



Tonga

ROYAL COMMISSIONS ACT

1988 Revised Edition



ROYAL COMMISSIONS ACT

Arrangement of Sections

Section

1	Short Title.....	5
2	Power to issue commission of inquiry into matters of public nature.....	5
3	Oath of members.....	6
4	Duties of Commissioners.....	6
5	Power to appoint secretary.....	6
6	Commissioners' power to regulate proceedings.....	7
7	Powers of Commissioners.....	7
8	Interpreter.....	7
9	Use of evidence taken under this Act in judicial proceedings.....	7
10	Penalty for threats to witnesses.....	7
11	Penalty for false interpretation.....	8
12	Penalty for refusing to give evidence.....	8
13	Appearance of counsel.....	8
14	Insulting commissioners.....	8
15	Witnesses' fees and interpreters' remuneration.....	8
16	Protection of commissioners.....	9

SCHEDULE

10

FORM OF OATH OR AFFIRMATION TO BE TAKEN BY A COMMISSIONER.....	10
--	----

SUMMONS TO WITNESS UNDER SECTION 7 OF THE ROYAL COMMISSIONS ACT.....	10
--	----



ROYAL COMMISSIONS ACT

Acts Nos. 4 of 1960 and 19 of 1988

AN ACT TO PROVIDE FOR THE HOLDING OF COMMISSIONS OF INQUIRY

Commencement [19th October, 1960]

1 Short Title.

This Act may be cited as The Royal Commissions Act.

2 Power to issue commission of inquiry into matters of public nature.

- (1) The king in Council may whenever he shall deem it advisable to do so issue a Commission¹ under his hand appointing one or more Commissioners and authorizing such Commissioner or Commissioners to inquire into any matter in which an inquiry would in his opinion be for the public welfare.

¹ The following Commissions have been issued—

- (1) A Commission to inquire into certain activities of the Commodities Board— see G.111/83;
- (2) A Commission to inquire into land practices, usages and law— see G.127/83.

Particulars of commissions.

- (2) Every Commission shall specify the subject, nature and extent of the inquiry, and may contain directions generally for the carrying out of the inquiry and in particular as to the following matters—
 - (a) the manner in which the Commission is to be executed;
 - (b) the appointment of a chairman;
 - (c) the constitution of a quorum;
 - (d) the place and time where and within which the inquiry shall be made and the report thereof rendered;
 - (e) whether or not the inquiry shall be held in public.

3 Oath of members.

- (1) Every Commissioner appointed under this Act shall take an oath or make an affirmation in the form prescribed in the Schedule that he will faithfully and impartially and to the best of his ability discharge the duties devolving upon him by virtue of the Commission, and, if the inquiry should not be held in public, that he will not divulge the proceedings or the vote or opinion of any Commissioner.
- (2) The oath or affirmation will be taken or made before the Cabinet and shall be attached to the proceedings.

4 Duties of Commissioners.

- (1) It shall be the duty of the Commissioners to make a full, faithful and impartial inquiry in accordance with the terms of the Commission and to report the result of the inquiry to His Majesty accordingly.
- (2) If any Commissioner fails to agree with the report of the majority of the Commissioners he shall submit a separate report, which shall be presented to his Majesty with the report of the Commission.

5 Power to appoint secretary.

His Majesty in Council may appoint a secretary to attend the sittings of the Commission who shall record the proceedings, summon the witnesses, and generally perform such duties connected with the inquiry as the Commissioners may direct. If the inquiry should not be held in public, the secretary shall take an oath that he will not divulge the proceedings or the vote or opinion of any Commissioner.

6 Commissioners' power to regulate proceedings.

The Commissioners may make such rules for the conduct as management of the proceedings as they may think fit.

7 Powers of Commissioners.

The Commissioners shall have the following powers—

- (a) to issue summonses to witnesses in the form prescribed in the Schedule and to call for the production of books, plans and documents and to examine the witnesses and parties concerns on oath;
- (b) to admit any evidence whether written or oral and whether or not such evidence would be admissible in civil or criminal proceedings;
- (c) to admit or exclude the press from any meeting of the Commissioners;
- (d) to exclude any person if necessary so to do in order to ensure the due conduct of the inquiry or to preserve order;
- (e) to enter upon any land for the purpose of obtaining any information which may be of assistance to the Commissioners.

