

SCHEDULE 2

HUMAN RIGHTS COMMISSION BILL

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| Introduction
and Name | 1. (a) This Act provides for the establishment of the Human Rights Commission of the Maldives; sets out the objectives, functions and powers of that Commission; and provides for matters related thereto

(b) This Act shall be cited as the "Human Rights Commission Act". |
| Objectives of | 2. The main objectives of the Commission shall be:the Commission
(a) To protect and preserve human rights in the Maldives in accordance with Islamic Shari'ah and the Constitution of the Republic of Maldives; and further the promotion of such rights;

(b) To protect and preserve human rights in the Maldives in accordance with the international and regional conventions to which Maldives is a party; and further the promotion of such rights;

(c) To assist and support non-governmental organizations involved in the protection of human rights. |
| Legal Status | 3. The Commission shall be an independent legal entity having the power to sue and be sued in its own name; the capacity to conduct transactions in its own name; and a separate seal. |
| Constitution of
the Commission | 4. The Commission shall consist of 10 Members. |
| Appointment
of Members | 5. (a) Members of the Commission shall be appointed to and removed from office by the President in consultation with the Peoples Majlis.

(b) Members of the Commission shall be appointed from amongst persons having knowledge of and experience in matters related to human rights, or persons working in related fields, or persons having the capacity and ability to serve the cause of human rights; and whom in the opinion of the President possess the competence to discharge the responsibilities and functions of the Commission. |

- Qualifications of Members**
6. A person appointed as a Member of the Commission shall possess the following qualifications:
- (a) Must be a Muslim;
 - (b) Must be a Maldivian Citizen;
 - (c) Must be of sound mind;
 - (d) Must have attained 25 years of age;
 - (e) Must not have been convicted of an offence during the past 5 years for which a hadd punishment is prescribed in Islam, or of criminal breach of trust;
 - (f) Must not be a person holding an elected office under the Constitution or any law of the Republic of Maldives; or a person employed in the civil service.
- Term of Membership**
7. (a) A Member appointed to the Commission shall hold office for a period of 5 years.
- (b) Every Member other than a Member removed under section 12 of this Act may be re-appointed to the Commission for a further term of 5 years.
- Chairman of the Commission**
8. (a) A Chairman of the Commission shall be designated from among Members appointed to the Commission.
- (b) The Chairman of the Commission shall be designated by the President.
- (c) The Chairman of the Commission shall hold that office for the duration of his membership on the Commission.
- Vice Chairman of the Commission**
9. (a) A Vice Chairman of the Commission shall be designated from among Members appointed to the Commission.
- (b) The Vice Chairman of the Commission shall be designated by the Members of the Commission.
- (c) The Vice Chairman of the Commission shall hold that office for the duration of his membership on the Commission.
- (d) Where the Chairman of the Commission is unable to perform the functions of his office or there exists any vacancy in the office of the Chairman, the functions of his office shall be temporarily discharged by the Vice Chairman of the Commission.

- Vacancy** 10. (a) The office of a Member shall be deemed vacated in the following circumstances:
- (1) Upon death;
 - (2) Upon resignation;
 - (3) Upon expiry of term;
 - (4) Upon removal from membership on the Commission;
 - (5) Upon election to an office under the Constitution or any law;
- (b) Where there exists a vacancy in the office of the Chairman, or the Vice Chairman, or a Member of the Commission, due appointments shall be made within 14 days from the date of such vacancy.
- Due Discharge of functions by 11. (a) Every Member of the Commission shall discharge the functions of his office as a Member of the Commission in a just, equitable and credibly transparent manner.
- Members of the Commission (b) No Member of the Commission shall participate in an inquiry of the Commission in any capacity where that Member may have been involved or is involved with the subject matter of that inquiry in his personal capacity in a manner that could give rise to a conflict of interest. Where such conflict of interest was not previously anticipated, the Member shall on the realization of such conflict inform the Chairman of the relationship between that Member and that matter and withdraw from partaking in any inquiry or decision of the Commission in respect of that matter.
- Circumstances of Removal from membership** 12. A Member of the Commission may be removed from his office by the President in consultation with the Peoples Majlis in the following circumstances

- (a) Upon being adjudged insolvent;
- (b) Upon committing an act that conflicts with his duties and responsibilities as a Member of the Commission;
- (c) Upon violation of section 11 of this Act;
- (d) Upon loss of a requisite qualification for membership under this Act;
- (e) Upon conviction of an offence that could cause disrepute;
- (f) Upon being indifferent towards work of the Commission.

