

# ROYAL COMMISSIONS ACT.

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Act No. 29, 1923.

**George V,** An Act to amend the law relating to Royal Commis-  
**No. 29.** sions; to repeal the Royal Commissioners  
Evidence Act, 1901, and certain other Acts;  
and for purposes connected therewith. [As-  
sented to, 14th December, 1923.]

**B**E it enacted by the King's Most Excellent Majesty,  
by and with the advice and consent of the Legis-  
lative Council and Legislative Assembly of New South  
Wales in Parliament assembled, and by the authority of  
the same, as follows :—

## PART I.

### PRELIMINARY.

Short title. **1.** This Act may be cited as the “Royal Commissions  
Act, 1923.” **2.**

2. This Act is divided into Parts as follows:—

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PART I.—PRELIMINARY.

Division into  
Parts.

PART II.—COMMISSIONS.

DIVISION 1.—*Commissions generally.*

DIVISION 2.—*Commission to a Judge of the  
Supreme Court.*

PART III.—OFFENCES.

3. (1) The Acts mentioned in the Schedule to this Act are to the extent therein expressed hereby repealed.

Repeal.  
Schedule.

(2) The repeal by this Act of any enactment shall not affect—

- (a) the validity, invalidity, effect, or consequences of anything already done or suffered;
- (b) any right, title, obligation, or liability already acquired, accrued or incurred, or any remedy or proceeding in respect thereof;
- (c) any indemnity or immunity in respect of any past act or thing;
- (d) the proof of any past act or thing, or the admissibility or inadmissibility of evidence with regard thereto;
- (e) any commission issued and still subsisting.

4. In this Act, unless a contrary intention appears—

“Commission” and “Royal Commission” means any commission of inquiry issued by the Governor by letters patent under the Great Seal, and includes the members of the commission, or a quorum thereof, or the sole commissioner, sitting for the purposes of the inquiry.

Interpreta-  
tion.  
1902, No. 12  
(Fed.), s. 14.

“Reasonable excuse” in relation to any act or omission by a witness or a person summoned as a witness before a commission means an excuse which would excuse an act or omission of a similar nature by a witness or a person summoned as a witness before a court of law.

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## PART II.

## COMMISSIONS.

DIVISION I.—*Commissions generally.*

Commis-  
sioners.

**5.** (1) Whenever the Governor by letters patent under the Great Seal issues a Royal Commission to any person to make any inquiry, the provisions of this Act shall apply to and with respect to the inquiry.

(2) In this Division “chairman” means the chairman of a commission and includes a deputy chairman appointed by the letters patent or chosen by the other commissioners in accordance therewith to act in the absence of the chairman.

(3) In this Division “commissioner” includes any person to whom a commission is issued, whether as chairman or as a member other than the chairman, or as sole commissioner.

Protection of  
commissioners.  
902, No. 12  
(Fed.), s. 7 (1).

**6.** Every commissioner shall in the exercise of his duty as a commissioner have the same protection and immunity as a judge of the Supreme Court.

Right of  
appearance.  
1914, No. 14,  
s. 6.

**7.** (1) Any counsel or solicitor appointed by the Crown to assist the commission may appear at the inquiry.

(2) Where it is shown to the satisfaction of the chairman, or of the sole commissioner, as the case may be, that any person is substantially and directly interested in any subject-matter of the inquiry, or that his conduct in relation to any such matter has been challenged to his detriment, the chairman or sole commissioner may authorise such person to appear at the inquiry, and may allow him to be represented by counsel or solicitor.

(3) Any counsel or solicitor so appointed and any person so authorised or his counsel or solicitor may with the leave of the chairman or of the sole commissioner, as the case may be, examine or cross-examine any witness on any matter which the commissioner deems relevant to the inquiry, and any witness so examined or cross-examined shall have the same protection and be subject to the same liabilities as if examined by the commissioner.

**8.**

**8.** The chairman or the sole commissioner, as the case may be, may by writing under his hand summon any person to attend the commission at a time and place named in the summons, and then and there to give evidence and to produce any books, documents, or writings in his custody or control which he is required by the summons to produce.

