

LAWS OF THE WEST INDIES

CHAPTER 514  
COMMISSION OF INQUIRY

CHAPTER 514

THE COMMISSIONS OF INQUIRY ACT, 1958

ARRANGEMENT OF SECTIONS

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**AN ACT** relating to Commissions of Inquiry concerning <sup>Act</sup> matters with respect to which the Federal Legislature <sup>15/1958.</sup> may make laws.

*Date of assent* .. .. . 30th December, 1958  
*Commencement* .. .. . 30th December, 1958

1. (1) This Act may be cited as the Commissions of <sup>Short</sup> Inquiry Act, 1958. <sup>title and</sup> <sup>application</sup>

(2) This Act shall apply to the Cayman Islands and the Turks and Caicos Islands.

Interpreta-  
tion.

2. In this Act, unless the contrary intention appears—

“reasonable excuse”, in relation to an act or omission by a person served with a summons to attend before the Commissioners or appearing as a witness before the Commissioners, means an excuse that would excuse an act or omission of a similar nature by a person summoned as a witness, or appearing as a witness, before the Federal Supreme Court;

“Commissioner” means any person to whom a commission issued by the Governor-General under section 3 of this Act is directed, and “the Commissioners” includes a sole Commissioner.

Issue of  
commission of  
inquiry.

3. (1) The Governor-General may, whenever he deems it expedient, issue a commission, directed to such person or persons as he thinks fit, requiring him or them as the case may be to make inquiry into and report upon any matter specified in the commission, being a matter with respect to which the Federal Legislature may make laws.

(2) The Governor-General may, by any commission issued under the preceding subsection, appoint a secretary to the Commissioners to record their proceedings and generally to perform such duties connected with the inquiry as the Commissioners may determine subject to the directions, if any, of the Governor-General.

Power to  
summon  
witnesses.

4. (1) The Commissioners shall have the power to summon witnesses to attend before them and to give evidence and to produce any books, plans or documents in their custody or under their control which they are required by the summons to produce.

(2) A summons issued under the preceding subsection shall be signed by one of the Commissioners and may be served personally or by post or by being left at the usual place of abode of the person named in the summons.

5. (1) A person served with a summons to attend before the Commissioners shall not, without reasonable excuse,— Failure to attend or produce documents.

(a) fail to attend before the Commissioners; or

(b) fail to produce any book, plan or document in his custody or under his control which he is required by the Commissioners to produce.

(2) A person who fails to comply with the provisions of the preceding subsection shall be guilty of an offence against this Act.

(3) It shall be a defence in proceedings under this Act for failing without sufficient cause to produce any book, plan or document, if it is proved that the book, plan or document was not relevant to the inquiry.

6. (1) A person who has been summoned to attend before the Commissioners as a witness shall appear and report himself from day to day unless excused by the Commissioners or until he is released by the Commissioners from further attendance. Duty of witness to continue in attendance.

(2) Any person who fails to comply with the provisions of the preceding subsection shall be guilty of an offence against this Act.

7. (1) If a person who has been summoned to attend before the Commissioners as a witness fails to attend or appear before the Commissioners as required by section 5 or section 6 of this Act any Commissioner may, on proof by affidavit that the summons was served on the witness personally or that it has otherwise come to his knowledge, issue a warrant for the apprehension of that person. Arrest of witness failing to appear.

(2) A warrant so issued shall authorise the apprehension of the person and his being brought before the Commissioners and his detention in custody for that purpose until he is released by order of the Commissioners.

(3) A warrant so issued may be executed by a person who is a member of the police force of a Territory, or by any person to whom it is addressed, and the person executing it shall have power to break open and enter any place, building or vessel for the purpose of executing the warrant.

(4) The apprehension of a person under this section shall not relieve him from any liability incurred by reason of his failure to attend or appear before the Commissioners.

Power to administer oaths.

8. (1) A Commissioner may administer an oath to a person appearing as a witness before the Commissioners, whether the witness has been summoned or appears without being summoned, and the Commissioners may examine the witness upon oath.

(2) Where by virtue of any law in operation in a Territory in which an oath is to be administered under this section, any person is entitled to make an affirmation instead of taking an oath, that person may do so before the Commissioners and shall do so in the form prescribed by that law.

Refusing to be sworn or to give evidence.

9. (1) A person appearing as a witness before the Commissioners who, without reasonable excuse,—

(a) refuses or fails to be sworn or to make an affirmation, or

(b) refuses or fails to answer a question relevant to the inquiry put to him by a Commissioner,

shall be guilty of an offence against this Act.

