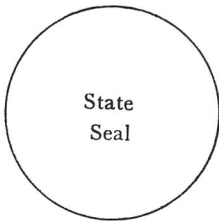




STATE OF BRUNEI

No. 3 OF 1962

THE COMMISSIONS OF ENQUIRY ENACTMENT, 1962.



I assent,

SIR OMAR ALI SAIFUDDIN
H.H. the Sultan of Brunei.

28th April, 1962.

An Enactment to make provision for the holding of
Commissions of Enquiry.

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BE IT ENACTED by His Highness the Sultan
with the advice and consent of the Legislative Council
as follows :—

Short title.

1. This Enactment may be cited as the Commissions of Enquiry Enactment, 1962.

Issue of
Commission.

2. (1) The Sultan in Council may, where it appears to him to be expedient so to do, issue a Commission appointing one or more Commissioners and authorising such Commissioners to enquire into —

- (a) the conduct of any officer;
- (b) the conduct or management of any department of the public service of the State;
- (c) the conduct or management of any public institution which is not solely maintained by State funds;
- (d) any other matter in which an enquiry would, in the opinion of the Sultan in Council, be for the public welfare:

Provided that where any officer into whose conduct it is proposed to enquire, is an Overseas or Seconded Officer, such Commission shall only be issued with the concurrence of the competent authority of the territory from which such officers was appointed.

(2) In this section, unless the context otherwise requires —

- (a) “Overseas Officer” means an officer (other than an officer serving on contract with the Government of the State) whom the Secretary of State has, in pursuance of any agreement with the Sultan, nominated for appointment to the service of the Government of the State.
- (b) “Seconded Officer” means an officer on the permanent establishment of the Government of another territory who by agreement is seconded to the service of the State.

Terms of
Commission

3. (1) A Commission issued under section 2 of this Enactment shall specify the subject of the enquiry and may, in the discretion of the Sultan in Council —

- (a) if there is more than one Commissioner, direct —
 - (i) which Commissioner shall be Chairman;
 - (ii) the number of Commissioners which shall constitute a quorum;
- (b) direct where and when the enquiry shall be held and the report thereof rendered;
- (c) direct whether the enquiry or any part thereof shall or shall not be held in public;
- (d) generally prescribe how such Commission shall be executed.

(2) When the Commission specifies the number of Commissioners which shall constitute a quorum, the number of Commissioners so specified may, in the absence of the other Commissioner or Commissioners, exercise all or any of the powers conferred upon the Commissioners by this Enactment.

Power to add or substitute Commissioners.

4. (1) The Sultan in Council may, from time to time, add to the persons named in any such Commission, and in case any person appointed or added under this Enactment dies or resigns or desires to be discharged or refuses or becomes incapable of acting, the Sultan in Council may appoint a new Commissioner in his place, and all the powers and duties by this Enactment conferred and imposed on a Commissioner shall be exercised and performed by the Commissioner so added or appointed.

(2) When a new Commissioner 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.

Enlargement of time.

5. The Sultan in Council may, from time to time, by endorsement under his hand on a Commission, enlarge the time for the execution of the Commission, whether the time for the execution thereof has expired or not.

Change of Sultan.

6. No Commission issued under this Enactment shall lapse by reason of, or be otherwise affected by, the demise of the Sultan.

Appointment of Secretary.

7. The Sultan in Council may appoint a Secretary to attend the sittings of the Commission, to record their proceedings, to keep their papers, summon and record the evidence of witnesses, and generally to perform such duties connected with the enquiry as the Commissioner shall order, subject to the directions, if any, of the Sultan in Council.

Powers of Commissioners.

8. The Commissioners 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 Commissioners may think it necessary or desirable to procure or examine;
- (b) to require the evidence (whether written or oral) of any witness to be made on oath or affirmation (such oath or affirmation to be that which could be required of the witness if he were giving evidence in the High Court) or by statutory declaration;
- (c) to summon any person in the State to attend any meeting of the Commissioners 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) to issue a warrant of arrest to compel the attendance of any person who, after having been summoned to attend, fails to do so, and does not excuse such failure to the satisfaction of the Commissioners, and to order him to pay all costs which may have been occasioned in compelling his attendance or by reason of his refusal to obey the summons, and also to fine such person a sum not exceeding fifty dollars;

- (e) to fine in a sum not exceeding fifty dollars any person who, being required by the Commissioners to give evidence on oath or affirmation or to produce a document or other thing, refuses to do so and does not excuse such refusal to the satisfaction of the Commissioners;
- (f) notwithstanding the provisions of any written law relating to evidence, to admit any evidence, whether written or oral, which might be inadmissible in civil or criminal proceedings;
- (g) subject to any direction contained in the Commission —
 - (i) to admit or exclude the public from the enquiry or any part thereof;
 - (ii) to admit or exclude the press from the enquiry or any part thereof;
- (h) to award any person who has attended any meeting of the Commissioners, including any interpreter appointed under section 9 of this Enactment, such sums as in the opinion of the Commissioners may have been reasonably incurred by him by reason of such attendance.

Interpreters.

9. (1) The Commissioners shall have the power to appoint any person, whether in the service of the Government or not, to act as interpreter in any matter brought before them and to translate any books, papers or writings produced to them.

