CHAPTER-1
PRELIMINARY

Relevant Chapters of the Protection of Human Rights Act, 1993

For chapters dealing with the appointment and removal of the chairperson and other members of the NHRC and the provisions relating to SHRC, Please see the Human Rights Act, 1993.

1. Short title, extent and commencement:-

1. This Act may be called the Protection of Human Rights Act, 1993.

2. It extends to the whole of India:

Provided that it shall apply to the State of Jammu and Kashmir only insofar as it pertains to the matters relatable to any of the entries enumerated in List I or List III in the Seventh Schedule to the Constitution as applicable to that State.

3. It shall be deemed to have come into force on the 28th day of September, 1993.

2. Definitions

(1) In this Act, unless the context otherwise requires:-

a) “Armed forces” means the naval, military and air forces and includes any other armed forces of the Union;

b) “Chairperson” means the naval, military and air forces and includes any other armed forces of the Union;

c) “Commission” means the National Human Rights Commission constituted under Section 3;
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d) "Human Rights" means the rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Convenants and enforceable by Courts in India;

e) "Human Rights Court" means the Human Rights Court specified under Section 30;

f) "International Convenants" means the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights adopted by the General Assembly of the United Nations on the 16th December, 1966;

g) "Member" means a Member of the Commission or of the State Commission, as the case may be, and includes the Chair-person;

h) "National Commission for Minorities" means the National Commission for Minorities constituted under Section 3 of the National Commission for Minorities Act, 1992;

i) "National Commission for the Scheduled Castes and Scheduled Tribes" means the National Commission for the Scheduled Castes and Scheduled Tribes referred to in Article 338 of the Constitution;

j) "National Commission for Women" means the National Commission for Women constituted under section 3 of the National Commission for Women Act, 1990;

k) "Notification" means a notification published in the Official Gazette;

l) "Prescribed" means prescribed by rules made under this Act;

m) "Public servant" shall have the meaning assigned to it in Section 21 of the Indian Penal Code;
n) "State Commission" means a State Human Rights Commission constituted under Section 21.

2. Any reference in this Act to a law, which is not in force in the State of Jammu and Kashmir, shall, in relation to that State, be construed as a reference to a corresponding law, if any, in force in that state.

CHAPTER-2

THE NATIONAL HUMAN RIGHTS COMMISSION

1. Constitution of a National Human Rights Commission:-

1. The Central Government shall constitute a body to be known as the National Human Rights Commission to exercise the powers conferred upon, and to perform the functions assigned to it under this Act.

2. The Commission shall consist of:-

a) A Chairperson who has been a Chief Justice of the Supreme Court;

b) One Member who is, or has been, a Judge of the Supreme Court;

c) One Member who is, or has been, the Chief Justice of a High Court;

d) Two members to be appointed from amongst persons having knowledge of, or practical experience in, matters relating to human rights.

3. The Chairpersons of the National Commission for Minorities, the National Commission for the Scheduled Castes and Scheduled Tribes and the National Commission for Women shall be deemed to be Members of the Commission for the discharge of functions specified in clauses (b) to (j) of Section 12.
4. There shall be a Secretary-General who shall be the Chief Executive Officer of the Commission and shall exercise such powers and discharge such functions of the Commission as it may delegate to him.

5. The headquarters of the Commission shall be at Delhi and the Commission may with previous approval of the Central Government, establish offices at other places of India.

4. **Appointment of Chairperson and Other Members:**

1. The Chairperson and other Members shall be appointed by the President by warrant under his hand and seal:

   a) The Prime Minister - Chairperson
   
   b) Speaker of the House of the People - member;
   
   c) Minister in-charge of the Ministry of Home Affairs in the Governments of India - member;
   
   d) Leader of the Opposition in the House of the People - member;
   
   e) Leader of the Opposition in the Council of States - member;
   
   f) Deputy Chairman of the Council of States - member;

   Provided further that no sitting Judge of the Supreme Court or sitting Chief Justice of a High Court shall be appointed except after consultation with the Chief Justice of India.

