



ANALYSIS

Title	13c. Right of appeal against order made in respect of contempt of Commission
1. Short Title	13d. Jurisdiction of High Court during incapacity of Commissioner or following completion of inquiry
2. New sections substituted	3. Repeal
13. Powers of Judges and former Judges when Commissioners	4. Application to existing Commissions
13A. Powers in relation to witnesses	
13a. Powers to punish for contempt of Commission	

1995, No. 48

An Act to amend the Commissions of Inquiry Act 1908

[29 July 1995]

BE IT ENACTED by the Parliament of New Zealand as follows:

1. Short Title—This Act may be cited as the Commissions of Inquiry Amendment Act 1995, and shall be read together with and deemed part of the Commissions of Inquiry Act 1908 (hereinafter referred to as the principal Act).

2. New sections substituted—The principal Act is hereby amended by repealing section 13, and substituting the following sections:

“13. Powers of Judges and former Judges when Commissioners—(1) In every case where, under this Act, or any other Act or the Letters Patent constituting the office of the Governor-General, the Governor-General or the Governor-General in Council appoints one or more Judges of the High Court or former Judges of the High Court to be members of a Commission for the purpose of holding an inquiry, every such Judge or retired Judge, and the Commission of which he or she is a member, shall, for the purposes of such inquiry, have the same powers, privileges, and immunities as are possessed by a

Judge of the High Court in the exercise of his or her civil jurisdiction under the Judicature Act 1908.

“(2) Where any member of a Commission is a Judge of the High Court or a former Judge of the High Court, any order made by that Commission or any such member—

“(a) Shall, as soon as conveniently may be after its making, be drawn up and signed,—

“(i) In the case of an order made by the Commission, by the Chairman (whose signature shall be judicially noticed); and

“(ii) In the case of an order made by a member of the Commission who is a Judge of the High Court or a former Judge of the High Court, by that member (whose signature shall be judicially noticed); and

“(b) May, for the purpose of enabling that order to be enforced, be filed in any office of the High Court.

“(3) Where any order made by a Commission (other than an order made under section 56A (1) of the Judicature Act 1908 (as applied by section 13A (1) (a) of this Act) or under section 56B of the Judicature Act 1908 (as applied by section 13A (1) (b) of this Act) or under section 13B of this Act) is, under subsection (2) of this section, filed in an office of the High Court, that order shall be enforceable in the same manner as a final judgment of the High Court in civil proceedings.

“(4) Where any member of a Commission who is a Judge or a former Judge of the High Court makes an order under section 56A (1) of the Judicature Act 1908 (as applied by section 13A (1) (a) of this Act) or under section 56B of the Judicature Act 1908 (as applied by section 13A (1) (b) of this Act) or under section 13B of this Act, that order shall be enforceable as if it were an order of the High Court.

“(5) Where any member of a Commission is a Judge of the High Court or a former Judge of the High Court,—

“(a) The provisions of this section shall, in relation to that member, apply in the place of the provisions of section 3 of this Act; and

“(b) Section 4 (1) of this Act shall, in relation to that Commission, be read as if, for the words ‘a District Court’, there were substituted the words ‘the High Court’; and

“(c) Section 10 of this Act shall, in relation to that Commission, be read as if, for the words ‘High Court’ in both places where they appear, there were substituted in each case the words ‘Court of Appeal’.

“13A. **Powers in relation to witnesses**—(1) Notwithstanding the provisions of section 9 of this Act,—

“(a) Where any witness who is compellable to attend to give evidence at any hearing of a Commission and who has been duly summoned fails to attend at the time and place appointed, any member of that Commission who is a Judge of the High Court or a former Judge of the High Court may exercise, in relation to that witness, the powers conferred on the High Court by section 56A (1) of the Judicature Act 1908; and the provisions of that section shall, with all necessary modifications, apply accordingly; and

“(b) Where, in any proceedings before a Commission, a witness, without offering any just excuse, refuses to give evidence when required, or refuses to produce any document which the witness is required to produce, or refuses to be sworn or having been sworn refuses to answer such questions concerning the inquiry as are put to that witness, any member of that Commission who is a Judge of the High Court or a former Judge of the High Court may exercise, in relation to that witness, the powers conferred on the High Court by section 56B of the Judicature Act 1908; and the provisions of that section shall, with all necessary modifications, apply accordingly.