(2) Any interpreter appointed under this section shall make and subscribe before the Commissioners the following affirmation:

“I,
do solemnly declare and affirm that I will faithfully perform the duties of interpreter and will truly interpret the questions put and the answers given by witnesses and also statements made by the Commissioners and will truly translate or explain and transcribe all doc-

uments entrusted to me for such purpose to the best of my ability, and that I will not, except as authorised by the Commissioners, directly or indirectly, reveal the contents of such documents as may be entrusted to me, nor the evidence given by witnesses which may have been interpreted by me.”

Allowances. 10. Any sums awarded by the Commissioners under paragraph (h) of section 8 of this Enactment shall be paid out of the public funds of the State.

Use of evidence in civil and criminal proceedings. 11. No evidence taken under this Enactment shall be admissible in any civil or criminal proceedings whatsoever against the person who gave such evidence, except when such person is charged with giving or fabricating false evidence.

Penalty for threats, etc. to witnesses. 12. (1) Any person who hinders or attempts to hinder any person from giving evidence before the Commissioners or by threats, deters or attempts to deter any person from giving such evidence, shall be guilty of an offence and shall be liable to imprisonment for a term not exceeding two years.

(2) Any person who threatens, insults or injures any person for having given evidence, or on account of the evidence which he has given before the Commissioners, shall be guilty of an offence and shall be liable to imprisonment for a term not exceeding two years.

Penalty for contempt. 13. Any person who commits an act of contempt as defined in section 14 of this Enactment against the Commissioners or any of them shall be guilty of an offence and shall be liable to a fine not exceeding one hundred dollars or to imprisonment for a term not exceeding three months.

Definition of act of contempt. 14. The following shall be deemed to be an act of contempt within the meaning of section 13 of this Enactment —

- (a) any act of disrespect or any insult or threat offered to the Commissioners or any of them while sitting in Commission;

- (b) any act of disrespect or any insult or threat offered to a Commissioner at any other time and place on account of his proceedings in his capacity as a Commissioner.

Manner of dealing with contempt.

15. (1) Where an act of contempt is committed in the presence of the Commissioners sitting in Commission, the Commissioners may, after hearing the offender in his defence, pass sentence upon him forthwith in accordance with section 13 of this Enactment.

(2) In any other case the Commissioners may summon the offender to appear before them at a time and place to be specified in such summons, there to show cause why he should not be judged to have committed an act of contempt, and be dealt with in accordance with the provisions of section 13 of this Enactment.

(3) If any person who has been summoned in accordance with the provisions of subsection (2) of this section fails to attend at the time and place specified in the summons, the Commissioners may issue a warrant to compel the attendance of such person.

Public Prosecutor to aid Commissioners.

16. (1) The Commissioners may require the Public Prosecutor to cause any matter relevant to the enquiry to be investigated.

(2) Any person appointed by the Public Prosecutor to investigate any such matter shall, for the purposes of such investigations, have all the powers in relation to police investigations given to police officers under the provisions of Chapter XIII of the Criminal Procedure Code and may, when authorised in writing by the Public Prosecutor, search any premises and take possession of any articles or documents as specified in such authority.

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Preservation of order by the police.

17. The Sultan may direct the Commissioner of Police to detail police officers to attend upon any such Commissioners, to preserve order during the

proceedings and to serve summonses on witnesses and to perform such ministerial duties as such Commissioners shall direct.

Right to representation by counsel.

18. Any person whose conduct is the subject of enquiry under this Enactment, or who is in any way implicated or concerned in the matter under enquiry, shall be entitled to be represented by an advocate at the whole of the enquiry; and any other person who may consider it desirable that he should be so represented may, by leave of the Commissioner or Commissioners, be represented in the manner aforesaid. The Attorney-General, or any person authorised by him in writing, shall be entitled at any time to appear before and address the Commissioners on any matter which to the Attorney-General appears to be relevant to the enquiry.

Commissioners to be public servants and enquiries to be judicial proceedings under the Penal Code.

19. Every Commissioner appointed under this Enactment shall, so long as he is acting as such Commissioner, be deemed to be a public servant within the meaning and for the purposes of the Penal Code, and every enquiry under this Enactment shall be deemed to be a judicial proceeding within the meaning of such Code.

Commissioners to have powers of First Class Magistrates.

20. For the purposes of recovering any costs awarded or enforcing the payment of any fine ordered or imposed or giving effect to any warrant of arrest or order of imprisonment, the Commissioners or any of them shall have the powers of a Magistrate of the First Class.

Protection of Commissioners and witnesses.

21. (1) No Commissioner shall be liable to any suit or other civil proceeding for any act or thing done by him as such Commissioner.

(2) All evidence given for the purposes of any enquiry under this Enactment shall be absolutely privileged so that the witness giving such evidence shall not be liable to any suit or other civil proceeding in respect of such evidence.

Procedure and forms.

22. Subject to the provisions of this Enactment the procedure to be followed by the Commissioners

and the form of any order, summons, warrant or other documents made or issued for the purposes of this Enactment shall be in the discretion of the Commissioners.

Passed this 17th day of April, 1962.

PENGIRAN MOMIN

*Clerk of the Legislative Council,
Brunei.*

[SUK. 0.150/61]

[AG. 52/61]