

# ROYAL COMMISSIONS ACT, 1917

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## ROYAL COMMISSIONS ACT, 1917

being

Royal Commissions Act, 1917, No. 1272 of 1917 [Assented to 11th October, 1917].

### An Act to make further and better provision for facilitating inquiries by royal commissions.

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

1. This Act may be cited as the "Royal Commissions Act, 1917". Short title.
2. The Witnesses on Commissions Oaths Act is hereby repealed. Repeal of 20.  
1873.
3. In this Act— Interpretation.

"chairman" means chairman of the commission, and includes the person for the time being acting as such chairman, and, in cases where the commission is constituted of a sole commissioner, means such commissioner:

"secretary" means secretary to the commission:

"the commission" means any commission of inquiry issued by the Governor under his hand and the public seal of the State, and includes the members of the commission, or a quorum thereof, or the sole commissioner in cases where the commission is constituted of a sole commissioner, sitting for the purposes of the inquiry.
4. This Act shall apply with respect to any royal commission issued before, as well as with respect to all royal commissions issued after, the commencement of this Act: Provided that this section shall not be construed to authorize the application of this Act so as to make unlawful anything done before such commencement which at the time it was done was lawful. Act to apply to  
royal  
commissions  
already issued.

#### *Proceedings of the Commission*

5. The commission may publish such (if any) information obtained in the exercise of their functions as they think fit. Power to  
publish  
information.  
Com. 33, 1912,  
s. 48.
6. The commission may, in connection with the exercise of their functions, take evidence in public or in private. Evidence may  
be taken in  
public or in  
private.  
Com. 33, 1912,  
s. 49.

Commission not to be bound by rules as to procedure or evidence.  
Cf. 1110, 1912, s. 66 (b), s. 21 (n).

7. The commission, in the exercise of any of their functions or powers, shall not be bound by the rules or practice of any court or tribunal as to procedure or evidence, but may conduct their proceedings and inform their minds on any matter in such manner as they think proper; and, without limiting in any way the operation of this section, the commission may refer any technical matter to an expert and may accept his report as evidence.

Power to sit at any time and place.  
Cf. *ibid.*, s. 21 (1) (m).

8. The commission may sit at any time and in any place for the purpose of exercising any of their powers or functions, and may adjourn their sittings from time to time and from place to place.

Acts and proceedings of commission not liable to be reviewed or restrained.  
Cf. Com. 33, 1912, s. 44.

9. No decision, determination, certificate, or other act or proceeding of the commission, or anything done or the omission of anything, or anything proposed to be done or omitted to be done, by the commission, shall, in any manner whatsoever, be questioned or reviewed, or be restrained or removed by prohibition, injunction, *certiorari*, or otherwise howsoever.

Powers of Commission.  
Cf. 1089, 1912, s. 18.

10. The commission shall have the following powers, that is to say:—

- (1) They and each of them may by themselves, or by any person appointed by them to prosecute an inquiry, enter upon and inspect any land, building, place, or vessel, and inspect any goods and other things, the entry upon or inspection of which appears to them or him to be requisite:
- (2) They may require, by summons under the hand of the chairman or of the secretary acting under the direction of the chairman, the attendance of all such persons as they think fit to call before them, and may require answers or returns to such inquiries as they think fit to make:
- (3) They may by notice in writing, signed as aforesaid, require and compel the production of any books, papers, or documents:
- (4) They may inspect any books, papers, and documents produced before them, and retain them for such reasonable periods as they think fit, and may make copies of such matters therein as are relevant to the inquiry or take extracts of such matters:
- (5) They may examine witnesses on oath, affirmation, or declaration, which may be administered by any commissioner.

Powers of commission in respect of witnesses.  
Cf. 1089, 1912, s. 19.

11. (1) If any person—

- (a) who has been personally served with a summons to attend before the commission, and whose expenses, as provided in subsection (5) hereof, have been paid or tendered to him, neglects to attend in obedience to such summons: or
- (b) wilfully insults the commission, or any commissioner: or
- (c) by writing or speech uses words false and defamatory of the commission, or any commissioner: or
- (d) misbehaves himself before the commission: or
- (e) interrupts the proceedings of the commission: or
- (f) being called or examined as a witness in any inquiry or any matter pending before the commission, refuses to be sworn, or to affirm or declare, or refuses or neglects to produce any books, papers, or documents mentioned in a notice under section 10 personally

served upon him, or prevaricates in his evidence, or refuses to answer any lawful question,

the chairman may commit such person to gaol for any term not exceeding two months or may impose on him a penalty not exceeding four hundred dollars<sup>1</sup>, and in default of immediate payment of such penalty the chairman may commit the offender to gaol for any term not exceeding two months unless the penalty is sooner paid.

(2) In any of the cases aforesaid a warrant in the form or to the effect of the first schedule may be issued by the chairman, and such warrant shall be good and valid in law without any other warrant, order, or process whatsoever; and the Commissioner of Police and all members of the police force and the Sheriff and all gaolers may and shall obey the same.

