.
66. Function of Commission.
67. Language of Commission.

STATUTORY INSTRUMENT NO. 14 OF 2008

Published 9th October, 2008

**THE HUMAN RIGHTS COMMISSION OF SIERRA LEONE
ACT, 2004
(Act No. 9 of 2004)**

Short title.

**THE HUMAN RIGHTS COMMISSION OF SIERRA LEONE
(COMPLAINTS, INVESTIGATIONS AND INQUIRIES) RULES, 2008.**

In exercise of the powers conferred on the Human Rights Commission of Sierra Leone by section 26 of the Human Rights Commission of Sierra Leone Act, 2004, the Human Rights Commission of Sierra Leone hereby makes these Rules.

PART I—PRELIMINARY

1. In these Rules unless the context otherwise requires— Interpretation.

“authorised officer” means an officer of the Commission authorised for a specified purpose;

“complainant” means a person or organisation who files a complaint or on whose behalf a complaint is filed;

“investigating officer” means an employee of the Commission charged with responsibility to investigate a complaint;

“respondent” means a person or organisation alleged to have committed violations of human rights;

“violation” includes a negation, neglect or negligence by a public officer in the prevention of the violation of a person’s human rights.

PART II—FILING OF COMPLAINTS

Persons etc.
entitled to file
complaints.

2. (1) The following persons or organisations may file a complaint with the Commission against the violation of human rights:—

- (a) a person who believes that his human rights have been violated;
- (b) a person acting on behalf of another person whose human rights have been violated but who, for any reason is unable to file the complaint personally;
- (c) a legal representative or member of the family of a victim of a violation of human rights;
- (d) a person on behalf of or in the interest of a group or class of persons;
- (e) a registered or unregistered organisation, whether corporate or incorporate—
 - (i) in its own name or by any of its members nominated to file the complaint on behalf of its members' or
 - (ii) that demonstrates that it is acting in the public interest;
- (f) a legal practitioner acting on behalf of an individual or organisation.

(2) A person who files a complaint on behalf of another person shall state the capacity in which the person has done so and the reason why the other person cannot personally file the complaint.

Time for
filing com-
plaints.

3. (1) Subject to subrule (2), a complaint shall be filed as soon as possible after the violation of a person's human rights but in any case not later than nine months from the date of the violation, unless the act complained of results in a continuous violation of the person's human rights.

(2) The Commission may admit a complaint filed after the period specified in subrule (1) if the complainant gives a cogent reason why it was not filed within the specified period and that it might result in gross injustice if the complaint is not admitted.

4. (1) Subject to subrule (2), the Commission shall not admit a complaint on a matter—

Complaints
not to be
admitted.

- (a) which is not a violation of human rights in that it fails to disclose an act by a public officer which is a violation of human rights;
- (b) pending before or already decided by a court;
- (c) that occurred before the coming into operation of the Act;
- (d) which is trivial, frivolous or vexatious or made in bad faith;
- (e) based only on hearsay, rumour or media reports;
- (f) where the identity or name of the complainant is not disclosed to the Commission.

(2) The Commission may, on its own investigate or into allegations of violation of human rights made in the media.

(3) Where the complaint is not a violation of human rights but an act of a public officer, the Commission may refer it to the appropriate body for action.

5. (1) A complaint—

Form of
complaints.

- (a) shall be in writing or on a form approved by the Commission;
- (b) shall be addressed to the Commission and delivered to any of the offices of the Commission;
- (c) may be made orally to an authorised officer who shall record in writing the complainant's recollection of the event that gave rise to the complaint;

- (d) may be made over the telephone or by electronic means.

(2) A complaint made under paragraphs (b) and (c) of subrule (1) shall be signed or thumbprinted by the complainant immediately or within a reasonable time of making the complaint.

(3) A complainant shall—

- (a) provide a factual account of the alleged violation of human rights and as much information as will assist the Commission in deciding whether to admit the complaint;
- (b) state the relief or remedy sought in case the violation is proved; and
- (c) make a declaration that the facts of the complaint are true to the best of the complainant's knowledge and information.

(4) A complaint shall include the following particulars:—

- (a) the name, contact address, telephone number or electronic mail address of the complainant or person on whose behalf the complaint is being made;
- (b) the name, contact address, telephone number or electronic mail address of the respondent, and if not known a general description of how the respondent may be traced;
- (c) the names, contact address and telephone number of any witness and any documents or exhibits relevant to the complaint.

(5) The witnesses named shall be persons with firsthand knowledge of the events in the complaint or experts on an issue.

(6) Where several persons wish to file or file a complaint based on the same alleged acts or events, they may be joined by the Commission as complainants against the alleged violators and the complaint shall be processed as a single case.

