

**Right to Information Commission of Sri Lanka Rules, published in Gazette.....2017**

**Rules (2017)**

The Right to Information Commission in the exercise of its powers under Section 42 of the Right to Information Act No.12 of 2016 (“The Act”) prescribes the following Rules for the purposes of holding Inquiries and matters connected therewith or incidental thereto.

1. **Short Title and Commencement:** (1) These Rules may be called “Right to Information Rules of 2017 (Inquiry Procedure)”.
2. These Rules shall come into force on ....., 2017.
3. **Definitions:** Unless the subject or context otherwise requires, in these Rules-
  - a. “Act” means Right to Information Act No.12 of 2016.
  - b. “Citizen” “Commission”, “Information Officer”, Designated Officer”, and “Public Authority” will have the same meaning as defined in the Act.
  - c. “Confidential Information Annex” means an annex attached to an Inquiry Report containing information covered under Section 5 of the Act and provided at an Inquiry held in terms of these Rules.
  - d. “Notice of Inquiry” shall mean the notice issued by the Commission for the commencement of an Inquiry under the Act.
  - e. “Order” means the final decision made by the Commission in respect of the Inquiry held under the Act.
  - f. “Party” or “Person” shall include a citizen or a Public Authority as defined in the Act.
  - g. “Regulations” means Regulations made and gazetted by the Ministry of Mass Media in accordance with Section 41 of the Act.
  - h. all other words or expressions used herein and not defined in these Rules shall have the same meanings assigned to them in the Act.

**Inquiry Procedure**

4. The Commission may conduct such inquiries that, in the opinion of the Commission, are relevant, part of, necessary, or incidental to the performance of the duties and the functions of the Commission and/or to the achievement of the objects of the Act in accordance with the following rules of procedure.
5. The Commission may specify if a particular inquiry may be conducted in the form of a

Public Hearing as provided for in Rule 16.

6. In conducting inquiries under Rule 4 above the Commission may adopt proceedings that may have been conducted by other public or judicial authorities, as the Commission deems fit.
7. **Service of Notice:** Rules regarding Service of Notice in Appeal Rules 18, 19 and 20 shall apply *mutatis mutandis* in respect of Inquiries.
8. **Notice of Inquiry:**
  - a. An inquiry may be initiated by the Commission by issuance of a **Notice of Inquiry**. The Notice shall be in the manner prescribed in Annexure 1 and shall specify;
    - i. the scope and purpose of the inquiry, time within which the inquiry should be concluded;
    - ii. the persons in respect of which or against whom the inquiry is being conducted;
    - iii. the persons who should mandatorily be called for or examined for the purposes of the inquiry.
  - b. The Commission shall serve notice of inquiry on the persons against whom or in respect of whom the inquiry is being conducted and it shall be the duty of such persons to receive such notice with due acknowledgement;
  - c. The Commission may, before the commencement of the inquiry, require the citizen/Public Authority or in respect of whom the inquiry is proceeding (hereinafter called the Party) to supply such information or documents relevant to the scope of the inquiry.
  - d. Notwithstanding the above, the Commission may at any time amend, expand, or restrict the scope, and/or add or delete the persons who should be called for or examined for the purpose of the inquiry.
  - e. The Commission shall ensure that the Notice of Inquiry is communicated specifically in a manner and form prescribed in terms of Rule 8.a
9. **Commencement of the Inquiry:** The requirements and timeframes mentioned in the Rules on In - person hearings (Rule 20 of the Rules on Fees and Appeal Procedure) shall be followed *mutatis mutandis* with regard to the commencement of the Inquiry.

**10. Conduct of the Inquiry:**

- a. The inquiry shall be conducted before the Commission
- b. The Commission shall at its discretion conduct the Inquiry based on documents, or in-person hearings, or both.
- c. The inquiry shall be conducted in Sinhala, Tamil or English as decided by the Commission
- d. The person testifying at an Inquiry may where such person wishes to provide testimony in a language other than the language specified by the Commission shall inform the Commission, not less than one week from the proposed date of inquiry, of such person's preferred choice of language and thereupon the Commission shall endeavour to make arrangements for the provision of testimony by such person, in the language of choice. The language of choice, for purposes of this rule, applicable to citizens and Public Authorities shall be Sinhala, Tamil, and English.

**11. Requiring Appearance and Submission of Documents:**

- a. All notices for the production of any information or presence of any person at an Inquiry shall be sent under the hand of the Commission addressed to such person(s) or to the Chief Executive officer or Head of Department of the relevant a citizen.
- b. The Notice shall be issued in exercise of the Commission's powers under Section 15 of the Act and shall state that the failure to comply with such Notice shall constitute an offence under Section 39 of the Act.
- c. Any person to whom a Notice is sent under this Rule, may inform the Commission if the production of any information in the possession of such person or any testimony to be given at the Inquiry should be examined by the Commission in confidence in terms of Section 15(b) of the Act.
- d. Where in the course of an inquiry, the Commission is of the view that the proceedings thereof relates to any person who is not a Party to the proceedings, the Commission may notice such person to participate in the inquiry in a manner as decided by the Commission. The Commission shall inform such person the basis on which such person is being issued notice.

