

LAWS OF BRUNEI

CHAPTER 9 COMMISSIONS OF INQUIRY

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CHAPTER 9
COMMISSIONS OF INQUIRY

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COMMISSIONS OF INQUIRY ACT

An Act to make provision for the holding of Commissions of Inquiry

Commencement: 28th April 1962

Citation.

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

Issue of Commission.

2. (1) His Majesty the Sultan and Yang Di-Pertuan in Council may, where it appears to him to be expedient to do so, issue a Commission appointing one or more Commissioners and authorising such Commissioners to enquire into —

(a) the conduct of any officer;

(b) the conduct or management of any department of the public service of Brunei Darussalam;

(c) the conduct or management of any public institution which is not solely maintained by Brunei Darussalam funds;

(d) any other matter in which an enquiry would, in the opinion of His Majesty the Sultan and Yang Di-Pertuan in Council, be for the public welfare:

Provided that where any officer into whose conduct it is proposed to enquire, is Seconded Officer, such Commission shall only be issued with the concurrence of the competent authority of the territory from which such officers was appointed.

- (2) In this section, unless the context otherwise requires —

“Seconded Officer” means an officer on the permanent establishment of the government of another territory who by agreement is seconded to the service of Brunei Darussalam.

Terms of Commission.

3. (1) A Commission issued under section 2 shall specify the subject of the enquiry and may, in the discretion of His Majesty the Sultan and Yang Di-Pertuan in Council —

(a) if there is more than one Commissioner, direct —

(i) which Commissioner shall be Chairman;

(ii) the number of Commissioners which shall constitute a *quorum*;

(b) direct where and when the enquiry shall be held and the report thereof rendered;

(c) direct whether the enquiry or any part thereof shall or shall not be held in public;

(d) generally prescribe how such Commission shall be executed.

(2) When the Commission specifies the number of Commissioners which shall constitute a *quorum*, the number of Commissioners so specified may, in the absence of the other Commissioner or Commissioners, exercise all or any of the powers conferred upon the Commissioners by this Act.

Power to add or substitute Commissioners.

4. (1) His Majesty the Sultan and Yang Di-Pertuan in Council may add to the persons named in any such Commission, and in any case any person appointed or added under this Act dies, resigns, desires to be discharged, refuses or becomes incapable of acting, His Majesty the Sultan and Yang Di-Pertuan in Council may appoint a new Commissioner in his place, and all the powers and duties by this Act conferred and imposed on a Commissioner shall be exercised and performed by the Commissioner so added or appointed.

(2) When a new Commissioner 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.

Enlargement of time.

5. His Majesty the Sultan and Yang Di-Pertuan in Council may, by endorsement under his hand on a Commission, enlarge the time for the execution of the Commission, whether the time for the execution has expired or not.

Change of Ruler.

6. No Commission issued under this Act shall lapse by reason of, or be otherwise affected by, the demise of His Majesty the Sultan and Yang Di-Pertuan.

Appointment of secretary.

7. His Majesty the Sultan and Yang Di-Pertuan in Council may appoint a secretary to attend the sittings of the Commission, to record their proceedings, to keep their papers, summon and record the evidence of witnesses, and generally to perform such duties connected with the enquiry as the Commissioner shall order, subject to the directions, if any, of His Majesty the Sultan and Yang Di-Pertuan in Council.

Powers of Commissioners.

8. The Commissioners shall have the following powers —

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

(b) to require the evidence (whether written or oral) of any witness to be made on oath or affirmation (such oath or affirmation to be that which could be required of the witness if he were giving evidence in the High Court) or by statutory declaration;

(c) to summon any person in Brunei Darussalam to attend any meeting of the Commissioners 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) to issue a warrant of arrest to compel the attendance of any person who, after having been summoned to attend, fails to do so, and does not excuse such failure to the satisfaction of the Commissioners, and to order him to pay all costs which may have been occasioned in compelling his attendance or by reason of his refusal to obey the summons, and also to fine such person a sum not exceeding \$500;

(e) to fine a sum not exceeding \$500 any person who, being required by the Commissioners to give evidence on oath or affirmation or to produce a document or other thing, refuses to do so and does not excuse such refusal to the satisfaction of the Commissioners;

(f) notwithstanding the provisions of any written law relating to evidence, to admit any evidence, whether written or oral, which might be inadmissible in civil or criminal proceedings;

(g) subject to any direction contained in the Commission —

(i) to admit or exclude the public from the enquiry or any part thereof;

(ii) to admit or exclude the press from the enquiry or any part thereof;

(h) to award any person who has attended any meeting of the Commissioners, including any interpreter appointed under section 9, such sums as in the opinion of the Commissioners may have been reasonably incurred by him by reason of such attendance.

Interpreters.

9. (1) The Commissioners shall have the power to appoint any person, whether in the service of the Government or not, to act as interpreter in any matter brought before them and to translate any books, papers or writings produced to them.

