

CHAPTER 8

COMMISSIONS OF INQUIRY

Acts  
Nos. 17 of 1948,  
8 of 1950,  
40 of 1953,  
8 of 1955,  
29 of 1955.

AN ACT TO ENABLE THE APPOINTMENT OF COMMISSIONS OF INQUIRY. TO PRESCRIBE THEIR POWERS AND PROCEDURE, TO FACILITATE THE PERFORMANCE OF THEIR FUNCTIONS. AND TO MAKE PROVISION FOR MATTERS CONNECTED WITH OR INCIDENTAL TO THE AFORESAID MATTERS.

[8th September. 1948.]

Short title.

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

(2) When a new member has been appointed under the provisions of subsection (1), it shall not be necessary for any evidence which may have been taken before the commission prior to such appointment to be retaken.

Power to appoint Commission of

2. (1) Whenever it appears to the resident to be necessary that an inquiry should be held and information obtained as to-

- (a) the administration of any department of Government or of any public or local authority or institution ; or
- (b) the conduct of any member of the public service ; or
- (c) any matter in respect of which an inquiry will, in his opinion, be in the interests of the public safety or welfare,

4. The President may, from time to time, by endorsement under his hand on a warrant issued under this Act, enlarge the time for the rendering of the report of the commission appointed by such warrant, whether the time for the rendering of such report has expired or not.

Enlargement of time.

5. The President may at any time alter for the purposes of section 3 or section 4, or revoke, any warrant issued under this Act.

Aeration or revocation of warrant.

the President may, by warrant under the Public Seal of the Republic, appoint a Commission of Inquiry consisting of one or more members to inquire into and report upon such administration, conduct or matter.

6. No warrant issued under this Act shall lapse by reason of, or be otherwise affected by, the death, absence from Sri Lanka, resignation or removal of the President who issues the warrant, or by his otherwise ceasing to hold the office of President.

Change of President.

(2) Every warrant issued under this Act shall-

- (a) set out the name of the member or each of the members of the commission;
- (b) where a commission consists of more than one member, specify the member who is to be the chairman of the commission ;
- (c) contain the terms of reference of the commission ; and
- (d) include a direction whether the inquiry or any part thereof shall or shall not be held in public.

7. A commission appointed under this Act shall have the following powers :-

Powers of commission.

(a) to procure and receive all such evidence, written or oral, and to examine all such persons as witnesses, as the commission may think it necessary or desirable to procure or examine;

(b) to require the evidence (whether written or oral) of any witness to be given on oath or affirmation, such oath or affirmation to be that which could be required of the witness if he were giving evidence in a court of law, and to administer or cause to be administered by an officer authorized in that behalf by the commission an oath or affirmation to every such witness ;

Appointment of additional members.

3. (1) The President may add to the number of members of any commission appointed under section 2, and where any member so appointed or added dies, or resigns, or desires to be discharged, or refuses or becomes unable to act, the President may appoint a new member in his place.

- (c) to summon any person residing in Sri Lanka to attend any meeting of the commission to give evidence or produce any document or other thing in his possession, and to examine him as a witness or require him to produce any document or other thing in his possession ;
- (d) notwithstanding any of the provisions of the Evidence Ordinance, to admit any evidence, whether written or oral, which might be inadmissible in civil or criminal proceedings ;
- (e) subject to any direction contained in the warrant-
  - (i) to admit or exclude the public from the inquiry or any part thereof;
  - (ii) to admit or exclude the press from the inquiry or any part thereof;
- (f) to recommend that 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 be awarded such sum of money as, in the opinion of the commission, may have been reasonably incurred by such person as costs and expenses in connexion with the inquiry. In this paragraph, "costs and expenses" includes the costs of representation by attorney-at-law, and travelling and other expenses incidental to the inquiry or consequential upon the attendance of such person at the inquiry.

