

[AS REPORTED FROM THE STATUTES REVISION COMMITTEE]

House of Representatives, 26 June 1980.

Words struck out are shown in italics within bold round brackets, or with black rule at beginning and after last line; words inserted are shown in roman underlined with a double rule, or with double rule before first line and after last line.

[AS REPORTED FROM THE COMMITTEE OF THE WHOLE]

House of Representatives, 1 July 1980.

Words struck out are shown in italics within bold round brackets; words inserted are shown in roman underlined with a triple rule.

Hon. Mr Highet

COMMISSIONS OF INQUIRY AMENDMENT

ANALYSIS

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A BILL INTITULED

An Act to amend the Commissions of Inquiry Act 1908

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same,
5 as follows:

1. **Short Title**—This Act may be cited as the Commissions of Inquiry Amendment Act 1980, and shall be read together with and deemed part of the Commissions of Inquiry Act 1908* (hereinafter referred to as the principal Act).

10

New

1A. **Interpretation**—The principal Act is hereby amended by inserting, after section 1, the following section:

15 “1A. In this Act, unless the context otherwise requires, ‘document’ means a document in any form, whether signed or initialled or otherwise authenticated by its maker or not; and includes—

“**(a)** Any writing on any material:

*Reprinted 1974, Vol. 3, p. 2267

New

- “(b) Any information recorded or stored by means of any tape-recorder, computer, or other device; and any material subsequently derived from information so recorded or stored: 5
- “(c) Any label, marking, or other writing that identifies or describes any thing of which it forms part, or to which it is attached by any means:
- “(d) Any book, map, plan, graph, or drawing:
- “(e) Any photograph, film, negative, tape, or other device 10 in which one or more visual images are embodied so as to be capable (with or without the aid of some other equipment) of being reproduced:”.

2. Commissioners’ powers—(1) Section 4 of the principal Act (as substituted by section 2 (1) of the Commissions of Inquiry Amendment Act 1968) is hereby amended by omitting from subsection (1) the words “summoning witnesses, administering oaths, hearing evidence”. 15

(2) Section 4 of the principal Act (as so *(inserted)* substituted) is hereby further amended by repealing subsection (2). 20

3. New sections substituted—The principal Act is hereby amended by repealing sections (5) 4A to 9, and substituting the following sections:

New

- 4A. Persons entitled to be heard**—(1) Any person shall, if he is a party to the inquiry or satisfies the Commission that he has an interest in the inquiry apart from any interest in common with the public, be entitled to appear and be heard at the inquiry. 25 30
- “(2) Any person who satisfies the Commission that any evidence given before it may adversely affect his interests shall be given an opportunity during the inquiry to be heard in respect of the matter to which the evidence relates.
- “(3) Every person entitled, or given an opportunity, to be heard under this section may appear in person or by his counsel or agent. 35

4B. Evidence—(1) The Commission may receive as evidence any statement, document, information, or matter that in its opinion may assist it to deal effectively with the subject of the inquiry, whether or not it would be admissible in a Court of law. 40

“(2) The Commission may take evidence on oath, and for that purpose a member or officer of the Commission may administer an oath.

5 “(3) The Commission may permit a person appearing as a witness before it to give evidence by tendering a written statement and, if the Commission thinks fit, verifying it by oath.

“4c. Powers of investigation—(1) For the purposes of the inquiry the Commission or any person authorised by it in
10 writing to do so may—

“(a) Inspect and examine any (*books,*) papers, documents, records, or things:

15 “(b) Require any person to produce for examination any (*books,*) papers, documents, records, or things in that person’s possession or under that person’s control, and to allow copies of or extracts from any such (*books,*) papers, documents, or records to be made:

20 “(c) Require any person to furnish, in a form approved by or acceptable to the Commission, any information or particulars that may be required by it, and any copies of or extracts from any such (*books,*) papers, documents, or records as aforesaid.

25 “(2) The Commission may, if it thinks fit, require that any written information or particulars or any copies or extracts furnished under this section shall be verified by statutory declaration or otherwise as the Commission may require.

30 “(3) For the purposes of the inquiry the Commission may of its own motion, or on application, order that any information or particulars, or a copy of the whole or any part of any (*book,*) paper, document, or record, furnished or produced to it be supplied to any person appearing before the Commission, and in the order impose such terms and conditions as it thinks fit in respect of such supply and of
35 the use that is to be made of the information, particulars, or copy.

New

40 “(4) Every person shall have the same privileges in relation to the giving of information to the Commission, the answering of questions put by the Commission, and the production of papers, documents, records, and things to the Commission as witnesses have in Courts of law.