(3) When any person who has been personally served with a summons to attend as a witness before the commission, and whose expenses, as provided in subsection (5) hereof, have been paid or tendered to him, fails to attend in obedience to such summons, and fails to give a reasonable excuse for his non-attendance, the chairman, upon proof that such person has been duly served with such summons and that such expenses have been paid or tendered to him may issue a warrant in the form or to the effect of the second schedule to bring such person before the commission to give evidence. The provisions of subsection (2) of this section shall apply to any such warrant.

(4) Where any person has on any day done or omitted to do something and his act amounts to an offence against any of the provisions of subsection (1) hereof, and also does or omits to do the same thing on some other day, each such act or omission shall be a separate offence, and shall be punishable accordingly under the provisions of this section.

(5) Every person required by the commission to attend before it shall be allowed such expenses as would be allowed to a witness attending on subpoena before the Supreme Court, and in case of dispute as to the amount to be allowed the same shall be referred to the Master of the Supreme Court, who, on request under the hand of the chairman, shall ascertain and certify the proper amount of such expenses.

12. (1) Every person who has been duly summoned to attend before the commission shall appear and report himself from day to day unless excused by the chairman, or until he is released from further attendance by the chairman.

Duty of witness to continue in attendance.  
Cf. Com. 4, 1912, s. 7.

(2) If any person fails to so report himself he shall be deemed to have neglected to attend before the commission in obedience to his summons, and shall be punishable accordingly.

13. Unless the commission otherwise directs, any person giving evidence before the commission may, subject to anything prescribed, be represented before the commission by counsel or solicitor.

Right of audience.

14. Nothing in this Act shall make it compulsory for any witness giving evidence before the commission to disclose to the commission any secret process of manufacture.

Witness need not disclose secret process.  
Cf. Com. 4, 1912, s. 7.

15. Any person who, upon oath, affirmation, or declaration taken or made under this Act, wilfully and corruptly gives any false evidence before the commission shall be guilty of perjury, and may be imprisoned, with or without hard labour, for any term not exceeding four years.

Punishment for false evidence.  
1089, 1912, s. 20.

<sup>1</sup> Pursuant to s. 8 of the Acts Reproduction Act, 1967, as amended, references to amounts of money expressed in decimal currency substituted for references to amounts of money expressed in the old currency.

Statements  
made by  
witness not  
admissible in  
evidence against  
him.  
Com. 33, 1912,  
s. 59.

16. A statement or disclosure made by any witness in answer to any question put to him by the commission or any of the commissioners shall not (except in proceedings for an offence against this Act) be admissible in evidence against him in any civil or criminal proceedings in any court.

*Indictable Offences in connection with inquiries by the Commission*

Bribery of  
witness.  
Ibid., s. 62.

17. Any person who—

- (a) gives, confers, or procures, or promises or offers to give or confer or to procure or attempt to procure, any property or benefit of any kind to, upon, or for any person upon any agreement or understanding that any person called or to be called as a witness before the commission shall give false testimony or withhold true testimony, or
- (b) attempts by any means to induce a person called or to be called as a witness before the commission to give false testimony, or to withhold true testimony, or
- (c) asks, receives, or obtains, or agrees or attempts to receive or obtain, any property or benefit of any kind for himself or any other person, upon any agreement or understanding that any person shall, as a witness before the commission, give false testimony or withhold true testimony,

shall be guilty of a misdemeanour and shall be liable to be imprisoned, with or without hard labour, for any term not exceeding two years.

Fraud on  
witness.  
Ibid., s. 63.

18. Any person who practises any fraud or deceit, or knowingly makes or exhibits any false statement, representation, token, or writing, to any person called or to be called as a witness before the commission, with intent to affect the testimony of that person as a witness, shall be guilty of a misdemeanour, and shall be liable to be imprisoned, with or without hard labour, for any term not exceeding two years.

Destroying  
books or  
documents.  
Com. 33, 1912,  
s. 64.

19. Any person who, knowing that any book, document, or writing is or may be required in evidence before the commission, wilfully destroys it or renders it illegible or undecipherable or incapable of identification, with intent thereby to prevent it from being used in evidence, shall be guilty of a misdemeanour, and shall be liable to be imprisoned for any term not exceeding four years.

Preventing  
witness from  
attending.  
Ibid., s. 65.

20. Any person who wilfully prevents or endeavours to prevent any person who has been summoned to attend as a witness before the commission from attending as a witness, or from producing any evidence pursuant to the summons to attend, shall be guilty of a misdemeanour, and shall be liable to be imprisoned for any term not exceeding two years.

Injury to  
witness.  
Ibid., s. 66.

21. Any person who uses, causes, inflicts, or procures any violence, punishment, damage, loss, or disadvantage to any person for or on account of his having appeared as a witness before the commission or for or on account of any evidence given by him before the commission, shall be guilty of a misdemeanour, and shall be liable to be imprisoned for any term not exceeding one year.

Dismissal by  
employers of  
witness.  
Com. 33, 1912,  
s. 67.