(7) Where one or more complainants accuse several persons or organizations of human rights violation and the complaint is based on the same acts or events, the persons or organizations accused shall be joined as co-respondents and relief or remedy sought against them jointly or severally.

(8) Where a complainant is in doubt as to the respondent against whom to proceed, the complainant may file the complaint against two or more respondents in order that the question as to whom of the respondents committed the alleged violation may be determined by the Commission.

(9) Where it appears to the Commission that any joinder of complainants or respondents may delay resolution of the complaint or cause a miscarriage of justice, the Commission may order separate investigations or make such other order as may be appropriate.

(10) Where the Commission is satisfied that the presence of a person who is not a complainant or named as respondent is necessary to be included as a complainant or a respondent in order to effectively settle a complaint, the Commission may at any stage of an investigation, inquiry or hearing order the person to be included as a complainant or respondent, as the case may be.

6. Any person on whose behalf a complaint has been filed may, at his request and with the permission of the Commission be joined or substituted as the complainant. Request to be joined as complainant.

7. Where it is doubtful whether the complaint has been filed by the proper complainant, the Commission may, in order to determine the actual human rights issue in question, order that the person or organization that appears to be the right complainant, be named as the complainant. Substitution of complainant.

Striking off of persons.

8. The Commission may, at any stage of the investigation, inquiry or hearing order that the name of any party improperly joined in the complaint be struck off.

Procedures after filing of complaints.

9. (1) A file shall be opened by the Commission for each complaint filed.

(2) The file shall be assigned a number and shall contain the names of the complainant and respondent.

(3) The number assigned to the file shall reflect the year of the filing and complaints received that year.

Commission to acknowledge receipt of complaints.

10. The Commission shall acknowledge receipt of every complaint in writing and inform the complainant of—

- (a) the file number for the complaint;
- (b) the rights and responsibilities of the parties to the complaint;
- (c) the relevant functions and powers of the Commission; and
- (d) a summary of the procedures and remedies available.

Complaints to be amended.

11. A complaint, response to a complaint or any communication to the Commission relating to the complaint by any of the parties may, with the permission of the Commission be amended by the complainant or respondent.

No fees to be charged for complaints.

12. The Commission shall not charge any fees for receiving or investigating any complaint.

Assessment of complaints.

13. (1) The Commission shall, within five days of receipt of a complaint make an assessment whether the complaint is admissible and whether it raises a *prima facie* case of a violation of human rights.

(2) The Commission may request for further information from the complainant to assist it in its assessment under subrule (1).

(3) If in the opinion of the Commission the complaint is inadmissible on any of the grounds in these Rules, it shall reject the complaint as inadmissible and close the relevant file on the complaint.

(4) Where a complaint is rejected as inadmissible the Commission shall, within fifteen days of the rejection, inform the complainant in writing giving reasons why the complaint was rejected and explaining to the complainant his right of appeal to the Supreme Court against the decision.

14. (1) Where the Commission is satisfied that a complaint is admissible, it shall immediately cause it to be investigated and for this purpose the Commission shall provide such terms of reference and issues as may be appropriate. Investigation of complaints.

(2) The respondent shall be notified of the investigation by a complaint notification letter which shall require him to file a written response within fifteen days of the service on him of the notice, and shall include such documents if any as may be necessary in support of the response.

(3) The response shall be supported by a declaration by the respondent that the matters stated in it are true to the best of the respondent's knowledge and information.

(4) A complaint notification letter shall be accompanied by a standard information package informing the respondent of his responsibilities and rights and of the power of the Commission to investigate complaints.

(5) On receiving a response from the respondent, the Commission shall serve a copy of the response on the complainant and request him to make any comment on the response as soon as possible but not later than fifteen days.

Interim
measures.

15. (1) When a complaint is received by the Commission, it shall assess the urgency of dealing with the matters raised and whether the facts alleged reveal an immediate or imminent risk facing the complainant that requires prompt attention by the Commission.

(2) If imminent risk is perceived, the Commission may make an interim order to protect the complainant from the risk or danger.

(3) In any other situation where the Commission is satisfied that there is an immediate or imminent threat or danger facing a victim of violation of human rights, it may make an interim order to protect the victim.

Resolution of
complaints
before
investigation.

16. When a respondent is served with a complaint notification letter and fails to provide a response within the specified time the Commission shall cause investigations to be made to verify that the complainant's human rights have been violated.

Mediation.

17. (1) When a respondent admits the facts constituting the complaint as well as any liability, the complaint may be settled by agreement of the parties, through mediation conducted by the Commission.

(2) Parties to a complaint shall be informed that mediation is a voluntary and confidential process.

(3) Where a mediation is successful, the parties shall sign a written agreement prepared by the Commission undertaking to abide by the terms of the agreement, and once the agreement is signed and approved by the Commission, it shall be enforceable as a decision of the Commission and the matter shall be closed.

