

Zambia

Inquiries Act, 1967

Chapter 41

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Inquiries Act, 1967

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Zambia

Inquiries Act, 1967

Chapter 41

Commenced on 21 July 1967

[This is the version of this document at 31 December 1996.]

[45 of 1967; 13 of 1994]

An Act to provide for the issue of commissions and for the appointment of commissioners to inquire into and report on matters referred to them; to prescribe their functions; and to provide for matters incidental to or connected with the foregoing

1. Short title

This Act may be cited as the Inquiries Act.

2. Power to issue commissions

- (1) The President may issue a commission appointing one or more commissioners to inquire into any matter in which an inquiry would, in the opinion of the President, be for the public welfare.
- (2) Every commission shall specify the subject, nature and extent of the inquiry concerned, and may contain directions generally for the carrying out of the inquiry and in particular may contain directions 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 proceedings shall, in whole or in part, be held in public.
- (3) In the absence of a direction to the contrary in the commission concerned, an inquiry shall be held in public, but the commissioners shall nevertheless be entitled to exclude the representatives of the press or any or all other persons if they consider it necessary so to do for the preservation of order, for the due conduct of the inquiry or for any other reason.
- (4) Every commission shall be published in the *Gazette* by statutory instrument.

3. Amendment or revocation of commission

A commission may be altered by a subsequent commission, or may be revoked by statutory instrument.

4. Power to appoint fresh commissioners

If a commissioner is or becomes unwilling to act or dies, the President may, by statutory instrument, appoint a commissioner in his place.

5. Duty of commissioners

It shall be the duty of commissioners, or where a single commissioner is appointed, of that commissioner, to make a full, faithful and impartial inquiry in accordance with the terms of the commission concerned and to report the result of the inquiry to the President.

6. Commissioner to take oath or make affirmation

Every commissioner shall, before entering upon the duties of his office, take and subscribe before a Judge, an oath or an affirmation, for the due execution of his office, in the form set out in Part I of the First Schedule.

7. Immunity from suit of commissioner

No commissioner shall be liable to any action or suit for anything done by him as such commissioner.

8. Exercise of powers

The functions imposed or conferred on the commissioners by or under this Act, other than those referred to in section five, may be discharged by all the commissioners acting jointly or by any one of them acting singly, or, where a single commissioner is appointed, by that commissioner, or, by any person acting under their or his direction; and where the commissioners are required to be satisfied in respect of any matter before discharging any function, it shall be sufficient if the person discharging that function is so satisfied.

9. Appointment and functions of secretary

- (1) The President may appoint a secretary for the purposes of any inquiry.
- (2) A secretary shall discharge such functions as the commissioners concerned may direct.

10. Employment of experts and assistants

- (1) Commissioners, if thereunto authorised by the commission concerned, may engage the services of such accountants, engineers, technical advisers or other experts as they deem necessary to aid and assist them in the inquiry.
- (2) Commissioners may, with the prior approval of the Minister responsible for finance, fix the remuneration of any person to be engaged in pursuance of the provisions of subsection (1).

11. Interpreter

- (1) Commissioners may appoint an interpreter who shall, before entering upon the duties of his office, take and subscribe before the commissioners, an oath or make an affirmation in the form set out in Part II of the First Schedule.
- (2) An interpreter shall receive such remuneration as the commissioners may direct.

12. Appearance of legal practitioners and other persons

- (1) 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 at the inquiry and any other person who may consider it desirable that he should be so represented may, by leave of the commissioners, be so represented.
- (2) The Government shall be entitled to be represented at any inquiry by the Attorney-General or such person as he may nominate in that behalf.

13. Regulation of proceedings

- (1) Commissioners, in the discharge of any of their functions, shall not be bound by the rules of evidence or by the rules of procedure of any court or tribunal, but may conduct their proceedings in such manner as they think proper and admit any evidence, written or oral, whether or not such evidence would be admissible in civil or criminal proceedings.
- (2) If commissioners are equally divided on any question that arises during their proceedings, the chairman of the commission shall have a second or casting vote.

14. Powers of commissioners

- (1) Commissioners may—
 - (a) enter upon and inspect any land, building, place or vessel, and inspect any goods and other things, the entry upon or inspection of which appears to them to be requisite for the purposes of the inquiry;
 - (b) require, by summons, in the form prescribed in the Second Schedule, the attendance of any person whom they wish to call before them and call for the production of books, plans and documents;
 - (c) examine witnesses on oath or affirmation, administered by them.
- (2) Reasonable travelling expenses shall be paid to any person summoned in pursuance of the provisions of subsection (1).
- (3) No person giving evidence shall be bound to incriminate himself and every witness shall, in respect of evidence given by him before the commissioners, be entitled to the same privileges to which he would be entitled if giving evidence before the High Court.

