

# **SYSTEMATIC REVIEW OF LEGISLATION AND GOVERNMENT POLICIES PROCEDURES**

May 2022

## **Contents**

<b>1. Introduction.....</b>	<b>2</b>
<b>2. Identifying Legislation and Government Policies.....</b>	<b>4</b>
<b>3. Review of Legislation and Government Policies Analysis Report.....</b>	<b>5</b>
<b>4. Consultation on Recommendations contained in Report.....</b>	<b>6</b>
<b>5. Instituting Legal Proceedings.....</b>	<b>6</b>
<b>6. Publication.....</b>	<b>7</b>
<b>7. Forms.....</b>	<b>8</b>

## 1. Introduction

**1.1** The Seychelles Human Rights Commission (hereinafter “the Commission”) is established under section 3 of the *Seychelles Human Rights Commission Act* of 2018 (hereinafter “the Act”). Pursuant to section 3 (2) of the Act, *the Commission shall be a self-governing, neutral and independent body and shall not be subject to the direction or control of any person or authority.*

**1.2** The mandate of the Commission is to promote and protect human rights in Seychelles, and, to facilitate the Commission to execute this mandate, the Act provides the Commission with a broad range of powers and functions.

**1.3** Section 14 (1) (b) (v) of the Act provides that *the Commission- shall review government policies relating to human rights and may make recommendations.*

**1.4** Section 14 (3) of the Act provides that,  
  
*If the Commission is of the opinion that any proposed legislation or any written law is contrary to Chapter III of the Constitution or to norms of international human rights law which forms part of the laws of the Republic or to other relevant norms of international law, it shall immediately report that fact to the President.*

**1.5** Article 3 (a) (i) of the *Principles relating to the Status of National Institutions* (hereinafter “The Paris Principles”), adopted by the General Assembly Resolution 48/134 of 20 December 1993, provides

*A national institution shall, inter alia, have the following responsibilities:*

(a) *To submit to the Government, Parliament and any other competent body, on an advisory basis either at the request of the authorities concerned or through the exercise of its power to hear a matter without higher referral, opinions, recommendations, proposals and reports on any*

*matters concerning the promotion and protection of human rights; the national institution may decide to publicize them; these opinions, recommendations, proposals and reports, as well as any prerogative of the national institution, shall relate to the following areas:*

*(i) Any legislative or administrative provisions, as well as provisions relating to judicial organizations, intended to preserve and extend the protection of human rights; in that connection, the national institution shall examine the legislation and administrative provisions in force, as well as bills and proposals, and shall make such recommendations as it deems appropriate in order to ensure that these provisions conform to the fundamental principles of human rights; it shall, if necessary, recommend the adoption of new legislation, the amendment of legislation in force and the adoption or amendment of administrative measures.*

**1.6** As such, it is essential to recognise that the Commission has a critical role to play within the governmental structure relating to the institutionalisation of human rights within the governance mechanisms of the Government and the reinforcement of the Rule of Law.

**1.7** As such, given the above, the Government has an obligation to afford the Commission's opinions and recommendations with the utmost respect and give them serious consideration within its decision-making process.

**1.8** The Commission's Procedures for reviewing legislation and Government policies are, therefore, critical for providing well-founded opinions and recommendations in the most effective and efficient way possible.

**1.9** Thus, these Procedures aim to guide all persons as to how the Commission undertakes its review of legislation and Government policies, and makes its opinions and recommendations.

**1.10** The Commission is continually reviewing these Procedures to be as effective and efficient as possible. As such, the Commission, from time to time, may amend these Procedures where necessary.

**1.11** These Procedures shall be read with the Act, supported by internal standard operating procedures and staff directives.

**1.12** For the avoidance of any doubt, any action under these Procedures that may be performed physically may also be performed electronically.

**1.13** There may be times in certain circumstances when the Commission may need to deviate from these Procedures. Where such deviation is necessary, the Commission shall provide written reasons.

## **2. Identifying Legislation and Government Policies**

**2.1** The Commission identifies legislation and Government policies to review by analysing systemic patterns that may suggest human rights issues in the following ways:

- (a) Complaints lodged at the Commission;
- (b) During the Commission's monitoring programmes;
- (c) During the Commission's education programmes;
- (d) During the Commission's consultations with Government;
- (e) During the Commission's consultations with civil society and the public;
- (f) Analysing the media, including television, radio, print and social media;
- (g) Any other areas that may become apparent to the Commission in the daily lives of Commissioners or staff members.

**2.2** Once the Commission identifies the legislation and government policies that may imply a human rights issue, as well as the government body responsible for either, the Commission shall identify the human rights concern and the appropriate international and domestic standards concerning those human rights.

**2.3** The Commission may, where it sees it necessary, request further information from the responsible government body, which may involve the Commission interviewing government officials, accessing documents or conducting site visits to government facilities where the Commission may observe and collect said information, including through digital means, to enable it to analyse the human rights issue.

### **3. Review of Legislation and Government Policies Analysis Report**

**3.1** To facilitate the Commission to make any necessary recommendations in respect to any identified human rights concerns, the Commission may prepare a Review of Legislation and Government Policies Analysis Report (hereinafter “the Report”).

