



ST HELENA

REVISED EDITION OF THE LAWS, 2017

CONSTITUTIONAL & ADMINISTRATIVE LAW

COMMISSIONS OF ENQUIRY ORDINANCE, 1926¹

Ordinance 2 of 1926

In force 26 March 1926

Amended by Ordinance 13 of 1932; L.N. 3/1989

No subsidiary legislation to 1 November 2017

COMMISSIONS OF ENQUIRY ORDINANCE, 1926

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AN ORDINANCE to enable commissioners to be appointed to enquire into and report on matters referred to them by the Governor of St Helena.

Short title

¹ Under section 10 of the Revised Edition of the Laws Ordinance, 1999 this text is authoritative and is the sole authentic edition in respect of the law contained in it as at 1 November 2017.

1. This Ordinance may be cited as the Commissions of Enquiry Ordinance, 1926.

Power to issue commissions of enquiry

2. (1) If the Governor considers it advisable, the Governor may issue a commission—

- (a) appointing one or more commissioners; and
- (b) authorising the commissioners or any quorum of them mentioned in the commission to enquire into any subject or matter as to which, in the opinion of the Governor, an enquiry is necessary or would be for the public welfare.

(2) Each such commission —

- (a) must specify the subject of the enquiry, direct where and when it is to be made, and the report of it rendered, and prescribe how it is to be executed; and
- (b) may in the discretion of the Governor (if there is more than one commissioner) direct which commissioner is to chair the commission, and whether the enquiry-is or is not to be held in public.

(3) In the absence of a direction to the contrary the enquiry must be held in public, but the commissioners may nevertheless exclude any particular person or persons for the preservation of order or for the due conduct of the enquiry.

Power to appoint commissioners and to alter commissions

3. (1) If any commissioner is or becomes unable or unwilling to act, or dies, the Governor may appoint another commissioner in his or her place.

(2) A commission issued under this Ordinance may be altered as the Governor may consider fit by any subsequent commission issued by the Governor, or may be revoked altogether by the Governor by proclamation.

Change of Governor

4. No commission issued under this Ordinance lapses or is otherwise affected by reason of the death, absence or removal of the Governor who issued it.

Commissioners to take oath

5. A person appointed as a commissioner under this Ordinance must make and subscribe an oath or affirmation before the Governor 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 the person as such commissioner.

Secretary

6. The Governor may appoint a secretary to attend the sittings of the commissioners, to record their proceedings, to keep their papers, to summon and minute the testimony of witnesses, and generally to perform such duties connected with the enquiry as the commissioners decide, subject to any directions of the Governor.

Duty of the commissioners

7. After taking the necessary oath or affirmation, the commissioners must —
- (a) make a full, faithful and impartial enquiry into the matter specified in the commission;
 - (b) conduct such enquiry in accordance with any directions in the commission;
 - (c) in due course furnish to the Governor a full statement of the proceedings of the commission; and
 - (d) report to the Governor in writing the result of the enquiry.

Chair to have casting vote

8. If the commissioners are equally divided upon any question that arises during the proceedings of the commission, the Chair of the commission has a second or casting vote.

Power to regulate proceedings

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

Power to summon and examine witnesses

10. (1) The commissioners acting under this Ordinance have the powers of the Supreme Court to summon witnesses, to call for the production of books, plans and documents, and to examine witnesses and parties concerned on oath.

(2) No commissioner is liable to any action or suit for any matter or thing done by him or her as such commissioner.

(3) All summonses for the attendance of witnesses or other persons or for the production of documents must be in the form prescribed in the Schedule and be signed by one of the commissioners.

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

Witnesses

11. (1) All persons summoned to attend and give evidence, or to produce books, plans or documents at any sitting of any commission under this Ordinance—

- (a) must obey the summons served upon them as fully in all respects as witnesses are bound to obey subpoenas issued out of the Supreme Court; and
- (b) are entitled to the same expenses as if they had been subpoenaed as Crown witnesses to appear at the Supreme Court sessions, if such expenses are allowed by the commissioners.

(2) The commissioners may disallow the whole or any part of such expenses in their discretion.

(3) Any expenses allowed to witnesses are to be paid out of the Consolidated Fund on the production of a certificate signed by the secretary to the commission, or, if there is no secretary, by one of the commissioners, certifying the attendance of such witnesses for the purpose of giving evidence and the amount allowed by the commissioners.

Refusal to attend or give evidence

- 12.** (1) It is an offence for a person—
- (a) to refuse or omit, without sufficient cause, to attend at the time and place mentioned in the summons served upon the person;
 - (b) to attend but leave the commission without the previous permission of the commissioners;
 - (c) to refuse, without sufficient cause, to answer or to answer fully and satisfactorily to the best of the person's knowledge and belief, all questions put to the person by or with the concurrence of the commissioners;
 - (d) to refuse without sufficient cause to produce any books, plans or documents in the person's possession or under the person's control and mentioned or referred to in the summons served upon the person; or
 - (e) at any sitting of the commissioners wilfully to insult any commissioner or the secretary or wilfully to interrupt the proceedings of the commission.

Penalty: A fine of £50.

(2) No person giving evidence before the commission is compellable to incriminate himself or herself, and every person giving evidence before any commission is in respect to such evidence entitled to all the privileges to which the person would be entitled if giving evidence before a court of justice.

False evidence

13. A person who wilfully gives false evidence before any commission under this Ordinance commits the offence of perjury and is liable to be prosecuted and punished accordingly.

Prosecution of offences

14. (1) No proceedings may be commenced for an offence under this Ordinance except by, or with the consent or under the direction of, the Attorney General.

(2) *Omitted*

(3) Any person whose conduct is the subject of enquiry under this Ordinance, or who is in any way implicated or concerned in the matter under enquiry, is entitled to be legally represented at the whole of the enquiry, and any other person who may consider it desirable to be so represented may, by leave of the commission, be so represented.

Publication of commissions

15. Every commission under this Ordinance must be published by way of proclamation and has effect from the date of such publication.

SCHEDULE
(Section 10)

COMMISSIONS OF ENQUIRY ORDINANCE, 1926

WITNESS SUMMONS

To

You are hereby required to appear on the day of, 20....., ata.m./p.m. precisely at, before the commission appointed under a proclamation dated the day of, 20....., and there give evidence according to your knowledge touching the matter of
....., being the subject of enquiry by the said commission [and to produce such books, plans and documents touching upon the said matter as may be in your possession and particularly].

Given under my hand thisday of, 20..... .

Secretary.
[or one of the Commissioners]

N.B.—A person who fails, without sufficient cause, to obey a Summons in the prescribed form is liable to a fine not exceeding £50.