“(2) Any member of a Commission who is a Judge of the High Court or a former Judge of the High Court may,—

“(a) In exercising the powers conferred by section 56A (1) of the Judicature Act 1908 (as applied by subsection (1)(a) of this section), issue to every constable or to a named constable a warrant requiring every constable or the named constable, as the case may be, to arrest a witness and bring that witness before the Commission; and

“(b) In exercising the powers conferred by section 56B of the Judicature Act 1908 (as applied by subsection (1)(b) of this section), issue to every constable or to a named constable and to the Superintendent of any penal institution a warrant for the arrest and detention of any witness in respect of whom an order made under section 56B (1) of the Judicature Act 1908 (as so applied) is in force (which warrant shall be in a form similar to that of the form

prescribed for the purposes of section 39 of the Summary Proceedings Act 1957).

“13B. Powers to punish for contempt of Commission—Where a Judge of the High Court or a former Judge of the High Court is a member of a Commission and any person does, in relation to—

“(a) That Commission; or

“(b) Any member of that Commission; or

“(c) Any officer of that Commission; or

“(d) Any witness; or

“(e) Any hearing of that Commission; or

“(f) Any order or direction of that Commission; or

“(g) The inquiry being conducted by that Commission,—

any act that would, if done in relation to the High Court or a Judge of the High Court or any Registrar or any officer of the High Court or any witness or any proceedings of the High Court or any order or direction of the High Court, be contempt of Court, the doing of that act, whether in the face of that Commission or otherwise, shall constitute contempt of that Commission, and any member of that Commission who is a Judge of the High Court or a former Judge of the High Court may punish that person for contempt of that Commission by exercising, in relation to that person, the same powers as a Judge of the High Court would have had if that person had been guilty of contempt of Court (including the powers conferred by section 56c of the Judicature Act 1908); and the provisions of section 56c of the Judicature Act 1908 shall, with all necessary modifications, apply accordingly.

“13c. Right of appeal against order made in respect of contempt of Commission—Where any member of a Commission who is a Judge of the High Court or a former Judge of the High Court has, under section 56A (1) of the Judicature Act 1908 (as applied by section 13A (1) (a) of this Act) or under section 56B of the Judicature Act 1908 (as applied by section 13A (1) (b) of this Act) or under section 13B of this Act made an order against any person, that person may, in accordance with and subject to the terms of section 384 of the Crimes Act 1961, appeal to the Court of Appeal against the order as if that person had been found guilty in the High Court of a criminal contempt of the High Court; and the provisions of that section shall, with all necessary modifications, apply accordingly.

“13D. Jurisdiction of High Court during incapacity of Commissioner or following completion of inquiry—

Where an order or warrant has been made or issued under section 56A (1) of the Judicature Act 1908 (as applied by section 13A (1) (a) of this Act) or under section 56B of the Judicature Act 1908 (as applied by section 13A (1) (b) of this Act) or under section 13B of this Act by a member of a Commission who is a Judge of the High Court or a former Judge of the High Court, and anything remains to be done or suffered pursuant to the order or warrant—

“(a) At any time while that member of the Commission is incapable of acting by reason of illness, absence, or other cause; or

“(b) At any time after the Commission has delivered its final report to the Governor-General or to a Minister,—
the High Court may vary or rescind the order or warrant.”

3. Repeal—Section 2 (2) of the Commissions of Inquiry Amendment Act 1968 is hereby consequentially repealed.

4. Application to existing Commissions—(1) Subject to subsection (2) of this section, this Act shall apply to every Commission in existence at the commencement of this Act as well as to every Commission appointed after the commencement of this Act.

(2) Section 13 of the principal Act (as it stood immediately before the commencement of this Act) shall continue to apply to anything done or omitted to be done before the commencement of this Act.

(3) For the avoidance of doubt, where before the commencement of this Act a person has been served with a summons issued under section 4D of the principal Act, being a summons requiring that person to attend on a date after the commencement of this Act, the failure to comply in any respect with the summons shall be an act done or omitted to be done after the commencement of this Act.

This Act is administered in the Department of Internal Affairs.
