



Tuvalu

COMMISSIONS OF INQUIRY ACT

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COMMISSIONS OF INQUIRY ACT

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Tuvalu

COMMISSIONS OF INQUIRY ACT

AN ACT TO PROVIDE FOR THE ISSUE OF COMMISSIONS OF INQUIRY¹

Commencement [20th April 1914]

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 member of a commission;

“**commissioners**” where only one commissioner is appointed, means the commissioner.

3 Power to issue commissions of inquiry, etc.

- (1) The Minister may, whenever he deems it advisable, issue a commission appointing one or more commissioners, and authorising them or any quorum of them therein mentioned, to inquire into any matter in which an inquiry would, in the opinion of the Minister, be for the public welfare.
- (2) Any commission issued under subsection (1) shall specify the subject matter of the inquiry, and may, in the discretion of the Minister, if there is more than one commissioner, direct which commissioner shall be chairman, and direct when and where 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, or for the due conduct of the inquiry, or for any other reason.
- (4) Every commission issued under this Act shall be published by exhibition at the Public Office of the Government and, unless otherwise provided therein, shall take effect on the date of such publication and the same shall in due course be printed in the *Gazette*.

4 Inability of commissioner to act

If any commissioner is or becomes unable or unwilling to act, or dies, the Minister may appoint another commissioner in his place, and any commission may be altered as the Minister deems proper by a subsequent commission, or may be revoked altogether by a notification to that effect publicly given in Tuvalu.

5 Death etc., of the Minister not to affect commission

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

6 Commissioner's oath

- (1) Every commissioner shall make and subscribe an oath or affirmation and declaration, that he will fully, faithfully, impartially, and to the best of his ability discharge the trust, and perform the duties, devolving upon him by virtue of the commission.
- (2) The oath or affirmation and declaration aforesaid may be taken or made before the Minister or before such person as he may appoint to receive the same, and shall be committed to writing and deposited by the commissioner with the Minister.

7 Secretary of commission

The Minister 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 prescribe.

8 Duties of commissioners

The commissioners, after taking an oath or making an affirmation or declaration in accordance with the provisions of section 6, shall make a full, faithful and impartial inquiry into the matter specified in the commission and conduct such inquiry in

accordance with any direction of the Minister contained in the commission and, in due course, report to the Minister in writing the result of such inquiry as required by section 15; and also, when so required, furnish to the Minister a full statement of the proceedings of such commission and of the reasons leading to the conclusions arrived at or reported.

9 Division of opinion of commissioners

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

10 Rules of procedure

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.

11 Powers of commissioners

- (1) Commissioners acting under this Act shall have the powers of the High Court to summon witnesses, to call for the production of books, plans and documents, to examine witnesses and parties concerned on oath and to appoint interpreters and require them to take an oath or make an affirmation as to the proper performance of their duties.
- (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 the attendance of witnesses or other persons, or the production of books, plans or documents may be in the form specified in the Schedule 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 their secretary.

12 Immunity of commissioners from arrest, suit, etc.

- (1) A commissioner shall be privileged from arrest on any civil process while engaged in the discharge of his duties as such a commissioner.
- (2) No commissioner shall be liable to any action or suit for any act, matter or thing done, or ordered to be done, by him in good faith as such a commissioner.

13 Right of appearance and representation

Any person who satisfies the commissioners that he has a *bona fide* interest in the subject matter of inquiry under this Act and any other person by leave of the commissioners may attend the inquiry in person or may be represented by counsel or solicitor.

14 Penalty for non-attendance, misconduct of witnesses and giving false evidence

- (1) Any person summoned to attend as a witness or to produce documents before the commissioners who, without sufficient cause, refuses or neglects to do so, or refuses to answer any question put to him by or with the concurrence of the commissioners, or having attended leaves the commission without the permission of the commissioners, or in any way insults the commissioners or any of them, or wilfully interrupts the proceedings before them, shall be liable on summary conviction to a fine of \$100:

Provided that no witness shall be bound to incriminate himself, and every witness shall, in respect of any evidence given by him before a commission, be entitled to all the privileges to which a witness giving evidence before a court is entitled.

- (2) Any witness who wilfully gives false evidence in any inquiry concerning the subject matter thereof shall be guilty of perjury and liable to prosecution and punishment accordingly.

15 Commissioners' report

- (1) The commissioners shall make a report of their proceedings and of the result of their inquiry to the Minister and shall record the reasons leading to their conclusions.
- (2) A commissioner dissenting from the conclusions, or any of them, shall give the reasons for his dissent.

16 Remuneration of secretary and payment of expenses of commission and witnesses

- (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 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, or upon any proceedings for any penalty under this Act.
- (2) Witnesses who attend at the request of, or upon a summons by the commissioners shall, subject to any order made by the commissioners, be

entitled to like expenses as if they had been summoned to attend the court on a criminal trial, and payment thereof shall be made in such manner as the Minister may direct.

- (3) Sums of money so directed to be paid as aforesaid shall be paid out of the Consolidated Fund where an inquiry under this Act is made on the authority of the Minister.

17 Proceedings for penalty

No proceedings shall be commenced for any penalty under this Act except by direction of the commissioners who may direct their secretary, or such other person as they think proper, to commence and prosecute proceedings therefor.

SCHEDULE

(Section 11(3))

SUMMONS TO A WITNESS

To A. B. (name of person summoned and his calling and residence if known). You are hereby summoned to appear before (here name the commissioners) appointed by the Minister to inquire (state briefly the subject of the inquiry) at on the day of 20....., 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).

Therefore fail not at your peril.

Given under the hand of a Commissioner this..... day of 20...

ENDNOTES

¹ 1990 Revised Edition, Cap. 12 - Acts 4 of 1914, 2 of 1925, 8 of 1957, 3 of 1963, 8 of 1968