(2) Any interpreter appointed under this section shall make and subscribe before the Commissioners the following affirmation:

“I,
do solemnly declare and affirm that I will faithfully perform the duties of interpreter and will truly interpret the questions put and the answers given by witnesses and also statements made by the Commissioners and will truly translate or explain and transcribe all documents entrusted to me for such purpose to the best of my ability, and that I will not, except as authorised by the Commissioners, directly or indirectly, reveal the contents of such documents as may be entrusted to me, nor the evidence given by witnesses which may have been interpreted by me.”.

Allowances.

10. Any sums awarded by the Commissioners under section 8(*h*) shall be paid out of the public funds of Brunei Darussalam.

Use of evidence in civil and criminal proceedings.

11. No evidence taken under this Act shall be admissible in any civil or criminal proceedings whatsoever against the person who gave such evidence, except when such person is charged with giving or fabricating false evidence.

Penalty for threats etc. to witnesses.

12. (1) Any person who hinders or attempts to hinder any person from giving evidence before the Commissioners or by threats, deters or attempts to deter any person from giving such evidence, is guilty of an offence and liable on conviction to imprisonment for 2 years.

(2) Any person who threatens, insults or injures any person for having given evidence, or on account of the evidence which he has given before the Commissioners, is guilty of an offence and liable on conviction to imprisonment for 2 years.

Penalty for contempt.

13. Any person who commits an act of contempt as defined in section 14 against the Commissioners or any of them is guilty of an offence and liable on conviction to a fine of \$1,000 and imprisonment for 6 months.

Definition of act of contempt.

14. The following shall be deemed to be an act of contempt within the meaning of section 13 —

(a) any act of disrespect, or any insult or threat, offered to the Commissioners or any of them while sitting in Commission;

(b) any act of disrespect, or any insult or threat, offered to a Commissioner at any other time and place on account of his proceedings in his capacity as a Commissioner;

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(c) any act of refusal to comply with the requirement of the Commissioners to give evidence on oath or affirmation or to produce a document or any other thing.

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Manner of dealing with contempt.

15. (1) Where an act of contempt is committed in the presence of the Commissioners sitting in Commission, the Commissioners may, after hearing the offender in his defence, pass sentence upon him forthwith in accordance with section 13.

(2) In any other case, the Commissioners may summon the offender to appear before them at a time and place to be specified in such summons, to show cause why he should not be judged to have committed an act of contempt, and be dealt with in accordance with the provisions of section 13.

(3) If any person who has been summoned in accordance with the provisions of subsection (2) fails to attend at the time and place specified in the summons, the Commissioners may issue a warrant to compel the attendance of such person.

Public Prosecutor to aid Commissioners.

16. (1) The Commissioners may require the Public Prosecutor to cause any matter relevant to the enquiry to be investigated.

(2) Any person appointed by the Public Prosecutor to investigate any such matter shall, for the purposes of such investigations, have all the powers in relation to police investigations given to police officers under the provisions of Chapter XIII of the Criminal Procedure Code (Chapter 7) and may, when authorised in writing by the Public Prosecutor, search any premises and take possession of any articles or documents as specified in such authority.

Preservation of order by police.

17. His Majesty the Sultan and Yang Di-Pertuan may direct the Commissioner of Police to detail police officers to attend upon any such Commissioners, to preserve order during the proceedings and to serve summonses on witnesses and to perform such ministerial duties as such Commissioners shall direct.

Right to representation by counsel.

18. (1) Any person whose conduct is the subject of enquiry under this Act, or who is in any way implicated or concerned in the matter under enquiry, shall be entitled to be represented by an advocate at the whole of the enquiry; and any other person who may consider it desirable that he should be so represented may, by leave of the Commissioner or Commissioners, be represented in the manner aforesaid.

(2) The Attorney General, or any person authorised by him in writing, shall be entitled at any time to appear before and address the Commissioners on any matter which to the Attorney General appears to be relevant to the enquiry.

Commissioners to be public servants and enquiries to be judicial proceedings under Penal Code (Chapter 22).

19. Every Commissioner appointed under this Act shall, so long as he is acting as such Commissioner, be deemed to be a public servant within the meaning and for the purposes of the Penal Code (Chapter 22), and every enquiry under this Act shall be deemed to be a judicial proceeding within the meaning of such Code.

Commissioners to have powers of Magistrates.

20. For the purposes of recovering any costs awarded, enforcing the payment of any fine ordered or imposed or giving effect to any warrant of arrest or order of imprisonment, the Commissioners or any of them shall have the powers of a Magistrate.

Protection of Commissioners and witnesses.

21. (1) No Commissioner shall be liable to any suit or other civil proceeding for any act or thing done by him as such Commissioner.

(2) All evidence given for the purposes of any enquiry under this Act shall be absolutely privileged so that the witness giving such evidence shall not be liable to any suit or other civil proceeding in respect of such evidence.

Procedure and forms.

22. Subject to the provisions of this Act, the procedure to be followed by the Commissioners and the form of any order, summons, warrant or other documents made or issued for the purposes of this Act shall be in the discretion of the Commissioners.