

CHAPTER 5

COMMISSIONS OF INQUIRY

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CHAPTER 5

COMMISSIONS OF INQUIRY

AN ACT TO AMEND AND CONSOLIDATE THE LAW RELATING TO COMMISSIONS OF INQUIRY

5 of 1969
LN 46A of 1978
LN 88 of 1978

[30th June 1969]

1. This Act may be cited as the Commissions of Inquiry Act.

Short title

2. In this Act unless the context otherwise requires-

Interpretation

"commission" means a commission of inquiry issued under this Act;

"commissioner" means a commissioner appointed under section 3;

"commissioners" where only one commissioner is appointed, means the commissioner;

"inquiry" means an inquiry held under this Act.

3.-(1) It shall be lawful for the Prime Minister whenever he shall deem it advisable, to issue a commission appointing one or more commissioners, and authorising such commissioners, or any quorum of them therein mentioned, to inquire into any matter in which an inquiry would, in the opinion of the Prime Minister, be for the public welfare.

Issue of commissions of inquiry
LN 46A of 1978

(2) Each such commission shall specify the subject of inquiry, and may, if there is more than one commissioner, direct which commissioner shall be chairman, and direct where and when such inquiry shall be made, and the report thereof rendered, and prescribe how such commission shall be executed, and may direct whether the inquiry shall or shall not be held in public.

(3) In the absence of a direction to the contrary, the inquiry shall be held in public, but the commissioners shall nevertheless be entitled to exclude any particular person or persons for the preservation of order, for the due conduct of the inquiry or for any other reason.

4.-(1) The Prime Minister may, at any time, if he considers it advisable so to do, revoke, or issue a commission amending a commission previously issued and, without prejudice to the generality of the foregoing power, may by any such amending commission appoint an additional commissioner or commissioners, vary the designation of the chairman of the commissioners, or appoint a new commissioner in the place of any commissioner who is or becomes unable or unwilling to act or dies or is, in the opinion of the Prime Minister, for any reason unsuitable to continue to serve as a commissioner.

Power to appoint new commissioner and to revoke or amend commission
LN 46A of 1978

(2) Where the Prime Minister issues an amending commission under subsection (1), it shall not be necessary, unless in the amending commission the Prime Minister otherwise directs, for the inquiry to be begun afresh, and any proceedings which have taken place under or in pursuance of the commission before such amendment shall be deemed, for all the purposes of this Act, to be part of the proceedings taking place under or in pursuance of the commission as so amended.

5. No commission shall lapse by reason of, or be otherwise affected by, the death, absence or removal of the Prime Minister who has issued the same.

Commissions not
affected by change of
Prime Minister
LN 46A of 1978

6. It shall be the duty of each commissioner appointed under this Act to make and subscribe an oath or affirmation in Form 1 in the Schedule hereto, which oath or affirmation may be taken before the Prime Minister, or before such person as the Prime Minister acting in his discretion may appoint, and shall be deposited by the commissioner with the Secretary to the Cabinet.

Commissioner's oath of
office
LN 46A of 1978
Schedule
Form 1

7. The Prime Minister may appoint a secretary to attend the sittings of the commissioners, to record their proceedings and keep their papers, to summon witnesses and minute their testimony, and generally to perform such duties connected with an inquiry as the commissioners may require.

Secretary of commission
LN 46A of 1978

8.-(1) It shall be the duty of the commissioners, after making and subscribing the oath or affirmation under section 6, to make a full, faithful and impartial inquiry into the matter into which they are commissioned to inquire, and to conduct such inquiry in accordance with the directions, if any, in the commission, and in due course to report to the Prime Minister in writing the result of such inquiry and the reasons for the conclusions arrived at; and also, if so required by the Prime Minister, to furnish the Prime Minister with a full record of the proceedings of such commission.

Duties of commissioners

(2) The commissioners may in their discretion, and shall if so directed by the commission, include in their report recommendations as to any matter into which they are commissioned to inquire or any matter arising out of or connected with the inquiry.

9. If in any case the commissioners are divided on any question that arises during the proceedings of or in relation to their inquiry, the divergent views of the commissioners and the reasons therefor shall be recorded in the proceedings of the inquiry; and in the event of an equal division on any question requiring to be decided by the commissioners collectively, the chairman of the commissioners shall have a second or casting vote:

Division of opinion of
commissioners
LN 46A of 1978

Provided that nothing in this section shall be construed as preventing any commissioner from submitting to the Prime Minister a minority report on any matter in regard to which he dissents from the views or conclusions of all or any of his fellow commissioners.

10. The commissioners may make such rules, not inconsistent with the provisions of this Act and the terms of the commission, for the conduct and management of the proceedings of the inquiry, and for specifying the hours and times and places for sittings, as they may from time to time think fit, and may from time to time adjourn for such time and to such place as they may think fit, subject to such provisions as aforesaid and to the terms of the commission.

Commissioners' powers to regulate proceedings

11.-(1) Commissioners acting under this Act shall have the powers of the High Court to summons witnesses, and to call for the production of books, plans and documents, and to examine witnesses and parties concerned on oath.

Power to summons and examine witnesses

(2) Where the commissioners consider it desirable for the purpose of avoiding expense or delay or for any other special reason they may receive evidence by affidavit or administer interrogatories and require the person to whom the interrogatories are administered to make a full and true reply to such interrogatories.

