

REPRINT

COMMISSIONS OF INQUIRY ACT (CAP. 5)

As in force at: 1 March 1996

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

COMMISSIONS OF INQUIRY ACT (CAP. 5)

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COMMISSIONS OF INQUIRY ACT (Cap. 5)

As in force at: 1 March 1996

1 Short title

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

2 Interpretation

In this Act unless the context otherwise requires:

“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 Issue of commissions of inquiry

- (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.
- (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 Power to appoint new commissioner and to revoke or amend commission

- (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.
- (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 Commissions not affected by change of Prime Minister

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.

6 Commissioner's oath of office

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.

7 Secretary of commission

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.

8 Duties of commissioners

- (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.
- (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 Division of opinion of commissioners

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:

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 Commissioners' powers to regulate proceedings

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.

11 Power to summons and examine witnesses

- (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.
- (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.
- (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 Remuneration of commissioners and secretary and expenses of inquiry and witnesses

- (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.
- (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 Protection of reputation and character

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:

- (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 Right of appearance and representation

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.

15 Protection of commissioners and secretary

- (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 *Magistrates' Courts Act*.
- (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 Protection of publication of evidence

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.

17 Police officers may be detailed to attend commissioners

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.

18 Publication of commissions

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).

19 Regulations

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

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____.

ENDNOTES

1

KEY

amd = amended	Pt = Part
Ch = Chapter	rem = remainder
Div = Division	renum = renumbered
exp = expires/expired	rep = repealed
GN = Gazette Notice	Sch = Schedule
hdg = heading	Sdiv = Subdivision
ins = inserted	SIG = Solomon Islands Gazette
It = long title	st = short title
LN = Legal Notice	sub = substituted
nc = not commenced	

NOTE

This Reprint comprises the Act and amendments as in force on 1 March 1996 and published as Chapter 5 of the Revised Edition of the Laws of Solomon Islands.

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LIST OF LEGISLATION

Commissions of Inquiry Act (Cap. 5)

Constituent legislation: 5 of 1969 (Commenced 30 June 1969)
LN 46A of 1978
LN 88 of 1978

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LIST OF AMENDMENTS