

COMMISSIONS OF INQUIRY ACT

Cap 286 – 16 March 1944

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COMMISSIONS OF INQUIRY ACT

1. Short title

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

2. Appointment of Commissions of Inquiry

(1) —

(2) The President may issue a commission appointing one or more Commissioners and authorising such Commissioner or Commissioners, or such quorum of Commissioners as may be specified in the commission, to inquire into the conduct of any officer in the public service, or into the conduct or management of any department of the public service, or of any public or local institution, or into any matter relating to the public service, or into any matter of public interest or concern, or into any matter in which an inquiry would be for the public welfare.

(3) Every commission under subsection (2) shall specify the subject of inquiry, and shall, if there is more than one Commissioner, direct which Commissioner shall be Chairperson, and may further direct where and when the inquiry shall be held and the report rendered, and provide how the commission shall be executed, and whether the inquiry shall or shall not be held in public.

(4) Subject to subsection (5), the inquiry shall, in the absence of a direction to the contrary, be held in public.

(5) The Commission may refuse to allow the public or any portion of the public to be present at any part of the proceedings of the inquiry where, in the opinion of the Commission, it is, in the public interest, expedient to do so for reasons connected with the subject matter of the inquiry or the nature of the evidence, or for the preservation of order, or for any other reason.

[S. 2 amended by Act 48 of 1991.]

3. Powers of President

(1) The President may add to the number of Commissioners.

(2) Where any Commissioner dies, or is or becomes unwilling or unable to act, the President may appoint another Commissioner in his place.

(3) All the powers and duties conferred and imposed upon a Commissioner under this Act shall be exercised and performed by the Commissioner under subsection (2).

(4) Any commission may be altered or revoked by the President with the advice and consent of the Assembly, or by the President, as the case may be.

(5) The President may, by endorsement under his hand on a commission, enlarge the time for the execution of the commission, whether the time for the execution of the commission has expired or not.

[S. 3 amended by Act 48 of 1991.]

4. Commissions not affected

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

[S. 4 amended by Act 48 of 1991.]

5. Oath of office of Commissioners

(1) Every Commissioner shall make and subscribe an oath in the form specified in the First Schedule.

(2) The oath may be taken before the President, or such other person as the President may appoint.

[S. 5 amended by Act 48 of 1991.]

6. Power to appoint Secretary

The President may appoint a Secretary to attend the sittings of the Commission, to record the proceedings, to keep the papers and documents, to summon and minute the testimony of witnesses, and generally to perform such duties connected with the inquiry as the Commission shall prescribe.

[S. 6 amended by Act 48 of 1991.]

7. Duties of Commissioners

(1) The Commissioners shall, after taking the oath provided under section 5, make a full, faithful and impartial inquiry into the matter specified in

the commission, and shall conduct such inquiry in accordance with the directions (if any) in the commission.

(2) The Commissioners shall, in due course, report to the President, in writing, the result of such inquiry, and, where required, shall furnish to the President, a full statement of the proceedings of the Commission, and of the reasons leading to any conclusion arrived at or reported.

[S. 7 amended by Act 48 of 1991.]

8. Division of opinion among Commissioners

Where the Commissioners are equally divided on any question arising during the proceedings of the Commission, the Chairperson of the Commission shall have a second or casting vote.

9. Commissioners' powers

The Commissioners acting under this Act may make such rules for their own guidance and the conduct and management of proceedings before them, and the hours and times and places of their sittings, not inconsistent with the commission, as they think fit, and may adjourn for such time and to such place as they think fit, subject only to the terms of the commission.

10. Power to summon and examine witnesses

(1) Commissioners acting under this Act may summon witnesses, and call for the production of books, plans and documents, and examine witnesses on oath.

(2) (a) All summonses for the attendance of witnesses or the production of documents may be in the form specified in the Second Schedule and may be signed by a Commissioner or by the Secretary.

(b) Oaths, affirmations or declarations, as the case may be, may be administered by a Commissioner or by the Secretary.

