



**PARLIAMENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA**

**COMMISSIONS OF INQUIRY (AMENDMENT)
ACT, No. 16 OF 2008**

[Certified on 05th March, 2008]

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Commissions of Inquiry (Amendment)
Act, No. 16 of 2008

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L.D.—O. 17/2007.

AN ACT TO AMEND THE COMMISSIONS OF INQUIRY ACT
(CHAPTER 393)

BE it enacted by the Democratic Socialist Republic of Sri Lanka as follows :—

1. This Act may be cited as the Commissions of Inquiry (Amendment) Act, No. 16 of 2008. Short title.

2. Section 2 of the Commissions of Inquiry Act, (Chapter 393) (hereinafter referred to as “the principal enactment”) is hereby amended as follows :— Amendment of
section 2 of
Chapter 393.

(1) in subsection (1) thereof, by the substitution for the words “an inquiry” of the words “an investigation or inquiry or both where appropriate” ;

(2) by the repeal

of paragraphs (a), (b) and (c) of subsection (1) thereof, and the substitution therefor of the following :—

“(a) the administration, management and functions of any department of Government, any statutory body, any public or local authority or any other institution ; or

(b) the conduct of any public officer, an employee of a statutory body, any public or local authority or any institution ; or

(c) any matter or incident in respect of which an investigation or inquiry or both an investigation and inquiry, as the case may be, will in his opinion, be in the national interest or for public safety or wellbeing.”;

(3) in subsection (1) thereof, by the substitution for the words “to inquire into and report upon such administration, conduct or matter.” of the words “to

investigate or inquire or to both investigate and inquire, as the case may be, and report upon such administration, management, functions, conduct, matter or incident ;

- (4) by the addition immediately after subsection (2) thereof, of the following subsections :—

“(3) A member of the Commission appointed by Warrant issued under subsection (1) shall be removed, only if the President is satisfied that such member:—

- (a) has abused or misused his office as a member or has abused or misused the powers conferred on him under this Act or by the Warrant appointing the Commission ;
- (b) has engaged in bribery or corruption ; or
- (c) is suffering from mental or physical infirmity.

(4) Upon the removal of a member in terms of subsection (3) the President shall forthwith report such fact to Parliament stating therein the reasons for the removal of such member.

- (5) Where the Commission consists of more than one member, not less than one half of the total number of members present, (which shall include the Chairman of the Commission) may, notwithstanding any vacancy in the membership of the Commission, exercise the powers of the Commission under this Act.

(6) The reports of the Commission shall contain the views of all the members of the Commission, including dissenting views if any and such reports shall be signed by all the members save and except

where a member of the Commission dies, resigns, desires to be discharged, refuses or becomes unable to act as a member of the Commission or to place his signature in such report.”.

3. Section 5 of the principal enactment is hereby repealed and the following is substituted therefor :—

Replacement of section 5 of the principal enactment.

“Alteration or revocation of warrant. 5. The President may, at any time alter or revoke any warrant issued under this Act.”.

4. Section 7 of the principal enactment is hereby amended as follows :—

Amendment of section 7 of the principal enactment.

(1) by the re-numbering of that section as subsection (1) of that section ;

(2) by the insertion immediately after paragraph (b) of the re-numbered subsection (1) of that section of the following new paragraphs :—

“(bb) to make an application to any Court of law or any tribunal to obtain certified copies of any proceedings of any case, any document or any certified copy of such document or of any other material filed or recorded in such court of law or tribunal ;

(bbb) to require any person to produce any document, a certified copy thereof or any other material which is in his possession or custody ;

(bbbb) to require any person to provide to the Commission any information in writing which he is likely to possess;”.

(3) by the addition immediately after the re-numbered subsection (1) of that section, of the following new subsection :—

“(2) Where any report is rendered in terms of any Warrant issued to a Commission appointed

under this Act, such Commission may make recommendations to the relevant disciplinary authority with regard to the action that it considers necessary to be taken in respect of any person whose conduct is the subject of the inquiry or investigation or who is in any way implicated or concerned in the matter which such Commission was warranted to investigate or inquire into".

Insertion of sections 23, 24, 25 and 26 in the principal enactment.

5. The following new sections are hereby inserted immediately after section 22 of the principal enactment and shall have effect as sections 23, 24, 25 and 26 of that enactment :—

"Assistance of public officers in investigations or inquiries.

23. Where a Commission of Inquiry appointed in terms of this Act, has been required by the President to conduct an investigation or inquiry or both an investigation and inquiry into any matter or incident, notwithstanding the generality of the powers conferred on such Commission, it shall be entitled to obtain the assistance of a public officer selected by the Commission, with the concurrence of the relevant appointing authority, and through such officer cause the conduct of investigations into any relevant matter or incident under its direction and supervision

Provided however, the Commission shall not arrive at any conclusion on such matter or incident investigated into, unless the Commission has examined the material collected in the course of such investigation and inquired into such matter or incident, observing the rules of natural justice.

Institution of Criminal Proceedings.

24. Notwithstanding anything to the contrary in the Code of Criminal Procedure Act, No. 15 of 1979 or any other law, it shall be

lawful for the Attorney-General to institute criminal proceedings in a court of law in respect of any offence, based on material collected in the course of an investigation or inquiry or both an investigation and inquiry, as the case may be, by a Commission of Inquiry appointed under this Act.

Commission
to make rules.

25. (1) A Commission of Inquiry appointed under this Act, shall subject to the provisions of this Act and any other law, with the approval of the Minister, have the power to make rules relating to the organizational structure, mandates of subordinate structures and functions of officers of the Commission.

(2) The Commission shall subject to the rules made under subsection (1) and be governed by such rules.

(3) The Commission may from time to time amend the rules made under subsection (1).

(4) The rules made by the Commission shall as soon as practicable be published in the *Gazette*.

Powers of the
Attorney-
General.

26. (1) In the conduct of an inquiry or investigation under the provisions of this Act, the Attorney-General may—

- (a) appear before any Commission ;
- (b) place before the Commission any evidence or other material, which in the opinion of the Attorney-General is relevant to the investigation or inquiry as the case may be ;
- (c) examine any witness summoned by the Commission if it appears to him that

the evidence of such witness is material to, or has disclosed information relevant to, the investigation or inquiry as the case may be.

(2) On a request made by the Attorney-General, the Commission shall make available to the Attorney-General copies of all statements and testimonies recorded and any other material collected or received by such Commission in the course of the conduct of such inquiry or investigation as the case may be.”.

Sinhala text to prevail in case of inconsistency.

6. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

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