

CHAPTER 112

COMMISSIONS OF INQUIRY

1980-66

This Act came into operation on 15th January, 1981 by Proclamation (S.I. 1981 No. 2).

Amended by:

This Act has not been amended

Law Revision Orders

The following Law Revision Order or Orders authorized the insertion and removal of pages as the case may be under the Law Revision Act Cap.2 now repealed:

1985

CHAPTER 112

COMMISSIONS OF INQUIRY 1980-66

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Summons to witness

**BARBADOS**COMMISSIONS OF INQUIRY
1980-66

An Act respecting inquiries to advise and to investigate.

[Commencement: 15th January, 1981]

CITATION

Short title

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

INTERPRETATION

Definitions

2. In this Act,
“commission” means the person or persons appointed to be a commission of inquiry under this Act;
“inquiry” means an inquiry by an advisory commission or an investigatory commission under this Act.

PART I
COMMISSIONS OF INQUIRY

Appointment of commissions

3.(1) The Governor-General may, whenever he deems it expedient in the public interest, appoint one or more Commissioners to be a commission of inquiry designated as either

- (a) an advisory commission, to inquire into and advise upon any matter connected with the good Government of Barbados; or
- (b) an investigatory commission, to investigate and report upon a matter which the Governor-General deems to be of special public importance.

Application of Part II

4. The provisions of Part II apply to an investigatory commission but not to an advisory commission, except in so far as they may be applied by an order of the Governor-General under section 6.

Application of Part III

5. The provisions of Part III apply both to an advisory and to an investigatory commission.

Special application of Part II

6. The Governor-General may, if satisfied on the application of an advisory commission that the commission cannot otherwise satisfactorily complete its inquiry by order direct that any or all of the provisions of Part II shall apply in relation to that commission, and the provisions so specified shall then apply to it as if it were an investigatory commission.

Terms of reference

7. The warrant of appointment of a commission shall specify the subject-matter of the inquiry or investigation and shall contain such directions to the commission as the Governor-General shall deem expedient, and may designate a Commissioner to be the chairman.

Variation, revocation and replacement

8.(1) The Governor-General may at any time by order revoke or vary the warrant of appointment of a commission and any directions or particulars contained therein.

(2) Where a Commissioner resigns or dies, or is for any reason unable or unwilling to act, the Governor-General may appoint another Commissioner in his place.

Publication of appointments and orders

9. Every warrant of appointment and every order made under this Part shall be published in the *Gazette*.

PART II

INVESTIGATORY COMMISSIONS — SPECIAL PROVISIONS

Rights of persons interested

10. An investigatory commission shall accord to any person, group or organisation that satisfies the commission that he or it has a sufficient interest in the subject-matter of its investigation a suitable opportunity to give evidence during its proceedings and, where appropriate, to call and examine and cross-examine witnesses either personally or by representative on evidence relevant to that interest.

Subpoena and oath

11.(1) An investigatory commission may issue a summons requiring any person to attend at the time and place mentioned in the summons to testify on oath or affirmation or otherwise to all matters within his knowledge relevant to the subject-matter of the inquiry, and to produce any relevant document or other thing under his control.

(2) A summons under this section must be in the form in the Schedule and signed by the chairman or sole Commissioner, and may be served personally or by post.

(3) A witness summoned under this section may be required by the commission to testify upon oath or affirmation.

(4) A witness summoned under this section must obey the summons as fully in all respects as if it were a subpoena issued from the High Court.

Expenses of witnesses

12.(1) A witness summoned under section 11 is entitled to reimbursement of his expenses upon the same scale as under a Crown subpoena for a criminal trial in the High Court, but the commission may disallow the whole or any part of such expenses as they may think fit.

(2) The Accountant-General shall pay the expenses allowed under subsection (1) out of moneys voted for the purpose by Parliament.

Protection of witnesses

13.(1) A witness before an investigatory commission is entitled to the same immunities and privileges as a witness before the High Court.

(2) No evidence given by a witness to an investigatory commission may be used against him in any subsequent trial or in any criminal or civil proceedings other than a prosecution for perjury in giving that evidence.

(3) No claim of privilege on the ground of self-incrimination shall be allowed where under subsection (2) the evidence of the witness could not subsequently be used against him.

Search warrants

14.(1) Where a judge is satisfied upon an *ex parte* application that there are reasonable grounds for believing that there is in any place anything that would assist an investigatory commission in the discharge of its duties, he may issue a search warrant authorising a member of the Police Force named therein with or without other named persons to enter any land, building, vehicle, ship, aircraft, or other place and search for anything that may so be of assistance.

(2) A member of the Police Force authorised under subsection (1) may remove and deliver to the commission anything that in his opinion may be of assistance to the commission; and the commission may retain anything so delivered until it has completed its inquiry.

Penalties for misconduct

15.(1) An investigatory commission may report to the High Court the conduct of any person who

- (a) being duly summoned, fails without reasonable excuse to attend at the proper time and place or leaves without the permission of the commission or refuses to take an oath or make an affirmation or refuses without reasonable excuse to answer to the best of his ability any proper question or to produce any document or thing as required by the commission;
- (b) wilfully insults the commission or a Commissioner or the secretary at any sitting of the commission or disrupts its proceedings;
- (c) does or publishes anything likely to suppress or pervert evidence or likely to prejudice or obstruct the inquiry;

- (d) publishes anything that is derived from proceedings of the inquiry conducted in private; or
 - (e) says or does any other thing which would, if the commission were a superior court of law, be contempt of court.
- (2) Where a report is made under subsection (1), the High Court may inquire into the matter, and after hearing any evidence produced against or on behalf of the person concerned, may punish that person in the same manner as if he had been guilty of contempt of the High Court.