Resignation

13. (a) The Chairman or a Member of the Commission may resign from office by writing under his hand addressed to the President citing cause of such resignation. The Chairman or the Member shall in such event continue to discharge the functions of his office until the President notifies him of the acceptance of the resignation.
- (b) The Vice Chairman of the Commission may resign from office by writing under his hand addressed to the Chairman of the Commission.
- (c) Where the Chairman of the Commission resigns from his office under sub section (a) it shall not be deemed that he had resigned from his membership on the Commission. Where the Vice Chairman of the Commission resigns from his office under sub section (b) it shall not be deemed that he had resigned from his membership on the Commission.

Remuneration

14. (a) Remuneration and other financial benefits given to Members of the Commission shall be determined by the Peoples Majlis.
- (b) No independent remuneration shall be applicable in respect of the offices of the Chairman of the Commission and the Vice Chairman of the Commission.
- (c) Remuneration or financial benefits given to Members of the Commission shall not be reduced during the term of their membership. This section does not restrict any remuneration or

financial benefits given to Members of the Commission to be raised during the term of their membership

- (d) The Commission shall determine the remuneration and other financial benefits given to staff of the Commission.

Meetings

- 15. (a) A Meeting of the Commission shall be held at least once every month.
- (b) The Chairman of the Commission shall preside at every Meeting of the Commission.
- (c) Where the Chairman is unable to attend a Meeting of the Commission, the Vice Chairman shall preside at that Meeting.
- (d) Inquiries of the Commission shall be conducted by such number of Members that the Chairman of the Commission may determine from time to time.

Decisions of the Commission

- 16. The Commission shall, in arriving at decisions of its inquiries, strive towards unanimity. Where such unanimity is not achieved, the decision shall be made by the majority of the Commission.

Functions

- 17. Functions of the Commission shall be as follows:
 - (a) Inquire into complaints alleging infringement or participation or assistance in any infringement of human rights of a person whether the complaint is filed by the aggrieved person or on his behalf by another person or organization; and inquire into complaints alleging negligence in taking measures to discontinue or prevent such infringement whether the complaint is filed by the aggrieved person or on his behalf by another person or organization; and to take measures required under this Act;
 - (b) Inquiry into complaints alleging any of the administrative practices followed in the Maldives is in conflict with human rights of a person; and to take measures required under this Act;
Promote the consciousness of human rights in the Maldives; and carry out tasks necessary to further the protection and preservation of those rights;

- (d) Advise the Government in the formulation of laws, regulations and administrative practices in furtherance of promotion and protection of human rights;
- (e) Identify and recommend to the Government steps that could be taken to ensure compliance of laws, regulations and administrative practices followed in the Maldives with human rights standards;
- (f) Advise and recommend to the Government where necessary measures that could be taken while subscribing or acceding to international or regional conventions and treaties;
- (g) Assist and actively participate in the formulation of new international instruments in the field of human rights;
- (h) Promote awareness of, and enhance respect for, human rights amongst the people of the Maldives;
- (i) Advise the Government on steps to be taken where complaints are filed and inquired into as regards acts committed by Government Agencies in violation of human rights;
- (j) Undertake research in relation to human rights;
- (k) Disseminate opinions of the Commission through the media in response to sentiments expressed by the public;
- (l) Carry out where necessary for the protection of human rights, acts and deeds in addition to the above, in a manner not inconsistent with the basic tenets of Islam and the laws of the Maldives.

