

Zimbabwe Human Rights Commission (General) Regulations, 2016

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

1. Title.
2. Interpretation.

PART II

ADMINISTRATION

3. Regions.
4. Regional offices of Commission.

PART III

LODGING AND INVESTIGATION OF COMPLAINTS

5. Persons who may lodge complaint.
6. Form of complaint.
7. Lodging of complaint.
8. Acknowledgement of receipt of complaint.
9. Confidentiality.
10. Assessment of complaint.
11. Appeal against rejection of complaint.
12. Investigation of complaint.
13. Procedure at close of investigation by appropriate officer.

PART IV

RESOLUTION OF COMPLAINTS THROUGH NEGOTIATION,
CONCILIATION OR MEDIATION

14. Initiation of process of negotiation, conciliation or mediation.
15. Recording of agreement reached through negotiation, conciliation or mediation.
16. Procedure on failure of negotiation, conciliation or mediation.

PART V
HEARINGS

17. Informal hearings.
18. Convening of formal hearing.
19. Persons presiding over formal hearing.
20. Procedure at formal hearing.
21. Announcement of findings following formal hearing.
22. Notification to parties and other persons of findings of formal hearing.
23. Submission of record of formal hearing to Commission.
24. Report following formal hearing.

PART VI
CONCLUSION OF COMPLAINTS

25. When complaint is concluded.
26. Reports by Commission on agreements following negotiation, conciliation or mediation.

PART VII
GENERAL

27. Violation of human rights or freedoms.
28. Investigations may be instituted by Commission.
29. Monitoring of observance of human rights and freedoms.
30. Service of documents.
31. Duties to be carried out promptly.
32. Costs.
33. Publicity.

SCHEDULE: Form of Summons.

IT is hereby notified that the Minister of Justice, Legal and Parliamentary Affairs has, in terms of section 23 of the Zimbabwe Human Rights Commission Act [*Chapter 10:30*], approved the following regulations made by the Zimbabwe Human Rights Commission—

PART I
PRELIMINARY

Title

1. These regulations may be cited as the Zimbabwe Human Rights Commission (General) Regulations, 2016.

Interpretation

2. (1) In these regulations—

“appropriate officer”, in relation to a particular function, means the member of the Commission’s staff assigned by the Commission to perform that function;

“assessment” means the process by which the Commission screens a complaint in order to decide whether it has jurisdiction to deal with it, and to make an initial finding on its merits;

“business day” means any day other than a Saturday, a Sunday or a public holiday;

“complaint” means an oral, written, telephonic or electronic communication to the Commission alleging an act or omission which—

- (a) violates or threatens to violate a human right or freedom; or

- (b) amounts to maladministration or abuse of power;

“complainant” means a person who lodges a complaint;

“finding” means a conclusion reached by the Commission after an assessment or investigation regarding any—

- (a) violation of a human right or freedom; or

- (b) maladministration or abuse of power;

“formal hearing” means a formal hearing conducted in terms of section 12 of the Act;

“informal hearing” means a hearing, other than a formal hearing, conducted in in terms of section 18;

“investigation” means an investigation referred to in section 9 of the Act;

“organ of government” means—

Zimbabwe Human Rights Commission (General) Regulations, 2016

- (a) a Ministry or department of the State; or
- (b) a provincial or metropolitan council or local authority; or
- (c) a statutory body; or
- (d) a body corporate whose operations or activities are substantially controlled by the State or by a person on behalf of the State, whether through ownership of a majority of shares in the body corporate or otherwise;

“organisation” includes any association of persons, whether corporate or unincorporated;

“region” means a region described in section 3;

“respondent” means any person who is responsible, or is alleged to be or suspected of being responsible, for—

- (a) a violation of a human right or freedom; or
- (b) maladministration or abuse of power.

PART II

ADMINISTRATION

Regions

3. For the purpose of receiving and dealing with complaints, the Commission shall divide Zimbabwe into two regions, namely—

- (a) the Northern Region, comprising the provinces of Harare, Manicaland, Mashonaland Central, Mashonaland East and Mashonaland West; and
- (b) the Southern Region, comprising the provinces of Bulawayo, Masvingo, Matabeleland North, Matabeleland South and Midlands.

