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CHAPTER 85

COMMISSIONS OF INQUIRY

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COMMISSIONS OF INQUIRY

To provide for the issue of commissions of inquiry.

1. Commissions of inquiry

(1) The Minister responsible for justice may whenever he considers it desirable by Order issue a Commission appointing one or more Commissioners authorising them to inquire into any matter in which an inquiry would in the opinion of the Minister be for the public welfare:

Provided that no Commission of Inquiry shall be appointed to inquire into facts which are the subject of legal proceedings for so long as such proceedings are pending. If a Commission has already been appointed, its authority shall be immediately terminated upon the commencement of any legal proceedings relating to the facts which led to such appointment.

(2) The Minister responsible for justice may in his discretion by such decision appoint one or more assessors selected as to the status or sex of such assessor or assessors according to the nature of the matters to be inquired into to assist the Commissioner or Commissioners in a consultative capacity.

(3) The decision which shall be published in the Gazette shall specify –

(a) the subject of the inquiry;

(b) if there is more than one Commissioner, the chairman of the Commission;

(c) where and when the inquiry shall be made and the report thereof rendered;

(d) whether the inquiry shall or shall not be held in public; and

(e) such other matters as the Minister responsible for justice may consider desirable to specify.

(4) In the absence of a direction to the contrary in such decision the inquiry shall be held in public but the Commissioners shall nevertheless have the power to exclude any particular person or persons for the preservation of order or for the due conduct of the inquiry or for any other reason.

2. Inability of Commissioner or assessor to act

If any Commissioner or assessor is or becomes unable or unwilling to act, or dies, the Minister responsible for justice may appoint another Commissioner or assessor in his place, and any decision made under section 1 may be altered as the Minister deems proper by a subsequent decision, or may be revoked altogether.

3. Commissions not affected by change of Minister

No decision made under section 1 shall lapse by reason of, or be otherwise affected by, the death, absence, or relinquishment of office of the Minister responsible for justice who made the same.

4. Commissioner's and assessor's oath

(1) Every Commissioner and assessor shall before assuming his functions make and subscribe an oath, or affirmation and declaration, that he will fully, faithfully, impartially, and to the best of his ability discharge the trust and perform the duties devolving upon him by virtue of the Commission in the form set out in Schedule 1.

(2) The oath or affirmation and declaration aforesaid may be taken or made before the Minister responsible for justice or before such person as he may appoint to receive the same, and shall be committed to writing and deposited by the Commissioner with the Minister.

5. Secretary of Commission

The Minister responsible for justice may appoint a secretary to attend the sittings of the Commission, to record its proceedings and keep its papers, to summon witnesses and minute their testimony, and generally to perform such duties connected with an inquiry as the Commissioners prescribe.

6. Rules of procedure

(1) The Commissioners may make such rules, not inconsistent with the terms of their Commission, for the conduct of proceedings before them, for the times and places of their meetings and the adjournment thereof, as they think proper.

(2) The proceedings of the Commission shall be conducted in the Bislama, English or French language as shall be decided by the Chairman or the Chairmen and wherever practicable duly qualified interpreters in every relevant language shall be employed. The record of the proceedings and the report of the Commissioners shall be written in the Bislama, English and French languages.

7. Powers of Commissioners

(1) The Commissioners shall have the powers of a court of first instance to summon witnesses, to call for the production of books and documents, and to examine on oath witnesses and parties concerned.

(2) A summons to a witness shall be in the form given in Schedule 2.

8. Appearance of counsel

Any person who satisfies the Commissioners that he has a *bona fide* interest in the subject matter of inquiry under this Act, and any other person by leave of the Commissioners, may attend the inquiry in person or may be represented by an advocate or agent.

9. Penalty for non-attendance

(1) Any person summoned to attend as a witness or to produce documents before the Commissioners who without sufficient cause refuses or neglects to do so, or refuses to answer any question put to him by or with the concurrence of the Commissioners, or having attended leaves the Commission without the permission of the Commissioners, or in any way insults the Commissioners or any of them, or wilfully interrupts the proceedings before them, shall be liable on conviction to a fine not exceeding VT 20,000:

Provided that no witness shall be bound to incriminate himself, and every witness shall, in respect of any evidence given by him before a Commission, be entitled to all the privileges to which a witness giving evidence before a court of first instance is entitled.

(2) Any witness who wilfully gives false evidence in any inquiry concerning the subject matter thereof shall be guilty of perjury and liable to prosecution and punishment accordingly.

10. Right of assessor to question witnesses

An assessor appointed to assist the Commissioner or Commissioners shall have the right to address questions to any witness in the proceedings. Upon the completion of the proceedings, the Commissioner or Commissioners shall request the opinion of each such assessor upon every material issue of fact relative to the inquiry and shall record and consider such opinions before reaching his or their findings.

11. Commissioners' report

(1) The Commissioners shall make a report of their proceedings and of the result of their inquiry to the Minister responsible for justice and shall record the reasons leading to their conclusions. In the event of an equal decision of opinion on any question requiring to be decided by the Commissioners collectively, the Chairman of the Commission shall have a second or casting vote.

(2) A Commissioner dissenting from the conclusions, or any of them, shall give the reasons for his dissent.

12. Remuneration of secretary and payment of expenses of Commission and witnesses

(1) Commissioners shall not be entitled to any remuneration, unless sanctioned by the Minister responsible for justice, beyond the actual expenses incurred in holding the inquiry but the Minister may direct what remuneration, if any, shall be paid to the secretary and to any other person employed in or about a Commission, and may direct payment of any other expenses attendant upon carrying out a Commission, or upon any proceedings for any penalty under this Act.

(2) Witnesses who attend at the request of, or upon a summons by, the Commissioners shall, subject to any order made by the Commissioners, be entitled to like expenses as if they had been summoned to attend a court of first instance in a criminal trial, and payment thereof shall be made in such manner as the Minister may direct.

(3) Sums of money so directed to be paid as aforesaid shall be paid out of the Treasury.

13. Proceedings for penalties

No proceedings shall be commenced for any penalty under this Act except by direction of the Commissioners.

SCHEDULE 1

(section 4)

FORM OF OATH OR AFFIRMATION TO BE TAKEN BY A COMMISSIONER OR ASSESSOR

Commissions of Inquiry Act, Cap. 85

I, (*full name*) , having been appointed under an Order made by the Minister responsible for justice dated the day of , 20 , to be a Commissioner (*or* an assessor to assist the Commissioner(s) appointed) to inquire into the matters specified in the said Order, do swear (*or* do solemnly and sincerely affirm) that I will faithfully, fully, impartially and to the best of my ability discharge and perform the duties devolving upon me by virtue of the said Order.

(*In the case of an oath here add*)

So help me God.

Dated at this day of , 20 .

Commissioner/Assessor:

SCHEDULE 2

(section 7)

SUMMONS TO A WITNESS

To A. B. (name of person summoned and his calling and residence if known).

You are hereby summoned to appear before (*here name the Commissioners*) appointed by the Minister responsible for justice to inquire (*state briefly the subject of the inquiry*) at on the day of , 20 , at of the clock in the noon and to give evidence respecting the said inquiry.

(*If the person summoned is to produce any documents, add*)
And you are required to bring with you (*specify books and documents required*).

Given under the hand of a Commissioner this day of , 20 .