2. No appointment of a Chairperson or a Member shall be invalid merely by reason of any vacancy in the Committee.
CHAPTER-3

FUNCTIONS & POWERS OF THE COMMISSION

12. Functions of the Commission

The Commission shall perform all or any of the following functions, namely:-

a) Inquire, _suo motu_ or on a petition presented to it by a victim or any person on his behalf, into complaint of:-
   i) violation of human rights or abetment thereof; or
   ii) negligence in the prevention of such violation, by a public servant;

b) intervene in any proceeding involving any allegation of violation of human rights pending before a Court with the approval of such Court;

c) visit, under intimation to the State Government, any jail or any other institution under the control of the State Government, where persons are detained or lodged for purposes of treatment, reformation or protection to study the living conditions of the inmates and make recommendations thereon;

d) review the safeguards provided by or under the Constitution or any law for the time being in force for the protection of human rights and recommend measures for their effective implementation;

e) review the factors, including acts of terrorism, that inhibit the enjoyment of human rights and recommend appropriate remedial measure;

f) study treaties and other international instruments on human rights and make recommendations for their effective implementation;

g) undertake and promote research in the field of human rights;
h) spread human rights literacy among various sections of society and promote awareness of the safeguards available for the protection of these rights through publications the media seminars and other available means;

i) encourage the efforts of non-governmental organizations and institutions working in the field of human rights.

j) Such other functions as it may consider necessary for the promotion of human rights.

13. Powers Relating to Inquiries

1. The Commission shall, while inquiring into complaints under the Act, have all the powers of a Civil Court trying a suit under the Code of Civil procedure, 1908, and in particular in respect of the following matters, namely :-

a) Summoning and enforcing the attendance of witnesses and examining them on oath;

b) Discovery and production of any document;

c) Receiving evidence on affidavits;

d) Requisitioning any public record or copy thereof from any Court or office;

e) Issuing commissions for the examination of witnesses or documents;

f) Any other matter which may be prescribed.

2. The Commission shall have power to require any person, subject to any privilege which may be that person under any law for the time being in force, to furnish information on such points or matters as, in the opinion of the Commission shall have power to require any person, subject to any privilege which may be claimed by that person under any law for the time being in force, to furnish information on such points or matters as, in the
opinion of the Commission, may be useful for, or relevant to the subject-matter of the inquiry and any person so required shall be deemed to be legally bound to furnish such information within the meaning of Section 176 and Section 177 of the Indian Penal Code.

3. The Commission or any other officer, not below the rank of a Gazetted Officer, specially authorized in this behalf by the Commission may enter any building or place where the Commission has reason to believe that any document relating to the subject-matter of the inquiry may be found, and may seize any such document or take extracts or copies there from subject to the provisions of Section 100 of the Code of Criminal Procedure, 1973, insofar as it may be applicable.

4. The Commission shall be deemed to be a Civil Court and when any offence as is described in Section 175, Section 178, Section 179, Section 180 or Section 228 of the Indian Penal Code is committed in the view or presence of the Commission, the Commission may, after recording the facts constituting the offence and the statement of the accused as provided for in the Code of Criminal Procedure, 1973 forward the case to a Magistrate having jurisdiction to try the same and the Magistrate to whom any such case is forwarded shall proceed to hear the complaint against the accused as if the case has been forwarded to him under Section 346 of the Code of Criminal Procedure, 1973.

5. Every proceeding before the Commission shall be deemed to be a judicial proceeding within the meaning of Sections 193 and 228, and for the purposes of Section 196, of the Indian Penal Code, and the Commission shall be deemed to be a Civil Court for all the purposes of Section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.
14. **Investigation**

1. The Commission may, for the purpose of conducting any investigation pertaining to the inquiry, utilize the services of any officer or investigation agency of the Central Government or any State Government with the concurrence of the Central Government or the State Government, as the case may be.

2. For the purpose of investigation into any matter pertaining to the inquiry, any officer or agency whose services are utilized under sub-section (1) may subject to the direction and control of the Commission,
   a) summon and enforce the attendance of any person and examine him;
   b) require the discovery and production of any document; and
   c) requisition any public record or copy thereof from any office.

