
Commissions of Inquiry Act. 15 GEO. VI. No. 2,

EVIDENCE.

- (1) *Commissions of Inquiry Act of 1950* .. 15 *Geo. VI. No. 2*
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15 GEO. VI.
No. 2.
THE
COMMISSIONS
OF INQUIRY
ACT OF 1950.

An Act to Make Further and Better Provision for Facilitating Inquiries by Commissions of Inquiry.

[ASSENTED TO 13TH DECEMBER, 1950.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

Short title.

1. This Act may be cited as "*The Commissions of Inquiry Act of 1950.*"

Repeal of
1 Geo. V.
No. 26 and
20 Geo. V.
No. 2

2. *"*The Official Inquiries Evidence Act of 1910*" and †"*The Official Inquiries Evidence Act Amendment Act of 1929*" are hereby repealed:

Savings.

Provided that, but without prejudice to "*The Acts Shortening Acts*"—

(a) Such repeal shall not affect—

(i.) The validity, invalidity, effect, or consequences of anything already done or suffered;

(ii.) Any indemnity or immunity in respect of any past act or thing; or

(iii.) The proof of any past act or thing, or the admissibility or inadmissibility of evidence with regard thereto;

(b) For the purpose of continuing and completing any inquiry (commenced before the passing of this Act) into or with respect to any matter or matters, by a Commission appointed prior to and subsisting at the passing of this Act, both of such repealed Acts shall be deemed to continue in force as if this Act had not been passed;

* 1 G. 5 No. 26.

† 20 G. 5 No. 2.

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- (c) In any Act any reference to or citation of **"The Official Inquiries Evidence Acts, 1910 to 1929,"* or either of those repealed Acts, shall be deemed to be a reference to or citation of this Act ;
- (d) All regulations made under the repealed Acts and in force at the passing of this Act, so far as the same are not inconsistent with this Act, shall, unless the contrary is expressly provided herein, remain in force under, and be deemed to have been made for the purposes of, this Act, and may be repealed, varied, amended, or otherwise modified under this Act :

Provided that general regulations made under this Act shall supersede and have the effect of repealing such firstmentioned regulations.

3. In this Act, unless the context otherwise indicates or requires, the following terms shall have the meanings respectively assigned to them, that is to say :—

“Chairman”—The chairman of any Commission, whether appointed by the instrument creating the Commission or otherwise, including the person for the time being acting as chairman : In cases where a Commission is constituted by a sole commissioner, the term means such commissioner ;

“Commission”—Any Commission of Inquiry issued by the Governor, by and with the advice of the Executive Council of this State, under his 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 :

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

* I G. 5 No. 26 and amending Act.

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 the term "Commission" 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;

Com-
missioner.

"Commissioner"—Any person to whom a Commission is issued (whether as one of several members of a Commission or as sole commissioner);

Person.

"Person"—Includes any body corporate;

Reasonable
excuse.

"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;

This Act.

"This Act"—This Act and all regulations for the time being in force under and for the purposes of this Act.

Application
of Act.

4. (1.) Wherever a Commission of Inquiry is issued by the Governor, by and with the advice of the Executive Council of this State, under his hand and the Public Seal of the State, the provisions of this Act shall apply to and with respect to the inquiry.

This Act shall also apply to and with respect to any inquiry which has not been commenced before the passing of this Act under a Commission of Inquiry issued as aforesaid prior to and subsisting at the passing of this Act.

(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 one of this section, 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.

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5. A chairman may, by writing under his hand, 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 may further require him to produce any books, documents, or writings in his custody or control, which he is required by the summons to produce.

Power to
summon
witnesses
and to
require
production
of books,
&c.

6. 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.

Oaths,
affirmations,
and
declarations.

The provisions of **"The Oaths Acts, 1867 to 1924,"* 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. Every person who has been served with a summons to attend before a Commission as a witness shall appear and report himself from day to day unless excused by the chairman of the Commission until he is released from further attendance by the chairman.

Duty of
witness to
continue in
attendance.

If any person as aforesaid, without being so excused, fails to so appear and report himself he shall for the purposes of this Act be deemed to have failed to attend before the Commission in obedience to his summons.

