



LAWS OF MALAYSIA

REPRINT

Act 119

COMMISSIONS OF ENQUIRY ACT 1950

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COMMISSIONS OF ENQUIRY ACT 1950

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LAWS OF MALAYSIA**Act 119****COMMISSIONS OF ENQUIRY ACT 1950**

An Act to make provision for the holding of commissions of enquiry.

*[Peninsular Malaysia—4 July 1950;
Sabah and Sarawak—2 April 1965, L.N. 118/1965]*

Short title

1. This Act may be cited as the Commissions of Enquiry Act 1950.

Issue of Commissions

2. (1) The Yang di-Pertuan Agong may, where it appears to him to be expedient so to do, issue a Commission appointing one or more Commissioners and authorizing the Commissioners to enquire into—

- (a) the conduct of any federal officer;
- (b) the conduct or management of any department of the public service of Malaysia;
- (c) the conduct or management of any public institution which is not solely maintained by State funds; or
- (d) any other matter in which an enquiry would, in the opinion of the Yang di-Pertuan Agong, be for the public welfare, not being—
 - (i) a matter involving any question relating to the Islamic religion or the Malay custom; or
 - (ii) in relation to Sabah or Sarawak, a matter specified in item 10 of the State List:

Provided that where any federal officer into whose conduct it is proposed to enquire, was, at the time of committing such conduct, serving in a department of the public service of a State, such commission shall only be issued with the concurrence of the State Authority.

(2) *(Deleted by L.N. 332/1958).*

(3) The State Authority of any State other than Sabah or Sarawak may, where it appears to him to be expedient so to do, issue a Commission appointing one or more Commissioners and authorizing the Commissioners to enquire into—

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

Provided that where any State officer, into whose conduct it is proposed to enquire, was, at the time of committing such conduct serving in a department of the Federal Government or of the public service of another State, the Commission shall only be issued with the concurrence of the Yang di-Pertuan Agong or the State Authority of such other State as the case may be.

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

- (a) “federal officer” means any officer appointed and employed by the Federal Government, and any officer whose conditions of employment render him liable for service in more than one State;
- (b) “State officer” means any officer appointed by a State Government, other than the Government of Sabah or Sarawak, whose conditions of employment do not render him liable for service outside that State;
- (c) *(Deleted by L.N. 332/1958).*

Terms of Commission

3. (1) A Commission issued under section 2 shall specify the subject of the enquiry and may, in the discretion of the Yang di-Pertuan Agong or the State Authority, as the case may be—

(a) if there is more than one Commissioner, direct—

(i) which Commissioner shall be Chairman; and

(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; and

(d) generally prescribe how the 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, exercise all or any of the powers conferred upon the Commissioners by this Act.

Power to add or substitute Commissioners

4. (1) The Yang di-Pertuan Agong or the State Authority, as the case may be, may from time to time, add to the persons named in any such Commission, and in case any person appointed or added under this Act dies or resigns or desires to be discharged or refuses or becomes incapable of acting, the Yang di-Pertuan Agong or the State Authority, as the case may be, may appoint a new Commissioner in his place, and all the powers and duties by this Act 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 subsection (1) it shall not be necessary for any evidence which may have been taken before the Commission prior to that appointment to be retaken.

Enlargement of time

5. The Yang di-Pertuan Agong or the State Authority, as the case may be, 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 has expired or not.

Change of Yang di-Pertuan Agong, Yang di-Pertua Negeri or Ruler

6. No Commission issued under this Act shall lapse by reason of, or be otherwise affected by, the death, absence, retirement or removal of the Yang di-Pertuan Agong, if issued by the Yang di-Pertuan Agong, the death, absence, retirement or removal of the Yang di-Pertua Negeri of any State, if issued by the Yang di-Pertua Negeri of that State or, if issued by the Ruler of any State, the demise of the Ruler of that State.

Appointment of Secretary

7. The Yang di-Pertuan Agong or the State Authority, as the case may be, 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 Commissioners shall order, subject to the directions, if any, of the Yang di-Pertuan Agong or the State Authority, as the case may be.