(2) For the purposes of this section, a question put to a person by a barrister or solicitor appearing before the Commissioners or by some other person authorised by the Commissioners to appear before them, not being a question disallowed by the Commissioners, shall be deemed to have been put by a Commissioner.

Privilege.

10. A person served with a summons to attend before the Commissioners, or a person appearing as a witness before the Commissioners, shall, in respect of any evidence given by him before the Commissioners, be entitled to all the privileges to which a witness giving evidence before the Federal Supreme Court is entitled in respect of evidence given by him before that Court.

Act or omission on different days to constitute separate offences.

11. Where a person has on any day done or omitted to do something and his act or omission amounts to an offence against section 5 or section 9 of this Act, and such person

does or omits to do the same thing in respect of a meeting of the Commissioners held on some other day, each such act or omission shall constitute a separate offence against this Act.

12. (1) Subject to the provisions of this section the proceedings of the Commissioners shall be held in public. Proceedings of Commissioners.

(2) If the Governor-General so directs (which direction may be contained in a commission issued under section 3 of this Act or may be given in such other manner as the Governor-General thinks fit) the proceedings of the Commissioners or such part thereof as may be specified in such direction shall be held in private and no person who is not authorised by such direction to be present shall be present during such proceedings.

(3) Notwithstanding the provisions of subsections (1) and (2) of this section, the Commissioners may, if they think proper, take evidence in private and no person who is not expressly authorised by the Commissioners to be present shall be present during the taking of that evidence.

(4) Without affecting the generality of the last preceding subsection, the Commissioners may take evidence in private upon the application of a witness on the ground that the taking of the evidence in public would be unfairly prejudicial to him.

(5) The Commissioners may direct that any evidence given before them, or the contents of any book, plan or document produced at the inquiry, shall not be published.

(6) Any person who makes a publication in contravention of a direction given under the last preceding subsection shall be guilty of an offence against this Act.

13. (1) A person who contravenes or fails to comply with any of the provisions of sections 5, 6, 9, 12, or 17 of this Act shall be guilty of a contempt of the Commissioners in addition to being guilty of an offence against this Act. Contempt of Commissioners.

(2) A contempt of the Commissioners under this section shall be punishable by the Federal Supreme Court,

upon application made by the Attorney General, as if it were a contempt of the Federal Supreme Court, and the Federal Supreme Court shall have jurisdiction to hear and determine proceedings in respect of such a contempt.

(3) Subject to this section, proceedings in respect of such a contempt shall be instituted, carried on, heard and determined in accordance with the law applicable to and in relation to the punishment of contempts of the Federal Supreme Court.

(4) In so far as any such law is incapable of application a judge of the Federal Supreme Court may give a direction as to the manner of instituting, carrying on, hearing or determining a proceeding referred to in the last preceding subsection and in that case the proceeding shall be instituted, carried on, heard or determined, as the case may be, in accordance with such direction.

(5) The penalty which the Federal Supreme Court may impose in respect of a contempt of the Commissioners shall be the penalty which would have been applicable in respect of the offence constituting the contempt if proceedings in respect of the offence had been taken otherwise than under this section.

(6) A person guilty of an offence referred to in subsection (1) of this section may be punished either under this section or otherwise but shall not be punished twice for the same offence.

Power of Commissioners in relation to documents produced.

14. A Commissioner or any person authorised in writing by a Commissioner for this purpose may inspect any books, plans or documents produced before the Commissioners and may retain them for such period as may be necessary for the purposes of the inquiry and may make copies, or take extracts from them, of such matters as may be relevant to the inquiry.

Examination of witnesses by counsel, &c.

15. A barrister or solicitor appointed by the Attorney General to assist the Commissioners, a barrister or solicitor authorised by the Commissioners to appear before them for the purpose of representing any person, or any other person authorised by the Commissioners to appear before them may,

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so far as the Commissioners think proper, examine or cross-examine any witness on any matter which the Commissioners deem relevant to the inquiry and a witness so examined or cross-examined shall have the same protection and be subject to the same liabilities as if he were examined by a Commissioner.

16. (1) A person summoned to appear as a witness, or appearing as a witness, before the Commissioners shall be paid such expenses, if any, in respect of his attendance as the Commissioners may determine not exceeding the amounts provided by the scale of allowances payable to witnesses under the Federal Supreme Court (Original Jurisdiction) Rules, 1958, or any rules of court amending or replacing the same.