- (b) to require by written notice the Commissioner-General of Inland Revenue to furnish, as specified in the notice, all information available to such Commissioner-General relating to the affairs of any person whose conduct is being inquired into by the commission or of the spouse or a son or daughter of such person, and to produce or furnish, as so specified, any document or a certified copy of any document relating to such person, spouse, son or daughter which is in the possession or under the control of such Commissioner-General.

(2) A commission appointed under this Act may exercise any power conferred on the commission under subsection (1) of this section, and any person to whom the commission issues any direction in the exercise of such power shall carry out such direction notwithstanding anything to the contrary in any other law.

9. The members of a commission appointed under this Act shall, so long as they are acting as such members, be deemed to be public servants within the meaning of the Penal Code, and every inquiry under this Act shall be deemed to be a judicial proceeding within the meaning of that Code.

Members of commission to be public servants and inquiries to be "judicial" proceedings "under the Penal Code.

10. Every offence of contempt committed against or in disrespect of the authority of a commission appointed under this Act shall be punishable by the Court of Appeal under Article 105 (3) of the Constitution.

Punishment of contempts.

11. (1) Every summons shall, in any case where a commission consists of one member only, be under the hand of that member, and in any case where a commission consists of more than one member, be under the hand of the chairman of the commission :

Summons.

Provided that where a person has been appointed under section 19 to act as secretary, any such summons may, with the authority of the commission, be issued under the hand of the secretary.

(2) Any summons may be served by delivering it to the person named therein, or if that is not practicable, by leaving it at the last known place of abode of that person.

Conferment of additional powers on a commission.

8. (1) All or any of the following powers may be conferred by the President on a commission appointed under this Act if the commission so requests:-

- (a) to require by written notice the manager of any bank in Sri Lanka to produce, as specified in the notice, any book or document of the bank containing entries relating to the account of any person whose conduct is being inquired into by the commission or of the spouse or a son or daughter of such person, or to furnish, as so specified, certified copies of such entries;

(3) Every person on whom a summons is served shall attend before the commission at the time and place mentioned therein, and shall give evidence or produce such documents or other things as are required of him and are in his possession or power, according to the tenor of the summons.

Failure to obey summons, to give evidence, &c.

**12.** (1) If any person upon whom a summons is served under this Act-

- (a) fails without cause, which in the opinion of the commission is reasonable, to appear before the commission at the time and place mentioned in the summons ; or
- (b) refuses to be sworn or, having been duly sworn, refuses or fails without cause, which in the opinion of the commission is reasonable, to answer any question put to him touching the matters directed to be inquired into by the commission ; or
- (c) refuses or fails without cause, which in the opinion of the commission is reasonable, to produce and show to the commission any document or other thing which is in his possession or power and which is in the opinion of the commission necessary for arriving at the truth of the matters to be inquired into,

such person shall be guilty of the offence of contempt against or in disrespect of the authority of the commission.

(2) Where a commission determines that a person has committed any offence of contempt (referred to in subsection (1)) against or in disrespect of its authority, the commission may cause its secretary to transmit to the Court of Appeal a certificate setting out such determination ; every such certificate shall be signed by the chairman of the commission, or where the commission consists of only one person by that person.

(3) In any proceedings for the punishment of an offence of contempt which the Court of Appeal may think fit to take cognizance of as provided in section 10, any document purporting to be a certificate signed and transmitted to the court under subsection (2) shall -

- (a) be received in evidence, and be deemed to be such a certificate without further proof unless the contrary is proved ; and

- (b) be conclusive evidence that the determination set out in the certificate was made by the commission and of the facts stated in the determination.

(4) In any proceedings taken as provided in section 10 for the punishment of any alleged offence of contempt against or in disrespect of the authority of any commission, no member of the commission shall, except with his own consent, be summoned or examined as a witness.

**13.** Every person who gives evidence before a commission appointed under this Act shall, in respect of such evidence, be entitled to all the privileges to which a witness giving evidence before a court of law is entitled in respect of evidence given by him before such court.

Privileges of witness.