Provided that the Commission shall progressively set up offices in every district for ease of access by the public.

Regional offices of Commission

4. The Commission shall establish one or more offices in each region for the purpose of receiving and dealing with complaints arising from that region, and shall make all necessary arrangements to ensure that the public is kept aware of their locations and is able—

- (a) to attend them during ordinary business hours on all business days; and
- (b) to contact them at all reasonable times by post, telephone or electronic means.

PART III

LODGING AND INVESTIGATION OF COMPLAINTS

Persons who may lodge complaint

5. A complaint may be lodged with the Commission by—

- (a) any person affected by a violation of a human right or freedom or by maladministration or abuse of power; or
- (b) where the person referred to in paragraph (a) is for any reason unable or unwilling to lodge a complaint, by—
 - (i) any person acting on that person's behalf; or
 - (ii) any person acting in the public interest; or
 - (iii) any association in the interests of its members.

Form of complaint

6. (1) A complaint shall be made in writing, in a prescribed manner:

(2) If for any reason the complainant is unable or unwilling to make a written complaint or to complete the form, the appropriate officer to whom the complaint is made shall complete the form on the basis of whatever information the complainant has given him or her, and the complaint shall be processed as if the complainant had completed the form;

(3) A complaint shall not be rejected solely on the ground that it has not been made in the prescribed manner.

(4) In filing the complaint, the complainant shall provide such of the following information as is applicable and as he or she can reasonably be expected to provide—

- (a) whether the complainant is personally affected by the violation, maladministration or abuse complained of, or is acting on another person's behalf or in the public interest; and

Zimbabwe Human Rights Commission (General) Regulations, 2016

- (b) the following personal information concerning the complainant and, if he or she is acting on another person's behalf, that of the person he or she is acting on behalf of—

- (i) his or her full names and national registration number; and
- (ii) his or her physical and postal address and telephone or cellphone number; and
- (iii) where the person is an organisation, its nature and the business or activities it carries on:

Provided that, if the complainant fears any form of reprisal for making the complaint, he or she may omit any or all of such information, and the complaint shall be processed notwithstanding the omission;

and

- (c) if the complainant is acting on another person's behalf, the reason why that other person is not lodging the complaint; and
- (d) the following information regarding the violation, maladministration or abuse complained of—
 - (i) the nature of the violation, maladministration or abuse; and
 - (ii) the date on which and place at which the violation, maladministration or abuse occurred or arose; and
 - (iii) particulars of the person responsible for the violation, maladministration or abuse;

and

- (e) particulars of any person who may provide information relevant to the complaint; and
- (f) information regarding any steps the complainant has taken to try to resolve the issues arising from the violation, maladministration or abuse complained of; and

(g) the remedy or redress, if any, which the complainant seeks through lodging the complaint.

(5) An appropriate officer may require a complainant to furnish such additional information and documents as may reasonably be required to make an assessment or to resolve the complaint.

(6) An appropriate officer with whom a complaint has been lodged shall provide the complainant with all reasonable assistance in completing the complaint form and in providing any additional information and documents that may be required.

(7) Where an appropriate officer completes the complaint form on behalf of a complainant or assists a complainant in completing it, he or she shall keep a full written record of what he or she has done.

Lodging of complaint

7. (1) A complaint shall be lodged at a regional office of the Commission in the region in which the violation, maladministration or abuse of office complained or occurred:

Provided that, if a complaint is lodged at a different regional office, the appropriate officer who receives it shall take all reasonable steps to transfer it to the correct office, and the complaint shall be dealt with at that office as if it had been lodged there.

(2) A complaint shall be regarded as lodged at an office for the purpose of subsection (1) if—

- (a) it is made orally at the office or by telephone to the office; or
- (b) it is reduced to writing and handed in at the office; or
- (c) it is sent to the office by post, telefacsimile or any electronic means; or
- (d) the complainant completes a complaint form online via the Commission's website and transmits it electronically to the Commission.

Acknowledgement of receipt of complaint

8. Within seven days after a complaint has been lodged in terms of section 7, an appropriate officer shall send the complainant a written acknowledgement of the complaint, specifying the reference number assigned to the complaint.

