



ST. CHRISTOPHER AND NEVIS

CHAPTER 3.03

COMMISSIONS OF INQUIRY ACT

Revised Edition

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This edition contains a consolidation of the following laws—

COMMISSIONS OF INQUIRY ACT

Act 5 of 1880 ... in force 29th July 1880

Amended by: Act 12 of 1967

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CHAPTER 3.03

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CHAPTER 3.03**COMMISSIONS OF INQUIRY ACT**

AN ACT TO AUTHORISE THE GOVERNOR-GENERAL TO APPOINT COMMISSIONS OF INQUIRY; AND TO PROVIDE FOR RELATED OR INCIDENTAL MATTERS.

Short title.

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

Power of Governor-General to appoint commissions of inquiry.

2. It shall be lawful for the Governor-General whenever he or she shall deem it advisable, to issue a commission in the form set out in the First Schedule appointing one or more commissioners, and authorising such commissioners, or any quorum of them therein mentioned, to inquire into the conduct or management of any department of the public service in the State, or of any public officer of the State, or of any parish or district thereof, or into any matter in which an inquiry would be for the public welfare. Each such commission shall specify the subject of inquiry, and may, if there is more than one commissioner, direct which commissioner shall be chairperson, and direct where and when such inquiry shall be made, and the report thereof rendered, and prescribe how such commission shall be executed, and may direct whether the inquiry shall, or shall not, be held in public. In the absence of a direction to the contrary, the inquiry shall be held in public, but the commissioners shall nevertheless be entitled to exclude any particular person, or persons, for the preservation of order, for the due conduct of the inquiry, or for any other reason:

Provided that, when any inquiry, as aforesaid, shall be directed not to be held in public, it shall not be lawful for any person, without the authority of the Governor-General, to write, print, publish, circulate, or make public, or to procure for the purpose of writing, printing, publishing, circulating, or making public, or to cause to be written, printed, published, circulated, or made public, or to be in any way concerned in the writing, printing, publication, circulation, or making public of, the evidence, or any part thereof, taken on such inquiry, or the proceedings, or any part thereof, on such inquiry; and any person so offending commits a misdemeanour, and shall be liable, on conviction, to pay a fine not exceeding five thousand dollars, or to be imprisoned for any period not exceeding one year, or both.

(Amended by Act 6 of 1976 and Act 3 of 1996)

Filling up of vacancies and alterations of commissions.

3. In case any commissioner shall be or become unable or unwilling to act, or shall die, the Governor-General may appoint another commissioner in his or her place; and any commission issued under this Act may be altered, as the Governor-General may deem fit, by any subsequent commission issued by the Governor-General, or may be revoked altogether by a notification to that effect published in the *Gazette*.

Death etc., of Governor-General not to affect commission.

4. No commission issued under this Act shall lapse by reason of, or be otherwise affected by, the death, absence, or removal of the Governor-General issuing the same.

Oath of commissioner.

5. It shall be the duty of each commissioner appointed under this Act to make and subscribe an oath that he or she will, faithfully, fully, impartially, and to the best of his or her ability, discharge the trust, and perform the duties, devolving upon him or her by virtue of such commission, which oath may be taken before any Justice of the Peace or Magistrate, and shall be deposited by the commissioner with the Governor-General.

Appointment of secretary.

6. The Governor-General may appoint a secretary to attend the sittings of the commission, to record their proceedings, to keep their papers, summon and minute the testimony of witnesses, and generally to perform such duties, connected with such inquiry, as the commissioners shall prescribe, subject to the directions, if any, of the Governor-General.

Duties of commissioners.

7. It shall be the duty of the commissioners, after taking such oath, to make a full, faithful, and impartial inquiry into the matter specified in such commission, and to conduct such inquiry in accordance with the directions, if any, in the commission, and, in due course, to report to the Governor-General, in writing, the result of such inquiry, and also, when required, to furnish to the Governor-General, a full statement of the proceedings of such commission, and of the reasons leading to the conclusions arrived at or reported.

Chairperson to have casting vote.

8. If the commissioners shall, in any case, be equally divided in any question that arises during the proceedings of the commission, the chairperson of the commission shall have a second or casting vote.

Commissioners may make rules, and adjourn meetings.

9. The commissioners acting under this Act may make such rules for their own guidance, and the conduct and management of proceedings before them, and the hours and times and places for their sittings, not inconsistent with their commission, as they may, from time to time, think fit, and may, from time to time, adjourn for such time and to such place as they may think fit, subject only to the terms of their commission.

