



Commissions of Inquiry Act 1950

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Queensland

Commissions of Inquiry Act 1950

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Commissions of Inquiry Act 1950

An Act to make further and better provision for facilitating inquiries by commissions of inquiry

1 Short title

This Act may be cited as the *Commissions of Inquiry Act 1950*.

3 Definitions

In this Act—

authority of a deputy to the commission means the powers, authorities, duties and functions which a deputy to a commission is authorised to exercise or perform in accordance with this Act.

chairperson means the chairperson of any commission, whether appointed by the instrument creating the commission or otherwise, including the person for the time being acting as chairperson and, in cases where a commission is constituted by a sole commissioner, means such commissioner.

commission means any commission of inquiry issued by the Governor, by and with the advice of the Executive Council of this State, under the Governor's hand and the Public Seal of the State, and includes the members of the commission, or a quorum thereof, or the sole commissioner in cases where the commission is constituted of a sole commissioner, sitting for the purposes of the inquiry and, where by an instrument other than a commission of inquiry as aforesaid the Governor in Council appoints a person or persons to make an inquiry into or with respect to any matter or matters and declares in that instrument of appointment or in a separate instrument that this Act or specified provisions of this Act shall be applicable for the purposes of that inquiry, then for the purposes of so

applying this Act or, as the case may be, the provisions of this Act specified as aforesaid, includes that instrument of appointment and the person, or persons, or a quorum of the persons thereby appointed sitting for the purposes of the inquiry thereunder.

commissioner means any person to whom a commission is issued (whether as 1 of several members of a commission or as sole commissioner).

deputy to a commission means a person who is appointed a deputy to a commission.

listening device see the *Invasion of Privacy Act 1971*.

reasonable excuse, in relation to any act or omission by a witness or a person summoned to attend before a commission as a witness, means an excuse which would excuse an act or omission of a similar nature by a witness or a person summoned to attend before a court of law as a witness.

record means any collection of data in whatever form it may be held and includes data held on film, disc, tape, perforated roll or other device in which visual representations or sounds are embodied so as to be capable, with or without the aid of another process or instrument, of being reproduced therefrom.

4 Application of Act

- (1) Wherever a commission of inquiry is issued by the Governor, by and with the advice of the Executive Council of this State, under the Governor's hand and the Public Seal of the State, the provisions of this Act shall apply to and with respect to the inquiry.
- (2) Wherever this Act or specified provisions of this Act are declared by the Governor in Council to be applicable for the purposes of an inquiry under a commission, other than a commission of inquiry as referred to in subsection (1), then the provisions of this Act or, according as declared by the Governor in Council, those specified provisions of this Act shall apply to and with respect to the inquiry.

4A Interaction of commission with courts etc.

(1) Whenever, by a commission of inquiry issued by the Governor, by and with the advice of the Executive Council of this State, under the Governor's hand and the Public Seal of the State—

- (a) a commission constituted by a judge of the Supreme Court, or whereof such a judge is chairperson, is appointed to make an inquiry; and
- (b) the matter or matters into or with respect to which that inquiry is to be made includes or include any matter or matters, or the making directly or indirectly of inquiry into or with respect to any matter or matters, into or with respect to which a court, tribunal, warden, coroner, justice or other person (other than the Supreme Court or the Industrial Court and other than a judge of the Supreme Court or the president of the Industrial Court) is required or authorised under or pursuant to any enactment or law of this State to inquire;

then that court, tribunal, warden, coroner, justice or other person shall have no jurisdiction to and shall not make, continue or proceed with that inquiry thereinto.

(2) The Attorney-General may inform a court, tribunal, warden, coroner, justice or other person that the Governor in Council has under consideration the matter of the issue of such a commission of inquiry as is specified in subsection (1) to make an inquiry the matter or matters whereof will include—

- (a) any matter or matters; or
- (b) the making directly or indirectly of inquiry into or with respect to any matter or matters;

into or with respect to which that court, tribunal, warden, coroner, justice or other person is required or authorised under or pursuant to any enactment or law of this State to inquire.

(2A) The Attorney-General may so inform any of the aforesaid by the Attorney-General's agent, by prepaid post letter, or by telegram.

- (2B) The information shall be sufficiently given to a court or tribunal if it is given in any manner aforesaid to the registrar or clerk thereof or the person by whom it may be constituted, or, if it may be constituted by 2 or more persons, any of them.
- (2C) Upon being informed as aforesaid a court, tribunal, warden, coroner, justice, or other person shall have no jurisdiction to and shall not make, continue or proceed with the inquiry to which the information relates during the period of 1 month next following the giving of the information or, if the commission of inquiry is issued before the expiration of that period, at all.
- (3) A certificate by the Attorney-General stating that the matter or matters into or with respect to which inquiry is to be, is being, or has been made pursuant to such a commission of inquiry as is specified in subsection (1) includes or include—
- (a) any matter or matters; or
 - (b) the making directly or indirectly of inquiry into or with respect to any matter or matters;
- as specified in that certificate into or with respect to which the court, tribunal, warden, coroner, justice or other person mentioned in that certificate is required or authorised under or pursuant to the enactment or law of this State referred to in that certificate to inquire shall be admissible in evidence and shall be conclusive proof of all and every the matters aforesaid certified to therein.
- (3AA) Such a certificate may be published in the gazette and thereupon and thereby shall be deemed to have been put in evidence before a court, tribunal, warden, coroner, justice or other person affected thereby (whether mentioned therein or not) and shall bind that court, tribunal, warden, coroner, justice or other person accordingly.
- (3A) Every court, tribunal, warden, coroner, justice or other person referred to in subsections (1) to (2C), including those courts and persons excluded by subsection (1)(b) shall take judicial notice of—

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- (a) the identity of the Attorney-General at the time information is given under subsection (2) or a certificate is made under subsection (3); and
 - (b) the signature of that Attorney-General on any notification of information given under subsection (2); and
 - (c) the authorisation by that Attorney-General of the giving of information under subsection (2) or the publication of a certificate under subsection (3).
- (4) A commission may continue to make and complete its inquiry and report and may do all such acts and things as are necessary or expedient for those purposes notwithstanding that any other proceedings may be in or before any court, tribunal, warden, coroner, justice or other person and notwithstanding any order made by a court with respect thereto.
- (5) The provisions of this section apply according to their terms whether the inquiry (other than that to be made by a commission) or proceedings referred to therein commenced before or after the issue of the relevant commission of inquiry.

5 Power to summon witness and require production of books etc.

- (1) A chairperson may, by writing under the chairperson's hand—
- (a) summon any person to attend before the commission at a time and place named in the summons and then and there to give evidence; and
 - (b) require any person to produce to the commission at a specified time and place such books, documents, writings and records or property or things of whatever description in the person's custody or control as are specified in the writing; and
 - (c) require any person to attend at a specified time and place to give information to, and answer questions asked by, a person authorised in writing by the chairperson; and

(d) require any person to give to the commission within a specified time and in a specified way written information verified as specified.

(2) A person served with a writing under a chairperson's hand referred to in subsection (1) shall—

(a) comply in all respects with the summons and requirements contained in the writing; or

(b) within the prescribed period satisfy the chairperson that the person has a reasonable excuse for not complying as required by paragraph (a);

unless the person is not a person to whom this subsection applies.

Maximum penalty—200 penalty units or 1 year's imprisonment.

(2AA) In subsection (2)(b)—

the prescribed period means—

(a) the period specified in the writing under the chairperson's hand within which the person served with the writing is to satisfy the chairperson as referred to in that paragraph; or

(b) if no such period is specified—at any time before the date on which that person is required to attend before the commission.

(2A) Despite any provision in an Act, a chairperson's writing made under subsection (1) takes precedence over any oath taken, affirmation made, or provision of an Act, that might provide reasonable excuse for not complying with the writing.

(2B) For subsection (2A)—

(a) the obligation to act as required by the oath, affirmation or provision is not a reasonable excuse; and

(b) the person bound by the oath, affirmation or provision who complies with the chairperson's writing—

(i) does not breach the oath or affirmation or commit an offence against the provision; and

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- (ii) is not liable to disciplinary action.
- (2C) Despite any provision in an Act, a person is competent and compellable to be summoned and comply with the requirements contained in a chairperson's writing under subsection (1), unless the person is not a person to whom this subsection applies.
- (3) Subsections (2) and (2C) apply to—
- (a) a person who is served in Queensland with a writing under a chairperson's hand, being such as is referred to in subsection (1); and
 - (b) a person who is served outside Queensland with a writing under a chairperson's hand, being such as is referred to in subsection (1) if that person was present in Queensland or was ordinarily resident in Queensland or had an asset in Queensland, at the time the commission of inquiry was issued or at any time thereafter.
- (4) The fact that a person has been served outside Queensland with a writing under a chairperson's hand shall not constitute reasonable excuse for the purposes of subsection (2), if that person is one to whom subsection (2) applies.

5A Procedure upon noncompliance with s 5(2)

- (1) Upon an ex parte application made by or on behalf of a chairperson and upon production in the matter of the application of the chairperson's certificate that the chairperson is satisfied a prima facie case exists that a person has failed to comply with section 5(2) and thereby has committed an offence against this Act a magistrate to whom the application is made shall forthwith issue a warrant for the apprehension of that person.
- (2) A warrant issued under subsection (1) shall authorise the apprehension of the person and the person's detention in custody for the purposes of—
- (a) answering a charge of the offence constituted by the failure to comply with section 5(2); and

- (b) securing the person's attendance before the commission as required pursuant to section 5;

until the person be admitted to bail or released, conditionally or otherwise, by order of the chairperson or a judge of the Supreme Court.

- (3) If a warrant issued under subsection (1) is to be executed in Queensland it may be executed by any police officer or by any person to whom it is addressed and the person executing the warrant, and every person acting in aid of the person executing the warrant, is authorised to break and enter any place, building, vehicle, aircraft or vessel for the purpose of executing the warrant, using such force as is necessary.
- (4) The issue of a warrant under subsection (1) or the apprehension, detention or punishment of the person for whose apprehension the warrant is issued does not relieve that person from any other liability had by the person to be punished for the person's failure to comply with the writing under a chairperson's hand served on the person or excuse the person from complying with section 5(2) in respect of that writing.

5B Attendance of prisoner, patient or forensic disability client before commission

- (1) Where a chairperson requires the attendance before a commission of—
 - (a) a prisoner—the chairperson may, by signed notice served on the chief executive (corrective services), direct the chief executive (corrective services) to produce the prisoner at the time and place stated in the direction; or
 - (b) an involuntary patient detained in an authorised mental health service—the chairperson may, by signed notice served on the administrator of the health service, direct the administrator to produce the patient at the time and place stated in the direction; or
 - (c) a forensic disability client—the chairperson may, by signed notice served on the administrator of the forensic

disability service, direct the administrator to produce the client at the time and place stated in the direction.

(2) A direction served under subsection (1) is sufficient warrant or authority to the chief executive (corrective services) or administrator for producing the prisoner, patient or client, as the case may be, who shall be produced accordingly.

(3) In this section—

administrator—

(a) of an authorised mental health service, means the person appointed under the *Mental Health Act 2016* as the administrator of the health service; or

(b) of the forensic disability service, means the person declared under the *Forensic Disability Act 2011* to be the administrator of the forensic disability service.

authorised mental health service see the *Mental Health Act 2016*, schedule 3.

forensic disability client see the *Forensic Disability Act 2011*.

forensic disability service see the *Forensic Disability Act 2011*.

involuntary patient see the *Mental Health Act 2016*, schedule 3.

prisoner see the *Corrective Services Act 2006*.

6 Oaths, affirmations and declarations

(1) Any commissioner may administer an oath to any person appearing as a witness before the commission, whether the witness has been summoned or appears without being summoned, and may take and receive an affirmation or declaration instead of an oath where the witness would be permitted to make, or the commissioner would be entitled to take and receive, an affirmation or declaration instead of an oath, as a witness and as the presiding judge respectively in an action or trial in the Supreme Court.

- (2) The provisions of the *Oaths Act 1867*, with any necessary adaptations, shall apply and extend wherever possible to each and every oath, affirmation, and declaration administered, made, or taken, as the case may be, under this section.

7 Duty of witness to continue in attendance

- (1) Every person who has attended before a commission pursuant to a summons shall thereafter appear and report from day to day unless excused by the chairperson of the commission until the person is released from further attendance by the chairperson.
- (2) If any person as aforesaid without being so excused, fails to so appear and report the person shall for the purposes of this Act be deemed to have failed to attend before the commission in obedience to the summons.

8 Arrest of witness failing to attend

If any person served with a summons to attend before a commission as a witness fails to attend before the commission in obedience to the summons and no reasonable excuse is offered to the satisfaction of the chairperson for such failure, the chairperson may, on proof of the service of the summons, issue a warrant for the person's apprehension.

9A Warrant in the first instance or before return of summons

- (1) If the chairperson is satisfied by evidence upon oath (or by affirmation or declaration instead of upon oath where if the evidence were given by a witness before the commission such evidence may be given by affirmation or declaration instead of upon oath), which oath, affirmation, or declaration the chairperson is hereby authorised to administer or take, as the case may be, that it is probable that a person whose evidence is desired and may be relevant to the inquiry by the commission will not attend before the commission to give evidence without being compelled so to do, or is about to or is making preparations to leave the State and that the person's evidence may not be obtained by the commission if that

person so departs, the chairperson may issue a warrant for the apprehension of that person.

- (2) A warrant may be issued under subsection (1) in the first instance without or before the issuing of a summons under section 5 to the person whose evidence is desired or the warrant may be issued at any time after the issuing of the summons and before the time named in the summons for that person to attend before the commission.
- (3) A warrant issued under section 8 or this section shall authorise the apprehension of the witness and the witness being brought before the commission, and the witness's detention in custody for the purpose of securing the witness's appearance before the commission as required by this Act until the witness is released by order of the chairperson.
- (4) A warrant issued under section 8 or this section may be executed by any police officer, or by any person to whom it is addressed, and the person executing it shall have power to break and enter any place, building, or vessel for the purpose of executing it.
- (5) The issuing of any warrant or the apprehension and detention of any witness under section 8 or this section shall not relieve the witness in question from any liability to be punished for the witness's failure to attend before the commission in obedience to the summons.

9 Contempt of a commission

- (1) A person who, having been served with a summons to attend before a commission as a witness, fails to attend before that commission in obedience to that summons shall be guilty of contempt of that commission.
- (1A) Neither liability to be punished nor punishment under section 10 for that contempt shall excuse the offender from attending before the commission in obedience to the summons, and the chairperson may enforce the offender's attendance by warrant.
- (2) A person who—

- (a) having been served with a summons or other writing under the hand of a chairperson requiring production by the person to a commission of any book, document, writing, record, property or thing of whatever description fails to produce as required that which is in the person's custody or control; or
- (b) being called or examined as a witness before a commission, refuses to be sworn or to make an affirmation or declaration or refuses or otherwise fails to answer any question put to the person by the commission or any commissioner, which the chairperson is satisfied is relevant to the inquiry; or
- (c) wilfully threatens or insults—
 - (i) a commission; or
 - (ii) any commissioner; or
 - (iii) any lawyer or other person appointed, engaged or seconded to assist a commission; or
 - (iv) any witness or person summoned to attend before a commission; or
 - (v) any lawyer or other person having leave to appear before a commission; or
- (d) by writing or speech uses words false and defamatory of a commission, or any commissioner; or
- (e) misbehaves before a commission; or
- (f) interrupts the proceedings of a commission; or
- (g) obstructs or attempts to obstruct a commission, a commissioner, or a person acting under the authority of the chairperson, in the exercise of any lawful power or authority; or
- (h) does any other thing which, if a commission were a court of law having power to commit for contempt, would be contempt of that court; or
- (i) publishes, or permits or allows to be published, any evidence given before a commission or any of the contents of a book, document, writing or record

produced at the inquiry which a commission has ordered not to be published;

shall be guilty of contempt of the commission concerned.

10 Punishment of contempt of a commission

- (1) Any contempt, under any of the provisions of section 9, of a commission may be punished by the chairperson as provided in this section.
- (2) In a case where the chairperson is not a judge of the Supreme Court, that chairperson—
 - (a) may punish the offender summarily by imposing upon the offender such penalty not exceeding 2 penalty units as the chairperson thinks fit; or
 - (b) may, in lieu of the chairperson punishing the offender, certify the contempt under the chairperson's hand to the Supreme Court.
- (3) In a case where the chairperson is a judge of the Supreme Court, that chairperson—
 - (a) may punish the offender in the like manner and to the like extent as if that contempt were a contempt of the Supreme Court committed by that offender in or in relation to an action or trial in the Supreme Court presided over by that judge; or
 - (b) may, in lieu of the chairperson punishing the offender, certify the contempt under the chairperson's hand to the Supreme Court.
- (4) An act or omission by a witness or by a person summoned to appear before a commission as a witness shall not be punished under this section by the chairperson, or by a judge of the Supreme Court who is not the chairperson, as contempt of the commission concerned where that witness or person satisfies the chairperson or, as the case may be, that judge of reasonable excuse for the person's act or omission.
- (4A) However, a person may be punished in the person's absence for a contempt specified in subsection (4), but in that event the

penalty imposed shall not be enforced if, at any time within 7 days (or such longer period as the chairperson or, if the punishment shall have been imposed by a judge of the Supreme Court who is not the chairperson, that judge may allow) after the imposition thereof, that person satisfies the chairperson or, as the case may be, the aforementioned judge of reasonable excuse for the person's act or omission.

- (5) Where the chairperson certifies the contempt of a commission to the Supreme Court—
 - (a) the Supreme Court shall thereupon inquire into the alleged contempt; and
 - (b) having regard to the evidence produced against or on behalf of the person charged with contempt and any statement that may be offered on behalf of that person the Supreme Court (if satisfied that the person is guilty of the contempt) may punish or take steps for the punishment of the person in like manner and to the like extent as if the person had committed the contempt in or in relation to proceedings in the Supreme Court; and
 - (c) the Rules of the Supreme Court shall with any necessary adaptations, apply and extend accordingly.
- (6) Where a contempt of a commission is committed in the face of that commission no summons need be issued against the offender, nor need any evidence be taken on oath, but the offender may be taken into custody then and there by a police officer by order of the chairperson, and called upon to show cause why the offender should not be punished by that chairperson.
- (7) In the case of a contempt of a commission under section 9(2)(c), (d), (g), (h) or (i) committed otherwise than in the face of that commission the chairperson may, by writing under the chairperson's hand, summon the offender to attend before that commission at a time and place named in the summons to show cause why the offender should not be punished by the chairperson for that contempt.
- (7A) If that person fails to attend before the commission in obedience to the summons, and no reasonable excuse to the

satisfaction of the chairperson is offered for such failure, the chairperson may, on proof of the service of the summons, issue a warrant to apprehend that person and bring the person before the commission to show cause as aforesaid.

- (8) In the case of a contempt of a commission under section 9(2)(c), (e) or (f) the offender may be excluded from the place where that commission is sitting by order of the chairperson, and the chairperson may, whether the offender is so excluded or not, punish the offender or certify the offence as provided in this section.

11 Enforcement of and appeals against summary punishments imposed under this Act

- (1) The provisions of the *Justices Act 1886* relating to the discretion of adjudicating justices in directing that the amount of a penalty or costs shall be recoverable by execution against the goods and chattels of the offender (and in such case as part of their decision ordering the term for which the offender is to be imprisoned in default of sufficient distress) or in the alternative in directing that in default of payment of such penalty or costs either immediately or within a time to be fixed by the adjudicating justices the offender shall be imprisoned for any period not exceeding the maximum period fixed by the scale of imprisonment for non-payment of money shall be had and may be exercised by a chairperson who is not a judge of the Supreme Court in respect of the summary punishment of an offender for a contempt of a commission.
- (2) Any summary punishment of a person for a contempt of a commission may be enforced under the *Justices Act 1886* as if that punishment were a penalty imposed upon conviction for an offence by justices sitting as a Magistrates Court, and for the purposes of the enforcement as aforesaid of that punishment the chairperson who imposed it may—
- (a) draw up under the chairperson's hand an order in or to the effect of the form in which a conviction or order by justices sitting as a Magistrates Court is drawn up under the *Justices Act 1886*; and

- (b) make and sign all such other instruments under, and in or to the effect of the respective forms prescribed by, the *Justices Act 1886*, as are required or authorised by that Act to be made and signed by justices with respect to a conviction or order made by them when sitting as a Magistrates Court; and
 - (c) cause to be filed in the office of a clerk of the court at a place for holding Magistrates Courts the order referred to in paragraph (a) and any instrument or instruments referred to in paragraph (b) drawn up or made and signed by the chairperson.
- (3) Any summary punishment imposed for a contempt of a commission may be appealed against under the *Justices Act 1886*, as if that punishment were a penalty imposed upon conviction for an offence by justices sitting as a Magistrates Court at the place where the office of the court in which the order in respect of that punishment referred to in subsection (2)(a) is filed is situated, and the provisions of that Act relating to appeals from decisions of justices shall apply and extend accordingly.

12 Service of summons and execution of warrant

The provisions of the *Justices Act 1886*, relating to the service and proof of service of summonses and the execution of, and imprisonment or detention in custody under, warrants issued for the apprehension of witnesses and defendants who fail to appear in answer to their summonses shall, subject to any necessary adaptations thereof, apply and extend to and with respect to summonses and warrants issued under this Act.

13 Powers of chairperson if a judge of the Supreme Court

- (1) If the chairperson of a commission is a judge of the Supreme Court the provisions of this section shall have effect.
- (2) For the purposes of the inquiry, including the punishment of contempts of the commission, the chairperson shall have all such jurisdiction, powers, rights, and privileges as are vested

in the Supreme Court or any judge thereof in or in relation to any action or trial, in respect of the following matters—

- (a) compelling the attendance of witnesses;
 - (b) compelling witnesses to answer questions which the chairperson deems to be relevant to the inquiry;
 - (c) compelling the production of books, documents, and writings;
 - (d) punishing persons guilty of contempt of the commission or of disobedience of any order or summons made or issued by the chairperson.
- (3) Nothing in this or any other section of this Act shall limit the powers, rights, and privileges of the chairperson under any other provision of this Act, excepting that a person shall not be punished both under this section and under a provision of any other section for one and the same offence.

14 Answers and documents

- (1) Nothing in this Act shall make it compulsory for any witness before a commission to—
- (a) disclose to the commission any secret process of manufacture; or
 - (b) produce any book, document, writing or record or property or thing of whatever description if the witness has a reasonable excuse for refusing.
- (1A) A person attending before a commission is not entitled—
- (a) to remain silent with respect to any matter relevant to the commission's inquiry upon the chairperson's requiring the person to give evidence with respect to that matter; or
 - (b) to refuse or fail to answer any question that the person is required by the chairperson to answer; or
 - (c) to refuse or fail to produce any book, document, writing, record, property or thing that the person has been

summoned to produce or required by the chairperson to produce;

on the ground that to do otherwise would or might tend to incriminate the person.

14A Statements made by witness not admissible in evidence against the witness

- (1) A statement or disclosure made by any witness in answer to any question put to the witness by a commission or any commissioner or before a commission shall not (except in proceedings in respect of contempt of the commission or of an offence, or a conspiracy by the witness with another person to commit an offence, against any of the sections of the Criminal Code specified in section (22) be admissible in evidence against the witness in any civil or criminal proceedings.
- (2) A book, document, writing, record, property or anything produced by a witness is not and it is declared never was a statement or disclosure to which subsection (1) applies.

14B Protection to and liability of witnesses

- (1) Every witness summoned to attend or appearing before a commission shall have the same protection and shall, in addition to the penalties provided by this Act, be subject to the same liabilities as a witness in any action or trial in the Supreme Court.
- (2) Nothing in subsection (1) shall be construed to prejudice the operation of section 14(1A).

15 When acts or omissions to be separate offences

Where an act or omission for which a person is liable to be punished under this Act for contempt of a commission is done or omitted to be done by the person on 2 or more days, that person shall be liable to be punished for the thing done or omitted to be done by the person on each and every one of those days as if it were a separate contempt of that commission.

16 Power to prohibit publication of evidence

A commission may order that any evidence given before it, or the contents of any book, document, writing or record produced at the inquiry, shall not be published.

16A Power of tribunal as to exclusion of public

A commission shall not refuse to allow the public or any portion of the public to be present at any of the sittings of the commission unless in the opinion of the commission it is in the public interest expedient so to do for reasons connected with the subject matter of the inquiry or the nature of the evidence to be given.

17 Commission not to be bound by rules as to procedure or evidence

A commission, in the exercise of any of its functions or powers, shall not be bound by the rules or practice of any court or tribunal as to procedure or evidence, but may conduct its proceedings and inform itself on any matter in such manner as it thinks proper; and, without limiting in any way the operation of this section, the commission may refer any technical matter to an expert and may accept the expert's report as evidence.

18 Power to sit at any time and place

A commission may sit at any time and in any place for the purpose of exercising any of its powers or functions, and may adjourn its sittings from time to time and from place to place.

19 Powers of commission as to inspection and copies of documents etc.

- (1) A commission, or any commissioner, or a person thereto authorised in writing by the chairperson, as the case may be, may inspect any books, documents, writings, records, property or thing of whatever description produced before the

commission, and may retain them for such reasonable period as it or the chairperson thinks fit.

- (2) A commission, or any commissioner or a person thereto authorised in writing by the chairperson of the commission, may enter upon and inspect any land, building, place, vehicle, aircraft or vessel, and inspect any books, documents, writing, records, property or thing of whatever description, the entry upon or the inspection of which appears to it, him or her to be requisite.
- (3) The commission or a person who inspects any books, documents, writings, records, property or thing of whatever description under subsections (1) and (2) may make or take a copy of all or part of any books, documents, writings, records, property or thing of whatever description, as may be relevant to the inquiry.
- (4) In this section—
a copy includes—
 - (a) a photograph; and
 - (b) a photocopy; and
 - (c) a reproduction, duplication or facsimile however made.
- (5) The occupier or owner of any land, building, place, vehicle, aircraft or vessel, entered upon or inspected or proposed to be entered upon or inspected under subsection (2) shall provide all reasonable facilities and assistance for the effective exercise of powers under this section.

Maximum penalty—200 penalty units or 1 year's imprisonment.

19A Search for and seizure of evidence

- (1) If a chairperson is satisfied, by evidence upon oath (or by affirmation or declaration instead of upon oath where, if the evidence were given by a witness before the commission, such evidence may be given by affirmation or declaration instead of upon oath), which oath, affirmation or declaration the chairperson is hereby authorised to administer or take, as

the case may be, that there is reasonable ground for suspecting that there is in any place, building, vehicle, aircraft or vessel—

- (a) any book, document, writing or record or property or thing of whatever description relevant to the commission's inquiry, with respect to which an offence has been or is suspected on reasonable grounds to have been committed; or
- (b) any book, document, writing or record or property or thing of whatever description relevant to the commission's inquiry, whether animate or inanimate and whether living or dead, as to which there are reasonable grounds for believing that it would, of itself, or by or on scientific examination afford evidence of the commission of an offence; or
- (c) any book, document, writing or record or property or thing of whatever description relevant to the commission's inquiry as to which there are reasonable grounds for believing that it is intended to be used for the purpose of committing an offence;

the chairperson may issue a warrant addressed to all police officers or to any police officer named in the warrant, which shall authorise each person to whom it is addressed to enter (using such force as is necessary) and to search such place, building, vehicle, aircraft or vessel and all persons found therein and to seize any such book, document, writing or record or property or thing found therein and to bring it before the commission.

- (2) A warrant issued under subsection (1) shall be executed only by day unless the warrant expressly authorises it to be executed by night, in which case it may be executed at any time.
- (3) A person who seizes or takes any book, document, writing, record, property or thing for the purposes of a commission, whether under a warrant or otherwise, shall forthwith bring it before the chairperson.

19B Commission's custody of books etc.

- (1) The chairperson may cause any book, document, writing or record or property or thing of whatever description produced to a commission, whether or not it is tendered in evidence, to be kept in such custody as the chairperson directs (the chairperson, taking reasonable care for its preservation)—
 - (a) until the commission has completed its inquiry and report and thereafter for a time reasonable for the purpose of establishing whether paragraph (b) is or is likely to be relevant to the case; and
 - (b) if a person is committed for trial for an offence committed with respect to such book, document, writing, record, property or thing or an offence committed in such circumstances that the book, document, writing, record, property or thing would be likely to afford evidence at the trial—until it is produced in evidence at the trial.
- (2) If no person is committed for trial for an offence referred to in subsection (1)(b) the book, document, writing, record, property or thing kept in custody pursuant to a chairperson's direction shall be returned to the person from whom it was seized or taken unless the chairperson acting under authority conferred on the chairperson by law directs that it be disposed of otherwise.

19C Authority to use listening devices

- (1) A chairperson may apply to a Supreme Court judge for an approval to use a listening device.
- (2) The application—
 - (a) shall be made by or on behalf of the chairperson and shall be accompanied by the chairperson's certificate that the chairperson is satisfied by evidence upon oath (or by affirmation or declaration instead of upon oath where, if the evidence were given by a witness before the commission, such evidence may be given by affirmation or declaration instead of upon oath), which oath, affirmation, or declaration the chairperson is

hereby authorised to administer or take, as the case may be, that there are reasonable grounds for suspecting that the use of a listening device may produce information relevant to the commission's inquiry with respect to any offence; and

- (b) shall be made *ex parte* and be heard in the judge's chambers.
- (2A) No notice or report relating to the application shall be published and no record of the application or of any approval or order given or made thereon shall be available for search by any person except by direction of a judge of the Supreme Court.
- (3) In considering such an application a judge of the Supreme Court shall have regard to—
 - (a) the gravity of the matters being investigated; and
 - (b) the extent to which the privacy of any person is likely to be interfered with; and
 - (c) the extent to which the prevention or detection of the offence in question is likely to be assisted;

and the judge may grant approval subject to such conditions, limitations and restrictions, and may grant such powers and authorities including an authority to enter any place, building, vehicle, aircraft or vessel, using such force as is necessary, as are, in the judge's opinion, necessary in the public interest and as are specified in the approval.

- (4) A person who uses a listening device under and in accordance with an approval given under this section to overhear, record, monitor or listen to any private conversation to which the person is not a party shall not communicate or publish the substance or meaning of that private conversation other than to the chairperson who authorised the person to use the device or other person nominated by the chairperson to receive such information.
- (4A) Information obtained by the use of a listening device under and in accordance with an approval given under this section shall not be used for any purpose, including the commission's inquiry in connection with which the approval was obtained,

without the chairperson's approval or a further approval of a judge of the Supreme Court obtained in the same manner as is prescribed by subsections (2) and (3).

- (5) As soon as is practicable after a record (in writing or in any other form) has been made of information obtained by the use of a listening device under and in accordance with an approval given under this section the chairperson shall cause so much of the record to be destroyed as does not relate, directly or indirectly, to the commission of an offence or to any other matter relevant to the commission's inquiry.

20 Protection for participants in commissions

- (1) Every commissioner shall, in the exercise of duty as commissioner and every deputy to a commission shall, whilst exercising the authority of a deputy to the commission, have the same protection and immunity as a judge of the Supreme Court.
- (2) Without limiting the protection and immunity given a commissioner by subsection (1), a commissioner, deputy to a commission or any lawyer or other person appointed, engaged or seconded to assist a commission shall not incur any liability on account of any act or thing that the person does or purports in good faith to do—
- (a) in pursuance of the commission of inquiry issued by the Governor in Council; or
 - (b) in or in relation to the inquiry or in respect of any matter arising in or out of the inquiry; or
 - (c) in or in relation to any report or recommendation made by or to the commission; or
 - (d) in or in connection with the efficient conduct of the commission's inquiry.

21 Examination of witnesses by counsel etc.

Any lawyer appointed by the Crown to assist a commission, any person authorised by a commission to appear before it, or

any barrister or solicitor authorised by a commission to appear before it for the purpose of representing any person, may, so far as the commission thinks proper, examine or cross-examine any witness on any matter which the commission deems relevant to the inquiry, and any witness so examined or cross-examined shall have the same protection and be subject to the same liabilities as if examined by a commissioner.

22 Indictable offences in connection with inquiry by a commission

For the purposes of removing any doubt as to the application of the Criminal Code, sections 120, 123, 126, 127, 128, 129, and 130 respectively to and with respect to an inquiry into or with respect to any matter or matters by any commission, it is hereby declared that any reference therein to a ‘judicial proceeding’ shall be deemed to be a reference to an inquiry by a commission, any reference therein to a ‘tribunal’ shall be deemed to be a reference to a ‘commission’, and any reference therein to the holder of a judicial office, howsoever worded, shall be deemed to be a reference to ‘a commissioner’ within the meaning of this Act and that those sections shall be read subject to all such other adaptations thereof as are necessary for purposes of their application as provided in this section.

22A Evidential effect of certificates

Where in proceedings of whatever nature before any court, justices, tribunal, or in any inquiry, examination or arbitration it is relevant to prove—

- (a) any matter related to an inquiry pursuant to a commission; or
- (b) the taking of any step by a person purporting to act pursuant to any power or authority conferred by this Act;

a certificate purporting to be that of the chairperson of the commission or of a deputy to the commission as to such matter or the taking of such step shall, upon its production in

the proceedings, be evidence and, in the absence of evidence to the contrary from a source other than the chairperson or deputy, conclusive evidence of the matters contained in the certificate.

23 Dismissal by employers of witness

Any employer who dismisses any employee from employment, or prejudices any employee in employment, for or on account of the employee having appeared as a witness before a commission, or for or on account of the employee having given evidence before a commission, commits an offence.

Maximum penalty—20 penalty units or 1 year's imprisonment.

24 Allowances to witnesses

- (1) Any witness appearing before a commission shall be paid a reasonable sum for the expenses of the witness's attendance in accordance with the scale prescribed under a regulation.
- (2) In the absence of a prescribed scale, the chairperson of the commission may authorise the payment of such sum as the chairperson deems reasonable.
- (3) The claim to allowance of any witness appearing before a commission, certified by the chairperson of the commission, shall be paid by the Treasurer out of moneys to be appropriated by Parliament for the purpose.
- (4) A regulation may prescribe a scale of allowances to be paid to any witness summoned under this Act for the witness's travelling expenses and maintenance while absent from the witness's usual place of abode.

25 Offences

- (1) A person who commits an offence against this Act may be punished therefor by way of summary proceedings upon the

complaint of a chairperson or a person authorised in that behalf by a chairperson.

- (2) In any summary proceedings the description in the complaint of the complainant as a chairperson or a person authorised by a chairperson to lay the complaint shall be sufficient proof thereof.
- (3) Nothing in this section relates to an act, refusal, failure or omission of any person that constitutes and is dealt with as a contempt of a commission.

27 Appointment of deputy to a commission

- (1) The Governor in Council may at any time approve that such number of persons as may be specified be each appointed as deputy to a commission.
- (2) Upon the approval of the Governor in Council as prescribed in subsection (1), a chairperson, with the approval of the Attorney-General, may by writing under the chairperson's hand appoint a person to be a deputy to a commission upon such terms and conditions and for such period as the Attorney-General approves.
- (3) A deputy to a commission is not a commissioner or a member of a commission.

28 Functions of deputy to a commission

- (1) A deputy to a commission shall, according as the deputy is authorised in writing under the hand of the chairperson—
 - (a) sit with the commission during any sittings approved by the chairperson but without any power to decide or participate by voting in relation to any matter arising for decision at those sittings; and
 - (b) conduct on behalf of the commission, without the attendance of any member of the commission, any sittings approved by the chairperson and, where required, make a report or recommendation in relation thereto to the commission; and

- (c) assist the commission in such manner and to such extent as the chairperson decides, including without limiting the generality of the foregoing by the exercise of any power which is exercisable by or which may be granted to the commission or to a commissioner (other than such powers as are expressly reserved to the chairperson) under this Act.
- (2) A deputy to a commission shall, in the exercise of the authority of a deputy to the commission, at all times and in all respects be subject to the control and act in accordance with the directions of the chairperson.
- (3) A deputy to a commission, in the conduct of a sittings on behalf of a commission shall have power to decide all issues which arise.
- (4) However, a deputy to a commission may, and shall if directed by the chairperson, refer an issue which arises (which may include the issue of whether the sittings should continue to be conducted by the deputy to a commission) for decision to the chairperson for determination and may adjourn a sittings to enable the chairperson to decide that issue.

29 Effect of exercise of authority of deputy to the commission

- (1) Where a deputy to a commission exercises the authority of a deputy to the commission, all steps taken, documents issued and evidence taken or produced before the deputy shall as directed by the chairperson be deemed to be steps taken, documents issued and evidence taken or produced before that commission.
- (2) References in this Act (other than in sections 3, 4, 4A and 13(1)) and in all documents issued under this Act to a commission, a commissioner or a member of a commission shall be construed as including references to a deputy to a commission who acts within the deputy's authority of a deputy to the commission.
- (3) References in sections 7 and 14(1A) to a chairperson shall be construed as including references to a deputy to a commission

who acts within the deputy's authority of a deputy to the commission.

30 Reference by commission to evidence etc. before deputy to a commission

- (1) A commission may take into account and to such extent as it thinks appropriate, rely upon any evidence or other material given or produced before a deputy to a commission and upon any report and any recommendation of that deputy to the commission.
- (2) A commission may in its discretion disclose—
 - (a) whether or not a report or recommendation has been or will be made to it by a deputy to a commission; and
 - (b) the terms of any such report or recommendation; and
 - (c) whether or not or to what extent (if any) that report or recommendation has been or will be taken into account or relied upon by the commission.
- (3) A person shall not, without the written permission of the chairperson, make disclosure (otherwise than to the commission) of any of the matters referred to in subsection (2).

Maximum penalty—200 penalty units or 1 year's imprisonment.
- (4) Subsection (3) does not apply to a disclosure of a matter that had previously been disclosed by the commission.

30A Delegation to deputy to a commission

- (1) Notwithstanding the provisions of section 28(1), a chairperson, with the approval of the Attorney-General, may delegate the chairperson's powers under this Act (except this power of delegation) or any other Act to a deputy to the commission.
- (1A) However, those powers which by this Act may only be exercised or performed by a chairperson who is a judge of the

Supreme Court may not be delegated except to a deputy to a commission who is a judge of the Supreme Court.

31 Commission may make separate reports etc.

A commission may, at the discretion of the chairperson, make any separate reports, whether interim or final, and any separate recommendations concerning any of the subject matters of its inquiry.

32 Reports may be tabled

A report under this Act that is received by a Minister may be tabled in the Legislative Assembly.

32A Disclosure of particular information only if reasonable

- (1) This section applies to information obtained as a result of the chairperson's writing that, apart from section 5(2A) to (2C), would not have been able to be disclosed to the chairperson (the *protected information*).
- (2) Protected information must not be disclosed by the chairperson, or anyone else who gains access to the information, for a purpose under this Act, unless the chairperson considers it is reasonable in the circumstances to disclose the information, having regard to—
 - (a) the nature of the information; and
 - (b) the purposes of an inquiry under a commission.
- (3) In this section—

information includes—

 - (a) a statement or disclosure made by a witness in answer to a question put to the witness by a commission or a commissioner or before a commission; and
 - (b) a book, document, writing, record, property or anything produced by the witness to a commission, a commissioner or before a commission.

32B Confidentiality of information

- (1) This section applies to a chairperson, commissioner, deputy to a commission or anyone else who, for the purposes of an inquiry under a commission, has gained, gains, or has access to, confidential information.
- (2) The person must not disclose the information to anyone or give access to the information to anyone other than—
 - (a) for a purpose under this Act; or
 - (b) with the consent of the person to whom the information relates; or
 - (c) in compliance with lawful process requiring production of documents or giving of evidence before a court or tribunal; or
 - (d) as permitted or required by another Act.

Maximum penalty—200 penalty units or 1 year's imprisonment.

- (3) In this section—

confidential information includes information about a person's affairs, but does not include—

 - (a) information already publicly disclosed unless further disclosure of the information is prohibited by law; or
 - (b) statistical or other information that could not reasonably be expected to result in the identification of the person to whom the information relates.

33 Regulation-making power

- (1) The Governor in Council may make regulations under this Act.
- (2) A regulation may make provision about the conduct of commissions.

34 References to Official Inquiries Evidence Act 1910

In an Act or document, a reference to the *Official Inquiries Evidence Act 1910* may, if the context permits, be taken as a reference to this Act.

35 Transitional provision for Penalties and Sentences and Other Legislation Amendment Act 2012

Section 5(2A) and (2C) applies to an oath taken, affirmation made, or provision of an Act, whether taken, made or enacted before or after the commencement of this section.