

COMMISSIONS OF INQUIRY

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 MAKE PROVISION FOR MATTERS CONNECTED WITH OR INCIDENTAL TO THE AFORESAID MATTERS.

Act Nos,

17 of 1948

8 of 1950

40 of 1953

8 of 1955

29 of 1955

16 of 2008

3 of 2019

Short title.

1. This Act may be cited as the Commissions of Inquiry Act.

Power to appoint
Commission of
[2, 16 of 2008]

2.(1) Whenever it appears to the resident to be necessary that an investigation or inquiry or both where appropriate should be held and information obtained as to-

(a) the administration, management and functions of any department of Government, any statutory body, any public or local authority or any other institution ; or

(b) the conduct of any public officer, an employee of a statutory body, any public or local authority or any institution ; or

(c) any matter or incident in respect of which an investigation or inquiry or both an investigation and inquiry, as the case may be, will in his opinion, be in the national interest or for public safety or wellbeing;

(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.

(3) A member of the Commission appointed by Warrant issued under subsection (1) shall be removed, only if the President is satisfied that such member:-

- (a) has abused or misused his office as a member or has abused or misused the powers conferred on him under this Act or by the Warrant appointing the Commission ;
- (b) has engaged in bribery or corruption ; or
- (c) is suffering from mental or physical infirmity.

(4) Upon the removal of a member in terms of subsection (3) the President shall forthwith report such fact to Parliament stating therein the reasons for the removal of such member.

(5) Where the Commission consists of more than one member, not less than one half of the total number of members present, (which shall include the Chairman of the Commission) may, notwithstanding any vacancy in the membership of the Commission, exercise the powers of the Commission under this Act.

(6) The reports of the Commission shall contain the views of all the members of the commission, including dissenting views if any and such reports shall be signed by all the members save and except where a member of the Commission dies, resigns, desires to be discharged, refuses or becomes unable to act as a member of the Commission or to place his signature in such report.

Appointment of the 3.
additional
members

(1) The President may add to number of members of any commission appointed under section 2, and where any member so appointed or added dies, or resigns, or 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), it shall not be necessary for any evidence which may have been taken before the commission prior to such appointment to be retaken.

Enlargement of time.

4. The President may, from time to time, by endorsement under his hand on a warrant issued under this Act, enlarge 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.

"Alteration or revocation of warrant.

5. The President may, at any time alter or revoke any warrant issued under this Act.

[3, 16 of 2008]

Change of President.

6. No warrant issued under this Act shall lapse by reason of, or be otherwise affected, by, the death, absence from Sri Lanka, resignation or removal of the President who issues the warrant, or by his otherwise ceasing to hold the office of President.

Powers of commission.

7. (1) A commission appointed under this Act shall have the following powers :-

[4, 16 of 2008]

(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 could be 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;

(bb) to make an application to any Court of law or any tribunal to obtain certified copies of any proceedings of any case, any document or any certified copy of such document or of any other material filed or recorded in such court of law or tribunal;

(bbb) to require any person to produce any document, a certified copy thereof or any other material which is in his

possession or custody;

(bbbb) to require any person to provide to the Commission any information in writing which he is likely to possess;

(c) to summon any person residing in Sri Lanka to attend any meeting of the commission to give evidence or produce 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 Evidence Ordinance, to admit any evidence, whether written or a', 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;

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

(f) to recommend that 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 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 connexion with the inquiry. In this paragraph, 'costs and expenses' includes the costs of representation by attorney-at-law, and travelling and other expenses incidental to the inquiry or consequential upon the attendance of such person at the inquiry.

(2) Where any report is rendered in terms of any Warrant issued to a Commission appointed under this Act, such Commission may make recommendations to the relevant disciplinary authority with regard to the action that it considers necessary to be taken in respect of any person whose conduct is the subject of the inquiry or investigation or who is in any way implicated or concerned in the matter which such Commission was warranted to investigate or inquire into.

Conferment of additional powers on a commission. **8.**

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

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

(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 to the contrary in any other law.

Members of
commission to be
public servants and
inquiries to be
"judicial
"proceedings "
under the Penal
Code.

9. The members of a commission appointed under this Act shall, so long as they are acting as such members, be deemed to be public servants within the meaning of the Penal Code, and every inquiry under this Act shall be deemed to be a judicial proceeding within the meaning of that Code.

Punishment of
contempts.

10. Every offence of contempt committed against or in disrespect of the authority of a commission appointed under this Act shall be punishable by the Court of Appeal under Article 105 (3) of the Constitution.

Summons.

11. (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 19 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 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 mentioned 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.

Failure to obey summons, to give evidence, &c.

12.(1) If any person upon whom a summons is served under this Act-

(a) fails without cause, which in the opinion of the commission is reasonable, to appear before the commission at the time and place mentioned in the summons; or

(b) refuses to be sworn or, having been duly sworn, refuses or fails without cause, which in the opinion of the commission is reasonable, to answer any question put to him touching the matters directed to be inquired into by the commission; or

(c) refuses or fails without cause, which in the opinion of the commission is reasonable, to produce and show to the commission any document or other thing which is in his possession or power and which is in the opinion of the commission necessary for arriving at the truth of the matters to be inquired into, such person shall be guilty of the offence of contempt against or in disrespect of the authority of the commission.