Confidentiality

9. (1) If a complainant, when lodging a complaint or at any stage thereafter, requests in writing that his or her personal particulars be kept confidential, the Commission and all members of the Commission's staff shall, subject to this section, take all reasonable steps to comply with that request.

(2) Where a complainant is a child or a person with a mental disability, the Commission and all members of the Commission's staff shall, subject to this section, take all reasonable steps to keep the complainant's personal particulars confidential.

(3) Subject to subsection (1), where the Commission considers that the disclosure of the complainant's personal particulars is necessary in order to resolve the complaint, an appropriate officer shall, in writing—

- (a) inform the complainant which particulars the Commission considers must be disclosed and the reasons for such disclosure; and
- (b) request the complainant's written consent to disclose the said particulars.

(4) Subject to subsection (2), where the Commission considers that disclosure of the personal particulars of a complainant who is a child is necessary in order to resolve the complaint, an appropriate officer shall, in writing—

- (a) inform the complainant's guardian which particulars the Commission considers must be disclosed and the reasons for such disclosure; and
- (b) request the complainant's guardian to give written consent for the disclosure of the said particulars:

(5) If a person refuses to consent to the disclosure of particulars, having been requested to do so in terms of subsection (3) or (4), the Commission may decline to deal with the complaint.

(6) If the Commission declines to deal with a complaint in terms of subsection (5), it shall inform the complainant in writing within seven days of its decision and state the reason for such decision.

Assessment of complaint

10. (1) After a complaint has been lodged in terms of section 7, the officer who received it shall submit it to an appropriate officer for assessment.

(2) If the appropriate officer considers that additional information would facilitate the assessment of a complaint, he or she shall forthwith attempt to obtain the information from the complainant, and if the complainant fails or refuses to provide the information the appropriate officer shall endeavour to assess the complaint on the available information but, if that is impossible, may reject the complaint.

(3) After assessing a complaint, the appropriate officer—

- (a) shall reject the complaint if the Commission, in terms of section 9 of the Act, has no jurisdiction to investigate it;
- (b) may reject the complaint on any of the following grounds—
 - (i) that the complaint does not *prima facie* show that a violation of a human right or freedom or any maladministration or abuse of power has occurred or is likely to occur;
 - (ii) that the subject matter of the complaint has already been settled between the complainant and the respondent, whether by agreement, arbitration or a judgment of a competent court;
 - (iii) that the subject matter of the complaint would more appropriately be dealt with by—
 - A. another Commission or body; or
 - B. a statutory or contractual dispute-resolution mechanism readily available to the complainant;
- (c) may, without rejecting the complaint, refer it to another Commission or body which, in the appropriate officer's opinion, can more appropriately deal with the subject matter of the complaint;

Zimbabwe Human Rights Commission (General) Regulations, 2016

and in all other cases the appropriate officer, subject to this section, shall accept the complaint on behalf of the Commission:

Provided that, if the appropriate officer is in doubt as to whether or not to accept the complaint, he or she shall refer it to the Commission for decision.

(4) If, after assessing a complaint, an appropriate officer—

- (a) rejects the complaint, the appropriate officer shall notify the complainant in writing of that fact, giving reasons for the rejection and advising the complainant of his or her right to appeal against the rejection in terms of section 11;
- (b) rejects the complaint but considers that—
 - (i) some other body can deal with the subject matter of the complaint; or
 - (ii) some other form of redress, such as instituting legal proceedings or utilising some other dispute-resolution mechanism, is open to the complainant;the appropriate officer shall, in addition to notifying and advising the complainant as of the provided in paragraph (a), inform the complainant of the existence and availability of that other body or form of redress.
- (c) refers the complaint to another body which he or she considers can more appropriately deal with the subject matter of the complaint, the appropriate officer shall inform the complainant of what he or she has done.

(5) If, on assessing a complaint, an appropriate officer is unable to decide whether to accept it or reject it, he or she shall refer it to the Commission for a decision.