Person to be
compelled to
answer
questions etc.

18. A person shall be compelled to answer a question or to produce an article or document where—

- (a) the person has refused or is likely to refuse to answer a question or to produce any article or document; or

- (b) the Commission is satisfied that to require such information from such person is reasonable.

19. A person appearing before an investigation officer shall have the right to be assisted by a legal practitioner or an advisor of his choice. Assistance by legal practitioner.

20. An investigation officer shall keep an accurate record in written or audio form, of interviews and investigation meetings with the parties and their witnesses in the complaint. Records of interviews etc. to be kept.

21. (1) An investigation officer may, for the purpose of an investigation and at any reasonable time enter and search any premises on or in which anything connected with that investigation is present or suspected to be. Entry of premises.

(2) The entry and search of any premises shall be carried out with decency and order and in particular shall have respect for the rights, dignity, freedom, security and privacy of the persons resident or found in the premises.

(3) An investigation officer shall, on entering the premises, first introduce himself to the owner or person in control or residing in the premises, if such person is present.

(4) An investigation officer may seek the assistance of the police or other law enforcement official and may use such force as may reasonably be necessary, including the breaking of any door or window, to overcome any resistance against entry and search of the premises or the removal of any document or article necessary for an investigation.

(5) Where a person claims that an article or document which is the subject of a search or removal under this rule contains privileged information and refuses the inspection or removal of the article or document on that ground, the investigation officer shall attach and seal the document or article concerned and deliver it to

the Registrar of the Supreme Court for safe custody until the Supreme Court determines whether the information in the document be disclosed or the article be produced or withheld.

(6) An investigation officer shall provide a receipt of any document or article removed from the premises.

Procedures
after com-
pletion of
investigations.

22. (1) After all investigations into a complaint have been completed, the investigation officer shall invite the parties to attend a conciliation meeting at which a Commissioner or the officer shall verbally disclose to the parties his conclusions and findings and try to get the parties to reach a settlement.

(2) In this rule "conciliation" means the process of discussing a settlement with the parties after investigations have been completed and the findings disclosed to the parties.

(3) If the parties come to a settlement, they shall sign a written agreement to abide by the terms of the agreement.

(4) The terms of the agreement shall be presented before the next monthly review meeting of the Commission for approval and if it is approved, it shall be enforceable as a decision of the Commission and the complaint shall be closed.

(5) The Commission shall, in considering whether to approve a settlement of a matter that gave rise to a complaint, have regard to the need to ensure that any settlement terms of the matter reflect the gravity of the violation and the duty to protect human rights and may direct amendments to the settlement terms.

(6) In the event that the parties do not accept the Commission's amendments, the complaint shall be referred for investigation.

(7) If after investigations the parties fail to reach a conciliation agreement, the investigation officer shall within fifteen days prepare and submit a written report of his findings to the Commission.

(8) The report shall contain all relevant evidence gathered by the investigating officer and an analysis of the evidence.

23. (1) The Commission shall meet at least once a month to consider investigation reports submitted by investigation officers. Commission to review investigation reports and determine complaints.

(2) A report to be discussed at a meeting of the Commission shall be submitted to it not less than fourteen days before that meeting.

(3) A report shall contain the following information:-

- (a) the alleged human rights violation and a brief description of the law or human rights convention which appear to have been breached;
- (b) a succinct description of the events which are the subject matter of the complaint;
- (c) the brief but central features of the respondent's defence;
- (d) all relevant evidence collected during investigation excluding any evidence revealed during mediation proceedings but including a list of attachments of documents and exhibits obtained by the investigation officer;
- (e) any major policy or legal issue raised by the complaint which the Commission should consider if the complaint appears to have wider impact than the issues between the parties; and
- (f) the issues for determination.

(4) A decision of the Commission on a report may-

- (a) direct further investigations with clear statements on any additional information the Commission requires in order to reach a final determination of the complaint;
- (b) elect to conduct a full factual hearing of the complaint in which case arrangements shall be made to hear the parties and their witnesses on oath or affirmation and questions put to them;
- (c) recommend compensation or any other appropriate remedy for a victim of human rights violation or to his family or legal representative;
- (d) award costs where appropriate;
- (e) issue or make any appropriate order or directive;
- (f) dismiss the complaint as not sustained by the evidence or not disclosing any human rights violation.

(5) Without prejudice to subrule 4, the Commission may if the complaint is in relation to issues of policy, either national, departmental or non-institutional issue an order or directive requiring that the appropriate department or institution amend or change the policy to conform to human rights standards.

Rules of
evidence.

24. (1) Evidence in any investigation or hearing by the Commission may be given in written or testamentary form on oath and in case of evidence given in writing it shall be supported by a declaration affirming the truthfulness of the evidence produced or given to the Commission or investigation officer.