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No. 29.  
Witnesses.  
1902, No. 12  
(Fed.), s. 2.

**9.** (1) Any of the commissioners may administer an oath to any person appearing as a witness before the commission, whether the witness has been summoned or appears without being summoned, and may examine the witness upon oath.

Oath or  
affirmation.  
*Ibid.* s. 4.

(2) Where any witness to be examined before the commission conscientiously objects to take an oath he may make an affirmation that he conscientiously objects to take an oath, and that he will state the truth, the whole truth, and nothing but the truth, to all questions that may be put to him.

(3) An affirmation so made shall be of the same force and effect, and shall entail the same liabilities as an oath.

**10.** Every witness who has been summoned to attend the commission shall appear and report himself from day to day unless he is excused from attendance or until he is released from further attendance by the chairman or by the sole commissioner, as the case may be.

Continued  
attendance.  
*Ibid.* s. 6A.

**11.** (1) A witness summoned to attend or appearing before the commission shall not be entitled, except as otherwise provided in this section, to refuse—

Answers and  
documents.  
*Ibid.* ss. 6,  
6D.

- (a) to be sworn or to make an affirmation ;
- (b) to answer any question relevant to the inquiry put to him by any of the commissioners ;
- (c) to produce any book, document, or writing in his custody or control which he is required by the summons to produce.

(2) Nothing in this section shall make it compulsory for any witness—

- (a) to answer any question or produce any book, document, or writing if he has a reasonable excuse for refusing ;
- (b) to disclose any secret process of manufacture.

(3)

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No. 29.** (3) A witness summoned to attend or appearing before the commission shall have the same protection, and shall in addition to the penalties provided by this Act be subject to the same liabilities in any civil or criminal proceeding as a witness in any case tried in the Supreme Court.

1902, No. 12  
(Fed.), s. 7.(2).

Inspection  
and copies of  
documents.  
*Ibid.* s. 6r.

**12.** The commission may inspect any documents, books, or writings produced before it, and may retain them for such reasonable period as it thinks fit, and may make copies of such matter as is relevant to the inquiry or take extracts from them.

Allowance to  
witnesses.  
*Ibid.* s. 8.

**13.** (1) The Governor may make regulations prescribing a scale of allowances to be paid to any witness summoned under this Act for his travelling expenses and maintenance while absent from his usual place of abode.

(2) The claim to allowance of any such witness certified by the chairman or by the sole commissioner, as the case may be, shall be paid by the Colonial Treasurer out of moneys to be provided by Parliament for the purposes of the commission.

Application  
of provisions  
of Act.  
1901, No. 23,  
s. 10.

**14.** If in the letters patent by which a commission is issued the Governor declares that all or any specified sections of this Act shall not be applicable for the purposes of the inquiry referred to in the letters patent the sections or the specified sections, as the case may be, shall not apply to or with respect to the inquiry.

DIVISION 2.—*Commission to a judge of the  
Supreme Court.*

Supreme  
Court judge.

**15.** (1) If the chairman of a commission or the sole commissioner is a judge of the Supreme Court the provisions of this Division shall have effect.

(2) In this Division "commissioner" means such judge as chairman or sole commissioner.

Warrant.  
1902, No. 12  
(Fed.), s. 6r.

**16.** (1) If any person served with a summons to attend a commission as a witness fails to attend the commission in answer to the summons, the commissioner may, on proof by statutory declaration of the service of the summons, issue a warrant for his apprehension.

(2)

(2) The warrant shall authorise the apprehension of the witness and his being brought before the commission and his detention in custody for that purpose until he is released by order of the commissioner.

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(3) The apprehension of any witness under this section shall not relieve him from any liability incurred by him by reason of his non-compliance with the summons.

**17.** (1) A witness summoned to attend or appearing before the commission shall not be excused from answering any question or producing any book, document, or writing on the ground that the answer or production may criminate or tend to criminate him, or on the ground of privilege or on any other ground.

Answers and  
documents.  
1914, No. 14,  
s. 8.

(2) An answer made, or book, document, or writing produced by a witness to or before the commission shall not, except as otherwise provided in this section, be admissible in evidence against that person in any civil or criminal proceedings.