(6) Upon a complaint being referred to it in terms of subsection (5), the Commission shall consider it in conjunction with any comments from the appropriate officer and shall accept or reject the complaint in accordance with this section:

(7) In deciding whether to accept or reject the complaint in terms of subsection (6), the Commission may direct the appropriate officer to request the complainant to supply the Commission with additional information it may require before it reaches a decision on the complaint.

(8) If the Commission decides to reject a complaint, the appropriate officer shall notify the complainant of the rejection of his or her complaint in writing and state the reasons for such rejection.

Appeal against rejection of complaint

11. (1) Any person who is aggrieved by the rejection of a complaint by an appropriate officer, may appeal against the rejection to the Commission.

(2) An appeal in terms of subsection (1) shall be made in writing within three months after the complainant was notified of the rejection of the complaint and shall specify the grounds on which he or she considers the complaint should have been accepted.

(3) In an appeal in terms of subsection (1), the Commission may confirm or set aside the rejection appealed against or make such order or give such direction as it considers appropriate to ensure the proper resolution of the matter, and shall notify—

- (a) the appropriate officer against whose decision the appeal was made of the outcome of the appeal and the directions given, if any; and
- (c) the appropriate officer shall, within seven days of the decision on the appeal, notify the complainant of the outcome of the appeal in writing.

Provided that, before reaching a decision in an appeal, the Commission may do all or any of the following—

- (a) invite representations from the aggrieved party; or
- (b) refer the matter back to the appropriate officer for further consideration; or
- (c) itself make such further consideration into the matter as it deems fit.

Investigation of complaint

12. (1) Upon acceptance of a complaint, the Commission shall appoint an appropriate officer to investigate it.

(2) Upon being appointed to investigate a complaint, the appropriate officer shall—

- (a) inform the complainant of his or her appointment and, where necessary, request the complainant to furnish more

information or documents to facilitate the investigation;
and

- (b) notify the respondent in writing that the Commission is investigating a complaint against him or her, informing the respondent of—
 - (i) the complainant's identity, unless it is to be kept confidential in terms of section 9; and
 - (ii) the nature and circumstances of the violation, maladministration or abuse of office complained of, in sufficient detail to enable the respondent to respond adequately to the allegations made against him or her in the complaint;

and shall request the respondent to respond, in writing, to the allegations within a reasonable period specified by the appropriate officer.

(3) After complying with subsection (2), the appropriate officer shall conduct such investigation into the complaint as may be necessary, in the light of any further information and documents provided by the complainant and any response received from the respondent.

(4) For the purpose of an investigation referred to in subsection (3), the appropriate officer may, with the consent of the affected person or on his or her own initiative—

- (a) interview any person; and
- (b) visit and inspect any place; and
- (c) receive or make a copy of any document; and
- (d) receive any article;

and shall duly record the information received and or observations made and take measures to ensure the safe custody of any document or article received.

(5) Any person who appears before an appropriate officer in an investigation referred to in subsection (3) shall be entitled to be represented by a legal practitioner at his or her own expense, and the appropriate officer shall ensure that the person is aware of that right.

(6) An appropriate officer shall take reasonable steps to keep the complainant informed about the progress of an investigation referred to in subsection (3).

(7) An appropriate officer who is conducting an investigation referred to in subsection (3) shall keep a proper record of whatever he or she does in the course of the investigation.

Procedure at close of investigation by appropriate officer

13. (1) After concluding an investigation in terms of section 12, the appropriate officer shall refer the record of the complaint to the Commission, together with—

- (a) the record of the investigation; and
- (b) any additional documents collected in the course of the investigation; and
- (c) his or her recommendations regarding the complaint; for a decision on how to proceed:

Provided that, if so authorised by the Commission, the appropriate officer may attempt to resolve the complaint by negotiation, conciliation or mediation.

(2) On receipt of the record in terms of subsection (1), the Commission may—

- (a) reject the complaint on any of the grounds set out in section 10(3)(a) or (b), if the committee considers that the investigation has shown that the complaint should be rejected; or
- (b) refer the complaint to another Commission or body which, in the Commission's opinion, can more appropriately deal with the subject-matter of the complaint; or
- (c) attempt to resolve the complaint by negotiation, conciliation, mediation or the holding of a formal hearing.