8. (1.) If any person served with a summons to attend before a Commission as a witness fails to attend before the Commission in obedience to his summons and no reasonable excuse is offered to the satisfaction of the chairman for such failure, the chairman may, on proof of the service of the summons, issue a warrant for his apprehension.

Arrest of
witness
failing to
attend.

(2.) If the chairman 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

Warrant in
the first
instance or
before return
of summons.

* 31 V. No. 12 and amending Acts.

by affirmation or declaration instead of upon oath), which oath, affirmation, or declaration he is hereby authorised to administer or take, as the case may be, that it is probable that a person whose evidence is desired and is necessary and 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 his evidence will not be obtained by the Commission if that person so departs, the chairman may issue his warrant for the apprehension of that person.

A warrant may be issued under this subsection in the first instance without or before the issuing of a summons under section five of this Act 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 this section shall authorise the apprehension of the witness and his being brought before the Commission, and his detention in custody for the purpose of securing his appearance before the Commission as required by this Act until he is released by order of the chairman.

(4.) A warrant issued under this section may be executed by any member of the Police Force, 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 this section shall not relieve the witness in question from any liability to be punished for his failure to attend before the Commission in obedience to his summons.

Contempt
of a
Commission.

9. (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.

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Neither liability to be punished nor punishment under section ten of this Act for that contempt shall excuse the offender from attending before the Commission in obedience to his summons, and the chairman may enforce his attendance by warrant.

(2.) A person who—

Further
contempts
of a
Commission.

- (i.) Having been served with a summons to attend before a Commission, fails to produce any book, document, or writing in his custody or control, which he is required by the summons to produce; or
- (ii.) 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 him by the Commission or any commissioner relevant to the inquiry; or
- (iii.) Wilfully insults a Commission or any commissioner; or
- (iv.) By writing or speech uses words false and defamatory of a Commission, or any commissioner; or
- (v.) Misbehaves himself before a Commission; or
- (vi.) Interrupts the proceedings of a Commission; or
- (vii.) Obstructs or attempts to obstruct a Commission, a commissioner, or a person acting under the authority of the chairman, in the exercise of any lawful power or authority; or
- (viii.) 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
- (ix.) Publishes, or permits or allows to be published, any evidence given before a Commission or any of the contents of a book, document, or writing produced at the inquiry which a Commission has ordered not to be published,

shall be guilty of contempt of the Commission concerned.

Punishment
of contempt
of a
Commission.

10. (1.) Any contempt, under any of the provisions of section nine of this Act, of a Commission may be punished by the Chairman as hereinafter provided in this section.

(2.) In a case where the chairman is not a Judge of the Supreme Court, that chairman—

- (a) May punish the offender summarily by imposing upon him such penalty not exceeding fifty pounds as the chairman thinks fit ; or
- (b) May, in lieu of himself punishing the offender, certify the contempt under his hand to the Supreme Court.

(3.) In a case where the chairman is a Judge of the Supreme Court, that chairman—

- (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 himself punishing the offender, certify the contempt under his 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 chairman, or by a Judge of the Supreme Court who is not the chairman, as contempt of the Commission concerned where that witness or person satisfies the chairman or, as the case may be, that Judge of reasonable excuse for his act or omission :

Provided that a person may be punished in his absence for a contempt hereinbefore specified in this subsection, but in that event the penalty imposed shall not be enforced if, at any time within seven days (or such longer period as the chairman or, if the punishment shall have been imposed by a Judge of the Supreme Court who is not the chairman, that Judge may allow) after the imposition thereof, that person satisfies the chairman or, as the case may be, the aforementioned Judge of reasonable excuse for his act or omission.

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(5.) Where the chairman has, under this section, certified to the Supreme Court a contempt of a Commission by a person, a Judge of that Court shall thereupon inquire into the alleged contempt and after hearing any witnesses who may be produced against or on behalf of the person charged with the contempt, and after hearing any statement that may be offered in defence, punish or take steps for the punishment of that person in like manner and to the like extent as if he had committed that contempt in or in relation to an action or trial in the Supreme Court, and the provisions of **"The Supreme Court Acts, 1861 to 1949,"* and of the Rules of Court thereunder shall, subject to all necessary adaptations thereof, 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 he may be taken into custody then and there by a member of the Police Force by order of the chairman, and called upon to show cause why he should not be punished by that chairman.