- e. Notwithstanding anything contained in the foregoing sub-Rules of this Rule, any person who is of the opinion that the Inquiry or its proceedings may lead to a result, which may be detrimental to the interests of such person, may make a written submission with supporting documents to the Commission. Upon consideration of such submission the Commission may at its discretion, allow such person a hearing during the inquiry.

**12. Method of Examining and Obtaining Information:** The Commission shall conduct an Inquiry under the Act in open or closed (in camera) proceedings at its discretion, having regard to the need to protect information which is exempt by virtue of Section 5 of the Act and any other relevant confidentiality interests.

**13. Representation:**

- a. The rules on Representation as provided for in the Rules on Fees and Appeals Procedure in relation to In- person hearings (Rules 21, 22, and 23) shall apply *mutatis mutandis*.
- b. No statement made by a person in the course of giving evidence under oath 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 is-
  - i. made in reply to the question which he is required by the Commission to answer; or
  - ii. relevant to the subject matter of the inquiry

**14. Production of Documents:**

- a. The Commission may admit any document provided the Commission is of the opinion that such document, *prima facie*, appears to be authentic.
- b. In the course of an Inquiry, if the existence, authenticity or validity of a document is in issue, the Commission may, at its sole discretion require the author, receiver or any person, or Public Authority who would have in the normal course possessed or perused such document, to appear before the Commission and provide testimony on the existence or authenticity or validity of such document as the case may be.

**15. Orders and Determinations of the Commission:**

- a. The Commission shall complete the Inquiry expeditiously.

- b. The Commission may, within **one month** of the completion of the inquiry proceeding, issue such Orders or Determinations thereof.
- c. Appeal rules 27 (2), 27 (3) and 27 (4) of the Rules on Fees and Appeal Procedure shall apply *mutatis mutandis* to the Orders and Determinations of the Commission in an inquiry.
- d. The Orders or Determinations of the Commission may be made available publicly provided that in exceptional cases certain information may be redacted from the decision to protect information which is exempt by virtue of Section 5 of the Act. The Commission shall state the relevant Section of the Act under which such information is redacted and the justification for the said redaction.
- e. The Commission, in addition to the Orders or Determinations made in terms of the foregoing Rule, may issue an “**Inquiry Report**”, the format of which may be decided by the Commission.
- f. The Inquiry Report shall contain such relevant information, basis for any recommendations if made, and the suggested manner and method of implementing such recommendations.
- g. Any information exempted by virtue of Section 5 of the Act and provided confidentially by either Party at the Inquiry, may be included in the Report in the form of an Annex to the Report titled “**Confidential Information Annex**”, if in the opinion of the Commission such inclusion is necessary.
- h. The Inquiry Report shall be published. If the Report contains a Confidential Information Annex, such Annex shall not be publicly disclosed but the existence of such an Annex shall be made known together with the details of the provider of the information as contained in the Confidential Information Annex and the Commission’s justification as to why the specific information is exempted by virtue of Section 5 of the Act.

## **16. Public Hearings:**

- a. If the Commission is of the view that the matter under inquiry is of such public importance, the Commission may hold a Public Hearing in its discretion for which purpose the Notice of Inquiry issued under Rule 8.b shall read as “Notice of Inquiry – Public Hearing”(in the manner prescribed in Annexure 2).

- b. The Commission shall specify in the Notice, the following;
  - i. The date on which the Inquiry will commence, which may be not less than 14 days after the publication of the Notice,
  - ii. The period during which the Commission may receive public representations,
  - iii. The manner and form in which the public may send their representations, and;
  - iv. The place or places where the Commission may receive public representations.
- c. The Commission shall cause to be published, on its website and in at least one national level daily in each language, the Notice in all three languages calculated to give notice of such Inquiry to the general public including the specifications made by the Commission in terms of the above sub-Rule.
- d. The Public Hearing proceedings shall be open for any member of the Public to attend. However, the Commission may specify the number, category or type of persons making representations before the Commission who will be recognized and the basis of their selection, having regard to the availability of facilities at the place of the hearing.
- e. If during a Public Hearing any specific adverse representation or testimony is provided against any person, or Public Authority; such person, or Public Authority may either by himself/ herself or through an authorized representative produce such documentation, or make such representations as necessary for the consideration by the Commission.
- f. Any person or Public Authority may inform the Commission if the production of any information in the possession of such person or any testimony to be given at the Public Hearing should be examined by the Commission in confidence in terms of Section 15(b) of the Act.
- g. Provisions of Rule 15above shall apply for Reports of Public Hearings.