(2) Uncontested facts, exhibits, depositions or other approved records or any uncontested points of law shall be accepted as proved evidence.

(3) Any irrelevant, immaterial or repetitive evidence may be rejected by the investigation officer or the Commission.

(4) Hearsay, expert and other forms of evidence that might not be admitted in a court may be admitted, considered and given any weight it deserves.

(5) The Commission or an investigation officer may request, and any of the parties in a complaint may bring any expert testimony that can help in the resolution of the complaint.

25. (1) Decisions of the Commission shall be made upon a balance of probabilities.

Decision to be
based on
balance of
probabilities.

(2) Any decision regarding the facts of a complaint shall be made on the basis of evidence which is more credible and convincing when weighed against all other evidence.

26. (1) Objections as to time limits, jurisdiction or conflict of interest shall be raised in writing by the party making it, with supporting evidence and served on the Commission to enable quick decision on such preliminary matters to be made.

Raising of
objections and
observance of
natural
justice.

(2) The Commission shall observe the rules of natural justice and shall not be bound by any legal or technical rules of evidence applicable to proceedings before the courts and all investigations and proceedings shall be conducted informally but with fairness to both parties.

27. Where there is a dispute as to the admissibility of a piece of evidence, the Commission shall make a decision regarding the evidence based on its assessment of the relevance and credibility of the evidence in question.

Admissibility
of evidence.

Time limits for resolution voluntary withdrawal and administrative closure of complaints.

28. (1) Unless it is impracticable to do so, a complaint filed with the Commission shall be investigated and resolved within one year of the date it was admitted by the Commission.

(2) Where this has not been possible, the Commission shall notify the parties in writing giving reason why the complaint was not concluded within that period.

Closure of complaints.

29. (1) A complaint filed at the Commission may be closed for good reason at any point after the admission of the complaint but before a final decision on the complaint is reached by the Commission.

(2) The reasons for such closure of the complaint shall include the following:—

- (a) the Commission has determined that it does not have jurisdiction over the matter raised in the complaint;
- (b) the Commission has filed a suit over the same matter in a court;
- (c) the complainant voluntarily withdraws the complaint before the Commission arrives at a decision on it;
- (d) the complainant has failed to cooperate with the Commission in investigating the complaint;
- (e) the Commission is, for a reasonable period of time unable to locate the complainant or the respondent despite all reasonable efforts to locate him.

30. (1) A complainant who wishes to voluntarily withdraw a complaint shall submit the request in writing to the Commission and the Commission may summon the parties to the complaint to ascertain the reasons for the withdrawal and take appropriate action. Withdrawal of complaints.

(2) If the Commission approves the application the complaint shall be closed.

(3) The Commission, on its own initiative, may conduct an inquiry or investigation into a complaint which has been withdrawn by the complainant.

31. (1) An investigation officer may recommend to the Commission that a complaint should be closed administratively, giving reasons for the recommendation. Closure of complaints.

(2) The Commission shall consider the recommendation and may make an order that the complaint be closed or make any other appropriate orders or directives.

(3) When a decision to administratively close a complaint has been taken, the parties shall be informed of the reasons in writing and they shall be advised of their right of appeal against the decision.

PART III—PROCEDURE FOR HEARING OF COMPLAINTS

32. (1) If after considering an investigation report the Commission decides to hold a hearing on a complaint, it shall hear the complaint within sixty days of the decision to hold the hearing. Hearing following investigation report.

(2) The parties shall be given at least thirty days notice of the place, date and time of the hearing and shall be provided with a list of the witnesses the Commission expects to give evidence.

(3) Prior to the date set for hearing but at least thirty days before the hearing date, any party to the complaint may, in writing copied to the Commission, request from the other party any information

relevant to the complaint and where such request is made the party requested shall supply the information with copies to the Commission within fifteen days of receiving the request.

(4) Any disputes regarding information requests made under subrule(3) shall be directed to the Commission in writing for resolution within five days of receiving notice of the dispute.

Preparation
of cases.

33. (1) Subject to subrule (2), a party to a complaint shall adequately prepare his case and such preparation shall include the right to discuss the complaint with potential witnesses and with advisors who may be legal practitioners.

(2) The preparation of a case shall not delay the hearing of the complaint unreasonably, and shall not involve discussing the complaint in the media or any other forum or attempting to generate public support and sympathy.

Parties to
appear be-
fore Com-
mission etc.

34. (1) Prior to the hearing date, the Commission may ask the parties to appear before it or before an authorised officer to—

- (a) clarify and narrow issues;
- (b) agree on facts about which there is no substantial dispute;
- (c) disclose the number and names of witnesses the parties intend to call;
- (d) confirm the hearing by ascertaining that the parties will be available for hearing on the date fixed for hearing;
- (e) verify that all reasonable possibilities of settlement have been exhausted.

