

Chapter 31.
Commissions of Inquiry Act 1951.

Certified on: / /20 .

INDEPENDENT STATE OF PAPUA NEW GUINEA.



Chapter 31.

Commissions of Inquiry Act 1951.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.



AN ACT

entitled

Commissions of Inquiry Act 1951,

Being an Act to provide for Commissions of Inquiry.

1. INTERPRETATION.

In this Act, unless the contrary intention appears—

“**Commission**” means a Commission of Inquiry appointed under Section 2;

“**Commissioner**” means a member of a Commission.

2. COMMISSIONS OF INQUIRY.

(1) The Minister may, whenever he *deems* it advisable, by instrument appoint a Commission of Inquiry consisting of a Commissioner or Commissioners, authorizing him or them, or any of them, to inquire into any matter in which an inquiry would, in the opinion of the Minister, be for the public welfare.

(2) The instrument shall—

- (a) specify the subject of inquiry; and
- (b) be accompanied by a statement of the case on which the inquiry was ordered.

(3) The instrument may—

- (a) direct where and when the inquiry shall be made and the report made; and
- (b) if there are two or more Commissioners—
 - (i) appoint one of them to be the Chairman; and
 - (ii) fix a quorum for meetings of the Commission.

(4) Subject to Subsection (5), the inquiry shall be held in public but the Commission may exclude any particular person or persons for the preservation of order, the due conduct of the inquiry or for any other reason.

(5) The Commission may, with the approval of the Minister, order that all or any evidence given before it be given in private.

3. INABILITY OF COMMISSIONER TO ACT.

If a Commissioner is or becomes unable or unwilling to act, or dies, the Minister may appoint another Commissioner in his place, and any instrument under Section 2 may be altered by the Minister by a subsequent instrument, or may be revoked by the Minister by a notice in the National Gazette.

4. SECRETARY OF COMMISSION.

The Minister may appoint a secretary to perform such duties connected with an inquiry as the Commission directs including—

- (a) attending sittings of the Commission; and
- (b) recording the proceedings of the Commission; and
- (c) keeping the papers of the Commission; and
- (d) summoning witnesses and minuting their testimony.

4A. APPOINTMENT OF COUNSEL AND TECHNICAL AND PROFESSIONAL EXPERTS TO ASSIST THE COMMISSION.

¹(1) The Minister may appoint one or more counsel to assist the Commission in the performance of its duties.

(2) Where the Minister is of the opinion that the subject of an inquiry warrants it, he may appoint one or more persons with the appropriate technical or professional expertise to assist the Commission.

5. RULES OF PROCEDURE.

The Commission may make such rules, not inconsistent with the terms of the instrument of its appointment, for the conduct of proceedings before it, for the times and places of its meetings and for adjournment, as it thinks proper.

6. POWERS OF COMMISSIONER.

(1) A Commissioner may, by writing under his hand, summon any person to attend the Commission at a time and place named in the summons, and then and there to give evidence and to produce any books, documents or writings in his custody or control which he is required by the summons to produce.

¹ Section 4A inserted by No 7 of 2000.

(2) A summons to a witness shall be in the form in Schedule 1.

7. POWER TO EXAMINE ON OATH.

A Commissioner may administer an oath to a person appearing as a witness before the Commission, whether the witness has been summoned or appears without being summoned, and may examine the witness on oath.

8. APPEARANCE OF COUNSEL.

Subject to Section 2(5), a person who satisfies the Commission that he has a *bona fide* interest in the subject matter of an inquiry under this Act, and any other person by leave of the Commission, may attend the inquiry in person or may be represented by counsel.

9. PENALTY FOR FAILING TO ATTEND OR PRODUCE DOCUMENTS.

(1) A person served with a summons to attend the Commission, whether the summons is served personally or by being left at his usual place of abode, who fails, without reasonable excuse—

- (a) to attend the Commission; or
- (b) to produce any document, book or writing in his custody or control which he is required by the summons to produce,

is guilty of an offence.

Penalty: ²A fine not exceeding K5,000.00 or imprisonment for a term not exceeding two years, or both.

(2) It is a defence to a prosecution under this section for failing without reasonable excuse to produce any document, book, or writing, if the defendant proves that the document, book or writing is not relevant to the inquiry.

10. PENALTY FOR REFUSING TO BE SWORN OR TO GIVE EVIDENCE.

A person appearing as a witness before the Commission who—

- (a) refuses to be sworn; or
- (b) refuses to make an affirmation; or
- (c) refuses to answer any questions relevant to the inquiry put to him by a Commissioner; or
- (d) leaves the Commission without the permission of the Commissioners,

is guilty of an offence.

Penalty: ³A fine not exceeding K5,000.00 or imprisonment for a term not exceeding two years, or both.

² Section 9 Penalty clause amended by No 7 of 2000.

10A. GIVING FALSE EVIDENCE.

⁴A person appearing as a witness before a Commission who, having been sworn, gives false evidence, is guilty of an offence.

Penalty: Imprisonment for a term not exceeding 14 years.

