



**Government of India  
National Commission for Minorities**

**Draft Model Act for State  
Minorities Commissions**

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# **National Commission for Minorities**

## **Draft Model Act**

An Act to constitute a State Commission for Minorities and to provide for matters connected therewith or incidental thereto.

Be it enacted by State Legislature in the Fifty-ninth year of the Republic of India as follows: -

### **CHAPTER I : PRELIMINARY**

#### **1. Short title, extent and commencement**

- (1) This Act may be called the State Commission for Minorities Act.
- (2) It extends to the whole of the State.
- (3) It shall come into force on such date as the State Government may, by notification in Official Gazette, appoint.

#### **2. Definitions :-**

In this Act, unless the context otherwise requires

- (1) "Commission" means the State Commission for Minorities constituted under Section 3.
- (2) "Member" means a Member of the Commission [ and includes the Vice Chairperson].
- (3) "Minority" for the purpose of this Act means a community notified as such by the State Government or by the Central Government under the NCM Act, 1992 and those already notified namely Muslim, Sikh, Christian, Buddhist and Parsis.
- (4) "Prescribed" means prescribed by Rules made under this Act.

### **CHAPTER II : THE STATE COMMISSION FOR MINORITIES**

#### **3. Constitution of the State Commission for Minorities :-**

- (1) The State Government shall constitute the State Commission for Minorities to exercise the powers conferred on and to perform the functions assigned to, it under this Act.
- (2) The Commission shall consist of a Chairperson and Members not exceeding seven members including a Vice Chairperson to be nominated by the State Government from amongst persons of eminence, ability and integrity provided that the nomination of members is made from minority communities as well as "other communities" as may be considered necessary and appropriate; provided further that at least one such members shall be a woman.

#### **4. Term of office and conditions of service of Chairperson & Members :-**

- (1) The Chairperson and every Member shall hold office for a term of three years from the date he/she assumes office.
- (2) The Chairperson or a Member may, by writing under his/her hand addressed to the State Government, resign from the office of Chairperson or, as the case may be, of the Member at any time.

- (3) The State Government shall remove a person from the office of Chairperson or a Member referred to in sub-section (2) of Section 3, if that person –
- (a) becomes an undischarged insolvent
  - (b) is convicted and sentenced to imprisonment for an offence which in the opinion of the State Government involves moral turpitude.
  - (c) becomes of unsound mind and stands so declared by a competent court.
  - (d) refuses to act or becomes incapable of acting.
  - (e) is without obtaining leave of absence from the Commission, absent from three consecutive meetings of the Commission
  - (f) has, in the opinion of the State Government, so abused the position of Chairperson or Member as to render that person's continuance in office detrimental to the interests of minorities or the public interest :  
Provided that no person shall be removed under this clause until that person has been given a reasonable opportunity of being heard in the matter.
- (4) A vacancy caused under sub-section (2) or otherwise shall be filled by fresh nomination.
- (5) The salaries and allowances payable to, and the other terms and conditions of service of the Chairperson and Members shall be such as may be prescribed.

**5. Officers and other employees of the Commission.-**

- (1) The State Government shall provide the Commission with a Secretary and such other officers and employees as may be necessary for the efficient performance of the functions of the Commission under this Act.
- (2) The salaries and allowances payable to, and the other terms and conditions of service of the officers and other employees appointed for the purpose of the Commission shall be such as may be prescribed.

**6. Salaries and allowances to be paid out of grants -**

The salaries and allowances payable to the Chairperson and Members and the administrative expenses, including salaries, allowances and pensions payable to the officers and other employees referred to in Section 5, shall be paid out of the grants referred to in sub-section (1) of Section 14.

**7. Vacancies, etc. not to invalidate proceedings of the Commission -**

No act or proceeding of the Commission shall be questioned or shall be invalid merely on the ground of the existence of any vacancy or defect in the constitution of the Commission.

**8. Procedure to be regulated by the Commission. -**

- (1) The Commission shall meet as and when necessary at such time and places as the Chairperson may think fit.
- (2) The Commission shall regulate its own procedure.
- (3) All orders and decisions of the Commission shall be authenticated by the Secretary or any other officer of the Commission duly authorized by the Secretary on his/her behalf.

