

COMMISSIONS OF INQUIRY ORDINANCE 1927.⁽¹⁾

No. 32 of 1927.

An Ordinance to provide for the issue of Commissions of Inquiry.

BE it ordained by the Governor-General of the Commonwealth of Australia, with the advice of the Federal Executive Council, in pursuance of the powers conferred by the *New Guinea Act 1920-1926*, as follows:—

1. This Ordinance may be cited as the *Commissions of Inquiry Ordinance 1927*.⁽¹⁾ Short title.

2. In this Ordinance, unless the contrary intention appears— Definitions.

“Commission” means a commission of inquiry issued under this Ordinance;

“Commissioner” means a member of a Commission;

“Commissioners”, where only one Commissioner is appointed, means the Commissioner;

“The Court” means the Central Court.⁽²⁾

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

(2.) The Commission shall specify the subject of inquiry and shall be accompanied by a statement of the case upon which the inquiry was ordered, and may, if there are two or more Commissioners, direct which Commissioner shall be Chairman, and may also direct where and when the inquiry shall be made and the report thereof rendered, and whether the inquiry shall, or shall not, be held in public.

(1) Particulars of this Ordinance are as follows:—

Date on which made by Gov.-Gen. in Council.	Date on which notified in <i>Cwth. Gaz.</i>	Date on which took effect.
29.9.1927	1.10.1927	1.10.1927 (<i>Owth. Gaz.</i> of 1.10.1927)

(2) See Section 7A of the *Judiciary Ordinance 1921-1938*.

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(3.) In the absence of a direction in the Commission 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.

Inability of
Commissioner
to act.

4. If any Commissioner is or becomes unable or unwilling to act, or dies, the Administrator may appoint another Commissioner in his place, and any Commission may be altered by the Administrator, by the issue of a subsequent Commission, or may be revoked altogether by a notification to that effect published in the *New Guinea Gazette*.

Secretary of
Commission.

5. The Administrator 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 direct.

Rules of
procedure.

6. 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.

Powers of
Commissioner.

7.—(1.) Any Commissioner may, by writing under his hand, summon any 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 custody or control which he is required by the summons to produce.

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

Power to
examine on
oath.

8. Any Commissioner may administer an oath to any 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.

Affirmation
in lieu of oath.

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

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

Appearance
of Counsel.

10. Any person who satisfies the Commissioners that he has a bona fide interest in the subject matter of an inquiry under this Ordinance, and any other person by leave of the Commissioners,

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may attend the inquiry in person or may be represented by counsel or solicitor.

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

Penalty for failing to attend or produce documents.

Penalty: Fifty pounds.

(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.

12. If any 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 by any Commissioner, or having attended leaves the Commission without the permission of the Commissioners, he shall be guilty of an offence.

Penalty for refusing to be sworn or to give evidence.

Penalty: Fifty pounds.

13. Any 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.

Contempt of Commission.

Penalty: Fifty pounds.

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

Giving false evidence.

15. A statement or disclosure made by any witness in answer to any question put to him by a Commission or by any Commissioner shall not (except in proceedings for an offence against this Ordinance) be admissible in evidence against him in any civil or criminal proceedings.

Statements by witness not admissible in evidence against him.

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

Commissioner's report.

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

17.—(1.) Commissioners shall not be entitled to any remuneration, unless sanctioned by the Minister, beyond the actual expenses incurred in holding the inquiry, but the Administrator may direct what remuneration, if any, shall be paid to the secretary of a Com-

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

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mission and to any other person employed in connexion 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 Ordinance.

(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 thereof shall be made in such manner as the Administrator may direct.

(3.) Sums of money directed to be paid in accordance with the provisions of the last two preceding sub-sections shall be paid out of the Public Account of the Territory.

Proceedings
for offences.

18. No proceedings shall be commenced for any offence under this Ordinance 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 therefor.

THE SCHEDULE.

SUMMONS TO A WITNESS.

To A.B. [*Name of person summoned and his occupation and residence if known*].

You are hereby summoned to appear before [*Here insert names of Commissioners*] appointed by the Administrator to inquire [*State briefly the subject of the inquiry*] at _____ on _____ the _____ day of _____ 19____ 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 _____ 19____.