**14.** Where the President in the warrant of appointment of a commission or by subsequent Order declares that this section shall apply in relation to such commission, the following provisions shall have effect, that is to say :-

Special immunity for witness.

- (a) Subject as hereinafter provided, no person shall, in respect of any evidence, written or oral, given by that person to or before the commission at the inquiry, be liable to any action, prosecution or other proceedings in any civil or criminal court.

- (b) Subject as hereinafter provided, no evidence of any statement made or given by any person to or before the commission for the purposes of the commission shall be admissible against that person in any action, prosecution, or other proceedings in any civil or criminal court:

Provided, however, that nothing in the preceding paragraphs shall-

- (i) abridge or affect or be deemed or construed to abridge or affect the liability of any person to any prosecution or penalty for any offence under Chapter XI of the Penal Code, read with section 9 of this Act; or

(ii) prohibit or be deemed or construed to prohibit the publication or disclosure of the name or of the evidence or any part of the evidence of any witness who gives evidence at the-inquiry, for the purpose of the prosecution of that witness for any offence under Chapter XI of the Penal Code.

expenses incidental to the inquiry or consequential upon the attendance of such person at the inquiry, and, in the case of a bank, the clerical, travelling and other expenses consequential upon the compliance with the aforesaid notice.

(2) All moneys awarded by Order of the Minister under subsection (1) shall be a charge upon the Consolidated Fund ; and the payment of all such moneys is hereby authorized.

Presumption on production of record of evidence given by witnesses.

**15.** The presumptions which, under section 80 of the Evidence Ordinance, are applicable to the documents therein mentioned shall apply to every document produced before any court and purporting to be a record or memorandum of the evidence or any part of the evidence given by a witness examined before a commission appointed under this Act and purporting to be signed by the members thereof.

**18.** No civil or criminal proceedings shall be instituted against any member of a commission in respect of any act bona fide done or omitted to be done by him as such member.

Protection of members of commission.

Representation of persons by attorneys-at-law.

**16.** Every 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 one or more attorneys-at-law at the whole of the inquiry; and any other person who may consider it desirable that he should be so represented may, by leave of the commission, be represented in the manner aforesaid,

**19.** (1) The President may appoint any person to act as secretary to a commission and such person shall perform such duties connected with the inquiry as the commission may order subject to the directions, if any, of the President.

Appointment of secretary and interpreters.

(2) A commission may appoint any person to act as interpreter in any matter arising at the inquiry and to translate any book, document, or other writing produced at the inquiry.

Costs and other expenses,

**17.** (1) On the conclusion of any inquiry under this Act, and on the recommendation of the commission, the Minister may, by Order under his hand, award to any person whose conduct has been the subject of such inquiry or who has been in any way implicated or concerned in the matter under inquiry or to any bank whose manager has complied with a notice issued in connexion with such inquiry by the commission in the exercise of powers conferred on the commission by the President under section 8 (1) (a) such sum of money as the Minister may, in his discretion, specify in the Order as sufficient to meet the costs and expenses which may have been reasonably incurred by such person or bank in connexion with the inquiry.

**20.** No stamp duty shall attach to or be payable for any process issued by or by the authority of a commission appointed under this Act.

Process issued under Act to be exempt from stamp duty.

**21.** Every process issued by a commission appointed under this Act shall be served and executed by the Fiscal.\*

Service of process.

**22.** The members of any committee appointed to investigate charges framed against an officer in the public service may, by Order under the hand of the President, be appointed to be a Commission of Inquiry under this Act for the purposes of such investigation ; and upon such appointment the provisions of this Act shall apply as though a warrant under section 2 had been issued to such members for the purposes for which they were appointed members of the committee.

Vesting of members of committees appointed to inquire into the conduct of public officers with powers of commission.

In this subsection " costs and expenses " includes the cost of representation by attorney-at-law, and travelling and other

\*A separate Fiscal is now appointed to each Court under section 52 (1) of the Judicature Act.