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 Malaysia, or, in the case of a Commission issued by a State Authority, in such 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 ringgit;
- (e) to fine in a sum not exceeding fifty ringgit any person who, being required by the Commissioners to give evidence on 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 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; and
 - (ii) to admit or exclude the press from the enquiry or any part thereof; and
- (h) to award any person who has attended any meeting of the Commissioners, including any interpreter appointed under section 9, 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 a public officer 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 documents entrusted to me for the purpose to the best of my ability, and that I will not except as authorized 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 8(h) shall be charged on and paid out of the Consolidated Fund or, where the Commission has been issued by a State Authority, out of the public funds of that State.

Use of evidence in civil and criminal proceedings

11. No evidence taken under this Act shall be admissible in any civil or criminal proceedings whatsoever against the person who gave the evidence, except when the 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 against the Commissioners or any of them shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding one hundred ringgit or to imprisonment for a term not exceeding three months.

Definition of contempt

14. The following shall be deemed to be an act of contempt within the meaning of section 13:

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

(2) In any other case the Commissioners may summon the offender to appear before them at a time and place to be specified in the 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 section 13.

(3) If any person who has been summoned in accordance with subsection (2) 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) (a) Any person appointed by the Public Prosecutor to investigate any such matter shall, for the purposes of the investigations, have all the powers in relation to police investigations given to police officers in any seizable case under Chapter XIII of the Criminal Procedure Code [Act 593], and may, when authorized in writing by the Public Prosecutor, search any premises and take possession of any articles or documents as specified in the authority.

(b) (Omitted).

Preservation of order by the police

17. The Yang di-Pertuan Agong or the State Authority issuing the Commission, as the case may be, may direct the Inspector General 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 the Commissioners shall direct.

Right to representation by counsel

18. Any person whose conduct is the subject of enquiry under this Act, 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 be represented in the manner aforesaid. The Attorney General, the Solicitor General, any Federal Counsel, or any legally qualified member of the State Attorney General's Chambers, Sabah or Sarawak, authorized in that behalf by the State Attorney General, 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 Act shall, so long as he is acting as such Commissioner, be deemed to be a public servant within the meaning of the Penal Code [Act 574], and every enquiry under this Act shall be deemed to be a judicial proceeding within the meaning of the 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 proceeding for any act or thing done by him as a Commissioner.

(2) All evidence given for the purposes of any enquiry under this Act 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 this Act the procedure to be followed by the Commissioners and the form of any order, summons, warrant or other document made or issued for the purposes of this Act shall be in the discretion of the Commissioners.

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LIST OF AMENDMENTS

Amending law	Short title	In force from
Ord. 60/1956	Settlements Nominated Council (Change of Title) Ordinance 1956	01-09-1956
L.N. 332/1958	Federal Constitution (Modification of Laws) (Ordinances and Proclamations) Order 1958	13-11-1958
L.N. 118/1965	Modification of Laws (Federal Commissions of Enquiry) (Extension to Borneo States and Singapore) Order 1965	02-04-1965
Act 160	Malaysian Currency (Ringgit) Act 1975	29-08-1975
Act A324	Criminal Procedure Code (Amendment and Extension) Act 1976	10-01-1976
Act A354	Constitution (Amendment) Act 1976	27-08-1976

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LIST OF SECTIONS AMENDED

Section	Amending authority	In force from
2	L.N. 332/1958 L.N. 118/1965 Act A354	13-11-1958 01-04-1965 27-08-1976
3	Ord 60/1958 L.N. 332/1958 L.N. 118/1965	01-09-1956 13-11-1958 01-04-1965
4	Ord 60/1958 L.N. 332/1958	01-09-1956 13-11-1958
5	Ord 60/1958 L.N. 332/1958	01-09-1956 13-11-1958
6	L.N. 332/1958 Act A354	13-11-1958 27-08-1976
7	Ord 60/1958 L.N. 332/1958 L.N. 118/1965	01-09-1956 13-11-1958 01-04-1965
8	L.N. 332/1958 Act 160	13-11-1958 29-08-1975
10	L.N. 118/1965 L.N. 332/1958	01-04-1965 13-11-1958
13	Act 160	29-08-1975
16	L.N. 332/1958 Act A324	13-11-1958 10-01-1976
17	L.N. 332/1958 L.N. 118/1965	13-11-1958 01-04-1965
18	L.N. 118/1965	01-04-1965
19	L.N. 118/1965	01-04-1965