Powers

18. For the purposes of discharging its functions, the Commission shall have the following powers:
- (a) Inquire into complaints alleging infringement or participation or assistance in any infringement of human rights of a person whether the complaint is filed by the aggrieved person or on his behalf by another person or organization; and inquire into complaints alleging negligence in taking measures to discontinue or prevent such infringement whether the complaint is filed by the aggrieved person or on his behalf by another person or organization; and to take measures required under this Act;
 - (b) Visit places where persons are incarcerated or detained under a judicial pronouncement or lawful order; monitor and inquire into their welfare; make recommendations to relevant Government

Agencies where facilities at their places of detention or incarceration are found to be in want of improvement, or amenities available to them are in want of betterment;

- (c) Inquire into complaints on human rights issues filed by individuals, Government, non governmental organizations, or Members of the Commission, and take steps required to be taken in relation to them;
- (d) Inquire into complaints on human rights issues against Government Agencies; inform the alleged Agency and other relevant Government Agencies of that complaint; and to identify and inform them of steps that are required to be taken in relation to such complaints;
- (e) Inquire into and submit reports on issues transmitted to the Commission for inquiry by the highest judicial court of the Maldives where that court is of the opinion that a human right of a person is or may imminently be infringed in pending judicial proceedings; Promote awareness of human rights within the basic tenets of Islam by conducting seminars, workshops and other programs; undertake research and publish them.
- (g) Publish matters which need to be disseminated generally in relation to human rights; and publish statements in relation thereto;
- (h) To do every act or deed necessary or incidental to discharge the functions of the Commission.

**Powers
of Inquiry**

- 19.
- (a) The Commission shall have the power to inquire into complaints of infringement or imminent infringement of human rights of a person or persons submitted by an aggrieved person or group of persons or on behalf of an aggrieved person or group of persons.
 - (b) Where on inquiry into a complaint received by the Commission of any infringement of human rights in any judicial proceedings, it finds that the Court has not provided to the aggrieved person a right or protection to which he is entitled to under the Constitution of the Republic of Maldives or that the opportunity to obtain justice is denied to a person, the Commission may with the leave of the Judge presiding at the relevant proceedings inform the relevant Court of the same. The Commission shall not, apart from the above, do any act or deed that may influence the court proceedings.
 - (c) The Commission shall have the power to inquire into complaints of infringement or imminent infringement of human rights in matters pending before a court or have been finally determined by a court

provided that such inquiry is conducted in a manner that does not influence the judicial proceedings.

**Powers
related to**

20. The Commission shall have the power to do the following in relation to any inquiry conducted by it: Inquiry
- (a) To summon witnesses and to procure their evidentiary statements;
 - (b) To summon persons related to the inquiry and procure their statements;
 - (c) To summon documents in custody of various persons;
 - (d) To require written submission of information from persons who in the opinion of the Commission can provide specific information on a certain matter;
 - (e) To inquire into matters on its own where it has previously requested a Government Agency to provide information or submit a report within a given period on a certain matter related to a complaint and that Agency has failed to submit that information or report within the given period;
 - (f) To require a person being interviewed by the Commission in an inquiry not to leave the Maldives except with the permission of the Commission;
 - (g) Accept legal counsel;
 - (h) Conduct its inquiries in public or in private;
 - (i) To allow inquiries to be conducted by a single Member of the Commission or a committee of its Members;
 - (j) Accept evidence that may be inadmissible in judicial proceedings.

**Procedure to
follow on close**

21. The Commission shall, on conclusion of an inquiry conducted by it, follow the procedure provided below: of Inquiry
- (a) Where any infringement or negligence in discontinuing or preventing any infringement of human rights is disclosed and the Commission is of the opinion that by reason of the nature of the matter a peaceful settlement may be achieved, work with the agreement of both the parties to the dispute towards solving the matter by conciliation;
 - (b) Where by reason of the nature of the matter a peaceful settlement may not be achieved or where after working towards a peaceful settlement conciliation is not successful, refer the matter to the Attorney General's Office for prosecution by the State;

- (c) Provide its Report of Inquiry to the complainant;
- (d) Provide its Report of Inquiry to the relevant Government Agency and make such recommendation to the concerned Agency with a view to preventing further such infringement.

**Opportunity
to be Heard**

22. Findings of an inquiry conducted by the Commission shall be valid only if, prior to arriving at those findings, the person alleged to have committed the infringement is afforded an opportunity to submit his defense and explain the circumstances surrounding the alleged infringement or the manner in which he acted in relation to that infringement.

