

COMMISSIONS OF INQUIRY

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Commissions of Inquiry Act 1948

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Commissions of Inquiry Act 1948

TABLE OF AMENDMENTS

The Commissions of Inquiry Act 1948 No 1 was made on 17 September 1948 and commenced on 18 September 1948 (Gaz 40/1948).

Amending Legislation	Certified	Date of Commencement
Executive Council Ordinance 1966 No 3		14 February 1966
Ordinances Revision Ordinance 1967 No 25		29 December 1967
Adaptation of Laws Order 1969 GN No 188/1969	9 October 1969	31 January 1968
Statute Law Revision Act 2011 No 8	15 April 2011	15 April 2011
Revised Written Laws Act 2021 No 7	1 June 2021	1 June 2021

An Act to provide for Commissions of Inquiry and related matters.

Be it ordained by the Administrator of the Island of Nauru in pursuance of the powers conferred by Article 1 of the Agreement dated the second day of July, 1919, between his Majesty's Government in London His Majesty's Government in the Commonwealth of Australia and His Majesty's Government of the Dominion of New Zealand and adopted by the Republic of Nauru as follows:

1 Short title and commencement

This Act may be cited as the *Commissions of Inquiry Act 1948* and commenced on 18 September 1948.

[s 1 subst Act 8 of 2011 s 12 and Sch 1 item 37, opn 15 Apr 2011]

2 Definitions

In this Act:

‘*Commission*’ means a commission of inquiry issued under this Act;

‘*Commissioner*’ means a member of a Commission;

‘*Commissioners*’ where only one Commissioner is appointed, means the Commissioner; and

‘*Court*’ means the Supreme Court.

[def insrt Act 15 of 2018 s 118, opn May 2018]

3 Commissions of Inquiry

(1) The Cabinet may, whenever it deems it advisable, issue a Commission appointing one or more Commissioners and authorising them, or any of them, to inquire into any matter in which an inquiry would, in the opinion of the Cabinet, be for the public welfare.

[subs (1) am Act 3 of 1966 Sch 1, Act 8 of 2011 s 12 and Sch 1 items 39–40, opn 15 Apr 2011]

(2) The Commission shall specify the subject of inquiry and may, if there are 2 or more Commissioners, direct which Commissioner shall be Chairperson and may also direct where and when the inquiry shall be made and the report rendered, and whether the inquiry shall, or shall not, be held in public.

(3) Any Commission may be may be altered by the Cabinet, whether as to the appointment of a Commissioner or Commissioners or otherwise, by the issue of a subsequent Commission.

[subs (3) am Act 3 of 1966 Sch 1, Act 8 of 2011 s 12 and Sch 1 item 39, opn 15 Apr 2011]

(4) Any Commission may be revoked by the Cabinet, by notice in the Gazette.

[subs (4) am Act 3 of 1966 Sch 1, Act 8 of 2011 s 12 and Sch 1 item 39, opn 15 Apr 2011]

4 Inability of Commissioner to act

If any Commissioner is or becomes unable or unwilling to act, or dies, the Cabinet may appoint another Commissioner in his or her place.

[s 4 am Act 3 of 1966 Sch 1, Act 8 of 2011 s 12 and Sch 1 item 39, opn 15 Apr 2011]

5 Secretary to Commission

The Cabinet may appoint a secretary to perform such duties connected with an inquiry as the Commissioners direct.

[s 5 am Act 3 of 1966 Sch 1, Act 8 of 2011 s 12 and Sch 1 item 39, opn 15 Apr 2011]

6 Procedure

The Commissioners may make such arrangements 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 of it, as they think proper.

7 Inquiries in public or private

In the absence of a direction in the Commission to the contrary the inquiry shall be conducted in such manner as the Commissioners deem appropriate and the Commissioners shall have power to conduct the inquiry or any part of it in public or in private as they deem fit:

Provided that the Commissioners shall be entitled to exclude from any inquiry any particular person or persons for the preservation of order, for the due conduct of the inquiry or for any other reason.

[s 7 am Act 8 of 2011 s 12 and Sch 1 item 40, opn 15 Apr 2011]

8 Commission not bound by rules of evidence

The Commissioners shall make a thorough investigation without regard to legal forms and solemnities and shall direct themselves by the best evidence which they can procure or which is laid before them, whether the evidence is such as the law would require or admit in other cases or not.