22. (1) Any employer who dismisses any employee from his employment, or prejudices any employee in his employment, for or on account of such employee's having appeared as a witness before the commission, or for or on account of such employee's having given evidence before the commission,

shall be guilty of a misdemeanour, and shall be liable to be imprisoned for any term not exceeding one year.

(2) In any proceedings for any offence against this section it shall lie upon the employer to prove that any employee shown to have been dismissed or prejudiced in his employment was so dismissed or prejudiced for some reason other than a reason mentioned in subsection (1) hereof.

### *Regulations*

23. (1) The Governor may make any regulations which may be necessary or convenient for carrying out any of the provisions of this Act, or for better effecting the objects of this Act, and in particular (without limiting the effect of this section) for all or any of the following purposes, namely—

Power to make regulations.

- I. For prescribing the forms of summonses, subpoenas, and notices to be used by the commission;
- II. For prescribing the practice and procedure of the commission to be adopted for the conduct of inquiries;
- III. For prescribing the rules to be observed by the commission in the conduct of its business; and
- IV. For prescribing the expenses to be paid to the commissioners.

(2) Any such regulation may prescribe a penalty not exceeding forty dollars<sup>1</sup> for any breach of the same or any other regulation.

### *Evidence*

24. In all legal proceedings the production—

Evidence of issue of commission. Com. 4, 1912, s. 9.

- (a) of a document purporting to be a commission, and purporting to be signed by the Governor and to be sealed with the public seal of the State, and purporting to be directed to any person or persons, and to appoint him or them to be a commissioner or commissioners to make inquiry into any matter, or to authorize or require him or them to make inquiry into any matter, or
- (b) of a document purporting to be a copy of any such commission, and certified in writing by the person named therein as chairman of the commission or sole commissioner, as the case may be, to be a true copy of the commission,

shall be evidence that the Governor has issued the commission.

### *Legal Procedure*

25. All proceedings in respect of offences against this Act (not being indictable offences) shall be disposed of summarily.

Summary proceedings for offences.

26. There shall be an appeal in respect of proceedings in respect of offences against this Act.

Appeal.

27. In the event of an appeal in respect of proceedings in respect of offences against this Act, a special case may be stated.

Special cases.

<sup>1</sup> Pursuant to s. 8 of the Acts Reproduction Act, 1967, as amended, references to amounts of money expressed in decimal currency substituted for references to amounts of money expressed in the old currency.

## THE SCHEDULES

## THE FIRST SCHEDULE

## FORM OF WARRANT

Royal Commissions Act, 1917

Sec. 11 (2).

To the Commissioner of Police and all members of the Police Force of South Australia, and to the Keeper of the Gaol at

These are to command you the Commissioner of Police and all members of the Police Force of South Australia to apprehend A.B. and to convey him to the above-mentioned gaol, and to deliver him to the keeper thereof, together with this warrant; and you the said keeper are hereby required to receive the said A.B. into your custody in the said gaol, and him there safely to keep for the term of \_\_\_\_\_ (unless the sum of \_\_\_\_\_ is sooner paid) I, the undersigned, chairman (or acting chairman) of the \_\_\_\_\_ Commission, having adjudged the said A.B. to be imprisoned (or pay a penalty of \_\_\_\_\_, and having further adjudged him to be imprisoned on the ground that he has made default in the immediate payment thereof), for the said term, for that he the said A.B. [*here state the offence to the following effect, as the case may require*].

That A.B. having been duly served with a summons to attend before the said commission and having had his expenses paid or tendered, neglected to attend before the said commission (or that A.B. wilfully insulted the said commission, or C.D., one of the members of the said commission, or that A.B. used words false and defamatory of the said commission, or of C.D., one of the members of the said commission, or that A.B. misbehaved himself before the said commission, or that A.B. interrupted the proceedings of the said commission, or that A.B., having been called or being examined as a witness in a certain inquiry or matter pending before the said commission, refused to be sworn or affirm or declare or to produce a certain document mentioned in the summons served on him, or was guilty of prevarications in his evidence or refused to answer a certain lawful question).

Given under my hand at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ in the year of our Lord nineteen hundred and \_\_\_\_\_

[Signature]

Chairman (or Acting Chairman) of the \_\_\_\_\_ Commission.

## THE SECOND SCHEDULE

## FORM OF WARRANT

Royal Commissions Act, 1917

Sec. 11 (3).

To the Commissioner of Police and all members of the Police Force of South Australia.

Whereas, pursuant to the provisions of the above-mentioned Act, it has this day been proved to me that \_\_\_\_\_ of \_\_\_\_\_ has been duly served with a summons to attend and give evidence before the \_\_\_\_\_ Commission, pursuant to the said Act, but has failed to attend in obedience to such summons:

This is to require you forthwith to apprehend the said \_\_\_\_\_ and to detain him in custody and bring him before the said commission to give evidence.

Given under my hand at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ in the year of our Lord nineteen hundred and \_\_\_\_\_

[Signature]

Chairman (or Acting Chairman) of the \_\_\_\_\_ Commission.