(7.) In the case of a contempt of a Commission under any of the provisions of paragraphs (iii.), (iv.), (vii.), (viii.), and (ix.) of subsection two of section nine of this Act committed otherwise than in the face of that Commission the chairman may, by writing under his hand, summon the offender to attend before that Commission at a time and place named in the summons to show cause why he should not be punished by the chairman for that contempt.

If that person fails to attend before the Commission in obedience to the summons, and no reasonable excuse to the satisfaction of the chairman is offered for such failure, the chairman may, on proof of the service of the summons, issue a warrant to apprehend that person and bring him before the Commission to show cause as aforesaid.

(8.) In the case of a contempt of a Commission under any of the provisions of paragraphs (iii.), (v.), and (vi.) of subsection two of section nine of this Act the offender may be excluded from the place where that Commission is sitting by order of the chairman, and the chairman may, whether the offender is so excluded or not, punish the offender or certify the offence as hereinbefore in this section provided.

* 25 V. No. 13 and amending Acts.

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

11. (1.) The provisions of **“ The Justices Acts, 1886 to 1949,”* 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 chairman 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 Acts, 1886 to 1949,”* as if that punishment were a penalty imposed upon conviction for an offence by justices sitting as a court of petty sessions, and for the purposes of the enforcement as aforesaid of that punishment the chairman who imposed it may—

- (a) Draw up under his hand an order in or to the effect of the form in which a conviction or order by justices sitting as a court of petty sessions is drawn up under **“ The Justices Acts, 1886 to 1949 ”*;
- (b) Make and sign all such other instruments under, and in or to the effect of the respective forms prescribed by, **“ The Justices Acts, 1886 to 1949,”* 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 court of petty sessions; and
- (c) Cause to be filed in the office of a clerk of petty sessions at a place for holding courts of petty sessions the order referred to in paragraph (a) of this subsection and any instrument or instruments referred to in paragraph (b) of this subsection drawn up or made and signed by him.

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(3.) Any summary punishment imposed for a contempt of a Commission may be appealed against under **"The Justices Acts, 1886 to 1949,"* as if that punishment were a penalty imposed upon conviction for an offence by justices sitting as a court of petty sessions at the place where the office of the clerk of petty sessions in which the order in respect of that punishment referred to in paragraph (a) of subsection two of this section is filed is situated, and the provisions of those lastmentioned Acts relating to appeals from decisions of justices shall apply and extend accordingly.

12. The provisions of **"The Justices Acts, 1886 to 1949,"* 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.

Service of
summons
and
execution of
warrant.

13. (1.) If the chairman of a Commission is a Judge of the Supreme Court the provisions of this section shall have effect.

Powers of
chairman if
a Judge of
the Supreme
Court.

(2.) For the purposes of the inquiry, including the punishment of contempts of the Commission, the chairman 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 chairman deems to be relevant to the inquiry ;
- (c) Compelling the production of books, documents, and writings ; and
- (d) Punishing persons guilty of contempt of the Commission or of disobedience of any order or summons made or issued by the chairman,

and the provisions of †*"The Supreme Court Acts, 1861 to 1949,"* and of the Rules of Court thereunder shall, subject to all necessary adaptations thereof, apply and extend accordingly.

* 50 V. No. 17 and amending Acts.

† 25 V. No. 13 and amending Acts.

(3.) Nothing in this or any other section of this Act shall limit the powers, rights, and privileges of the chairman 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 of this Act for one and the same offence.

Answers and documents.

14. (1.) Nothing in this Act shall make it compulsory for any witness before a Commission to—

- (i.) Disclose to the Commission any secret process of manufacture ;
- (ii.) Produce any book, document, or writing if he has a reasonable excuse for refusing.

Statements made by witness not admissible in evidence against him.

(2.) A statement or disclosure made by any witness in answer to any question put to him 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 against any of the sections of **"The Criminal Code"* specified in section twenty-two of this Act) be admissible in evidence against him in any civil or criminal proceedings.