(2) To save time and resources and to expedite the process of resolving the complaint, the Commission may dispense with a full factual hearing of a complaint and direct the parties to present their cases through—

- (a) written statements of agreed facts and documents;
- (b) written position statements on the complaint;
- (c) written replies on the position statements;
- (d) closing position statements.

(3) Witnesses named by the parties shall be summoned to testify at a full factual hearing of a complaint but the Commission may limit the number of witnesses as long as the exclusion of any witness does not prejudice the case of any party.

(4) At a full factual hearing of a complaint the Commission may, on its initiative summon any person as a witness where in its opinion the evidence of the witness is relevant for the resolution of the complaint.

35. (1) If on the day fixed for hearing of a complaint the respondent attends but the complainant does not, the Commission may, if satisfied that a notice of the date, time and place of hearing was properly served on the complainant, inquire of the respondent whether he admits the complaint and—

Non-attend-
ance of com-
plainant.

- (a) if the respondent admits the claim or any part of it, the Commission may enter a decision against the respondent for the claim or that part of it which the respondent admits; or
- (b) if the respondent denies the claim the Commission may dismiss the complaint or adjourn the hearing to another date.

(2) If a complaint is dismissed under paragraph (b) of subrule (1), the complainant may file a new complaint or ask the Commission to reinstate the original complaint upon presenting cogent reasons why the complainant did not attend the hearing.

Non-attendance of respondent.

36. (1) If on the date fixed for hearing of a complaint the respondent does not attend but the complainant does, the Commission may, if satisfied that notice of the date, time and place was properly served on the respondent proceed to hear the evidence of the complainant and his witnesses if any, and may decide the matter on the basis of the evidence before it.

(2) If a decision is given against a respondent in subrule (1), the respondent may, within thirty days of the decision apply to the Commission for the decision to be set aside upon providing the Commission with satisfactory mitigating circumstances that prevented him from attending the hearing.

Non-attendance by parties.

37. (1) If on the date fixed for hearing of the complaint none of the parties attends, the Commission may order the complaint to be dismissed or decide the complaint on the basis of the evidence contained in the investigation report or adjourn the hearing to a new date and issue a notice of a new hearing date to the parties.

(2) Where a complaint is dismissed under subrule (1), the complainant may, within thirty days of the decision apply to have the complaint reinstated and the complaint may be reinstated if the Commission is satisfied that there were genuine mitigating circumstances that prevented the complainant from attending the hearing.

(3) If a decision is given against either party under subrule (1), that party may apply for the decision to be set aside providing the Commission with genuine mitigating circumstances that prevented him from attending the hearing.

Presence of parties.

38. (1) If on the date, time and place set for hearing a complaint both parties are present, the Commission shall explain to the respondent the nature of the complaint and inquire from the respondent whether or not he admits the allegations in the complaint and if--

(a) the respondent admits the allegations the Commission shall enter a decision confirming the violations alleged and shall make appropriate orders, directives or recommendations;

(b) the respondent does not admit the allegations in the complaint or admits only part of it, the Commission shall note the part admitted and proceed to hear evidence of the parties.

(2) Evidence at the hearing shall be given on oath or affirmation to state the truth and unless otherwise agreed by the parties, the complainant and his witnesses shall give evidence first followed by the respondent and his witnesses.

(3) The hearing may begin with an introductory statement from the complainant and the respondent may follow this with his introductory statement or reserve the introductory statement until the complainant has finished his case.

(4) To the extent possible, documents and exhibits shall be introduced through witnesses who have firsthand knowledge of the documents or exhibits.

(5) The parties and the Commission may question all witnesses who appear at the hearing but the Commission may set reasonable limitations as to the scope and extent of questioning to ensure that questions asked are relevant to the issues being inquired into.

39. (1) A written and accurate but not necessarily verbatim record of the proceedings shall be taken and kept by the Commission. Records to be taken etc.

(2) Once begun, hearing shall proceed from day to day and be completed without undue delay unless it is impractical to do so.

(3) Neither party shall unilaterally postpone a hearing and only the person presiding at the hearing may grant requests for adjournment.

(4) After all the parties to a complaint and their witnesses have given evidence and all documents and exhibits have been introduced, the parties or their legal or other advisor may make final statements and in the absence of any agreement otherwise, the respondent shall make the final statement first followed by the complainant.

(5) The parties may, with the permission of the person presiding opt to make written final statements, in which case no final oral statement shall be permitted.

Conclusion of hearing.

40. (1) At the conclusion of the hearing, the Commission shall appoint a date for delivering its decision or report and it shall notify the parties of the date.

(2) Decisions, orders or directives of the Commission shall be in writing.

Hearing to be in public.

41. All hearings into complaints shall be open to the public unless for good reasons the Commission decides that the public be excluded from attending the hearing.