(2) The claim to allowance of any such person, certified by a Commissioner, shall be paid by the Accountant General out of the public funds of the Federation.

17. Any person who—

- (a) wilfully insults or disturbs the Commissioners or any of them in relation to the performance of any functions under this Act,
- (b) interrupts the proceedings of the Commissioners,
- (c) uses insulting language towards the Commissioners or any of them,
- (d) by writing or speech uses words false and defamatory of the Commissioners or any of them,
- (e) by writing or speech uses words calculated—
  - (i) improperly to influence a person in relation to evidence which he may give before the Commissioners,
  - (ii) improperly to influence a witness before the Commissioners, or

Offences  
against  
Commis-  
sioners.



(iii) to bring the Commissioners or any of them into disrepute, or

(f) in any manner commits a wilful contempt of the Commissioners, not being a contempt which is a contravention of or failure to comply with any of the provisions of sections 5, 6, 9 or 12 of this Act,

shall be guilty of an offence against this Act.

Protection of Commissioners, barristers and witnesses.

18. (1) Every Commissioner shall have, in the exercise of his duty as a Commissioner, the same protection and immunity as a judge of the Federal Supreme Court.

(2) A barrister or solicitor appearing before the Commissioners, and every other person authorised by the Commissioners to appear before them, shall have the same protection and immunity as a barrister has when appearing for a party in proceedings before the Federal Supreme Court.

(3) Subject to this Act, a witness summoned to attend or appearing before the Commissioners shall have the same protection, and shall, in addition to the penalties provided by this Act, be subject to the same liabilities in any civil or criminal proceeding, as a witness in proceedings in the Federal Supreme Court.

Proceedings for defamation not to lie.

19. (1) No action or proceeding, civil or criminal, shall lie—

(a) against any person in respect of the printing or publishing of—

(i) an official transcript of proceedings of the Commissioners, or

(ii) an official report of the Commissioners, or

(b) in respect of the publication in a newspaper, or by means of broadcasting, of

(i) a fair and accurate report of proceedings of the Commissioners, or

- (ii) a report of the Commissioners not being a publication in contravention of section 12 of this Act.

(2) This section shall not limit or abridge any privilege existing apart from this Act.

20. (1) Where evidence of proceedings before the Commissioners (including questions asked of witnesses and answers given or statements made by witnesses) is admissible in any court in the Federation, the evidence may be given by the production of a document certified under the hand of any person who is or was one of the Commissioners to be a transcript of the proceedings.

(2) Judicial notice shall be taken of the signatures of the persons who are or were the Commissioners, and of the fact that they are or were the Commissioners.

21. The Governor-General may direct what remuneration, if any, shall be paid to the Commissioners, and to their secretary, and to any other persons employed in connection with the inquiry and may direct payment of any other expenses attendant upon the carrying out of such inquiry, and such sums, so directed to be paid, shall be paid by the Accountant General out of the public funds of the Federation.

22. Any person who in the course of giving evidence before the Commissioners wilfully makes a statement material to the inquiry knowing the statement to be false or not believing it to be true, shall—

- (a) if the statement was made on oath, be guilty of a felony and on conviction on indictment be liable to a fine or to imprisonment for a term not exceeding seven years or to both such fine and imprisonment;
- (b) if the statement was made otherwise than on oath, be guilty of an offence and be liable on summary conviction to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

Presenting  
false docu-  
ments to  
Commis-  
sioners.

23. Any person who produces before the Commissioners any false, untrue, fabricated or falsified document with intent to deceive the Commissioners shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding five hundred dollars, or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

Applica-  
tion of  
Territorial  
laws.

24. The proceedings of the Commissioners shall be deemed to be a judicial proceeding and the Commissioners to be members of a judicial tribunal for the purposes of any law in force in a Territory making provision for offences relating to the administration of justice.

Penalty.

25. Any person guilty of an offence against this Act for which a punishment is not otherwise prescribed shall be liable on summary conviction to a fine not exceeding two hundred and fifty dollars, or to imprisonment for a term not exceeding three months or to both such fine and imprisonment.

Expenses  
payable out  
of public  
funds of  
Federation.

26. All moneys payable out of the public funds of the Federation under this Act are hereby appropriated out of the public funds of the Federation and shall be paid therefrom on the warrant of the Governor-General.