15. Evidence may be taken by commission

- (1) If, by reason of the distance at which any person whose evidence is desired, resides from the place where his evidence is required, or if, for any other cause the commissioners deem it advisable, they may issue a commission to any public officer or person therein named, empowering him to take such evidence and report the same to the commissioner.
- (2) A public officer or person to whom a commission is issued under subsection (1) shall have the powers of commissioners under subsection (1) of section fourteen, and the provisions of subsections (2) and (3) of section fourteen shall apply, *mutatis mutandis*, where such powers are exercised.

16. Power to cause investigation to be made before issuing a commission

- (1) For the purposes of obtaining information to decide whether or not to issue a commission under section two, the President may direct the Attorney-General to cause an investigation to be made into such matters as the President may specify and to convey to him the result of such investigation.
- (2) The Attorney-General may, for the purposes of carrying out any investigation directed by the President under subsection (1), in writing under his hand require any public officer (hereinafter in this Act referred to as an "authorised officer") to carry out such investigations as he may direct.

- (3) For the purposes of carrying out any investigation directed by the Attorney-General, an authorised officer shall have all the powers of a police officer conducting a criminal investigation and may in particular—
- (a) require in writing, from any person the production at a specified time and place of any book, plan or document in the possession or custody or under the control of the person concerned or his employee;
 - (b) examine and make extracts from and copies of any books, plans or documents and require from any person an explanation of any entry therein or marking thereon:

Provided that no person shall be bound to incriminate himself and every person shall, in respect of any explanation required of him, be entitled to the same privileges to which he would be entitled if giving evidence before the High Court.

- (4) Where the Attorney-General is satisfied that the inspection of any banker's book is necessary or desirable for the purpose of any investigation directed by the President under subsection (1), he may, by order, authorise any authorised officer named therein to investigate the account of any specified person in any banker's book, and such order shall be sufficient authority for the production of any such banker's book as may be required for scrutiny by the authorised officer named in the order, and such authorised officer may take copies of any relevant entry or matter in such banker's book.
- (5) The provisions of sections three, four and five of the Evidence (Banker's Books) Act shall apply, *mutatis mutandis*, in relation to the production and proof in any proceedings under this Act of a copy of any entry in a banker's book obtained under subsection (4).

[Cap. 44]

- (6) Any person who fails to produce a banker's book to an authorised officer acting in pursuance of an order made by the Attorney-General under this section or to permit such authorised officer to scrutinise the same or to take copies of the relevant entries therein shall be guilty of an offence and liable to a fine not exceeding six thousand penalty units or to imprisonment for a period not exceeding one year, or to both.
- (7) For the purposes of this section, "banker's book" shall have the meaning assigned thereto in section two of the Evidence (Banker's Books) Act.

[Cap. 44]

[As amended by Act No. 13 of 1994]

17. Offences

If any person—

- (a) who has been summoned to attend as a witness or produce any book, plan or document—
 - (i) fails, without sufficient cause, to attend at the time and place mentioned in the summons served on him;
 - (ii) attends, but leaves the commission without the permission of the commissioners, or a public officer or person empowered under section fifteen, as the case may be;
 - (iii) refuses to be sworn or, having been sworn, refuses, without sufficient cause, to answer or to answer fully and satisfactorily to the best of his knowledge and belief all questions put to him by or with the concurrence of the commissioners, or by a public officer or person empowered under section fifteen; or
 - (iv) refuses or omits, without sufficient cause, to produce any books, plans or documents in his possession or under his control and mentioned or referred to in the summons served on him;

- (b) refuses or omits, without sufficient cause, to—
- (i) produce any books, plans or documents to an authorised officer acting under section sixteen;
 - (ii) permit an authorised officer acting under section sixteen to examine, make extracts from or copies of any books, plans or documents;
 - (iii) explain any entry in or marking of any book, plan or document to an authorised officer acting under section sixteen;

he shall be guilty of an offence and liable on conviction to a fine not exceeding one thousand and five hundred penalty units or to imprisonment for a period not exceeding six months, or to both.

[As amended by Act No. 13 of 1994]

18. Payment of fees, remuneration or expenses

Any fees, remuneration or expenses payable under this Act shall be paid out of moneys appropriated by Parliament for the purpose.

First Schedule (Sections 6 and 11)

Part I – Form of oath or affirmation to be taken by a Commissioner

I, _____ having been appointed _____ under a commission issued by the President 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, fully, 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 me this day of _____, 19 _____.

Judge of the High Court

Part II – Form of oath or affirmation to be taken by Interpreter

I swear (or do solemnly and sincerely affirm) that I will well and truly interpret and explanation make of all such matters and things as shall be required of me, to the best of my skill and understanding.

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

Interpreter

Taken before me this day of _____, 19 _____.

Commissioner

Second Schedule (Section 14)

Part I – Summons to witness under section 14 of the Inquiries 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 the President 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