(2) Where a commission determines that a person has committed any offence of contempt (referred to in subsection (1)) against or in disrespect of its authority, the commission may cause its secretary to transmit to the Court of Appeal a certificate setting out such determination; every such certificate shall be signed by the chairman of the commission, or where the commission consists of only one person by that person.

(3) In any proceedings for the punishment of an offence of contempt

which the Court of Appeal may think fit to take cognizance of as provided in section 10, any document purporting to be a certificate signed and transmitted to the court under subsection (2) shall -

(a) be received in evidence, and be deemed to be such a certificate without further proof unless the contrary is proved; and

(b) be conclusive evidence that the determination set out in the certificate was made by the commission and of the facts stated in the determination.

(4) In any proceedings taken as provided in section 10 for the punishment of any alleged offence of contempt against or in disrespect of the authority of any commission, no member of the commission shall, except with his own consent, be summoned or examined as a witness.

Privileges of witness.

13. Every person who gives evidence before a commission appointed under this Act shall, in respect of such evidence, be entitled to all the privileges to which a witness giving evidence before a court of law is entitled in respect of evidence given by him before such court.

Special immunity for witness.

14. Where the President in the warrant of appointment of a commission or by subsequent Order declares that this section shall apply in relation to such commission, the following provisions shall have effect, that is to say :-

(a) Subject as hereinafter provided, no person shall, in respect of 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) Subject as hereinafter provided, no evidence of any statement made or given by any person to or before the commission for the purposes of the commission shall be admissible against that person in any action, prosecution, or other proceedings in any civil or criminal court: Provided, however, that nothing in the preceding paragraphs shall-

(i) abridge or affect or be deemed or construed to abridge or affect the liability of any person to any prosecution or penalty for any offence under Chapter XI of the Penal Code, read with section 9 of this Act; or

(ii) 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 offence under Chapter XI of the Penal Code.

Presumption on production of record of evidence given by witnesses. 15. The presumptions which, under section 80 of the Evidence Ordinance, are applicable to the documents therein mentioned shall apply to 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 appointed under this Act and purporting to be signed by the members thereof.

Representation of persons by attorneys-at-law. 16. Every 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 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,

Costs and other expenses, 17. (1) On the conclusion of any inquiry under this Act, and on the recommendation of the commission, the Minister 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 connexion with such inquiry by the commission in the exercise of powers conferred on the commission by the President under section 8 (1)
(a) such sum of money as the Minister 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 connexion with the inquiry. In this subsection ' costs and expenses ' includes the cost of representation by attorney-at-law, and travelling 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, travelling and other expenses consequential upon the compliance with the aforesaid notice.
(2) All moneys awarded by Order of the Minister under subsection (1) shall be a charge upon the Consolidated Fund; and

the payment of all such moneys is hereby authorized.

- Protection of commission. 18. No civil or criminal proceedings shall be instituted against any member of a members of commission in respect of any act bona fide done or omitted to be done by him as such member.
- Appointment of secretary and interpreters. 19. (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.
- Process issued under Act to be exempt from stamp duty. 20. No stamp duty shall attach to or be payable for any process issued by or by the authority or a commission appointed under this Act.
- Service of process. 21. Every process issued by a commission appointed under this Act shall be served and executed by the Fiscal.>(*A separate Fiscal is now appointed to each Court under section 52 (1) of the Judicature Act.)
- Vesting of members of committees appointed to inquire into the conduct of public officers with powers of commission. 22. The members of any committee appointed to investigate charges framed against an officer in the public service may, by Order under the hand of the President, be appointed to be a Commission of Inquiry under this Act for the purposes of such investigation; and upon such appointment the provisions of this Act shall apply as though a warrant under section 2 had been issued to such members for the purposes for which they were appointed members of the committee.
- Assistance of public officers in investigations or inquiries. [5, 16 of 2008] 23. Where a Commission of Inquiry appointed in terms of this Act, has been required by the President to conduct an investigation or inquiry or both an investigation and inquiry into any matter or incident, notwithstanding the generality of the powers conferred on such Commission, it shall be entitled to obtain the assistance of a public officer selected by the Commission, with the concurrence of the relevant appointing authority, and through such officer cause the conduct of investigations into any relevant matter or incident under its

direction and supervision :

Provided however, the Commission shall not arrive at any conclusion on such matter or incident investigated into, unless the Commission has examined the material collected in the course of such investigation and inquired into such matter or incident, observing the rules of natural justice.

Institution of
Criminal
Proceedings.
[5, 16 of 2008]

24. Notwithstanding anything to the contrary in the Code of Criminal Procedure Act, No. 15 of 1979 or any other law, it shall be lawful for the Attorney-General to institute criminal proceedings in a court of law in respect of any offence, based on material collected in the course of an investigation or inquiry or both an investigation and inquiry, as the case may be, by a Commission of Inquiry appointed under this Act.

