



BERMUDA

COMMISSIONS OF INQUIRY ACT 1935

1935 : 25

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[preamble and words of enactment omitted]

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Governor may appoint commissioners of inquiry into matters of public nature

1 (1) The Governor may, whenever he considers it advisable, issue a commission appointing one or more commissioners and authorizing them, or any quorum of them therein mentioned, to inquire into the conduct of any civil servant, the conduct or management of any department of the public service or into any matter in which an inquiry would in the opinion of the Governor be for the public welfare.

(2) Each such commission shall specify the subject of inquiry, and may, in the discretion of the Governor, 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 person or persons for the preservation of order, for the due conduct of the inquiry, or for any other reason.

Premier may appoint commissioners of inquiry

1A (1) The Premier shall, in addition to the Governor, have the authority to issue commissions of inquiry under this Act.

(2) When the Premier acts under subsection (1), sections 1 to 6 and 11, and the First and Second Schedules, shall be read with "Premier" in place of "Governor", and the rest of those provisions shall be construed accordingly.

[Section 1A inserted by 2015 : 4 s. 2 effective 17 March 2015]

Governor may appoint fresh commissioners; alter or revoke commission

2 In case any commissioner is or becomes unable or unwilling to act, or dies, then the Governor may appoint another commissioner in his place; and any commission issued under this Act may be altered as the Governor may consider desirable by any subsequent commission by the Governor, or may be revoked by a notification to that effect published in the Gazette.

Commissions not affected by change of Governor

3 No commission issued under this Act shall lapse by reason of, or be otherwise affected by, the death, absence, or removal of the Governor issuing the commission.

Oath of commissioner

4 Each commissioner appointed under this Act shall make and subscribe an oath in the form of the First Schedule, which oath may be taken before the Governor, or before such person as the Governor may appoint, and shall be deposited by the commissioner with the Secretary to the Cabinet.

Clerk

5 The Governor may appoint a clerk to attend the sittings of the commission to record their proceedings, to keep their papers, summons and minute the testimony of witnesses,

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and generally to perform such duties connected with such enquiry as the commissioners may prescribe.

Duties of commissioners

6 The commissioners shall, after taking the oath, make a full faithful and impartial inquiry into the matter specified in their commission, and shall conduct such inquiry in accordance with the direction (if any) in the commission, and shall, in due course, report to the Governor, in writing, the result of such inquiry; and the commissioners shall also, when required, furnish to the Governor a full statement of the proceedings of the commission, and of the reasons leading to the conclusions arrived at or reported.

Division of opinion; casting vote

7 If the commissioners are, in any case, equally divided on any question that arises during the proceedings of the commission, then the chairman of the commission shall have a second or casting vote.

Commissioners may regulate own proceedings

8 The commissioners acting under this Act may make such rules for their own guidance and the conduct and management of proceedings before them, and the hours and times and places for their sittings, not inconsistent with their commission, 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 only to the terms of their commission.

Commissioners to have certain powers of Supreme Court

9 (1) Commissioners acting under this Act shall have the powers of the Supreme Court to summon witnesses, and to call for the production of books, plans and documents, and to examine witnesses and parties concerned on oath, and no commissioner shall be liable to any action or suit for any matter or thing done by him as such commissioner.

(2) All summonses for the attendance of witnesses or other persons, or the production of documents, may be in the form in the Second Schedule, and shall be signed by one of the commissioners, and oaths may be administered by one of the commissioners or by their clerk.

False evidence

10 Any inquiry under this Act shall be deemed to be a judicial proceeding for the purposes of sections 119 to 126 inclusive of the Criminal Code.

Witnesses to obey summons

11 (1) All persons summoned to attend and give evidence, or to produce books, plans, or documents, at any sitting of any such commission, shall be bound to obey the summons served upon them as fully in all respects as witnesses are bound to obey a summons issued from the Supreme Court, and shall be entitled to like expenses as if they had been summoned to attend at such court on a criminal trial, if such expenses are allowed by the commissioners, but the commissioners may disallow the whole or any part of such expenses if they think fit. Orders for the payment of such witnesses shall be made as nearly as may

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be as orders are made for the payment of witnesses in the Supreme Court, and shall be paid in such manner as the Governor may direct.

(2) Any person—

- (a) who refuses or omits, without sufficient cause, to attend at the time and place mentioned in the summons served on him; or
- (b) who attends, but leaves the commission without the permission of the commissioners; or
- (c) who refuses without sufficient cause to answer, or to answer fully and satisfactorily, to the best of his knowledge and belief all questions put to him by or with the concurrence of the commissioners; or
- (d) who refuses or omits without sufficient cause to produce any books, plans or documents in his possession or under his control, and mentioned or referred to in the summons served on him; or
- (e) who at any sitting of the commission wilfully insults any commissioner or the clerk or wilfully interrupts the proceedings of the commission,

commits an offence against this Act:

Punishment on summary conviction: a fine of \$2,160.

Provided that no person giving evidence before the commission shall be compellable to criminate himself, and every such person shall, in respect of any evidence given by him before the commission, be entitled to all the privileges to which a witness giving evidence before the Supreme Court is entitled in respect of evidence given by him before that court.

Appearance of counsel

12 Any person whose conduct is the subject of inquiry under this Act, or who is in any way implicated or concerned in the matter under inquiry, shall be entitled to be represented by counsel at the whole inquiry, and any other person who may consider it desirable that he should be so represented may, by leave of the commissioners, be represented in the manner aforesaid.

Attendance of police officers

13 The Governor may direct the Commissioner of Police to detail police officers to attend upon any commissioners acting under this Act, to preserve order during the proceedings of the commission, to serve summonses on witnesses, and to perform such ministerial duties as the commissioners may direct.

Fees

14 Fees shall be paid to the commissioners in accordance with the Government Authorities (Fees) Act 1971.

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Gazette publication of commissions

15 All commissions issued under this Act, and all revocations of any such commissions, shall be published in the Gazette, and shall take effect from the date of such publication.

Criminal proceedings require leave of Director of Public Prosecutions

16 Criminal proceedings in respect of a contravention of any of the foregoing provisions of this Act shall not be commenced except by direction of the Director of Public Prosecutions.

[Section 16 amended by 1999:8 s.2 & Sch 1 effective 1 April 1999]

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FIRST SCHEDULE

FORM OF OATH TO BE TAKEN BY A COMMISSIONER

I [blank] having been appointed under a commission, dated the [blank] day of [blank] 19 [blank] issued by the Governor to be a commissioner to inquire into the matter specified in the said commission, do swear by Almighty God that I will faithfully, fully and impartially, and to the best of my ability discharge the trust and perform the duties devolving upon me by virtue of the said commission.

.....
Commissioner.

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SECOND SCHEDULE
SUMMONS TO WITNESS

To A. B. (name of person summoned and his calling and residence, if known) :

You are hereby summoned to appear before the commissioners appointed by the Governor to inquire (*state briefly the subject of inquiry*) at (*place*) upon the [blank] day of [blank] 19 [blank] at [blank] o'clock, and to give evidence respecting such inquiry. (*If the person summoned is to produce any documents add*) and you are required to bring with you (*specify the books, plans and documents required*). Therefore fail not at your peril.

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

[Assent Date: 28 June 1935]

[This Act was of limited duration but was continued in force indefinitely by 1965:213.]

[Amended by:

1944 : 29
1951 : 93
1952 : 11
1968 : 299
1971 : 43
1999 : 8
2015 : 4]