Protection to and liability of witnesses.

(3.) 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.

When acts or omissions to be separate offences.

15. 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 him on two or more days, that person shall be liable to be punished for the thing done or omitted to be done by him on each and every one of those days as if it were a separate contempt of that Commission.

Power to prohibit publication of evidence.

16. (1.) A Commission may order that any evidence given before it, or the contents of any book, document, or writing produced at the inquiry, shall not be published.

Power of tribunal as to exclusion of public.

(2.) 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.

* 63 V. No. 9 and amending Acts.

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Commissions of Inquiry Act.

17. 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 his report as evidence.

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

18. 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.

Power to sit at any time and place.

19. (1.) A Commission, or any commissioner, or a person thereto authorised in writing by the chairman, as the case may be, may inspect any books, documents, or writings produced before the Commission, and may retain them for such reasonable period as it or he thinks fit, and may take such copies of or extracts from such books, documents, or writings, as the case may be, as are relevant to the inquiry.

Power of Commission as to inspection and copies of documents, &c.

(2.) A Commission, or any commissioner, or a person thereto authorised in writing by the chairman of the Commission, may enter upon and inspect any land, building, place, or vessel, and inspect any goods and other things, the entry upon or inspection of which appears to it or him to be requisite.

Power of Commission to inspect land, &c.

20. Every commissioner shall, in the exercise of his duty as commissioner, have the same protection and immunity as a Judge of the Supreme Court.

Protection of commissioners.

21. Any barrister or solicitor 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.

Examination of witnesses by counsel, &c.

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Indictable
offences
in
connection
with inquiry
by a
Commission.

22. For the purposes of removing any doubt as to the application of sections one hundred and twenty, one hundred and twenty-three, one hundred and twenty-six, one hundred and twenty-seven, one hundred and twenty-eight, one hundred and twenty-nine, and one hundred and thirty respectively of **“The Criminal Code”* 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 hereinbefore in this section provided.

Dismissal by
employers
of witness.

23. Any employer who dismisses any employee from his employment, or prejudices any employee in his 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, shall be guilty of a misdemeanour and liable upon conviction upon indictment to a penalty not exceeding five hundred pounds or to imprisonment for a period not exceeding one year.

Allowances
to witnesses.

24. (1.) Any witness appearing before a Commission shall be paid a reasonable sum for the expenses of his attendance in accordance with the scale prescribed by the regulations for the time being in force for the purposes of this Act.

(2.) In the absence of a prescribed scale, the chairman of the Commission may authorise the payment of such sum as he deems reasonable.

(3.) The claim to allowance of any witness appearing before a Commission, certified by the chairman of the Commission, shall be paid by the Treasurer out of moneys to be appropriated by Parliament for the purpose.

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(4.) The Governor in Council may from time to time make regulations under and for the purposes of this Act, prescribing a scale of allowances to be paid to any witness summoned under this Act for his travelling expenses and maintenance while absent from his usual place of abode.

(5.) All regulations made or purporting to be made under and for the purposes of this Act shall be published in the *Gazette*, and thereupon shall be judicially noticed.

An Act to Amend "The Evidence (Attestation of Documents) Act of 1937" in certain particulars.

14 GEO. VI.
No. 5.
THE
EVIDENCE
(ATTESTATION
OF
DOCUMENTS)
ACT
AMENDMENT
ACT OF
1950.

[ASSENTED TO 5TH OCTOBER, 1950.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as "*The Evidence (Attestation of Documents) Act Amendment Act of 1950*," and shall be read as one with *"*The Evidence (Attestation of Documents) Act of 1937*," herein referred to as the Principal Act.

The Principal Act and this Act may be collectively cited as "*The Evidence (Attestation of Documents) Acts, 1937 to 1950*."

2. The following section is inserted after section three of the Principal Act, namely:—

"[3A.] (1.) Where the Governor in Council is satisfied—

(a) That the provisions of this Act have ceased to apply in respect of any country outside of this State to which this Act applied when it was passed; and

(b) That it is desirable that this Act should continue to apply in respect of that country, the Governor in Council may by Proclamation declare that this Act shall continue to apply in respect of that country.

* 1 G. 6 No. 24.