

COMMISSIONS OF INQUIRY ORDINANCE 1951.⁽¹⁾

No. 47 of 1951.

An Ordinance to provide for the issue of Commissions of Inquiry.

BE it ordained by the Administrator of the Government of the Commonwealth of Australia, with the advice of the Federal Executive Council, in pursuance of the powers conferred by the *Papua and New Guinea Act 1949-1950*, as follows:—

- Short title. **1.** This Ordinance may be cited as the *Commissions of Inquiry Ordinance 1951*.⁽¹⁾
- Commencement. **2.** This Ordinance shall come into operation on a date to be fixed by the Administrator by notice⁽¹⁾ in the *Gazette*.
- Repeal. **3.** The Ordinances specified in the First Schedule to this Ordinance are repealed.
- Definitions. **4.** In this Ordinance, unless the contrary intention appears—
 “Commission” means a commission of inquiry issued under this Ordinance;
 “Commissioner” means a member of a Commission;
 “Commissioners”, where only one Commissioner is appointed, means the Commissioner;
 “the Court” means the Supreme Court.
- Commissions of Inquiry. **5.—(1.)** The Administrator may, whenever he deems it advisable, issue a Commission appointing one or more Commissioners and authorizing them, or any of them, to inquire into any matter in which an inquiry would, in the opinion of the Administrator, be for the public welfare.
- (2.)** The Commission shall specify the subject of inquiry and shall be accompanied by a statement of the case upon which the inquiry was ordered, and may, if there are two or more Commissioners, direct which Commissioner shall be Chairman, and may also direct where and when the inquiry shall be made and the report thereof rendered, and whether the inquiry shall, or shall not, be held in public.

(1) Particulars of this Ordinance are as follows:—

Date on which made by Cwth. Administrator in Council.	Date on which notified in <i>Cwth. Gaz.</i>	Date on which took effect.
13.11.1951	13.11.1951	22.11.1951 (<i>Papua and N.G. Govt. Gaz.</i> of 22.11.1951)

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

6. If a Commissioner is or becomes unable or unwilling to act, or dies, the Administrator may appoint another Commissioner in his place, and any Commission may be altered by the Administrator, by the issue of a subsequent Commission, or may be revoked altogether by a notification to that effect published in the *Gazette*. Inability of Commissioner to act.

7. The Administrator may appoint a secretary to attend the sittings of the Commission, to record its proceedings and keep its papers, to summon witnesses and minute their testimony, and generally to perform such duties connected with an inquiry as the Commissioners direct. Secretary of Commission.

8. The Commissioners may make such rules, not inconsistent with the terms of their Commission, for the conduct of proceedings before them, for the times and places of their meetings and the adjournment thereof, as they think proper. Rules of procedure.

9.—(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. Powers of Commissioner.

(2.) A summons to a witness shall be in accordance with the form in the Second Schedule to this Ordinance.

10. 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 upon oath. Power to examine on oath.

11.—(1.) Where a witness to be examined before the Commission conscientiously objects to take an oath, he may make an affirmation that he conscientiously objects to take an oath, and that he will state the truth, the whole truth, and nothing but the truth, to all questions that may be asked him. Affirmation in lieu of oath.

(2.) An affirmation shall be of the same force and effect, and shall entail the same liabilities, as an oath.

12. A person who satisfies the Commissioners that he has a bona fide interest in the subject matter of an inquiry under this Ordinance, and any other person by leave of the Commissioners, may attend the inquiry in person or may be represented by counsel or solicitors. Appearance of counsel.

PART A : INQUIRIES—

Penalty for failing to attend or produce documents.

13.—(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 shall not fail without reasonable excuse to attend the Commission, or to produce any documents, books or writings in his custody or control which he is required by the summons to produce.

Penalty: Fifty pounds.

(2.) It shall be a defence to a prosecution under this section for failing without reasonable excuse to produce any documents, books or writings, if the defendant proves that the documents, books or writings are not relevant to the inquiry.

Penalty for refusing to be sworn or to give evidence.

14. A person appearing as a witness before the Commission who refuses to be sworn or to make an affirmation or to answer any questions relevant to the inquiry put to him by a Commissioner, or having attended leaves the Commission without the permission of the Commissioners, is guilty of an offence.

Penalty: Fifty pounds.

Contempt of Commission.

15. A person who wilfully insults the Commissioners, or wilfully interrupts the proceedings of the Commission, or is in any manner guilty of wilful contempt of the Commission, is guilty of an offence.

Penalty: Fifty pounds.

Giving false evidence.

16. A person appearing as a witness before a Commission, who wilfully gives false evidence, is guilty of perjury and liable to prosecution and punishment accordingly.

Statements by witness not admissible in evidence against him.

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

Commissioners' report.

18.—(1.) The Commissioners shall make a report of their proceedings and of the result of their inquiry to the Administrator and shall record the reasons for their conclusions.

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

Remuneration of secretary and payment of expenses of Commission and witnesses.

19.—(1.) Commissioners shall not be entitled to any remuneration, unless sanctioned by the Minister, beyond the actual expenses incurred in holding the inquiry, but the Administrator may direct what remuneration, if any, shall be paid to the secretary of a Commission and to any other person employed in connexion with the proceedings of a Commission, and may direct payment of any other expenses attendant upon carrying out a Commission, or upon any proceedings for an offence under this Ordinance.

(2.) Witnesses who attend at the request of or upon a summons by the Commissioner shall, subject to any order made by the Commissioners, be entitled to the same expenses as they would be entitled to if they were summoned to attend the Court on a criminal trial, and payment thereof shall be made in such manner as the Administrator may direct.

(3.) Sums of money directed to be paid in accordance with the provisions of the last two preceding sub-sections shall be paid out of the Public Revenue of the Territory.

20. No proceedings shall be commenced for an offence under this Ordinance except by the direction of the Commissioners, who may direct their secretary, or such other person as they think proper, to commence and prosecute proceedings therefor. Proceedings
for offences.

THE SCHEDULES.

FIRST SCHEDULE.

Section 3.

ORDINANCE OF THE TERRITORY OF NEW GUINEA.

Commissions of Inquiry Ordinance 1927.⁽²⁾

ORDINANCE OF THE TERRITORY OF PAPUA-NEW GUINEA.

Commissions of Inquiry (Papua) Ordinance 1948.⁽³⁾

SECOND SCHEDULE.

Section 9.

SUMMONS TO A WITNESS.

To A.B. [*Name of person summoned and his occupation and residence if known*].

You are hereby summoned to appear before [*Here insert names of Commissioners*] appointed by the Administrator 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 summoned is to produce any documents, *add*] and you are required to bring with you [*Specify books and documents required*].

Given under the hand of _____, a Commissioner, this _____ day of _____ 19____.

(2) Printed in *The Laws of the Territory of New Guinea 1921-1945 (Annotated)*, Vol. III., on pp. 2509-2512.

(3) Printed in *The Laws of the Territory of Papua-New Guinea 1945-1949 (Annotated)*, on p. 162.