**17. Adjournment:**

- a. The Commission may, of its own motion or upon the application of any Party to the inquiry, and for reasons recorded in writing adjourn the proceedings before the conclusion of the inquiry and set such other time or date for continuation where the

Commission is of the opinion that such adjournment is necessary to meet the ends of justice.

- b. The Commission may grant such adjournment upon such terms as deemed fit by the Commission. The Commission's decision to adjourn shall be in writing and shall be sent to all Parties no later than one week after the decision.
  - c. In instances where the Party to the inquiry due to any reason fails to appear at the inquiry on the inquiry date, the Commission may decide to continue with the inquiry on that day or adjourn the proceedings. Any decision by the Commission in this instance shall be recorded in writing and be sent to all Parties not later than one week after the decision.
18. **Proceedings:** A record shall be kept of Inquiry proceedings by the Commission and such Party or person referred to in Rules 13 and 16 who has appeared in the proceedings shall be entitled in terms of the Act to inspect the original or a copy thereof except such proceedings that may have been held *in camera* or such information that may be redacted from the decision to protect information which is exempt by virtue of Section 5 of the Act.
19. **Preservation of Affidavits and Other Documentation:** The provisions relating to the preservation of documentation as provided for in the Rules on Fees and Appeals Procedure (Rule 29) shall apply *mutatis mutandis*.

## Annexure 1

### Notice of Inquiry

#### Under the Right to Information Act, No. 12 of 2016

**To:**

**Address:**

**You are hereby given Notice of the Inquiry to be held by the Right to Information Commission by virtue of its powers under Section 15 of the Right to Information Act, No. 12 of 2016 read with the Inquiry Rules made thereunder.**

**You are hereby required to be present at the Inquiry as per the details below and to give testimony and produce such information and documentation as relevant to the Inquiry.**

**You are further specifically required to produce the following information which the Commission has reason to believe are under your possession or custody.**

**You are summoned before the Commission in terms of Sections 15 of the Act and your failure to comply with the requests made under this Notice constitutes an offence under Section 39 of the Act.**

<p><b>Arising from Appeal Number:</b> <b>Parties to the Appeal:</b> <b>Public Authority/Person/s Concerned:</b> <b>Address of Public Authority/Person/s Concerned:</b> <b>Language of Inquiry proceedings:</b></p>
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**Background:**

**Scope of Inquiry:**

**Purpose of Inquiry:**

**Records at issue:**

**Burden of Proof:**

**Time period in which Inquiry is expected to finish:**

**Issues**

You are required to respond to the following issues:

Issue A:

Issue B:

Issue C:

Please submit your written Submissions (and additional documentation) to the Right to Information Commission by the .....of .....

Please attach a list of Documents to be relied upon by you at the Inquiry.

Please indicate if you would like any of your responses or documentation provided to be kept confidential and reasons for such request.

Please indicate if you wish the inquiry proceeding to be heard in any other language than the one mentioned in this notice. If so, you may send a request stating same to the Commission to reach one week before the commencement of the inquiry proceeding.

The Inquiry Hearing will be held on the ..... of .....at .....

.....  
For and on behalf of the  
Right to Information Commission

Date:

**Annexure 2**

**Notice of Inquiry – Public Hearing**  
**Under the Right to Information Act, No. 12 of 2016**

**The Public is hereby given Notice of the Inquiry to be held by the Right to Information Commission by virtue of its powers under Section 15 of the Right to Information Act, No. 12 of 2016 read with the Inquiry Rules made thereunder.**

**The Public may therefore give testimony and produce such information and documentation as relevant to the Inquiry.**

**Date & Place of Inquiry (Public Hearing):**

**Reason for Public Hearing:**

**Period in which Public Representations will be received:**

**Manner & Form of Public Representations to be made:**

**Parties to the Inquiry (Public Hearing):**

**Language of Inquiry (Public Hearing):**

**Background:**

**Scope of Inquiry:**

**Purpose of Inquiry:**

**Records at issue:**

**Burden of Proof:**

**Time period in which Inquiry is expected to finish:**

**Issues**

You are required to respond to the following issues:

Issue A:

Issue B:

Issue C:

Please submit your written Submissions (and additional documentation) to the Right to Information Commission by the .....of .....

Please attach a list of Documents to be relied upon by you at the Inquiry.

Please indicate if you would like any of your responses or documentation provided to be kept confidential and reasons for such request.

Please indicate if you wish the inquiry proceeding to be heard in any other language than the one mentioned in this notice. If so, you may send a request stating same to the Commission to reach one week before the commencement of the inquiry proceeding.

.....  
For and on behalf of the  
Right to Information Commission

Date: