



SAMOA

COMMISSIONS OF INQUIRY ACT 1964

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COMMISSIONS OF INQUIRY ACT 1964

1964

No.5

AN ACT to consolidate and amend the law relating to Commissions of Inquiry.

[Assent date: 31 July 1964]

*[Commencement date - for section 14: 26 August 1960
for the rest of the Act - 31 July 1964]*

1. Short title – This Act may be cited as the Commissions of Inquiry Act 1964.

2. Commencement – (1) Section 14 is deemed to have come into force on 26 August 1960.

(2) The balance of this Act comes into force on the day on which this Act is assented to by the Head of State.

3. Interpretation – In this Act, unless the contrary intention appears:

- “Commission” means a Commission of Inquiry appointed under this Act;
- “Court” means the Supreme Court of Samoa;
- “day” means any continuous period of 24 hours commencing at midnight;
- “Minister” means the Minister responsible for justice;
- “Registrar” means the Registrar of the Court, and includes a Deputy Registrar.

4. Appointment of Commissions – The Head of State, acting on the advice of Cabinet, may appoint any person or persons to be a Commission to inquire into and report to Cabinet and to no one else upon any question arising out of or concerning:

- (a) the administration of the Government; or
- (b) the working of any existing law; or
- (c) the necessity or expediency of any legislation; or
- (d) the conduct of any employee of the Government; or
- (e) any disaster or accident (whether due to natural causes or otherwise) in which any citizen or ordinary resident of Samoa was killed or injured or was or might have been exposed to risk of death or injury.

5. Protection of members – So long as any member of a Commission acts in good faith in the discharge of the member’s duties, no action lies against the member for anything the member may say in the course of the inquiry, or in the Commission's report.

- 6. Commission's powers** – (1) A Commission may:
- (a) hold the inquiry either in public or in private or partly in public and partly in private;
 - (b) prohibit publication of the names of a witness or witnesses;
 - (c) prohibit publication of any report or account of the evidence given at the inquiry (whether heard in public or in private) or any part of it; and

(d) admit any evidence which appears to the Commission to be relevant whether or not strictly admissible in a court of law .

(2) Subject to subsection (1), a Commission has, for the purpose of the inquiry, the power and the status of a Judge of the Court when citing parties interested in the inquiry, summoning witnesses, administering oaths, hearing evidence, and conducting and maintaining order at the inquiry.

7. Persons interested entitled to be heard – A person who satisfies the Commission that the person has an interest in the inquiry apart from any interest in common with the public is entitled to appear and be heard at the inquiry as if the person had been cited as a party to the inquiry.

8. Service of summons – Any summons to a witness is served either by delivering the same to the witness personally or by leaving the same at the witness' usual place of abode at least 24 hours before the witness' attendance is required.

9. Protection of witnesses and counsel – A witness attending and giving evidence, whether in pursuance of any such summons or not, and a counsel appearing before any Commission, has the same privileges and immunities as witnesses and counsel in a court of law.

10. Witnesses' expenses and allowances – A witness attending pursuant to any summons is entitled to travelling expenses and maintenance allowance during the witness's absence from his or her usual place of abode at any rates as may be fixed by the Registrar:

PROVIDED THAT persons prosecuting any claim before a Commission are not entitled to be paid any money under this section.

11. Payment of witnesses' expenses and allowances – (1)
Where the Commission has obtained the authority in writing of the Minister for summoning any witness, the expenses and allowance of that witness shall, if certified by the Chairperson of the Commission and fixed by the Registrar, be paid by the Minister of Finance out of the Treasury Fund.

(2) In every other case, the person requiring the evidence of any witness shall, before the summons is issued, deposit with the Commission any sum of money as the Registrar deems sufficient, and the expenses and allowance of the witness are paid primarily out of the sum so deposited.

12. Non-attendance of witness, refusal of witness to take oath and failure to produce documents required – A person is liable to a fine not exceeding 5 penalty units who, after being fully summoned to attend before the Commission or to produce there to any books, papers, writings, or documents:

- (a) fails to appear according to the exigency of such summons; or
- (b) refuses to be sworn or to give evidence or to make answer to such questions as may be put to the person by the Commission or any member thereof touching the subject of the inquiry; or
- (c) fails to produce any such books, papers, writings, or documents:

PROVIDED THAT no person so summoned is liable to the fine unless at the time of the service of the summons there was made to the person a payment or a tender of the traveling expenses provisionally approved by the Registrar.

13. Reference of point of law to Court – (1) The Commission may:

- (a) refer any disputed point of law arising in the course of an inquiry to the Court for a decision; and
- (b) for the purpose of paragraph (a)—
 - (i) conclude the inquiry, subject to the decision; or
 - (ii) at any stage of the inquiry, adjourn it until after the decision has been given.

(2) The question is to be:

- (a) in the form of a special case to be drawn up by the parties (if any) to the inquiry; and
- (b) settled by the Commission, if the parties do not agree or there are no parties.

(3) The decision of the Court is final and binding on all parties to the inquiry and on the Commission.

(4) If under this Act the Head of State appoints one or more Judges of the Court to be members of a Commission for the purpose of holding any inquiry, any disputed question of law is to be referred to the Court of Appeal.

14. Fees and travelling expenses of members of Commission – The Minister responsible for finance shall pay out of the Treasury Fund:

- (a) to each member of a Commission, any travelling expenses reasonably incurred by the member in respect of the member's attendance at meetings of the Commission; and
- (b) to the Chairperson of a Commission, if the Chairperson is not a salaried employee of the Government, and to each other member of a Commission who is not a salaried employee of the Government, any sum or sums as Cabinet approves for each day or part of a day of his or her attendance at meetings of the Commission.

15. Secrecy – (1) A member of a Commission, and a person engaged or employed in connection with the work of the Commission:

- (a) shall maintain and aid in maintaining the secrecy of all matters which come to their knowledge, when carrying out their functions or duties in connection with the work of the Commission; and
- (b) shall not communicate those matters to any other person except for the purpose of reporting to Cabinet.

(2) A person who wilfully contravenes subsection (1), and a person who wilfully publishes any report of a Commission or any part thereof or any account thereof before it has been released for publication by Cabinet, commit an offence, and are liable on conviction to a fine not exceeding 10 penalty units.

16. Power to award costs – The Commission upon the hearing of an inquiry may order that the whole or any portion of the costs of the inquiry or of any party thereto is to be paid by any of the parties thereto, or by all or any of the persons who have procured the inquiry to be held:

PROVIDED THAT no order may be made against a person who has not been cited as a party or authorised by the Commission, pursuant to section 7, to appear and be heard at the inquiry, or summoned to attend and give evidence at the inquiry.

17. Enforcement of Order – For the purpose of enforcing any order of the Commission for the payment of costs, a duplicate of the order:

- (a) may be filed by the person to whom the costs are payable in the office of the Court named in the order; and
- (b) shall thereupon be enforceable in all respects as a final judgment of that Court in its civil jurisdiction.

18. Repeal – The Commissions of Inquiry Ordinance 1960 is repealed.

REVISION NOTES 2008 – 2020/3 March 2021

This is the official version of this Act as at 3 March 2021.

This Act has been revised by the Legislative Drafting Division from 2008 to 2020/ 3 March 2021 respectively under the authority of the Attorney General given under the *Revision and Publication of Laws Act 2008*.

The following general revisions have been made:

- (a) Amendments have been made to conform to modern drafting styles and to use modern language as applied in the laws of Samoa.
- (b) Amendments have been made to up-date references to offices, officers and statutes.
- (c) Insertion of the commencement dates
- (d) Other minor editing has been done in accordance with the lawful powers of the Attorney General.
 - (i) “Every” and “any” changed to “a” or “each” where appropriate
 - (ii) “shall be” changed to “is” and “shall be deemed” changed to “is taken”
 - (iii) “shall have” changed to “has”
 - (iv) “shall be guilty” changed to “commits”
 - (v) “notwithstanding” changed to “despite”
 - (vi) “pursuant to” changed to “under”
 - (vii) Numbers in words changed to figures
 - (viii) “hereby” and “from time to time” removed

- (ix) “under the hand of” changed to “signed by”
- (x) Sections 13(1), (2), 14 and 15(1) paragraphed.

There were no amendments made to this Act since the publication of the *Consolidated and Revised Statutes of Samoa 2007*.

*This Act is administered by
the Ministry of Justice and Courts Administration.*