PART IV- PROCEDURE FOR INQUIRY INTO SYSTEMIC OR GROSS VIOLATION OF HUMAN RIGHTS

Commission to conduct public inquiry.

42. When the Commission is of the opinion that there appears to be systemic or repeat violations of a particular human rights or the human rights of a class of people in the country, or where there are allegations of or where there appears to exist a situation of gross violation of human rights, the Commission may on its own initiative conduct a public inquiry into the allegations of or into the apparent gross violations of human rights in order to determine the situation, its causes and make appropriate orders, directives or recommendations to deal with the situation or to prevent the violations from reoccurring and may also make appropriate orders, directives or recommendations for the victims where violations are confirmed.

43. (1) When the Commission has decided to conduct a public inquiry into a human rights issue or situation it shall— Terms of reference.

(b) appoint other members of the inquiry who may consist of members and non-members of the Commission.

(2) The chairman of the Commission or other member of the Commission appointed by it shall preside at an inquiry.

(3) The Commission shall appoint such persons, including a legal practitioner to assist it in the inquiry.

(4) Before conducting an inquiry, the Commission shall—

(a) determine its duration;

(b) prepare a budget for the expenses it will incur and ensure that it has the required finances and resources to successfully conduct, conclude and publish the results of the inquiry; and

(c) satisfy itself that every expense for the inquiry is relevant and proportionate to the objectives set for the inquiry.

(5) For every inquiry, the Commission shall establish a suitable secretariat with a contact address which shall include a physical address, postal address, telephone and fax numbers and electronic mail address, and these shall be made public.

44. The legal practitioner or other person shall, after consultation with the person presiding and members of the inquiry frame a list of issues to be considered and determined by the Inquiry based on the terms of reference. Framing of issues.

Notification of interested parties and the general public.

45. (1) The Inquiry shall identify persons, government departments, other institutions and organizations who may have a central role or interest in the subject matter of the inquiry and these may be listed by the Commission as interested parties in the inquiry.

(2) For the purposes of subrule (1), the Inquiry shall issue a public invitation through the media for any person, institution or organization to apply to the Commission as an interested party and each application shall be determined by the person presiding at the inquiry whose decision on the matter shall be final.

(3) The Commission shall publish in the appropriate media or use any other appropriate methods to inform the interested parties and the public of the terms of reference and the framed issues for the inquiry and of the arrangements and programs for the hearing and invite participation from the public in the inquiry.

Methods of collecting evidence

46. (1) In an inquiry, the methods of taking evidence from witnesses shall include review of literature and documents, receiving oral or written evidence, written opinions from experts or persons with special knowledge about the matter under inquiry, focus group meetings or seminars and any other methods the Inquiry may find appropriate and fair.

(2) The Inquiry shall make direct appeals or requests to interested persons and through the media for any one who is in possession of documents or information relevant to the inquiry to supply them to the Inquiry and the Inquiry shall make necessary arrangements to collect the documents.

(3) The documents shall, where necessary be copied and the originals returned to the owners.

(4) The Inquiry may, where necessary compel any person, institution or organisation to deliver to it documents or materials it considers necessary for the determination of the issues under inquiry.

47. (1) The Inquiry may request persons with or known to have relevant evidence for the inquiry to give the evidence in writing by supplying a written statement confirmed by the owner as true and accurate and the statements shall be considered evidence given to the inquiry. Written statements.

(2) The written statements shall contain only matters relevant to the inquiry.

(3) The Inquiry may also take oral evidence whether or not the person giving evidence has already given written evidence.

48. The Inquiry may make available statement takers to persons who may wish to make statements and the statements shall either be signed or thumbprinted by those persons. Statement takers.

49. (1) The Inquiry may also take oral evidence from a person who has already given written evidence for the following purposes:- Oral evidence.

- (a) to clarify any matters in the written statements which are not clear;
- (b) to get further information from the witness regarding issues in the written statement;
- (c) to afford a witness the opportunity of addressing matters raised in the written statements or documents or in the oral evidence of other witnesses;
- (d) to test the reliability or accuracy of matters raised in the written statement of the witness;
- (e) to explore disputes of facts, controversial issues or questions of opinion;
- (f) to afford a witness the opportunity of responding to criticisms on him at the hearing and also to comment on potential criticisms of the witness by the Inquiry in its final report.

(2) The Inquiry shall prepare a list of persons who should give oral evidence.

(3) The list shall be made available to the interested parties for their comments and shall be used to determine who shall be summoned to give oral evidence.

(4) The Inquiry may compel the attendance of any person for questioning whether or not that person has submitted a written statement or document to the inquiry, if in the opinion of the Inquiry the evidence of the person is necessary for the determination of the issues in the inquiry.

