

South Australia

**Special Commission of Inquiry (Powers and Immunities) Bill 2005**

A BILL FOR

An Act to facilitate a special commission of inquiry by conferring evidentiary powers and immunities.

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### The Parliament of South Australia enacts as follows:

#### 1—Short title

This Act may be cited as the *Special Commission of Inquiry (Powers and Immunities) Act 2005*.

#### 2—Commencement

5 This Act will come into operation on a day to be fixed by proclamation.

#### 3—Interpretation

In this Act, unless the contrary intention appears—

*authorised person* means the Special Commissioner or a person who is appointed by the Premier to assist the Special Commissioner in the conduct of the Inquiry;

10 *evidentiary material* means any document, object or substance of evidentiary value or possible evidentiary value to the Inquiry;

*Inquiry* means an Inquiry that is established by the Government with terms of reference and conditions of inquiry the same as those proposed by the House of Assembly in a resolution of that House passed on 5 July 2005;

15 *Special Commissioner* means a person who is appointed by the Governor to conduct the Inquiry.

#### 4—Application of certain provisions of *Ombudsman Act 1972* to Inquiry

(1) The relevant provisions of the *Ombudsman Act 1972* apply to and in relation to the Inquiry, as if—

- 20 (a) the Inquiry were the investigation of an administrative act by the Ombudsman under that Act; and  
(b) the Special Commissioner were the Ombudsman.

(2) The relevant provisions are—

- 25 (a) section 18(2), (3) and (6); and  
(b) section 23; and  
(c) section 24.

**5—Power to require attendance of witnesses etc**

- (1) An authorised person may issue a summons requiring a person to appear before the Inquiry at a specified time and place to give evidence or to produce evidentiary material (or both).
- 5 (2) A summons to produce evidentiary material may, instead of providing for production of evidentiary material before the Inquiry, provide for production of the evidentiary material to an authorised person nominated in the summons.
- (3) An authorised person may administer an oath or affirmation to a person appearing before the Inquiry.

**6—Obligation to give evidence**

- (1) If a person refuses or fails—
  - (a) to comply with a summons issued under this Act; or
  - (b) to make an oath or affirmation when required to do so by an authorised person; or
  - 15 (c) to answer a question on a subject relevant to the Inquiry to the best of the person's knowledge, information and belief,  
the Supreme Court may, on application by an authorised person, compel the attendance of the person before the Court to give evidence or to produce evidentiary material for the purposes of the Inquiry.
- 20 (2) A person who, without reasonable excuse, refuses or fails—
  - (a) to comply with a summons issued under this Act; or
  - (b) to make an oath or affirmation when required to do so by an authorised person; or
  - 25 (c) to answer a question on a subject relevant to the Inquiry to the best of the person's knowledge, information and belief,  
is guilty of an offence and liable to a penalty not exceeding \$10 000.

**7—Privileges and immunities**

- (1) An authorised person has, in connection with the conduct of the Inquiry, and in respect of any report prepared as part of, or at the conclusion of, the Inquiry, the same protection, privileges and immunities as a Judge of the Supreme Court.
- 30 (2) A person who appears before the Inquiry, or who provides evidentiary material to the Inquiry, has the same protection, privileges and immunities as a witness in proceedings before the Supreme Court.
- (3) A legal practitioner who represents a person in connection with the Inquiry has the same protection, privileges, immunities and obligations as counsel involved in proceedings before the Supreme Court.
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