(3) If the Commission rejects a complaint or refers it to another Commission or body, the Commission shall notify the complainant in writing of that fact, giving reasons for the rejection and advising the complainant of his or her right to appeal against the rejection in terms of section 11.

(4) In resolving a complaint, an appropriate officer or the Commission shall adopt the method which, in the opinion of the officer or the Commission, as the case may be, is best suited to achieve a result that is fair and satisfactory, taking due account of—

- (a) the degree of co-operation shown by the parties during the investigation; and
- (b) the likelihood of the parties participating meaningfully in the resolution process; and
- (c) the public interest; and
- (d) any other relevant consideration.

(5) The Commission shall keep records of any action it takes in terms of this section.

PART IV

RESOLUTION OF COMPLAINTS THROUGH NEGOTIATION, CONCILIATION OR MEDIATION

Initiation of process of negotiation, conciliation or mediation

14. (1) Where a decision has been taken to resolve a complaint by negotiation, conciliation or mediation —

(a) the appropriate officer, if so authorised by the Commission, shall forthwith assume the role of negotiator, conciliator or mediator, as the case may be, in an attempt to resolve the complaint by that process; or

(b) the Commission may appoint a Commissioner to act as negotiator, conciliator or mediator.

(2) Any process of negotiation, conciliation or mediation carried out in terms of these regulations shall be conducted in accordance with generally accepted practices for the process concerned and, in particular, the negotiator, conciliator or mediator shall observe the rules of natural justice.

Recording of agreement reached through negotiation, conciliation or mediation

15. (1) If negotiator, conciliator or mediator succeeds in getting the parties to agree to a resolution of a complaint, he or she shall ensure that their agreement is recorded and is signed by both parties.

(2) After an agreement has been signed in terms of subsection (1) the negotiator, conciliator or mediator shall, together with any comments he or she may wish to make on it, refer the agreement to the Commission for adoption.

Procedure on failure of negotiation, conciliation or mediation

16. (1) If the negotiator, conciliator or mediator fails for any reason to resolve a complaint, or believes that he or she will be unable to resolve it for any reason, he or she shall —

- (a) report that fact to the Commission, providing the Commission with a written explanation of the reasons for the failure or anticipated failure; and
- (b) notify the complainant and the respondent of what he or she has done and the reasons for doing so, and inform them that they may submit written representations in the matter to the Commission within a period specified by him or her.

(2) On receipt of a report in terms of subsection (1), and after considering any representations submitted by the complainant and the respondent in terms of that subsection, the Commission may —

- (a) give directions to the negotiator, conciliator or mediator as to alternative methods of resolving the complaint, and the negotiator, conciliator or mediator shall act accordingly; or
- (b) if the complainant obstructed the process of negotiation, conciliation or mediation or was otherwise responsible for the failure or anticipated failure of the process, discontinue the process altogether; or
- (c) direct that the issues arising from the complaint should be the subject of a formal hearing in terms of section 12 of the Act; or
- (d) direct that the Commission should institute proceedings in a competent court for the resolution of all or any of the issues arising from the complaint.

and shall cause the complainant and the respondent to be notified of its decision in writing within 7 days of the date of such decision.

PART V

HEARINGS

Informal hearings

17. (1) At any stage during an investigation, an appropriate officer or a Commissioner appointed by the Commission may hold an informal hearing—

- (a) to obtain any information for the purpose of the investigation; or
- (b) to try to resolve the complaint that is being investigated.

(2) An informal hearing shall be convened by the appropriate officer or the appointed Commissioner informing the parties, and any other person who is to be interviewed or questioned at the hearing, of the date on which and the time and place at which the hearing is to be held.

(3) An informal hearing shall be conducted by the appropriate officer or the appointed Commissioner who convened it or by a Commissioner or an officer appointed by the Commission.

(4) Members of the public shall not be permitted to attend an informal hearing unless the person conducting the hearing, with the consent of the complainant and the respondent, permits them to attend.

(5) The procedure at an informal hearing shall be as informal as possible, but—

- (a) the rules of natural justice shall be observed; and
- (b) the complainant and the respondent and anyone else appearing before the hearing must be permitted, at their own expense, to be represented by a legal practitioner or by any other suitable person of their own choice.

