

CHAPTER 3.**COMMISSION OF INQUIRY****ARRANGEMENT OF SECTIONS****Section**

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An Act to enable the appointment of Commissions of Inquiry, to prescribe their powers and procedure, to facilitate the performance of their functions and to provide for matters connected with or incidental to the aforesaid matters.[section numbering and referencing style modified to reflect new format]

Commencement: January 6, 1987
 Source: P.L. 1986-29
 P.L. 1989-62

§301. Short title.

This Act may be cited as the “Commissions of Inquiry Act 1986”. [P.L. 1986-29, §1.]

§302. Power to appoint Commissions of Inquiry.

(1) Whenever it appears to the President to be necessary that an inquiry should be held and information obtained as to any of the following, the President may, by warrant under the Public Seal of the Republic, appoint a Commission of Inquiry consisting of one or more members to inquire into and report upon such administration, conduct or matter:

- (a) the administration of any Department of the Government of the Marshall Islands or of any public or local authority or institution;
- (b) the conduct of any member of the Public Service; or
- (c) any matter with respect to which an inquiry will, in his opinion, be in the interest of the public safety, national security or welfare.

- (2) Every warrant issued under this Act shall:
- (a) set out the name of the member or each of the members of the Commission;
 - (b) where a Commission consists of more than one member, specify the member who is to be the Chairman of the Commission;
 - (c) contain the terms of reference of the Commission; and
 - (d) include a direction whether the inquiry or any part thereof shall or shall not be held in public. [P.L. 1986-29, §2.]

§303. Appointment of additional members.

(1) The President may add to the numbers of any Commission appointed under Section 302 of this Act, and where any member so appointed or added dies, resigns, desires to be discharged, or refuses or becomes unable to act, the President may appoint a new member in his place.

(2) When a new member has been appointed under the provisions of Subsection (1) of this Section, it shall not be necessary for any evidence which may have been taken before the Commission prior to such appointment to be retaken. [P.L. 1986-29, §3.][section references modified to reflect new numbering format]

§304. Extension of time.

The President may, from time to time, by endorsement under his hand on a warrant issued under this Act, extend the time for the rendering of the report of the Commission appointed by such warrant, whether the time for the rendering of such report has expired or not. [P.L. 1986-29, §4.]

§305. Alteration or revocation of warrant.

The President may at any time alter (for the purposes of Section 303 or 304 of this Act) or revoke any warrant issued under this Act. [P.L. 1986-29, §5.][section references modified to reflect new numbering format]

§306. Change of President.

No warrant issued under this Act shall lapse by reason of, or be affected by, the death, absence, retirement, resignation or removal of the President who issued the warrant. [P.L. 1986-29, §6.]

§307. Powers of Commission.

A Commission appointed under this Act shall have the following powers:

(a) to procure and receive all such evidence, written or oral, and to examine all such persons as witnesses, as the Commission may think it necessary or desirable to procure or examine;

(b) to require the evidence (whether written or oral) of any witness to be given on oath or affirmation, such oath or affirmation to be that which is required of the witness if he were giving evidence in a court of law, and to administer or cause to be administered by an officer authorized in that behalf by the Commission an oath or affirmation to every such witness;

(c) to summon any person residing in the Republic to attend any meeting of the Commission to give evidence or introduce any document or other thing in his possession, and to examine him as a witness or require him to produce any document or other thing in his possession;

(d) notwithstanding any of the provisions of the rules of evidence in force, to admit any evidence, whether written or oral, which might be inadmissible in civil or criminal proceedings;

(e) subject to any direction contained in the warrant:

(i) to admit or exclude the public from the inquiry or any part thereof; and

(ii) to admit or exclude the press from the inquiry or any part thereof; and

(f) to recommend that any person whose conduct is the subject of inquiry under this Act or who is in anyway implicated or concerned in the matter under inquiry be awarded such sum of money as, in the opinion of the Commission, may have been reasonably incurred by such person as costs and expenses in connection with the inquiry. In this Paragraph "costs and expenses" include the costs of representation by an attorney at law, and travelling and other expenses incidental to the inquiry or consequential upon the attendance of such person at the inquiry. [P.L. 1986-29, §7.]

§308. Conferment of additional powers on a Commission.

(1) All or any of the following powers may be conferred by the President, on a Commission appointed under this Act if the Commission so requests:

(a) to require by written notice the manager of any bank in the Republic to produce, as specified in the notice, any book or document of the bank containing entries relating to the account of any person or the spouse, son or daughter of such person, whose conduct is being inquired into by the Commission, or to furnish, as so specified, certified copies of such entries;

(b) to require by written notice the Chief of Revenue to furnish, as specified in the notice, all information available to such Chief relating to the affairs of any person or the spouse, son or daughter of such person, whose conduct is being inquired into by the Commission, and to produce or furnish, as so specified, any document relating to such person, spouse, son or daughter, which is in the possession or under the control of such Chief.

(2) A Commission appointed under this Act may exercise any power conferred on the Commission under Subsection(1) of this Section, and any person to whom the Commission issues any direction in the exercise of such power shall carry out such direction notwithstanding anything in the contrary in any other law. [P.L. 1986-29, §8.]

§309. Members of Commissions deemed to be public servants.

The members of a Commission appointed under this Act shall, as long as they are acting as such members, be deemed to be public servants for the purposes of Sections 118 and 146 of the Criminal Code, and every inquiry under this Act shall be deemed to be a judicial inquiry for the purposes of Section 148 of the Criminal Code. [P.L. 1986-29, §9.][section references modified to reflect new numbering format]

§310. Punishment of contempt.