“4d. **Power to summon witnesses**—(1) For the purposes of the inquiry the Commission may of its own motion, or on application, issue in writing a summons requiring any person to attend at the time and place specified in the summons and to give evidence, and to produce any **(books,)** papers, documents, records, or things in that person’s possession or under that person’s control that are relevant to the subject of the inquiry. 5

“(2) For the purposes of this Act, the power to issue summonses **((requiring the attendance of witnesses or the production of)) (books,)** **((papers, documents, records, or things,))** or to do any other act preliminary or incidental to the hearing of any matter by the Commission, may be exercised by the Commission or its Chairman, or by an officer of the Commission purporting to act by direction or with the authority of the Commission or its Chairman. 15

“5. **Service of summons**—(1) A summons to a witness may be served—

“(a) By delivering it to the person summoned; or
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“(b) By leaving it at the usual place of abode of the person summoned; or

“(c) By posting it by registered letter addressed to the person summoned at that person’s usual place of abode. 25

“(2) The summons shall—

“(a) Where it is served under subsection (1) (a) of this section, be served at least 24 hours before the attendance of the witness is required:

“(b) Where it is served under subsection (1) ((b) or) (c) of this section, be served at least 10 days before the date on which the attendance of the witness is required. 30

“(3) If the summons is posted by registered letter it shall be deemed for the purposes of subsection (2) (b) of this section to have been served at the time when the letter would be delivered in the ordinary course of post. 35

“6. **Protection of persons appearing**—Every witness giving evidence, and every counsel or agent or other person appearing before the Commission, shall have the same privileges and immunities as witnesses and counsel in Courts of law. 40

“7. **Witnesses’ allowances**—(1) Every witness attending the inquiry to give evidence pursuant to a summons shall be entitled to be paid witnesses’ fees, allowances, and travelling expenses according to the scales for the time being prescribed by regulations made under the Summary Proceedings Act 1957, and those regulations shall apply accordingly.

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“(2) On the service of the summons, or at some other reasonable time before the date on which the witness is required to attend, there shall be paid or tendered to the witness the estimated amount of the allowances and travelling expenses to which the witness is entitled according to the prescribed scales.

New

“(2) On each occasion on which the Commission issues a summons under section 4D of this Act ~~((to require the attendance of any witness,))~~ the Commission, or the person exercising the power of the Commission under subsection (2) of that section, shall fix an amount which, on the service of the summons, or at some other reasonable time before the date on which the witness is required to attend, shall be paid or tendered to the witness.

“(3) The amount fixed under subsection (2) of this section shall be the estimated amount of the allowances and travelling expenses to which, in the opinion of the Commission or person, the witness will be entitled according to the prescribed scales if the witness attends at the time and place specified in the summons.

“(4) The whole or part of any amount fixed under subsection (2) of this section may, with the consent of the witness, be paid or tendered in the form of vouchers or tickets.

“8. **Payment of witnesses’ allowances**—(1) Where the Commission has obtained the authority in writing of the Minister of Internal Affairs for summoning any witness, the amounts of the witness’s fees, allowances, and travelling expenses shall, if certified by the Chairman of the Commission, be paid by the Minister of Finance out of the Consolidated Account.

“(2) In every other case the person requiring the evidence of a witness—

- “(a) Shall be liable for payment of the witness’s fees, allowances, and expenses; and
- “(b) Shall, on making application for the issue of a witness summons, deposit with the Commission such sums as the Commission thinks sufficient. 5
- “(3) Except where subsection (1) of this section applies, the amounts of a witness’s fees, allowances, and expenses shall be paid out of the sum deposited under subsection (2) (b) of this section.

“9. Offences—(1) Every person commits an offence who, 10
after being summoned to attend to give evidence before the Commission or to produce to it any (*books*,) papers, documents, records, or things, without (*lawful excuse*) sufficient cause—

- “(a) Fails to attend in accordance with the summons; or 15
- “(b) Refuses to be sworn or to give evidence, or having been sworn refuses to answer any question that the person is lawfully required by the Commission or any member of it to answer concerning the subject of the inquiry; or 20
- “(c) Fails to produce any such paper, document, record, or thing.
- “(2) Every person commits an offence who—

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- “(a) Wilfully interrupts or obstructs any hearing of the Commission or otherwise misbehaves at a hearing; or 25
- “(b) By writing or speech, wilfully uses any insulting words towards the Commission or any member of it, or uses words that are false and defamatory of the Commission or of any member of it, whether at a hearing or not; or 30
- “(c) Wilfully obstructs or hinders the Commission or any member of it or any authorised person in any inspection or examination of (*books*,) papers, documents, records, or things pursuant to section 4c (1) (a) of this Act; or 35
- “(d) Without (*lawful excuse*) sufficient cause, fails to comply with any requirement of the Commission or any authorised person made under section 4c (1) (b) or (c) of this Act; or 40

“(e) Without (*lawful excuse*) sufficient cause, acts in contravention of or fails to comply with any order made by the Commission under section 4c (3) of this Act or any term or condition of the order.

5 “(3) Every person who commits an offence against this section is liable on summary conviction to a fine not exceeding \$1,000.

10 “(4) No person summoned to attend the inquiry shall be convicted of an offence against subsection (1) of this section unless at the time of the service of the summons, or at some other reasonable time before the date on which that person was required to attend, there was made to that person a payment or tender of (*a sum in respect of that person’s allowances and travelling expenses in accordance with*) the amount
 15 fixed under section 7 (2) of this Act.”

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4. Repeal—The Commissions of Inquiry Amendment Act 1967 is hereby consequentially repealed.

New

20 4. Repeals—The following enactments are hereby consequentially repealed, namely:

(a) Section 3 (1) of the Commissions of Inquiry Amendment Act 1958:

(b) The Commissions of Inquiry Amendment Act 1967.