(6) Persons who are interviewed or questioned at an informal hearing shall not be required to give their evidence or answers on oath.

(7) The person conducting an informal hearing shall keep, or cause to be kept, a proper record of the proceedings.

Convening of formal hearing

18. (1) Where the Commission has resolved to hold a formal hearing into a complaint or any issue arising from a complaint, it shall cause the complainant and the respondent to be given at least 7 days' written notice of the date on which, the time and place at which the hearing will be held.

(2) In the notice referred to in subsection (1), the Commission shall invite the complainant and the respondent to bring to the hearing any person whom they consider can give evidence regarding the complaint that is being investigated.

(3) For the purpose of securing the attendance of any person at a formal hearing, the Commission may issue a summons in the form set out in the Schedule, and may require a police officer or an appropriate officer to serve it on that person.

(4) The provisions of the Criminal Procedure and Evidence Act [*Chapter 9:07*] relating to the service of subpoenas shall apply, with any necessary changes to the service of a summons in terms of subsection (3).

Persons presiding over formal hearing

19. (1) The Commission, or a panel of three or more Commissioners selected by the Commission or by the Chairperson of the Commission, shall preside over a formal hearing:

Provided that no person who has been involved in the assessment or processing of a complaint shall preside over a formal hearing into that complaint.

(2) Where a panel of three or more Commissioners is selected to preside over a formal hearing, the Commission or the Chairperson of the Commission, as the case maybe, shall assign to one of the selected Commissioners the role of chairing the formal hearing.

Procedure at formal hearing

20. (1) In this section—

“Chairperson” means the Commissioner assigned to chair a formal hearing in terms of section 19(2).

(2) Subject to section 12 of the Act, a formal hearing shall be conducted in accordance with procedures fixed by the Commission or by the Chairperson:

Provided that—

- (i) the proceedings shall be inquisitorial in nature, and the persons presiding over the hearing shall be entitled to question anyone appearing before the hearing;
- (ii) the proceedings shall be conducted in English, unless the Chairperson directs otherwise;
- (iii) if the complainant or respondent, or anyone who is giving evidence or information to the hearing, has difficulty in understanding the language in which the proceedings are being conducted, he or she shall be provided with an interpreter;
- (iv) the complainant and the respondent shall be entitled, through the Chairperson or directly if the Chairperson so permits, to put questions to anyone appearing before the hearing;
- (v) the rules of natural justice shall be observed, and in particular the complainant and respondent shall be given a reasonable opportunity to respond to allegations made against them;
- (vi) the complainant and the respondent and anyone else appearing before the hearing shall be entitled to be represented, at their own expense, by a legal practitioner or by any other suitable person of their own choice, who shall be given reasonable access to all documents held or received by the Commission in relation to the issues to be decided at the hearing.

(3) Unless the persons presiding over a formal hearing direct otherwise in terms of section 12 of the Act, members of the public shall be permitted to attend the hearing and the proceedings of the hearing may be published without restriction.

(4) A direction prohibiting or limiting public attendance at a formal hearing or the publication of its proceedings shall not be made unless the persons presiding over the hearing consider it is necessary or appropriate to do so—

- (a) in light of the factors set out in section 3(2) of the Courts and Adjudicating Authorities (Publicity Restriction) Act [*Chapter 7:04*]; or
- (b) to ensure the successful conduct of the hearing; or
- (c) to facilitate the functioning of the Commission.

(5) At the commencement of a formal hearing, the Chairperson shall explain the purpose of the hearing and the procedure to be followed, and shall outline the complaint and the issues to be decided at the hearing.

(6) The Chairperson may require persons appearing before a formal hearing to give their evidence on oath, and for that purpose may administer the oath to them.

(7) The Chairperson of a formal hearing may adjourn the hearing for the purpose of considering the evidence received at the hearing.

(8) The Chairperson shall keep, or cause to be kept, a proper record of the proceedings at a formal hearing.

(9) Before a formal hearing is closed after all the evidence have been received, the complainant and the respondent shall be given a reasonable opportunity to address the persons presiding over the hearing.