Commissioner's powers to summon and examine witnesses.

10. (1) Subject to the provisions of this Act and to the Rules of the High Court, any commissioner shall have the powers of a Judge of the High Court to—

- (a) summon and compel the attendance of witnesses;
- (b) call for the production of documents or things including the power to retain and examine the same;
- (c) examine persons appearing before them on oath;
- (d) issue a commission or request to examine witnesses abroad,

and a summons in the form set out in the Second Schedule signed by one of the commissioners may, with such modifications and adaptations as may be necessary, be substituted for and shall be equivalent to, and for the purposes of any law, have the

same effect for summoning or enforcing the attendance of witnesses and compelling the production of documents or things.

(2) Oaths may be administered by one of the commissioners or the secretary.

(3) For the purpose of the exercise by a commissioner of any of the powers mentioned in subsection (1) references to a Judge of the High Court in any other law applicable thereto shall, subject to this Act, have effect as including such a commissioner save that, where any such power is exercised in respect to the summoning of any person to give or produce evidence as to any banker's book within the meaning of the Bankers' Books Evidence Act, Cap. 5.03, such summons shall only be issued by the chairperson of the commission.

(4) No commissioner or person assisting a commission in the conduct of its inquiry shall be liable to any action, suit or proceedings for any matter or thing done in the due execution or carrying out of the commission.

(Substituted by Act 3 of 1996)

Representation by Counsel.

11. 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, shall be entitled to be represented by counsel at the whole of the inquiry, and any other person who may consider it desirable that he or she should be so represented may, by leave of the Commission, be represented in the manner aforesaid.

Punishment of witnesses for perjury.

12. Any witness who shall wilfully give false evidence in any such inquiry, concerning the subject matter of such inquiry, commits the offence of perjury, and be liable to be prosecuted and punished accordingly.

Attendance of witnesses, payment of expenses.

13. All persons summoned to attend and give evidence, or to produce books, plans or documents, or any other matter, at any sitting of any such commission, shall be bound to obey the summons served upon them as fully, in all respects, as witnesses are bound to obey subpoenas issued from the High Court, and shall be entitled to the like expenses as if they had been summoned to attend the High Court on a criminal trial, if the same shall be allowed by the commissioners, but the commissioners may disallow the whole or any part of such expenses in any case, if they think fit. Orders for the payment of such witnesses shall be made, as nearly as may be, as orders are made for the payment of witnesses at the High Court. Every person refusing or omitting, without sufficient cause, to attend at the time and place mentioned in the summons served on him or her, and every person attending, but leaving the commission without the permission of the commissioners, or refusing to answer, or to answer fully and satisfactorily to the best of his or her knowledge and belief, all questions put to him or her by or with the concurrence of the commissioners, or refusing or omitting, without sufficient cause, to produce any books, plans, or documents, or other matters in his or her possession or under his or her control, and mentioned or referred to in the summons served on him or her, and every person who shall, at any sitting of the commission, wilfully insult any commissioner, or the secretary, or wilfully interrupt the proceedings of the commission, shall be liable, on summary conviction, to a penalty not exceeding seven hundred and fifty dollars.

(Amended by Act 6 of 1976)

Statement of witness before commission not admissible.

14. No statement made by any person who is called as a witness before any commission of inquiry, or any commissioners appointed in pursuance of this Act, in answer to any question put by or before such commission or commissioners, shall, except in cases of indictments for perjury, be admissible in evidence in any proceeding, civil or criminal.

Duties of witnesses summoned.

15. (1) If a person—
- (a) on being duly summoned as a witness before a Commission makes default in attending; or
 - (b) is in attendance as a witness, refuses to—
 - (i) take an oath legally required by the Commission to be taken; or
 - (ii) produce any document in his or her power or control legally required by the Commission to be produced by him or her; or
 - (iii) answer any question to which the Commission may legally require an answer; or
 - (c) does any other thing which would, if the Commission had been a court of law having power to commit for contempt of court, be contempt of that court,

then the Chairperson of the Commission may certify the offence of that person under his or her hand to the High Court and the court may thereupon inquire into the alleged offence and after hearing any witness who may be produced against or on behalf of the person charged with the offence and after hearing any statement that may be offered in defence, punish or take steps for the punishment of that person in like manner as if he or she had been guilty of contempt in the court.