9 Power to send for witnesses and documents

(1) Any Commissioner may, by writing under his or her hand, summon a person to attend the Commission at a time and place named in the summons, and then and there to give evidence and to produce any books, documents, or writings in his or her custody or control which he or she is required by the summons to produce.

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

10 Power to examine on oath

Any Commissioner may administrate an oath to a person appearing as a witness before the Commission, whether the witness has been summoned or appears without being summoned, and may examine the witness upon oath.

11 Affirmation in lieu of oath

(1) Where any witness to be examined before the Commission conscientiously objects to take an oath, he or she may make an affirmation that he or she conscientiously objects to take an oath, and that he or she will state the truth, the whole truth, and nothing but the truth, to all questions that may be asked him or her.

- (2) An affirmation shall be of the same force and effect, and shall entail the same liabilities, as an oath.

12 Attendance at Inquiry

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

13 Failure to attend or produce documents

- (1) If a person served with a summons to attend the Commission, whether the summons is served personally or by being left at his or her usual place of abode, fails without reasonable excuse to attend the Commission, or to produce any documents, books or writings in his or her custody or control which he or she was required by the summons to produce, he or she shall be guilty of an offence.

Penalty: Not exceeding \$100.

[subs (1) am Act 25 of 1967 Sch 2, opn 29 Dec 1967]

- (2) It shall be a defence to a prosecution under this Section for failing without reasonable excuse to produce any documents, books or writings, if the defendant proves that the documents, books or writings were not relevant to the inquiry.

14 Refusing to be sworn or to give evidence

If a person appearing as a witness before the Commission refuses to be sworn or to make an affirmation or to answer any questions relevant to the inquiry put to him or her by any Commissioner, or having attended leaves the Commission without the permission of the commissioners, he or she shall be guilty of an offence.

Penalty: Not exceeding \$100.

[s 14 am Act 25 of 1967 Sch 2, Act 8 of 2011 s 12 and Sch 1 item 40, opn 15 Apr 2011]

15 Contempt of Commission

A person who wilfully insults the Commissioners, or wilfully interrupts the proceedings of the Commission, or is in any manner guilty of any wilful contempt of the Commission, shall be guilty of an offence.

Penalty: Not exceeding \$100.

[s 15 am Act 25 of 1967 Sch 2, opn 29 Dec 1967]

16 Giving false evidence

A person appearing as a witness before a Commission, who wilfully gives false evidence, shall be guilty of perjury and liable to prosecution and punishment accordingly.

17 Statements by witness not admissible in evidence against him or her

A statement or disclosure made by any witness in answer to any question put to him or her by a Commission or by any Commissioner shall not except in

proceedings for an offence against this Act be admissible in evidence against him or her in any civil or criminal proceedings.

18 Commissioner's report

- (1) The Commissioners shall make a report of their proceedings and of the result of their inquiry to the Cabinet and shall record the reasons leading to their conclusions.

[subs (1) am Act 3 of 1966 Sch 1, Act 8 of 2011 s 12 and Sch 1 item 39, opn 15 Apr 2011]

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

19 Remuneration of Commissioners and secretary and payment of expenses of Commission and witnesses

- (1) The Cabinet may determine what remuneration, if any, shall be paid to any Commissioner, to the secretary of a Commission and to any other person employed in connection with the proceedings of a Commission, and may direct payment of any other expenses attendant upon carrying out a Commission, or upon any proceedings for any offence under this Act.

[subs (1) am Act 3 of 1966 Sch 1, Act 8 of 2011 s 12 and Sch 1 item 39, opn 15 Apr 2011]

- (2) Witnesses who attend at the request of, or upon a summons by, the Commissioner shall, subject to any order made by the Commissioners, be entitled to the same expenses as they would be entitled to if they were summoned to attend the Court on a criminal trial, and payment shall be made in such manner as the President may direct.

20 Proceedings for offences

No proceedings shall be commenced for any offence under this Act except by the direction of the Commissioners, who may direct their secretary, or such other person as they think proper, to commence and prosecute proceedings.

SCHEDULE



REPUBLIC OF NAURU

COMMISSIONS OF INQUIRY ACT 1948

SUMMONS TO A WITNESS

[Section 9]

[Sch am Act 3 of 1966 Sch 1, Act 8 of 2011 s 12 and Sch 1 items 39–40, opn 15 Apr 2011]

To A.B. (Name of person summoned and his or her occupation and residence if known).

You are hereby summoned to appear before (here insert names of Commissioners) appointed by the Cabinet 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, on [date]