Commission to
Investigate
Allegations of
Bribery or
Corruption to
institute Criminal
proceedings.
[2, 3 of 2019]

24A. (1) Notwithstanding anything to the contrary in the Commission to Investigate Allegations of Bribery or Corruption Act or any other written law, where the Commission to Investigate Allegations of Bribery or Corruption, on a consideration of material collected in the course of an investigation or inquiry or both an investigation and inquiry as the case may be by a Commission of Inquiry appointed under section 2, is satisfied that an offence under the following laws has been committed, it may direct the Director General to institute criminal proceedings in terms of the -

- (a) Bribery Act; or
- (b) Declaration of Assets and Liabilities Law.

(2) The Commission to Investigate Allegations of Bribery or Corruption may prior to the institution of proceedings under subsection (1) -

- (a) conduct further investigations into the commission of any offence;
- (b) consider material that may have been collected in the course of an investigation conducted by the Commission to Investigate Allegations of Bribery or Corruption prior to the receipt of the material referred to in subsection (1); and
- (c) consider material the Commission to Investigate Allegations of Bribery or Corruption may have received

from any other law enforcement authority.

- Commission to Investigate Allegations of Bribery or Corruption to forward material collected and received to the relevant authority.
[2, 3 of 2019]
- 24B.** Notwithstanding anything to the contrary in the Commission to Investigate Allegations of Bribery or Corruption Act or any other written law, the Commission to Investigate Allegations of Bribery or Corruption may, if it deems appropriate, forward the material collected and received under section 24A to the Attorney-General or to any other authority to take any appropriate action under any other written law.
- Commission to Investigate Allegations of Bribery or Corruption not to record statements or evidence given.
[2, 3 of 2019]
- 24C.** The Commission to Investigate Allegation of Bribery or Corruption shall not be required, unless it deems appropriate to, record a statement of a person who has given a statement to a Commission of Inquiry appointed under section 2 or has given evidence before such Commission.
- Commission to Investigate Allegations of Bribery or Corruption to seek advice or opinion of the Attorney-General.
[2, 3 of 2019]
- 24D.** The Commission to Investigate Allegations of Bribery or Corruption may solicit, receive and consider the advice or opinion of the Attorney-General or any officer representing the Attorney-General in giving effect to the provisions of sections 24A, 24B, or 24C.
- Not to restrict the powers and functions of the Commission to Investigate Allegations of Bribery or Corruption by the provisions of this Act.
- 24E.** The provisions of this Act shall not restrict the powers and functions of the Commission to Investigate Allegations of Bribery or Corruption conferred on it by the Commission to Investigate Allegations of Bribery or Corruption Act or any other written law.

[2, 3 of 2019]

Commission to
make rules.
[5, 16 of 2008]

- 25.** (1) A Commission of Inquiry appointed under this Act, shall subject to the provisions of this Act and any other law, with the approval of the Minister, have the power to make rules relating to the organizational structure, mandates of subordinate structures and functions of officers of the Commission.
- (2) The Commission shall subject to the rules made under subsection (1) and be governed by such rules.
- (3) The Commission may from time to time amend the rules made under subsection (1).
- (4) The rules made by the Commission shall as soon as practicable be published in the Gazette.

Powers of the
Attorney-General.
[5, 16 of 2008]

- 26.**(1) In the conduct of an inquiry or investigation under the provisions of this Act, the Attorney-General may-
- (a) appear before any Commission ;
- (b) place before the Commission any evidence or other material, which in the opinion of the Attorney-General is relevant to the investigation or inquiry as the case may be ;
- (c) examine any witness summoned by the Commission if it appears to him that the evidence of such witness is material to, or has disclosed information relevant to, the investigation or inquiry as the case may be.
- (2) On a request made by the Attorney-General, the Commission shall make available to the Attorney-General copies of all statements and testimonies recorded and any other material collected or received by such Commission in the course of the conduct of such inquiry or investigation as the case may be.

Interpretation.
[3, 3 of 2019]

- 27.**In this Act unless the context otherwise requires-
- 'Bribery Act' means the Bribery Act (Chapter 26);
- 'Commission to Investigate Allegations of Bribery or Corruption Act' means the Commission to Investigate Allegations of Bribery or Corruption Act, No. 19 of 1994;
- 'Commission to Investigate Allegations of Bribery or Corruption' means the Commission established by section 2 of the Commission to Investigate Allegations of Bribery or Corruption

Act;

'Declaration of Assets and Liabilities Law' means the Declaration of Assets and Liabilities Law, No. 1 of 1975;

'Director General' means the Director General for the Prevention of Bribery and Corruption appointed under section 16 of the Commission to Investigate Allegations of Bribery or Corruption Act;

'law enforcement authority' means a police officer or any other person or authority that is authorized by or under any written law to investigate into the commission of an offence.