8 Interpreter.

- (1) The Commissioners shall have the power to appoint an interpreter.
- (2) An interpreter appointed under this section shall take an oath or make an affirmation as to the proper performance of his duties in such form as the Commissioners may require.

9 Use of evidence taken under this Act in judicial proceedings.

No evidence taken under this Act shall be admissible against any person in any civil or criminal proceeding whatever, except in the case of a person charged under section 11 of this Act with false interpretation, or with giving false evidence before the Commissioners.

10 Penalty for threats to witnesses.

Any person who threatens, insults or injures any person on account of any evidence which he may give or has given before the Commissioners is guilty of an offence and shall be liable upon conviction to a fine of \$500 or to imprisonment for a term of 6 months. (*Amended by Act 19 of 1988.*)

11 Penalty for false interpretation.

Any person appointed by the Commissioners as interpreter who wilfully gives a false interpretation of any evidence or makes an untrue translation of any document is guilty of an offence and shall be liable upon conviction to a fine of \$500 or to imprisonment for a term of 6 months. (*Amended by Act 19 of 1988.*)

12 Penalty for refusing to give evidence.

Any person who being summoned to attend as a witness or produce a document or other thing fails without reasonable cause so to do or refuses to answer any question put to him by the Commissioners is guilty of an offence and upon conviction shall be liable to a fine of \$250 or to imprisonment for a term of 3 months:

Provided that no person shall be bound to incriminate himself and every witness shall, in respect of any evidence written by him for or given by him before the Commissioners, be entitled to the same privileges to which he would have been entitled if giving evidence before a court of justice. (*Amended by Act 19 of 1988.*)

13 Appearance of counsel.

Any person whose conduct 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 counsel 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 Commissioners be represented in manner aforesaid.

14 Insulting commissioners.

Any person who uses threatening or insulting language to the commission or to a Commissioner whilst sitting, or to a Commissioner at any other time or place in relation to or on account of his proceedings in the capacity of a Commissioner is guilty of an offence and upon conviction shall be liable to a fine of \$250 or to imprisonment for a term of 6 months. (*Amended by Act 19 of 1988.*)

15 Witnesses' fees and interpreters' remuneration.

(1) Witnesses and other persons, other than interpreters, attending at the request of or upon summons by the Commissioners shall, subject to any order made by the Commissioners, be entitled to like expenses as if summoned to attend the Supreme Court in a criminal trial.

- (2) Interpreters shall receive such remuneration as the Commissioners may direct.
- (3) The payment to witnesses, other persons and to interpreters shall be made out of the public revenue.

16 Protection of commissioners.

No Commissioner shall be liable to any action or suit for any matter or thing done by him as such Commissioner.

SCHEDULE

FORM OF OATH OR AFFIRMATION TO BE TAKEN BY A COMMISSIONER

(Section 3)

I,, having been appointed under a Commission issued by His Majesty King Taufa'ahau Tupou IV and dated the day of, 19..., to be a Commissioner to inquire into the matters specified in the said Commission, do swear (or do solemnly and sincerely affirm) that I will faithfully, impartially, and to the best of my ability discharge the trust, and perform the duties devolving upon me by virtue of the said Commission.

(In the case of an oath here add) So help me God.

.....
Commissioner.

Taken before Cabinet this day of, 19.....

.....
Prime Minister

TONGA

FORM OF SUMMONS

(Section 7)

SUMMONS TO WITNESS UNDER SECTION 7 OF THE ROYAL COMMISSIONS ACT

To (name of person summoned and his calling and residence if known)..... You are hereby summoned to appear before (here name the Commissioners) appointed by His Majesty to inquire (state briefly the subject of inquiry) at (place) upon the day of..... 19..... at.....o'clock and to give evidence respecting such inquiry (if the person summoned has to produce any documents, add) and you are required to bring with you (specify the books and documents required).

Given under my hand this day of, 19.....

.....
Commissioner.
(or Secretary to the Commissioners)