(3) Nothing in this section shall be deemed to render inadmissible—

- (a) any answer, book, document, or writing in proceedings for an offence against this Act;
- (b) any answer, book, document, or writing in any civil or criminal proceedings if the witness was willing to give the answer or produce the book, document, or writing irrespective of the provisions of subsection one of this section;
- (c) any book, document, or writing in civil proceedings for or in respect of any right or liability conferred or imposed by the book, document, or writing.

(4) This section shall not have effect unless in the letters patent by which the commission is issued the Governor declares that the section shall apply to and with respect to the inquiry.

**18.** (1) For the purposes of the inquiry the commissioner shall have all such powers, rights, and privileges as are vested in the Supreme Court or in any judge thereof in or in relation to any action or trial, in respect of the following matters:—

Powers  
of com-  
missioner.  
*Ibid.* ss. 2,  
14.

- (a) compelling the attendance of witnesses;

(b)

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- (b) compelling witnesses to answer questions which the commissioner deems to be relevant to the inquiry;
- (c) compelling the production of books documents and writings;
- (d) punishing persons guilty of contempt or of disobedience of any order or summons made or issued by the commissioner.

(2) Nothing in this or any other section of this Division shall limit the powers, rights, and privileges of the commissioner under any other provision of this Act.

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### PART III.

#### OFFENCES.

Failure to attend or produce documents.  
1902, No. 12 (Fed.), s. 5.

**19.** (1) If any person served with a summons to attend a commission, whether the summons is served personally or by being left at his usual place of abode, fails without reasonable excuse to attend the commission or to produce any documents books or writings in his custody or control which he was required by the summons to produce, he shall be guilty of an offence, and shall be liable to a penalty not exceeding two hundred pounds.

(2) It shall be a defence to a prosecution under this section for failing without reasonable excuse to produce any documents books or writings if the defendant proves that the documents, books, or writings, were not relevant to the inquiry.

Refusal to be sworn or to give evidence.  
*Ibid.* s. 6.

**20.** If any person appearing as a witness before the commission refuses to be sworn or to make an affirmation or to answer any question relevant to the inquiry put to him by any of the commissioners, he shall be guilty of an offence, and shall be liable to a penalty not exceeding two hundred pounds.

**21.**

**21.** Any witness before a commission who knowingly gives false testimony touching any matter, material in the inquiry being made by the commission, shall be guilty of an indictable offence, and shall be liable to be imprisoned for a period not exceeding five years.

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No. 29.  
False  
testimony.  
1902, No. 12  
(Fed.), s. 6h.

**22.** Any person who procures or causes or attempts or conspires to procure or cause the giving of false testimony before a commission shall be guilty of an indictable offence, and shall be liable to be imprisoned for a period not exceeding five years.

Subornation.  
1914, No. 14,  
s. 9 (2); 1902,  
No. 12, s. 6i.

**23.** Any person who, knowing that any book document or writing is or may be required in evidence before a commission, wilfully destroys it or renders it illegible or undecipherable or incapable of identification, with intent thereby to prevent it from being used in evidence, shall be guilty of an indictable offence, and shall be liable to be imprisoned for a period not exceeding two years.

Destroying  
books or  
documents.  
*Ibid.* s. 6k.

**24.** In any proceedings for an offence against this Act, other than proceedings for the commitment for trial of a person charged with an indictable offence, the court may award costs against any party.

Costs.  
*Ibid.* s. 15.

SCHEDULE.

No. of Act.	Title of Act.	Extent of Repeal.
1901, No. 23...	The Royal Commissioners Evidence Act, 1901.	The whole Act.
1905, No. 4 ...	The Lands Commission Act, 1905 ...	The whole Act.
1905, No. 11...	The Lands Commission (Amendment) Act, 1905.	The whole Act.
1905, No. 17...	The Lands Commission (Witnesses) Act, 1905.	The whole Act.
1914, No. 14...	The Boorabil Commission Act, 1914	The whole Act.
1918, No. 19...	The Police Inquiry Act, 1918 ...	The whole Act.