Announcement of findings following formal hearing

21. After evidence has been received at a formal hearing and the parties have been given an opportunity to deliver their closing addresses, the persons presiding over the hearing shall consider the evidence and then, either orally or in writing—

- (a) summarise the evidence and information; and
- (b) state their findings on the complaint, giving full reasons for the findings; and
- (c) specify any remedial action proposed:

Zimbabwe Human Rights Commission (General) Regulations, 2016

Provided that the Chairperson shall ensure that where the summary and statement are made orally, they are reduced to writing.

Notification to parties and other persons of findings of formal hearing

22. After the findings of a formal hearing have been stated in terms of section 21, an appropriate officer shall —

- (a) send a copy of the statement to the complainant and respondent and to any other person interested in the matter; and
- (b) invite the complainant and respondent, and every other person who is sent a copy, to submit a written response to the Commission within such reasonable time as the appropriate officer may specify.

Submission of record of formal hearing to Commission

23. (1) Upon the expiry of the time for submitting responses in terms of section 22(b), the Chairperson of the formal hearing shall lay before the Commission the record of the hearing and any responses that may have been received, together with any comments he or she and the other persons presiding over the hearing may wish to make in regard to the responses.

(2) The Commission shall consider the documents laid before it in terms of subsection (1) and —

- (a) issue a report in terms of section 24; or
- (b) if the Commission considers it needs further information before issuing a report, direct —
 - (i) that the formal hearing be reconvened in order to obtain the information; or
 - (ii) that an appropriate officer should obtain the information.

(3) Where the Commission makes a direction in terms of subsection (2)(b), it shall, within 7 days thereof, inform the complainant and the respondent of the direction and of any further steps that are to be taken as a result of it.

Report following formal hearing

24. (1) A report issued by the Commission following a formal hearing shall—

- (a) summarise the evidence; and
- (b) state the Commission's findings on the complaint; and
- (c) specify any remedial action ordered by the Commission:

Provided that instead of restating the summary and findings of the persons who presided at the hearing, the Commission may refer to them by reference.

(2) Having issued a report in terms of subsection (1), the Commission shall—

- (a) within 7 days thereof, send a copy of it to the complainant and the respondent and to any other person who is interested in the report; and
- (b) ensure that it is filed for record purposes.

PART VI

CONCLUSION OF COMPLAINTS

When complaint is concluded

25. A complaint shall be regarded as concluded for the purposes of these regulations—

- (a) if the complaint is rejected following an assessment or investigation; or
- (b) if, following an investigation, the Commission finds that—
 - (i) there was no substance in the complaint; or
 - (ii) the violation, maladministration or abuse of power complained of has been remedied satisfactorily; or
- (c) if the complainant withdraws the complaint and the Commission is satisfied that he or she has done so voluntarily and that there is no need for further investigation or action by the Commission; or

- (d) upon the complaint being referred to another Commission or body; or
- (e) if the complaint is resolved through negotiation, conciliation or mediation; or
- (f) when the Commission issues a final order or gives a final direction in regard to the complaint; or
- (g) if the Commission institutes proceedings in a court of law for the resolution of the complaint, when the court issues a final order in regard to the complaint.

Reports by Commission on agreements following negotiation, conciliation or mediation

26.(1) Where an agreement reached after negotiation, conciliation or mediation has been referred to the Commission in terms of section 15(2), the Commission may issue a report on it outlining its provisions and, if the Commission thinks it appropriate to do so, adding its own comments on it.

(2) The Commission shall ensure that a copy of any report issued in terms of subsection (1) is sent to the complainant, the respondent and every person interested in the report.

PART VII

GENERAL

Violation of human rights or freedoms

27. (1) Any reference in these regulations to a violation of a human right or freedom or to maladministration or abuse of power shall be construed as including an alleged, suspected or threatened such violation, maladministration or abuse.

(2) A person shall be regarded as affected by—

- (a) a violation of a human right or freedom; or
- (b) maladministration or abuse of power; if he or she—
 - (i) has been, is being or is likely to be prejudiced or potentially prejudiced by the violation, maladministration or abuse of power; or

- (ii) has reasonable grounds to believe that he or she has been, is being or is likely to be prejudiced or potentially prejudiced by the violation, maladministration or abuse of power.