Contempt of the Commission shall be punished in the manner prescribed in Section 257(4) of the Judiciary Act 1983. [P.L. 1986-29, §10; amended by P.L. 1989-62, §2(1), substituting entirely new Section.]

§311. Summons.

(1) Every summons shall, in any case where a Commission consists of one member only, be under the hand of that member, and in any case where a Commission consists of more than one member, be under the hand of the Chairman of the Commission; provided that, where a person has been appointed under Section 319 of this Act to act as secretary, any such summons may, with the authority of the Commission, be issued under the hand of the secretary.

(2) Any summons may be served by delivering it to the person named therein, or if that is not practicable, by leaving it at the last known place of abode of that person.

(3) Every person on whom a summons is served shall attend before the Commission at the time and place specified therein, and shall give evidence or produce such documents or other things as are required of him and are in his possession or power, according to the tenor of the summons. [P.L. 1986-29, §11.]

§312. Contempt defined.

Contempt of the Commission is any act or failure to act which would be contempt of court under Section 256 of the Judiciary Act 1983 if the Act or failure to act was done before or in respect to a court. [P.L. 1986-29, §12; P.L. 1989-62, §2(2), substituting entirely new Section.]

§313. Privileges of witnesses.

Every witness who gives evidence before a Commission appointed under this Act shall, with respect to such evidence, be entitled to all the privileges to which a witness giving evidence in a court of law is entitled with respect to the evidence given by that witness before such court. In case of any inconsistency or conflict with the rest of the provisions of this Act, the provisions of this Section shall prevail. [P.L. 1986-29, §13.]

§314. Special immunity for witnesses.

Except as hereinafter provided, where the President in the warrant of appointment of a Commission or by subsequent order declares that this Section shall apply to or in relation to such Commission, the following provisions shall have effect:

(a) no person shall, with respect to any evidence, written or oral, given by that person to or before the Commission at the inquiry, be liable to any action, prosecution or other proceedings in any civil or criminal court;

(b) no evidence of any statement made or given by any person to or before the Commission for purposes of the Commission shall be admissible against that person in any action, prosecution, or other proceedings in any civil or criminal court.

However, nothing in the preceding Paragraphs shall abridge or affect or be deemed or construed to abridge or affect the liability of any person to any prosecution or penalty for any offense under Sections 256, 257, 258 and 259 of the Judiciary Act 1983 read in conjunction with Section 309 of this Act, or prohibit or be deemed or construed to prohibit the publication or disclosure of the name or of the evidence or any part of the evidence of any witness who gives evidence at the inquiry, for the purpose of the prosecution of that witness for any offense under Section 149 of the Criminal Code. [P.L. 1986-29, §14.][section references modified to reflect new numbering format]

§315. Presumption on production of record of evidence.

Every document produced before any court and purporting to be a record or memorandum of the evidence or any part of the evidence given by a witness examined before a Commission under

this Act and purporting to be signed by the members thereof shall be presumed to be genuine and shall be admissible in evidence without further proof. [P.L. 1986-29, §15.]

§316. Representation of persons.

Every person who is the subject of inquiry under this Act, or who is in any way implicated or concerned in the matter under inquiry, shall be entitled to be represented by one or more attorneys at law at the whole of the inquiry; and any other person who may consider it desirable that he should be so represented may, by leave of the Commission, be represented in the manner aforesaid. [P.L. 1986-29, §16.]

§317. Costs and other expenses.

(1) On the conclusion of any inquiry under this Act, and on the recommendation of the Commission, the Minister of Finance may, by order under his hand, award to any person whose conduct has been the subject of such inquiry or who has been in any way implicated or concerned in the matter under inquiry or to any bank whose manager has complied with a notice issued in connection with such inquiry by the Commission in the exercise of powers conferred on the Commission by the President under Section 308(1)(a) of this Act, such sum of money as the Minister of Finance may in his discretion specify in the order as sufficient to meet the costs and expenses which may have been reasonably incurred by such person or bank in connection with the inquiry. In this Subsection "costs and expenses" include the costs of representation by an attorney at law, and traveling and other expenses incidental to the inquiry or consequential upon the attendance of such person at the inquiry, and, in the case of a bank, the clerical, traveling and other expenses consequential upon compliance with the aforesaid notice.

(2) All monies awarded by order of the Minister of Finance under Subsection (1) shall be a charge on the Marshall Islands General Fund, and the payment of all such monies is hereby authorized. [P.L. 1986-29, §17.]

§318. Protection of members of Commissions.

No civil or criminal proceedings shall lie against any member of a Commission with respect to any act in good faith done or omitted to be done by him as such member. [P.L. 1986-29, §18.]

§319. Appointment of secretary and interpreters.

(1) The President may appoint any person to act as secretary to a Commission and such person shall perform such duties connected with the inquiry as the Commission may order subject to the directions, if any, of the President.

(2) A Commission may appoint any person to act as interpreter in any matter arising at the inquiry and to translate any book, document, or other writing produced at the inquiry. [P.L. 1986-29, §19.]

§320. Exemption from stamp duty.

No stamp duty shall attach or be payable for any process issued by the authority of a Commission appointed under this Act. [P.L. 1986-29, §20.]

§321. Service of process.

Every process issued by a Commission appointed under this Act shall be served and executed

by the Chief of Police. [P.L. 1986-29, §21.]

§322. Remuneration of members of Commissions.

The members of a Commission appointed under this Act may be paid such compensation and allowances to meet expenses reasonably incurred by them in the performance of their duties as such members, as the President may determine. [P.L. 1986-29, §22.]

§323. Report of Commission.

The report of any Commission appointed under this Act shall be presented by the President to the Nitijela as soon as may be convenient, and published as a sessional paper of the Nitijela. [P.L. 1986-29, §23.]