11. CONTEMPT OF COMMISSION.

A person who—

- (a) wilfully insults the Commission; or
- (b) wilfully interrupts the proceedings of the Commission; or
- (c) is in any manner guilty of wilful contempt of the Commission,

is guilty of an offence.

Penalty: ⁵A fine not exceeding K5,000.00 or imprisonment for a term not exceeding two years, or both.

12. PRESERVATION OF SECRECY.

(1) The Commission may direct that any evidence given before it, or any document, book or writing produced to it, must not be published.

(2) A person who publishes or discloses to any person, without the consent of the Commission or of the Minister—

- (a) evidence given before the Commission in private; or
- (b) evidence which the Commission has directed not to be published; or
- (c) the contents of any document, book or writing which the Commission has directed not to be published,

is guilty of an offence.

Penalty: ⁶A fine not exceeding K5,000.00 or imprisonment for a term not exceeding two years, or both.

13. STATEMENTS BY WITNESS NOT ADMISSIBLE IN EVIDENCE AGAINST HIM.

A statement or disclosure made by a witness in answer to a question put to him by a Commission or by a Commissioner is not (except in proceedings for an offence against this Act) admissible in evidence against him in any civil or criminal proceedings.

³ Section 10 Penalty clause amended by No 7 of 2000.

⁴ Section 10A inserted by *Commissions of Inquiry (Amendment) Act* 1989, s1.

⁵ Section 11 Penalty clause amended by No 7 of 2000.

⁶ Section 12 Penalty clause amended by No 7 of 2000.

14. ONE COMMISSIONER MAY MAKE INQUIRIES.

(1) Where a Commission consists of more members than one, the Commission may authorize any of its members to make such inquiries into such matters relevant to the subject of the Commission's inquiry as it thinks fit.

(2) A Commissioner authorized under Subsection (1) has, for the purposes of his inquiries, all of the powers, functions and privileges of the Commission.

(3) The provisions of this Act, with any necessary modifications, apply to and in relation to a Commissioner authorized under Subsection (1), and to his inquiries, as they do to and in relation to the Commission and its inquiries, and references in this Act to the Commission include references to that Commissioner.

15. REPORT BY COMMISSION.

(1) The Commission shall make a report of its proceedings and of the results of its inquiry to the Minister, and shall record the reasons for its conclusions.

(2) A Commissioner dissenting from the conclusions, or any of them, shall give the reasons for his dissent.

16. PROTECTION OF COMMISSIONERS, ETC.

(1) A Commissioner has, in the exercise of his duty as a Commissioner, the same protection and immunity as a Judge.

(2) A witness who appears before the Commission, and any counsel appearing before the Commission, have the same protection and, in addition to the penalties provided by this Act, are subject to the same liabilities in any civil or criminal proceeding as a witness or counsel have in any case tried in the National Court.

17. TABLING COMMISSIONERS' REPORT IN PARLIAMENT.

(1) Subject to Subsection (2), the Minister shall, not later than the first day of the second meeting of the Parliament after he receives the Commissions' report under Section 15, lay the report before the Parliament.

(2) The Minister may decline to lay a report of a Commission before the Parliament if he lays before the Parliament a certificate to the effect that he considers that the tabling of the report would be contrary to the public interest.

18. REMUNERATION OF COMMISSIONERS, SECRETARY, ETC.

(1) Commissioners are not entitled to remuneration beyond the actual expenses incurred in holding the inquiry unless sanctioned by the Minister.

(2) The Minister may direct—

(a) what remuneration, if any, shall be paid to—

(i) the secretary of a Commission; and

- (ii) any other person employed in connection with the proceedings of a Commission; and
- (b) payment of any other expenses attendant on—
 - (i) carrying out a Commission; or
 - (ii) proceedings for an offence under this Act.

(3) Witnesses who attend at the request of, or on a summons by, the Commissioner are entitled, subject to any order made by the Commission, to the expenses to which they would be entitled if they were summoned to attend the National Court on a criminal trial, and payment of those expenses shall be made in such manner as the Minister directs.

(4) Sums of money directed to be paid under Subsections (1), (2) and (3) shall be paid out of the Consolidated Revenue Fund.

19. PROSECUTION OF OFFENCES.

⁷Proceedings for an offence under this Act (other than an offence under Section 11) may be commenced by the Police or by the Public Prosecutor.

⁷ Section 19 repealed and replaced by *Commissions of Inquiry (Amendment) Act 1989*, s2.

SCHEDULE 1 – SUMMONS TO A WITNESS.

Sec. 6.

To A.B. (*name of person summoned and his occupation and residence if known.*)

You are summoned to appear before (*insert names of Commissioners*) appointed by the Minister to inquire (*state briefly the subject of the inquiry*) at . . . on . . . 20... at a.m. /p.m. and to give evidence respecting that inquiry. (*If the person summoned is to produce any documents, add and you are required to bring with you (specify books and documents required).*)

Dated . . . 20...

Commissioner.

Office of Legislative Counsel, PNG