**Compliance with
Requirements**

23. (a) It shall be the obligation of every Maldivian citizen and every person within the jurisdiction of the Maldives to comply with any requirement of the Commission to appear before it, or provide information to it, or submit any document to it, or do or refrain from doing any act when required by the Commission within the powers conferred on it in respect of its functions.
- (b) Where a person fails to comply with a requirement as provided in subsection (a) above or acts in disregard of the authority of the Commission, the Commission shall have the power to transmit the matter to the Attorney General's Office for legal or judicial action.

Protection

24. (a) No proceedings may be instituted, except as may be provided in law, against a Member or Staff of the Commission in relation to an act or omission done in good faith by him in his official capacity and in pursuance of the functions of the Commission and under the powers conferred upon it.
- (b) No member of the Commission may be summoned and questioned by an executive agency or proceedings be instituted in any court against the Commission in respect of any matter contained in a report of the Commission published after an inquiry conducted by it, except where there is sufficient evidence to believe it to be an untrue account.

**Appointment
of Staff**

25. The Commission shall, in order to administer its affairs and to execute its functions, appoint a Secretary General and his staff, and where need be, terminate their employment.

Funds

26. Funds necessary to fully discharge the functions of the Commission shall be provided to it every year by the State Treasury in a manner determined by the People's Majlis.

- (b) No financial assistance given to the Commission by any group of persons, or organization or foreign government shall be utilized for any purpose outside the objectives of the Commission.
- (c) A financial statement of the Commission's income, expenditure, assets and liabilities prepared in accordance with the internationally accepted accounting principles shall be submitted to the President and People's Majlis along with the Annual Report mentioned in section 28 of this Act.

**Rules and
Regulation**

27. Procedures on conduct of inquiries and regulations on compliance with this act shall be made and enforced by the Commission.

Annual Report

28. (a) The Commission shall prepare an Annual Report of its activities and submit it to the President and the People's Majlis 14 days before the first sitting of the first session of the People's Majlis every year.
- (b) The Annual Report mentioned in subsection (a) shall contain the following matters as are relevant to the period of the Report.
- (1) Complaints filed with the Commission;
 - (2) Complaints inquired into and their findings;
 - (3) Complaints under inquiry;
 - (4) Matters requiring rectification by Government Agencies which were communicated during the period to the Government;
 - (5) Matters acted upon and failed to be acted upon Government from among rectification measures communicated to it.
- (c) The Commission shall within 14 days of submitting the Annual Report mentioned in subsection (a) to the President and the People's Majlis publish the same for the general public.

Jurisdiction

29. (a) Complaints may be filed with and inquiries may be conducted into by the Commission in respect of a matter that has occurred prior to the coming into force of this Act provided that the subject matter of the complaint had taken place on a date after 10 December 2002.
- (b) Inquiry into a complaint filed with the Commission in respect of a matter that has occurred subsequent to the coming into force of this Act may only be conducted by the Commission where one calendar year has not lapsed between the date on which the subject matter of the

complaint had taken place and the date on which the complaint was filed.

- (c) Notwithstanding the provisions of subsection (a) and subsections (b) above, this Act does not restrict the Commission to inquire into a complaint where the Commission is of the opinion that based upon the nature and gravity of the complaint such a complaint shall be entertained.

Dissolution

- 30. (a) On the passing of this Act and it coming into effect, the work of the Human Rights Commission of the Maldives instituted prior to the coming into effect of this Act shall be deemed assigned to the Human Rights Commission of the Maldives established under this Act. The Members of the Human Rights Commission of the Maldives instituted prior to the coming into effect of this Act shall be deemed transferred to the newly established Commission.
- (b) The validity of any matter decided or determined by the Human Rights Commission of the Maldives instituted prior to the coming into effect of this Act shall not be affected by the coming into effect of this Act.

Meanings

31. Unless provided otherwise in this Act:

"Human Rights" shall mean fundamental rights provided under the Constitution of the Maldives, rights provided in those international conventions and declarations that are required to be complied with in the Maldives which are not in direct violation of a basic tenet of Islam.

"President" shall mean the President of the Maldives.

"Government" shall mean the Government of the Republic of the Maldives.

"Commission" shall mean the Human Rights Commission of the Maldives.

"Persons" shall include citizens of the Maldives and foreign nationals within the jurisdiction of the Maldives. It shall further include natural persons, legal persons, associations, committees, and Government agencies.