(3) Without limiting the ordinary meaning of the expression, a person shall be regarded as interested in a report for the purposes of these regulations if—

- (a) the person's conduct is criticised in the report; or
- (b) the report recommends or directs a change in the procedure or manner in which the person does anything; or
- (c) the report recommends or directs the person to take any measures or do anything.

Investigations may be instituted by Commission

28. The Commission may initiate an investigation into any—

- (a) violation of a human right or freedom; or
- (b) maladministration or abuse of power;

even if no complaint has been lodged in respect of the violation, maladministration or abuse, and these regulations shall apply, with any necessary changes, in relation to such an investigation.

Monitoring of observance of human rights and freedoms

29. (1) The Executive Secretary shall monitor—

- (a) observance of human rights and freedoms in Zimbabwe; and
- (b) implementation of recommendations made by the Commission in its reports;

and shall report regularly to the Commission on such observance and implementation.

(2) To assist the Executive Secretary in his or her function under subsection (1), the Commission may establish one or more committees consisting of—

Zimbabwe Human Rights Commission (General) Regulations, 2016

- (a) members of the Civil Service and the security services; and
- (b) representatives of the commercial, industrial, agricultural and mining sectors; and
- (c) representatives of employers and employees; and
- (d) representatives of organisations, bodies and persons concerned with the promotion and protection of human rights and freedoms;

and shall fix the terms and conditions of service of the members of such committees.

(3) On the recommendation of the Executive Secretary or a committee established in terms of subsection (2), the Commission may require any person or organisation, including an organ of government, to report to the Commission on measures they have taken to give effect to human rights and freedoms or any recommendation of the Commission.

(4) If any organisation fails or refuses to comply with a requirement under subsection (3), the Commission shall report the failure or refusal to Parliament.

Service of documents

30. (1) Any document that is required to be served under these regulations may be served by an appropriate officer or by a police officer whom the Commission calls upon to do so.

(2) Where a document referred to in subsection (1) requires any person to do anything, the document shall be served on the person in reasonable time to enable him or her to do the thing.

(3) Sections 382 and 383 of the Criminal Procedure and Evidence Act [*Chapter 9:07*] relating to the service of documents shall apply, with any necessary changes, to the service of the documents referred to in subsection (1).

Duties to be carried out promptly

31. Anything that is required to be done under these regulations shall be done without delay.

Costs

32. The Commission shall not charge a fee for dealing with complaints under these regulations.

Publicity

33. (1) The Commission shall ensure that—

- (a) the form in which complaints are to be made is published as widely as possible and in a manner that will bring it to the attention of all sections of the public; and
- (b) complaint forms are available for the public to use at all the Commission's offices.

(2) Where the Commission issues or ratifies a report, it shall ensure that the report is published so as to bring it to the attention of as wide a section of the public as possible, in order to acquaint the public with the Commission's work and inform them about the human rights and freedoms to which they are entitled.

SCHEDULE (*Section 18*)

FORM OF SUMMONS

Zimbabwe Human Rights Commission

[Telephone and cell numbers]

[Postal and physical address]

SUMMONS

To:
[Name of person summoned]

Of:
[Address of person summoned]

You are hereby summoned to appear before a hearing of the Zimbabwe Human Rights Commission to be held at

.....[Place]

on the [date] at [time].

Zimbabwe Human Rights Commission (General) Regulations, 2016

The hearing has been convened to investigate

.....
[State subject matter of complaint or other matter that is being investigated]

You are required to bring with you:

.....
[If the person summoned is required to bring any document or article, describe it]

Signed at: [place] on the [date].

For the Zimbabwe Human Rights Commission

[Reverse of form]

Return of Service

To be filled in by the appropriate officer or police officer who served this summons on the person named therein:

On the [date] and at [place]

I served this summons on the person named therein, by:

[State how the summons was served]

Signed:

Authorised officer/Police officer

Name and designation/rank

*Supplement to the Zimbabwean Government Gazette dated the 29th July, 2016.
Printed by the Government Printer, Harare.*