11. Duty of witnesses

(1) Any witness summoned to attend and give evidence, or to produce books, plans, or documents at any sitting of the Commission, shall obey the summons served upon him in all respects as a witness obeys a summons issued from the Supreme Court, and shall be entitled to such expenses as are allowed to a witness who is summoned to attend that Court on a criminal trial, but the Commission may disallow the whole or any part of such expenses where it thinks fit.

(2) Orders for the payment of the expenses of any witness shall be made as nearly as may be as orders are made for the payment of expenses to witnesses in the Supreme Court, and such expenses shall be paid in such manner as the President may direct.

(3) Subject to subsections (4) and (5), every person who—

(a) refuses or omits, without sufficient cause, to attend a sitting of the Commission at the time and place specified in the summons served upon him;

- (b) attends a sitting of the Commission following a summons served upon him but leaves the sitting without the permission of the Commission;
- (c) refuses to be sworn or to make an affirmation or declaration, as the case may be;
- (d) refuses, without sufficient cause, to depone;
- (e) refuses, without sufficient cause, to answer or to answer fully and satisfactorily to the best of his knowledge and belief, all questions put to him by or with the concurrence of the Commission;
- (f) refuses or omits, without sufficient cause, to produce any book, plan or other document in his possession or under his control which is specified in the summons served upon him,

shall commit an offence and shall, on conviction, be liable to a fine not exceeding 5,000 rupees to be imposed by the Commission.

(4) Where a person commits an offence specified in subsection (3) before a Commission appointed to inquire into a matter of vital public importance specified in the Fourth Schedule, he shall be liable to a fine not exceeding 5 million rupees to be imposed by the Commission.

(5) (a) Notwithstanding any other law in force in Mauritius, where a Commission requires, in relation to a matter of vital public importance specified in the Fourth Schedule, the full disclosure of the bank account or the bank deposit of a witness, including any account or deposit operated or made by that person in a fictitious name or for or on behalf of any other person, every bank which is required by the Commission to make the disclosure and which fails to do so shall commit an offence and shall, on conviction by the Intermediate Court, be liable to a fine not exceeding one million rupees.

(b) The Intermediate Court may, in addition to a fine, order that the licence of the bank be revoked.

(c) Notwithstanding any other law in force, the Intermediate Court will have jurisdiction to inflict the fine imposed under paragraph (a).

(6) Every person who, at any sitting of the Commission, wilfully insults a Commissioner or the Secretary of the Commission or wilfully interrupts the proceedings of the Commission or otherwise wilfully commits a contempt of the Commission shall commit an offence and shall, on conviction, be liable to a fine not exceeding 5,000 rupees and to imprisonment for a term not exceeding 12 months.

(7) (a) Any fine imposed by a Commission under subsection (3) or (4) shall, for the purposes of execution, be deemed to have been imposed by the District Magistrate of Port Louis exercising jurisdiction under the District and Intermediate Courts (Criminal Jurisdiction) Act.

(b) A certificate in the form specified in the Third Schedule shall be sufficient authority to the District Magistrate for the purposes of execution.

[S. 11 amended by Act 58 of 1983; Act 34 of 1986; Act 19 of 1987; Act 48 of 1991.]

11A. Other powers of the Commission

Where the Commission is of the opinion, in relation to a matter of vital public importance specified in the Fourth Schedule, that it is necessary—

- (a) to search or cause to be searched the premises of any person;
- (b) to cause the assets of any person to be valued;
- (c) to cause the books and other documents, if any, belonging to any person, to be examined,

the Commission may make such order as it thinks fit directing the Commissioner of Police to effect the search, or an expert or any knowledgeable person to make the valuation or examination, as the case may be.

[S. 11A inserted by Act 34 of 1986.]

12. Protection of Commissioners and witnesses

(1) A Commissioner shall not be liable to any prosecution, action, or suit, in respect of any matter or thing done by him as Commissioner.

(2) No evidence given before a Commission shall—

- (a) give rise to any civil or criminal proceedings, other than a prosecution for perjury, against any person giving such evidence;
- (b) be admissible against any person in any civil or criminal proceedings, except in the case of a witness charged with having given false evidence before the Commissioner or Commissioners conducting an inquiry under this Act.