PART III GENERAL

Oath of Commissioner

16. Every Commissioner shall make and subscribe an oath before the Governor-General that he will fully, faithfully, impartially and to the best of his ability discharge his duties as Commissioner.

Duties of commission

- 17.(1)** It shall be the duty of a commission
- (a) to make full, faithful and impartial inquiry or investigation into the subject-matter referred to them;
 - (b) to conduct their proceedings in accordance with this Act and with any directions duly given to them; and
 - (c) to make a report in writing to the Governor-General containing an account of their proceedings together with their findings and recommendations.
- (2) Where the Commissioners are equally divided on any question, the chairman has, and shall exercise a second or casting vote.

(3) The report referred to in subsection (1) shall be laid before both Houses of Parliament by the Governor-General, but with the omission of any evidence affected by a certificate of the Attorney-General under section 20.

Appointment of secretary

18. The Governor-General may for the purposes of any inquiry appoint a secretary to attend the sittings of the commission, to record its proceedings, to summon witnesses, and generally to perform such other duties connected with the inquiry as the Commissioners may direct.

Procedure of commission

19. The conduct of and the procedure to be followed at an inquiry or investigation under this Act is, subject to this Act, under the control and direction of the commission conducting it.

Evidence to be received in public or otherwise

20.(1) A commission may receive both oral and written evidence.

(2) A commission shall, subject to subsection (3), receive evidence in public except where it is of the opinion

(a) that evidence may be disclosed whose publication would be injurious to public security or to the public interest; or

(b) that evidence may be disclosed relating to financial or other personal circumstances of any person,

and that the balance of advantage, in either case, is in favour of preventing the disclosure of the evidence in public having regard both to the public interest and to the interest of any person concerned.

(3) Where the Attorney-General certifies to the commission that public security requires that certain evidence be not disclosed in public, the commission shall consider whether that evidence ought to be received at all; and if it is of the

opinion that the circumstances are such as to require the disclosure of that evidence, it shall receive that evidence in private.

Rules as to evidence

21.(1) Subject to subsection (2), a commission may receive all relevant evidence, and in so doing is not required to observe the rules as to the admissibility of evidence in a court of law.

(2) A commission shall not receive evidence if in its opinion the probative value is substantially out-weighed by the danger of confusing the issues or of causing undue waste of time.

(3) A commission may decline to receive any evidence which in its opinion ought to be excluded as irrelevant, unprofitable or unduly prejudicial.

Professional and other assistance

22. A commission may with the consent of the Minister of Finance in respect of any expenditure appoint counsel and other professional, technical and clerical personnel to assist in the performance of its duties and may entrust to them the presentation of evidence before the commission.

Notice of allegation or finding of misconduct

23.(1) Where it appears to a commission that allegations of misconduct have been or are likely to be made against any person, group or organisation, the commission shall so far as practicable give to that person, group or organisation reasonable notice of the allegations and a reasonable opportunity to contest them by calling evidence in rebuttal or by cross-examination or otherwise.

(2) No finding of misconduct on the part of any person, group or organisation shall be made by a commission unless that person, group or organisation had reasonable notice of the allegations of misconduct and reasonable opportunity to contest them in the manner prescribed by subsection (1).

Remuneration and expenses

- 24.(1)** The Governor-General may direct
- (a) what remuneration, if any, is payable to the Commissioners, the secretary, and to any other persons appointed by the commission under section 22;
 - (b) payment of any other expenses connected with the commission or with proceedings under this Act; and
 - (c) in any case where the commission so recommends, the payment of all or any part of the expenses reasonably incurred by any person in connection with his representation before the commission.
- (2) The Accountant-General shall pay any sums directed to be paid under subsection (1) out of moneys voted for the purpose by Parliament.

Protection of Commissioners and others

25. No civil action lies against a Commissioner or any other person in respect of any statement made by him in good faith in the course of the proceedings or in any report of the commission.

Publication of comment

26. Except as provided in sections 15 and 20, and subject to the laws relating to defamation, nothing in this Act prevents the publishing of any comment on the subject-matter of a commission's proceedings or on evidence publicly given to the commission.

Place and mode of taking evidence

27. A commission may take evidence in such place as it thinks fit and may authorise one or more of its members to take evidence on behalf of the commission if in its opinion the circumstances so require.

Saving for existing inquiries

28. No commission established before 1st January 1981 shall lapse or be otherwise affected by this Act, and any inquiry commenced prior to that day shall be conducted as if this Act had not been passed.

Reference to former Act

29. Any reference in any Act to the former *Commissions of Inquiry Act*, shall be construed with any necessary adaptations as a reference to the provisions of this Act which apply to an investigatory commission.

[1908-3]

SCHEDULE*(s.11(2))**Summons to witness*

In the matter of

To: A.B. (name of person summoned, and his calling and residence).

You are hereby summoned to attend before.....
(name of commission) appointed by the Governor-General
 to conduct an inquiry or investigation into.....(state
 briefly the subject-matter of the inquiry) to be held at.....
 (state place) on.....day of.....19.....
 at.....o'clock....., and to give evidence concerning
 the matters therein questioned; (if the person summoned is to produce any
 documents, add) and to bring with you and produce at such time and place
 (specify the documents, time and place)

Dated this day of 19

(name of commission)

.....

Commissioner.

NOTE: You are entitled to be paid the same personal allowances for attendance
 at the hearing as are paid for the attendance of a witness summoned before the
 High Court.

WARNING: If you fail to obey this summons in any respect without reasonable
 excuse, you are liable to punishment by the High Court in the same manner as
 for contempt of that Court.