(3) Summonses for attendance of witnesses, or other persons, or the production of documents, may be in Form 2 in the Schedule hereto, and shall be signed by one of the commissioners or by their secretary, and oaths and affirmations may be administered by one of the commissioners or by their secretary.

Schedule Form 2

(4) No person giving evidence in the proceedings of an inquiry shall be compellable to incriminate himself, and every person shall, in respect of any evidence given by him in any such proceedings, be entitled to all the privileges and immunities to which a witness giving evidence before the High Court is entitled in respect of evidence given by him before that Court.

12.-(1) Commissioners shall not be entitled to any remuneration, unless sanctioned by the Prime Minister, beyond the actual expenses incurred in holding the inquiry, but the Prime Minister may direct what remuneration, if any, shall be paid to the secretary and to any other person employed in or about a commission, and may direct payment of any other expenses attendant upon carrying out a commission.

Remuneration of commissioners and secretary and expenses of inquiry and witnesses
LN 46A of 1978
LN 88 of 1978

(2) All persons summonsed to attend and give evidence, or to produce books, plans or documents, at any sitting of the commissioners, shall be entitled to the same expenses as they would have been entitled to if they had been summonsed to attend at the High Court in a criminal trial and, subject to any regulations made under section 19, payment thereof shall be made in such manner as the Prime Minister may direct:

Provided that the commissioners may disallow the whole or any part of such expenses in any case if they think fit to do so in the circumstances of the case.

(3) Sums of money so directed to be paid as aforesaid shall be paid out of the Consolidated Fund.

13. Save in so far as the commissioners consider it essential for ascertaining the truth of the matter into which they are commissioned to inquire and record their reasons for so considering-

Protection of reputation and character

(a) evidence adversely affecting the reputation of any person, or tending to reflect in any way upon the character or conduct of any person, shall not be received unless the commissioners are satisfied it is relevant to the inquiry, and that all reasonable efforts have been made to give such person prior warning of the general nature of the evidence, and that, where no such warning has been given, the general nature of the evidence has been communicated to such person;

(b) such person shall be given such opportunity as is reasonable and practicable to appear in person or to be represented by counsel or solicitor, or, with the leave of the commissioners, by any other person, at the hearing of such evidence, to cross-examine any witness testifying thereto and to adduce without unreasonable delay material evidence in his behalf in refutation of or otherwise in relation to such evidence;

(c) hearsay evidence which adversely affects the reputation of any person, or tends to reflect in any way upon the character or conduct of any person, shall not be received;

(d) no expression of opinion shall be received in evidence of the character, conduct or motives of any person.

14. Any person whose conduct is the subject of inquiry under this Act, or who is in any way implicated or concerned in any matter under inquiry, shall be entitled to appear in person and to be represented by counsel or solicitor, or, with the leave of the commissioners, by any other person, in the proceedings of the inquiry or any part thereof, and any other person who desires to appear or be so represented may, by leave of the commissioners, appear or be so represented.

Right of appearance and representation

15. (1) A commissioner, and the secretary to any commissioner, shall not be liable to any civil action or suit for or in respect of any matter or thing done or omitted to be done by him in good faith as such commissioner or secretary, as the case may be, and, without prejudice to the generality of the foregoing, a commissioner shall have the like protection as that enjoyed by Magistrates under section 70 of the

Protection of commissioners and secretary

Magistrates' Courts Act.

Cap. 20

(2) No commissioner shall be liable to arrest under civil process while going to, presiding in or returning from the place where an inquiry under this Act is being held by him.

16. No person shall be liable to any action, suit, indictment or proceedings by reason of his publishing a true account of any evidence taken in public in pursuance of the powers conferred by this Act or of any report of the commissioners made public by the authority of the Prime Minister.

Protection of publication
of evidence
LN 46A of 1978

17. The Prime Minister may direct the Commissioner of Police to detail police officers to attend upon commissioners to preserve order during the proceedings of the inquiry, to serve summonses on witnesses and to perform such administrative duties as the commissioners may direct.

Police officers may be
detailed to attend
commissioners
LN 46A of 1978

18. Every commission, and every revocation of a commission, shall be deemed to be subsidiary legislation for the purpose of section 55 of the Interpretation and General Provisions Act (which relates to the publication and commencement of subsidiary legislation).

Publication of
commissions
Cap. 85

19. The Prime Minister may make regulations for the better carrying out of the provisions and purposes of this Act.

Regulations
LN 46A of 1978

SCHEDULE

FORM 1
(Section 6)

Form of Oath or Affirmation to be taken by a Commissioner.

I, _____, having been appointed under a Commission issued by the Prime Minister and dated the day of _____ 19____, to be a commissioner to inquire into the matters specified in the said Commission, do swear [or do solemnly and sincerely affirm] that I will faithfully, fully, impartially, and to the best of my ability discharge the trust, and perform the duties devolving upon me by virtue of the said Commission.

[In the case of an oath, here add]

So help me God.

Commissioner

FORM 2
(Section 11 (3))

SUMMONS TO A WITNESS.

To A.B. [name of person summonsed and his calling and residence if known]

You are hereby summonsed to appear before [here name the commissioners] appointed by the Prime Minister to inquire [state briefly the subject of the inquiry] at on the day of 19 , at of the clock in the noon and to give evidence respecting the said inquiry [if the person summonsed is to produce any documents, add]

And you are required to bring with you [specify books and documents required].

Therefore fail not at your peril.

Given under the hand of , a commissioner [or secretary] this day of 19 .

(No Subsidiary Legislation)