(3) No person giving evidence before a Commission shall refuse to answer any question on the ground that an answer would incriminate him and no incriminating answer shall be admissible against him in any prosecution, action or suit.

(4) Any person who wilfully gives false evidence before the Commission shall commit an offence and shall, on conviction, be liable to imprisonment.

[S. 12 amended by Act 58 of 1983; Act 34 of 1986.]

13. Law of evidence to apply

Any enactment relating to witnesses and evidence shall, subject to this Act, be applicable to all witnesses appearing, and to all evidence given, before the Commission.

14. Representations by Counsel

Any person whose conduct is the subject of inquiry under this Act, or who is in any way implicated or concerned in the matter under inquiry, shall be entitled to be represented by Counsel at the whole of the inquiry, and any other person who considers it desirable that he should be so represented may, by leave of the Commission, be also represented by Counsel at the whole of the inquiry.

15. Duties of police officers

The President may direct the Commissioner of Police to detail police officers to attend upon the Commission, to preserve order during the proceedings of the Commission, to serve summonses on witnesses and to perform such duties as the Commission may direct.

[S. 15 amended by Act 48 of 1991.]

16. Remuneration and expenses

(1) The President may direct what remuneration, if any, shall be paid to a Commissioner, to the Secretary, and to any other person engaged in the work of the Commission, and what expenses, if any, incurred in the holding the inquiry shall be paid.

(2) Any remuneration or expenses directed to be paid under subsection (1) shall be a charge on the Consolidated Fund.

[S. 16 amended by Act 58 of 1983; Act 48 of 1991.]

17. Commissions to be published

Every commission issued under this Act, and any alteration or revocation of any such commission, shall be published in the *Gazette* and shall take effect from the date of the publication.

18. Proceedings

No proceedings for an offence under this Act shall be commenced except with the consent of the Director of Public Prosecutions.

[S. 18 amended by Act 58 of 1983.]

19. No costs to be awarded against the Commissioner

No costs shall be awarded against any Commissioner appointed under this Act in any proceedings against him or in any judicial review of any findings of or any fine imposed by the Commissioner.

[S. 19 added by Act 19 of 1987.]

20. —

FIRST SCHEDULE

[Section 5]

I having been appointed under a commission, dated the day of 20..... issued by the President, to be a Commissioner to inquire into the matters specified in the commission, do swear 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 commission.

So Help Me God

.....

Commissioner

[First Sch. amended by Act 48 of 1991.]

SECOND SCHEDULE

[Section 10]

SUMMONS TO WITNESSES

To of(name of person summoned and his calling and residence, if known)

You are hereby summoned to appear before the Commissioners appointed by the President to inquire (state briefly the subject of inquiry) at (place) upon the day of 20 at o'clock, and to give evidence respecting such inquiry.*You are also required to bring with you (specify the books, plans and documents required). Therefore fail not at your peril.

Given under my hand this day of 20.....

.....

Commissioner

or

.....

*Delete if not applicable.

[Second Sch. amended by Act 48 of 1991.]

THIRD SCHEDULE

[Section 11]

To the District Magistrate of Port Louis.

Certificate of conviction issued under section of the Commissions of Inquiry Act.

This is to certify that the Commission set up by His Excellency the President by Letters Patent dated and published under General Notice No. of has imposed a fine of rupees on (name and address of person fined) on (date) at the sitting of the Commission held at (place of sitting).

Nature of offence

Breach of section of the Commissions of Inquiry Act.

.....
Signature of Commissioner/s

[Third Sch. added by Act 34 of 1986; amended by Act 48 of 1991.]

FOURTH SCHEDULE

[Sections 11 and 11A]

1. Unlawful possession of or dealing in dangerous drugs
2. Unlawful possession of or dealing in dangerous weapons
3. Wealth and riches unlawfully accumulated by fraud and corruption

[Fourth Sch. amended by Act 34 of 1986.]