3. The provisions of Section 15 shall apply in relation to any statement made by a person before any officer or agency whose services are utilized under sub-section (1) as they apply in relation to any statement made by a person in the course of giving evidence before the Commission.

4. The officer or agency whose services are utilized under sub-section (1) shall investigate into any matter pertaining to the inquiry and submit a report thereon to the Commission within such period as may be specified by the Commission in this behalf.

5. The Commission shall satisfy itself about the correctness of the facts stated and the conclusion, if any, arrived at in the report submitted to it under sub-section (4) and for this purpose the Commission may make such inquiry (including the examination of the person or persons who conducted or assisted in the investigation) as it thinks fit.
15. **Statement made by persons to the Commission**

No statement made, by a person in the course of giving evidence before the Commission shall subject to him to, or be used against him in, any civil or criminal proceeding except a prosecution for giving false evidence by such statement;

**Provided that the statement**

a) is made in reply to the question which he is required by the Commission to answer; or

b) is relevant to the subject-matter of the inquiry.

16. **Persons likely to be prejudicially affected to be heard**

If, at any stage of the inquiry, the Commission:

a) consider it necessary to inquire into the conduct of any person; or

b) is of the opinion that the reputation of any person is likely to be prejudicially affected by the inquiry,

It shall give to that person a reasonable opportunity of being heard in the inquiry and to produce evidence in his defence;

**Provided that nothing in this section shall apply where the credit of a witness is being impeached.**

**CHAPTER-4**

**PROCEDURE**

17. **Inquiry into complaints:—**

The Commission while inquiring into the complaints of violations of human rights may:—
(i) call for information or report from the Central Government or any State Government or any other authority or organization subordinate thereto within such time as may be specified by it;

 Provided that

a) if the information or report is not received within the time stipulated by the Commission, it may proceed to inquire into the complaint on its own;

b) if on receipt of information or report, the Commission is satisfied either that no further inquiry is required or that the required action has been initiated or taken by the concerned Government or authority, it may not proceed with the complaint and inform the complainant accordingly;

(ii) without prejudice to anything contained in clause (i), if it considers necessary, having regard to the nature of the complaint, initiate an inquiry.

18. Steps after inquiry

The Commission may take any of the following steps upon the completion of an inquiry held under this Act, namely:

1. where the inquiry discloses, the commission of violation of human rights or negligence in the prevention of violation of human rights by a public servant, it may recommend to the concerned Government or authority the initiation of proceedings for prosecution or such other action as the Commission may deem fit against the concerned person or persons;

2. approach the Supreme Court or the High Court concerned for such directions, orders or writs as that Court may deem necessary;

3. recommend to the concerned Government or authority for the grant of such immediate interim relief to the victim or the members of his family as the Commission may consider necessary;
4. subject to the provisions of clause (5) provide a copy of the inquiry report to the petitioner or his representative;

5. the Commission shall send a copy of its inquiry report together with its recommendations to the concerned Government or authority and the concerned Government or authority shall within a period of one month, or such further item as the Commission may allow, forward its comments on the report, including the action taken or proposed to be taken thereon, to the Commission;

6. the Commission shall publish its inquiry report together with the comments of the concerned Government or authority, if any, and the action taken or proposed to be taken by the concerned Government or authority on the recommendations of the Commission.

19. Procedure with respect to armed forces

(1) Notwithstanding anything contained in this Act, while dealing with complaints of violation of human rights by members of the armed forces, the Commission shall adopt the following procedure, namely;

a) it may, either on its own motion or on receipt of a petition, seek a report form the Central Government;

b) after the receipt of the report, it may, either not proceed with the complaint or, as the case may be, make its recommendations to that Government.

3. The Central Government shall inform the Commission of the action taken on the recommendations within three months or such further time as the Commission may allow.
4. The Commission shall publish its report together with its recommendations made to the Central Government and the action taken by the Government on such recommendations.

20. **Annual and special reports of the Commission**

1. The Commission shall submit an annual to the Central Government and to the State Government concerned and may at any time submit special reports on any matter which, in its opinion, is of such urgency or importance that it should not be deferred till submission of the annual report.

2. The Central Government and the State Government, as the case may be, shall cause the annual and special reports of the Commission to be laid before each House of Parliament or the State Legislature respectively, as the case may be, along with a memorandum of action taken or proposed to be taken on the recommendations of the Commission and the reasons for non-acceptance of the recommendations, if any.

**CHAPTER-6**

**HUMAN RIGHTS COURTS**

1. **Human Rights Courts**

   For the purpose of providing speedy trial of offences arising out of violation of human rights, the State Government may, with the concurrence of the Chief Justice of the High Court, by notification, specify for each district a Court of Session to be a human Rights Court to try the said offences;

   Provided that nothing in this section shall apply if:-

   a) a Court of Session is already specified as a special Court; or
b) a special Court is already constituted, for such offences under any other law for the time being in force.

31. Special Public Prosecutor

For every Human Rights Court, the State Government shall, by notification, specify a Public Prosecutor or appoint an advocate who has been in practice as an advocate for not less than seven years, as a Special Public Prosecutor for the purpose of conducting cases in that Court.

CHAPTER-8
MISCELLANEOUS

36. Matters not subject to jurisdiction of the Commission

1. The Commission shall not inquire into any matter which is pending before a State Commission or any other Commission duly constituted under any law for the time being in force.

2. The Commission or the State Commission shall not inquire into any matter after the expiry of one year from the date on which the Act constituting violation of human rights is alleged to have been committed.

37. Constitution of special investigation teams

Notwithstanding anything contained in any other law for the time being in force, where the Government considers it necessary so to do, it may constitute one or more special investigation teams, consisting of such police officers as it thinks necessary for purposes of investigation and prosecution of offences arising out of violation of human rights.

38. Protection of action taken in good-faith

No suit or other legal proceeding shall lie against the Central Government, State Government, Commission, the State Commission or any other
Member thereof or any person acting under the direction either of the Central Government, State Government Commission or the State Commission in respect of anything which is in good-faith done or intended to be done in pursuance of this Act or of any rules or any order made there under or in respect of anything which is in good-faith done or intended to be done in pursuance of this Act or of any rules or any order made there under or in respect of the publication by or under the authority of the Central Government, State Government, Commission or the State Commission of any report, paper or proceedings.

39. **Members and of to be public servants**

   Every member of the Commission, State Commission and every officer appointed or authorized by the Commission or the State Commission to exercise functions under this Act shall be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code.

40. **Power of Central Government to make rules**

1. The Central Government may, by notification, make rules to carry out the provisions of this Act.

2. In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:

   a) the salaries and allowances and other terms and conditions of service of the Members under Section 8;

   b) the conditions subject to which other administrative, technical and scientific staff may be appointed by the Commission and the salaries and allowances of officers and other staff under sub-section (3) of Section 11;
c) any other power of a Civil Court required to be prescribed under clause (f) of sub-section (1) of Section 13;

d) the form in which the annual statement of accounts is to be prepared by the Commission under sub-section (1) of Section 34; and

e) any other matter which has to be or may be prescribed.

3. Every rule made under this Act shall be laid, as soon as may be after it is made, before each house of Parliament, while it is in session, for a total period of thirty days which may be comprised in one Sessions or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

41. Power of State Government to make rules

1. The State Government may, by notification, make rules to carry out the provisions of this Act.

2. In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:

a) The salaries and allowances and other terms and conditions of service of the Members under Section 26;
b) The conditions subject to which other administrative, technical and scientific staff may be appointed by the State Commission and the salaries and allowances of officers and other staff under sub-section (3) of Section 27;

c) The form in which the annual statement of accounts is to be prepared under sub-section (1) of Section 35.

3. Every rule made by the State Government under this section shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House.

42. Power to remove difficulties

1. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provision not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty;

   Provided that no such order shall be made after the expiry of the period of two years from the date of commencement of this Act.

2. Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

43. Repeal and savings

1. The protection of Human Rights Ordinance, 1993 is hereby repealed.

2. Notwithstanding such repeal, anything done or any action taken under the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of this Act.