**3.2** The Report shall contain the following (see Form 1 in the Annex):

- (a)** The Mandate of the Commission;
- (b)** The Human Rights Issue;
- (c)** The Relevant Human Rights Standard;
- (d)** Analysis; and
- (e)** Conclusion and Recommendations.

**3.3** Once the Commission has executed the Report, the Commission shall make any opinion or recommendation in respect of an identified human rights concern known to the responsible government body and may publish the same on its website.

**3.4** The responsible government body shall, unless directed otherwise in the interest of preventing any further or likely human rights violations, within sixty (60) days after being made aware of any opinion or recommendation, respond in writing to the Commission, indicating whether the responsible government body agrees with the Report and, thus, intends to take any steps to give effect to any such opinion or recommendation, if any such step is proposed.

#### **4. Consultation on Recommendations contained in Report**

**4.1** Should the responsible government body agree with the Commission's opinion and recommendations, as contained in the Report, the responsible government body shall consult with the Commission to determine the most appropriate manner possible, founded on a Human Rights Based Approach, through which to bring effect to any such opinion or recommendation.

- The responsible government body is invited to use Form 2 in the Annex as a template for issuing its response to the Commission.

#### **5. Instituting Legal Proceedings**

**5.1** Should the responsible government body not agree with the Report, it shall provide full reasons as to why they disagree, including any supporting documents, within the time frame stipulated by the Commission, but in any event, not more than sixty (60) days after receiving notice of the Report, as per section 19 (4) of the Act.

**5.2** Should the Commission receive a response from the responsible government body, the Commission may maintain its opinion and recommendations in the Report and may seek enforcement of the same through a competent court, as per section 14 (4) (b) of the Act, by sending to the responsible government body a Final Position after Response. The Final Position after Response shall include the following (see Form 3 in the Annex):

- (a) The Response;
- (b) The Position of the Commission;
- (c) Conclusion, including option for further discussion before seeking enforcement before a competent court.

**5.3** Should the responsible government body fail to respond within the time frame stipulated by the Commission, given that the responsible government body is statutorily required to respond, as per section 19 (4) of the Act, the Commission will interpret a non-response from the responsible government body as a tacit acceptance of its opinion or recommendations, and seek enforcement of the same through a competent court,

as per section 14 (4) (b) of the Act. Should the Commission seek enforcement through a competent court under this subsection, it shall notify the responsible government body accordingly.

## **6. Publication**

**6.1** Notwithstanding anything detailed in these Procedures, the Commission shall, where the Commission deems that it is in the public interest to do so, publish on the website of the Commission any Report, Response from the responsible government body, Final Position after Response, and any other relevant document or information relating to these Procedures.

## 7. Annex – Forms

### a) Form 1

Dreamgate Complex, Ile Du Port  
P.O. Box 1423, Victoria, Mahe  
Republic of Seychelles



Tel: 248 4 303 220

Email: [info@seychelleshumanrights.com](mailto:info@seychelleshumanrights.com)

[www.seychelleshumanrightscommission.com](http://www.seychelleshumanrightscommission.com)

## Seychelles Human Rights Commission

### Review of Legislation and Government Policies Analysis Report

Subject:

Reference Number:

Responsible Government Body:

Date:

- 1. The Mandate of the Commission;**
- 2. The Human Rights Issue;**
- 3. The Relevant Human Rights Standard;**
- 4. Analysis;**
- 5. Conclusion and Recommendations.**

**For Seychelles Human Rights Commission**

---

**Justice Bernardin Renaud (Retired)**  
**Chairperson of the Seychelles Human Rights Commission**



**b) Form 2**

*(Letterhead of the Responsible Government Body)*

**Review of Legislation and Government Policies Response to the Initial  
Request of the Seychelles Human Rights Commission**

Subject:

Reference Number:

Responsible Government Body:

Date:

Should the responsible government body **agree** with the Report:

- Detail that the responsible government body agrees with Report and how it wishes to consult with the Commission in respect of the same.

Should the responsible government body **disagree** with the Report:

- Detail that the responsible government body disagrees with the Report and provide full reasons as to why they disagree, including any supporting documents.

Designated signatory of Responsible Government Body

**c) Form 3**

Dreamgate Complex, Ile Du Port  
P.O. Box 1423, Victoria, Mahe  
Republic of Seychelles



Tel: 248 4 303 220

Email: [info@seychelleshumanrights.com](mailto:info@seychelleshumanrights.com)

[www.seychelleshumanrightscommission.com](http://www.seychelleshumanrightscommission.com)

---

**Seychelles Human Rights Commission**

**Final Position after Response**

Subject:

Reference Number:

Responsible Government Body:

Date:

- 1. The Response;**
- 2. The Position of the Commission;**
- 3. Conclusion, including option for further discussion before seeking enforcement before a competent court.**

**For Seychelles Human Rights Commission**

---

**Justice Bernardin Renaud (Retired)**

**Chairperson of the Seychelles Human Rights Commission**



**Seychelles Human Rights Commission**  
**SYSTEMIC REVIEW OF LEGISLATION AND**  
**GOVERNMENT POLICIES PROCEDURES**

Title of Document	Systemic Review of Legislation and Government Policies Procedures
Reference No.	SHRC/Procedure/SRLGPP/1/2022
Effective Date	May 2022
Approved by	The Chief Executive Officer, Mr. Elvis Julie
Signature	