(2) A person referred to in section 11 of this Act, any witness and their respective representatives appearing before a Commission shall be entitled, subject to section 12 of this Act, to the same immunities and privileges as are parties, witnesses and representatives in civil proceedings before the High Court.

(Inserted by Act 4 of 1998)

Police to attend at commissions.

16. The Governor-General may direct the senior police officer in the State to detail constables to attend upon any such commissioners to preserve order during the proceedings of the commission, and to perform such other duties as usually pertain to their office when in attendance upon the High Court, and to serve summonses on witnesses, and to perform such ministerial duties as such commissioners shall direct.

Remuneration of commissioners and secretary.

17. The Governor-General may direct what remuneration, if any, shall be paid to any commissioners acting under this Act, and to their secretary, and to any other persons employed in or about any such commission, and may direct payment of any other expenses attendant upon the carrying out of any such commission, or upon any proceedings for any penalty under this Act. Such sums, so directed to be paid, shall be paid by the Accountant-General out of the ordinary cash balance in the Treasury of the State.

Commissions free from stamp duty.

18. All commissions and all process and proceedings before the commissioners under this Act shall be free from stamp duty.

Publication of commissions.

19. All commissions under this Act, and all revocations of any such commissions, shall be published in the *Gazette*, and shall take effect from the date of such publication.

Recovery of penalties.

20. No proceedings shall be commenced for any penalty under this Act, except by the direction of the Director of Public Prosecutions, or of the commissioners. The commissioners may direct their secretary, or such other person as they may think fit, to commence and prosecute the proceedings for such penalty.

(Amended by Act 12 of 1967)

FIRST SCHEDULE*(Section 2)*

FORM OF COMMISSION

SAINT CHRISTOPHER AND NEVIS

ELIZABETH THE SECOND by the Grace of
God, of Saint Christopher and Nevis,
Queen, Head of the Commonwealth

L.S

Governor-General

TO:

(Names of Commissioners)

WHEREAS We have deemed it expedient, for divers good causes and considerations, that a diligent and full inquiry should forthwith be made into (here state subject or subjects of inquiry).

KNOW YE THEREFORE that, reposing great trust and confidence in your zeal, discretion and integrity, We by these presents authorise and appoint you, or any (here state the number of quorum) or more of you, to make a diligent and full inquiry into (here state subject or subjects), and We do by these presents give and grant to you or any (here state the number of quorum) or more of you, all the powers conferred on commissioners by the Commissions of Inquiry Act for the purposes of making the aforesaid inquiry, and We require that within (here state numbers of months) months after the date of this commission you do certify to Us, under your hands, or under the hands of any (here state number of quorum) or more of you, your several proceedings, and your opinion and recommendations on the premises; and this commission shall continue in full force, although the proceedings thereunder shall not be continued by adjournment from time to time, and you or any (here state number of quorum) or more of you, may from time to time, if you see fit, without waiting for your full and complete report, certify your several proceedings as the same shall be respectively perfected; and We hereby command all Government Officers, and other persons whomsoever, within Saint Christopher and Nevis, that they be assistant to you and each of you in the execution of these presents, and We appoint you (here state name of chairperson) to be the chairperson of this commission, and give and grant to you the powers conferred on such a chairperson by the Commissions of Inquiry Act.

IN TESTIMONY WHEREOF We have caused these Our Letters to be made patent and the Public Seal of Saint Christopher and Nevis to be hereunto affixed.

WITNESS His Excellency

Governor-General of Saint Christopher and
Nevis this day of
20.....

BY HIS EXCELLENCY'S COMMAND.

Minister responsible for Inquiries.

N.B.— Any of the powers in this form may be struck out by the Governor-General at his or her discretion, in granting the commission.

The time for executing this commission may be extended, by order of the Governor-General endorsed on the commission, under the hand of the Minister responsible for inquiries.

(Inserted by Act 3 of 1996)

SECOND SCHEDULE

(Section 10)

SUMMONS TO WITNESS

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

You are hereby summoned to appear before *(here name the commissioners)* appointed by the Governor-General to inquire *(state briefly the subject of inquiry)* at *(place)*, upon the day of, 20....., at o'clock in the noon, and to give evidence respecting such inquiry, *(if the person summoned is to produce any documents, add)* and you are required to bring with you *(specify the books, plans, and documents required.)*

Therefore fail not at your peril.

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