(5) Any person invited to give oral evidence before the inquiry may be represented by a legal practitioner or any other advisor approved by the Inquiry.

Notice of
matters
requiring
explanation.

50. (1) Where a person is asked to attend before the inquiry to give oral evidence, the Inquiry shall notify the person in writing setting out the main topics, issues and documents on which the person will be questioned or referred to at the hearing, but the witness may also be questioned on matters that arise out of his written statement or oral evidence whether or not they were set out in the notice.

(2) Where a person is likely to be subject to criticism in the inquiry or by the emerging conclusion of the inquiry, the Inquiry shall prepare a list of the matters on which the witness is likely to be subject to the criticism and confidentially warn the witness in writing in order to give the witness the opportunity to prepare to address the potential criticism during the course of his oral evidence.

(3) Where new matters relevant to the evidence of a witness emerge after the witness has given evidence at the hearing, the Inquiry shall afford the witness an opportunity to respond to the new matters where fairness so requires, in which case the witness shall be required to give a further statement or to give further oral evidence.

51. (1) The inquiry procedures shall not be adversarial and the person presiding at the inquiry shall have the control or regulate legal representation to generally keep the participation of legal practitioners and their role in the proceedings to the minimum necessary. Questioning
of witnesses

(2) Persons who give oral evidence before the Inquiry shall be asked questions by counsel to the Inquiry, representatives of interested parties, members of the Inquiry and a representative of the witness, if any.

(4) Only questions related solely to the matter within the terms of reference of the inquiry shall be allowed to be put to a witness.

52. (1) With regard to the nature of the inquiry and where appropriate, an Inquiry may collect evidence from focus groups or through seminars on the issues under inquiry. Focus groups
and seminars.

(2) The Inquiry may invite persons to form focus groups or seminars, work out programs for the meetings to discuss and give information on topics and issues on which persons at the focus group or seminars have special knowledge, experience or interest.

(3) Where the Inquiry is of the opinion that it may be beneficial to the inquiry to obtain the views of persons and bodies on more general matters falling within the terms of reference of an inquiry, the Inquiry may make specific requests to such persons or bodies to submit representations on specific issues which the Inquiry requires the representations to deal with.

(4) Any representations received by the Inquiry from persons or bodies shall be distributed to interested parties who may make comments on them to the Inquiry.

53. (1) All evidence and proceedings of the inquiry may be recorded electronically but there shall be an accurate written record of the proceedings. Record of
hearings.

(2) The written statements of witnesses who give oral evidence before the inquiry shall be open to the public from the day the persons give their oral evidence and may be published by the Inquiry on the Commission's website on that day.

(3) The statements of persons who do not give oral evidence at the Inquiry shall be open to the public from the day they are introduced into the evidence and may be published on the Commission's website from the day they are introduced into the evidence.

Visit to sites,
places and
searches.

54. An Inquiry may visit sites and places and conduct searches in accordance with these Rules, where it believes there may be information or evidence necessary for the determination of the issues in the inquiry.

Hearings to
be public.

55. (1) All hearings at an inquiry shall be public unless good cause is shown to the satisfaction of the Inquiry why particular evidence should be received in camera in which case the Inquiry may exclude the public during the taking of the evidence of that particular witness.

(2) An Inquiry will assume that all documents and statements it receives are not confidential and shall share them with interested parties and openly discuss them at the hearings.

(3) Where a person considers that any part of a document or oral evidence should be treated as confidential, the person shall inform the Inquiry of the reasons and the Inquiry shall consider the request and make an appropriate determination.

Reports.

56. (1) Upon its conclusion, the Inquiry shall prepare a report which shall include the following:—

- (a) the background to the inquiry particularly the reasons why the inquiry was conducted;
- (b) the methods the Inquiry used to conduct the inquiry;
- (c) a discussion and analysis of the evidence received and the conclusions reached on all the issues in the terms of reference;
- (d) provision of the way forward in the form of recommendations, directives and orders;
- (e) orders for remedies to victims in appropriate cases.

PART V—MISCELLANEOUS PROVISIONS

57. (1) Any of the parties to a complaint before the Commission may apply to the Commission to have summons issued to any person whose evidence may be relevant to the investigation or hearing of a complaint. Service and
notification
of persons.

(2) The Commission may on its own initiative summon any person who in its opinion can give evidence relevant to a matter under investigation or which is the subject of hearing or inquiry by the Commission.

(3) Persons summoned to appear before the Commission or its authorised officers, or given notice to produce anything to the Commission or file a response to any pleadings or statements at the Commission shall be given reasonable time to do so and unless fewer days have been prescribed by these Rules no notice shall give fewer than seven days.

(4) Every complaint, response, summons or any other written notice shall as far as practicable be served personally on the person named in it by delivering or tendering to the person a duplicate of the document and at the same time showing the original if required by the person.