## **CHAPTER III: FUNCTIONS OF THE COMMISSION**

### **9. Functions of the Commission**

- (1) The Commission shall perform all or any of the following functions, namely :
  - (a) to participate and advise in the planning process of socio-economic development of the minorities and evaluate the progress of their development in the State;
  - (b) to investigate and monitor the working of the safeguards provided in the Constitution and in laws enacted by Parliament and the State Legislatures;
  - (c) make recommendations for the effective implementation of safeguards for the protection of the interests of minorities by the State Government ;
  - (d) to inquire into specific complaints and take suo moto notice of matters relating to –
    - deprivation of rights and safeguards of the minorities ;
    - (i) non-implementation of laws enacted to provide protection to minorities;
    - (ii) non-compliance of policy decisions, guidelines or instructions aimed at mitigating hardships and ensuring welfare and providing relief to minorities and take up such matters with appropriate authorities.
  - (e) intervene in any proceeding involving any allegation of violation or deprivation of rights of minorities pending before a court with the approval of the State Government;
  - (f) study and evaluate the implementation of the programmes and schemes relating to socio-economic development of minorities and make recommendations to the State Government and Central Government as may be applicable, for better coordination and implementation of such programmes and schemes;
  - (g) cause studies to be undertaken into problems arising out of any discrimination against minorities in the State and recommend measures for their removal;
  - (h) conduct studies, research and analysis on the issues relating to socio-economic and educational development of minorities;
  - (i) suggest appropriate measures in respect of any minority to be undertaken by the State Government;
  - (j) make periodical or special reports to the State Government on any matter pertaining to minorities and in particular difficulties confronted by them; and
  - (k) any other matter which may be referred to it by the State Government.
- (2) The State Government shall cause the recommendations referred to in clause (c) of sub-section (1) to be laid before each house of State Legislature along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the State and the reasons for the non-acceptance, if any, of any of such recommendations.

## **10. Powers relating to inquiries**

- (1) The Commission shall, while performing any of the functions mentioned in sub-clauses (b) and (d) of sub-section (1) 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 :  
summoning and enforcing the attendance of witnesses and examining them on oath; discovery and production of any document;
  - (a) receiving evidence on affidavit;
  - (b) requisitioning any public record or copy thereof from any court or office;
  - (c) issuing commissions for the examination of witness or documents;
  - (d) any other matter which may be prescribed.
- (2) 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 regard 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 therefrom subject to the provisions of Section 100 of the Code of Criminal Procedure, 1973, in so far 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 purpose 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.

## **11. 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 State Government.

- (2) For the purpose of investigating into any matter pertaining to the inquiry, any officer or agency whose services are utilized under subsection (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 documents; and
  - (c) requisition any public record or copy thereof from any office.
- (3) The provisions of section 12 shall apply in relation to any statement made by a person before any officer or agency whose services are utilized under subsection (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 subsection (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 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 subsection (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.

## **12. Statement made by persons to the Commission**

No statement made by a person in the course of giving evidence before the Commission shall subject him/her to, or be used against him/her 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/she is required by the Commission to answer; or
- (b) is relevant to the subject matter of the inquiry.

## **13. Persons likely to be prejudicially affected to be heard**

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

- (a) considers 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 IV: FINANCE, ACCOUNTS AND AUDIT**

### **14. Grants by the State Government.-**

- (1) The State Government shall after due appropriation made by State Legislatures by law in this regard, pay to the Commission by way of grants such sums of money as the State Government may think fit for being utilized for the purposes of this Act.
- (2) The Commission may spend such sums as it thinks fit for performing the functions under this Act, and such sums shall be treated as expenditure payable out of the grants referred to in sub-section (1).

### **15. Accounts and audit.-**

- (1) The Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the State Government in consultation with the State-Auditor-General.
- (2) The accounts of the Commission shall be audited by the State Auditor-General at such intervals as may be specified by him/her and any expenditure incurred in connection with such audit shall be payable by the Commission to the State Auditor-General.
- (3) The State Auditor-General and any person appointed by him in connection with the audit of the accounts of the Commission under this Act shall have the same rights and privileges and the authority in connection with such audit as the State Auditor-General generally has in connection with the audit of government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Commission.

### **16. Annual Report.-**

The Commission shall prepare, in such form and at such time, for each financial year, as may be prescribed, its annual report, giving a full account of its activities during the previous financial year and forward a copy thereof to the State Government.

### **17. Annual Report and audit report to be laid before Houses of State Legislature**

The State Government shall cause the Annual Report together with a memorandum of action taken on the recommendations contained therein and the reasons for the non-acceptance, if any, of any of such recommendations and the audit report to be laid, as soon as may be, after the reports are received, but not exceeding one year, before each House of State Legislature.

## **CHAPTER V: MISCELLANEOUS**

### **18. Chairperson, Members & staff of Commission to be public servants:-**

The Chairperson, Members and employees of the Commission shall be deemed to be public servants within the meaning of Section 21 of the Indian Penal Code.

### **19. Power to make rules**

- (1) The State Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.
- (2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:-
  - (a) salaries and allowances payable to, and the other terms and conditions of service of, the Chairperson and Members under sub-section (5) of section 4 and of officers and other employees under sub-section (2) of section 5;
  - (b) any other matter under clause (f) of sub-section (1) of section 10.
  - (c) the form in which the annual statement of accounts shall be maintained under sub-section (1) of section 15.
  - (d) The form in, and the time at, which the Annual Report shall be prepared under section 16.
  - (e) any other matter which is required 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 State Legislature, while it is in session for a total period of thirty days which may be comprised in one session 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.

### **20. Power to remove difficulties**

- (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order published in the Official Gazette, make such provisions, 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 a 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 State Legislature.