(5) Every person upon whom a complaint, response, summons or document is personally served shall sign or thumbprint the back of the original to acknowledge receipt of the document and if the person refuses to do so, the person serving the document shall record the fact of the refusal in writing.

(6) A document or notice may be served by registered mail or messenger's way book addressed to the person's last known place of abode or usual address or at the person's place of business.

(7) Every complaint, response, summons, notice or any other document requiring service shall be served by an officer of the Commission or any other person authorised to do so by the Commission.

Compulsion
to furnish
information,
documents or
articles.

58. Where the Commission decides to compel a person, organization, association, department, ministry or institution of government to furnish it with information, document or article, the Commission shall, by notice served on the person, association, department, ministry or institution of government concerned require him or it at such a place, date and time, which is reasonable—

- (a) to furnish the Commission or its authorised officer by writing signed by the person or in the case of a body corporate, organization, association, department, ministry or institution of government by an officer of that body corporate, organization, association, department, ministry or institution of government such relevant information as specified in the notice; and

- (b) to produce to the Commission or authorised officer such relevant document or article as is specified in the notice.

59. Any person who appears before the Commission or before any of its authorised officers in connection with an investigation or hearing of a complaint shall be entitled to reimbursement of expenses calculated at the rate the person would have received had the person appeared as a witness in criminal proceedings or at a rate to be determined by the Commission from time to time. Expenses of witnesses.

60. Persons who refuse, without justifiable cause, to comply with a decision, directive or order of the Commission shall be cited for contempt, informed accordingly and referred to the High Court for contempt. Contempt.

61. Persons who swear false oaths or affirmations and those who make false declarations regarding any investigations or inquiry by the Commission commit perjury and shall be referred to the Director of Public Prosecutions for prosecution. Perjury.

62. Decisions, orders and directives of the Commission may, as appropriate, be enforced in the same way and manner as the decisions of a court. Enforcement of decisions, orders or directives of Commission.

63. (1) Any party in a complaint or any person whose interest may be affected by an investigation or inquiry being conducted by the Commission may be represented by a legal practitioner or other adviser. Legal representation or representation by an adviser.

(2) Where a legal practitioner appears for a person, he shall be deemed to remain the person's legal practitioner throughout the process of resolving the complaint until—

- (a) the party represented files a written revocation with the Commission;
- (b) the legal practitioner files a notice of withdrawal with the Commission; or
- (c) the Commission receives a written notice of the death or disqualification of the legal practitioner.

(3) Where in the opinion of the Commission a victim of human rights violation requires legal representation in order to have his complaint better presented before the Commission, and upon being satisfied that the victim is indigent, it may appoint a legal practitioner at its expense to take up the complaint of the victim

(4) A party who chooses to be represented by a legal practitioner or other adviser shall meet the expense of hiring the legal practitioner or adviser; but the Commission, in an appropriate case may order the payment of reasonable costs to the legal practitioner to be calculated in accordance with the High Court rules and where a party chooses to use an adviser other than a legal practitioner, the Commission in an appropriate case may order the reimbursement of reasonable expenses incurred by the adviser.

Place of
business of
Commission.

64. Any function of the Commission under these Rules may be performed by the Commission or its authorised officers in any office of the Commission or any other premise determined by the Commission or its authorised officer.

Flexibility in
applying
Rules.

65. (1) These Rules shall be applied with such flexibility as the Commission and its officers consider appropriate but they will normally only be departed from if unforeseen practical problems arise in the course of an investigation, hearing or inquiry in which case the Commission or its authorised officers shall adopt an appropriate solution in so far as the solution respects the rule of procedural fairness.

(2) Non-compliance with these Rules shall not render any investigation or proceeding at a hearing or inquiry of the Commission void unless the non-compliance adversely affected the rights of a party in a substantial manner or unless the Commission so directs.

(3) Where these Rules have not expressly provided for any matter which is necessary for the exercise of the functions and powers of the Commission to investigate, inquire and make decisions, directives and orders on violation of human rights, the rules of court applicable in the High Court may be applied by the Commission with such modification as the Commission may consider appropriate.

66. Any function to be performed by the Commission may be performed by such person, officer or committee of the Commission as the Commission may determine. Functions of
Commission.

67. (1) The official language of work of the Commission shall be English but any person interacting with the Commission or its authorised officers may use any other language understood by the Commissioners or authorised officers. Language of
Commission.

(2) Where necessary the Commission shall provide a competent interpreter for a person who does not speak the English language provided that the Commission or its authorised officers receive reasonable notification requiring it to do so.

(3) All records of the work of the Commission shall be in the English language and all interpretations and translations of the work of the Commission from other languages shall be from that language into English.

MADE this 18th day of July, 2008.

JAMESINA E. L. KING,
Chairman.