



ST. HELENA

## CHAPTER 16

# COMMISSIONS OF ENQUIRY ORDINANCE

### Non-authoritative Consolidated Text

This is not an authoritative 'revised edition' for the purposes of the Revised Edition of the Laws Ordinance; it has been prepared under the supervision of the Attorney General for the purpose of enabling ready access to the current law, and specifically for the purpose of being made accessible via the internet.

Whilst it is intended that this version accurately reflects the current law, users should refer to the authoritative texts in case of doubt. Enquiries may be addressed to the Attorney General at Essex House, Jamestown [Telephone (+290) 2270; Fax (+290) 2454; email [pa.lawofficers@legallandlands.gov.sh](mailto:pa.lawofficers@legallandlands.gov.sh)]<sup>1</sup>

Visit our [LAWS page](#) to understand the St. Helena legal system and the legal status of this version of the Ordinance.

This version contains a consolidation of the following laws—

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Ordinance 2 of 1926 .. in force 26 March 1926

Amended by Ordinance 13 of 1932

Amended by L.N. 3 of 1989

No Subsidiary Legislation has been made under this Ordinance

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<sup>1</sup> These contact details may change during 2011 or early in 2012. In case of difficulty, email [shgwebsite@sainthelena.gov.sh](mailto:shgwebsite@sainthelena.gov.sh) or telephone (+290) 2470.

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**CHAPTER 16****COMMISSIONS OF ENQUIRY ORDINANCE**

*(Ordinances 2 of 1926, 13 of 1932 and Legal Notice 3 of 1989)*

AN ORDINANCE TO ENABLE COMMISSIONERS TO BE APPOINTED TO ENQUIRE INTO AND REPORT ON MATTERS REFERRED TO THEM BY THE GOVERNOR OF ST. HELENA.

**Commencement**

*[26 March 1926]*

**Short title**

1. This Ordinance may be cited as the Commissions of Enquiry Ordinance.

**Power to issue commissions of enquiry**

2. It shall be lawful for the Governor, whenever he shall deem it advisable, to issue a commission appointing one or more commissioners and authorising such commissioners or any quorum of them therein mentioned to enquire into any subject or matter as to which, in the opinion of the Governor, an enquiry is necessary or would be for the public welfare. Each such commission shall specify the subject of the enquiry and may in the discretion of the Governor (if there be more than one commissioner) direct which commissioner shall be chairman, and direct where and when such enquiry shall be made, and the report thereof rendered, and prescribe how such commission shall be executed, and may direct whether the enquiry shall or

This e-version of the text is not authoritative for use in court.

shall not be held in public. In the absence of a direction to the contrary the enquiry shall be held in public but the commissioners shall nevertheless be entitled to exclude any particular person or persons for the preservation of order or for the due conduct of the enquiry.

### **Power to appoint commissioners and to alter commissions**

3. In case any commissioner shall be or become unable or unwilling to act, or shall die, the Governor may appoint another commissioner in his place; and any commission issued under this Ordinance may be altered as the Governor may deem fit by any subsequent commission issued by the Governor, or may be revoked altogether by the Governor by Proclamation.

### **Change of Governor**

4. No commission issued under this Ordinance shall lapse or be otherwise affected by reason of the death, absence or removal of the Governor issuing the same.

### **Commissioners to take oath**

5. It shall be the duty of each commissioner appointed under this Ordinance to make and subscribe an oath or affirmation that he will faithfully, fully, impartially and to the best of his ability discharge the trust and perform the duties devolving upon him as such commissioner, and such oath or affirmation shall be taken before the Governor.

### **Secretary**

6. The Governor may appoint a secretary to attend the sittings of the commission, to record their proceedings, to keep their papers, to summon and minute the testimony of witnesses, and generally to perform such duties connected with the enquiry as the commissioners shall prescribe subject to the directions (if any) of the Governor.

### **Duty of the commissioners**

7. It shall be the duty of the commissioners, after taking the necessary oath or affirmation, to make a full, faithful and impartial enquiry into the matter specified in such commission, and to conduct such enquiry in accordance with the directions (if any) in the commission; and in due course to furnish to the Governor a full statement of the proceedings of such commission, and to report to the Governor in writing the result of such enquiry.

### **Chairman to have casting vote**

8. If the commissioners shall in any case be equally divided upon any question that arises during the proceedings of the commission, the chairman of the commission shall have a second or casting vote.

### **Power to regulate proceedings**

9. The commissioners acting under this Ordinance may make such rules for their own guidance, and the conduct and management of the proceedings before them, the hours and times and places for their sittings (not inconsistent with their commission) as they may from

time to time think fit, and may from time to time adjourn for such times and to such places as they may think fit, subject only to the terms of their commission.

### **Power to summon and examine witnesses**

**10.** The commissioners acting under this Ordinance shall have the powers of the Supreme Court to summon witnesses, to call for the production of books, plans and documents, and to examine witnesses and parties concerned on oath; and no commissioner shall be liable to any action or suit for any matter or thing done by him as such commissioner. All summonses for the attendance of witnesses or other persons or for the production of documents shall be in the prescribed form in the Schedule hereto and shall be signed by one of the commissioners. Oaths may be administered by one of the commissioners or by the secretary.

### **Witnesses**

**11.** All persons summoned to attend and give evidence, or to produce books, plans or documents at any sitting of any commission under this Ordinance shall be bound to obey the summons served upon them as fully in all respects as witnesses are bound to obey subpoenas issued out of the Supreme Court and shall be entitled to the same expenses as if they had been subpoenaed as Crown witnesses to appear at the Supreme Court sessions if such expenses shall be allowed by the commissioners; but the commissioners may disallow the whole or any part of such expenses in their discretion. Any such allowed expenses shall be paid out of the Consolidated Fund on the production of a certificate signed by the secretary to the commission, or, if there be no secretary, by one of the commissioners, certifying the attendance of such witnesses for the purpose of giving evidence and the amount allowed by the commissioners.

### **Refusal to attend or give evidence**

**12.** Every person refusing or omitting, without sufficient cause, to attend at the time and place mentioned in the summons served upon him, and every person attending, but leaving the commission without the previous permission of the commissioners, or refusing, without sufficient cause, to answer or to answer fully and satisfactorily to the best of his knowledge and belief, all questions put to him by or with the concurrence of the commissioners, or refusing without sufficient cause to produce any books, plans or documents in his possession or under his control and mentioned or referred to in the summons served upon him, and every person who shall at any sitting of the commissioners wilfully insult any commissioner or the secretary or wilfully interrupt the proceedings of the commission shall be liable to a penalty not exceeding £50, recoverable in a summary manner in the Magistrates' Court:

Provided always that no person giving evidence before the commission shall be compellable to incriminate himself, and every person giving evidence before any commission shall in respect to such evidence be entitled to all the privileges to which he would be entitled if he were giving evidence before a court of justice.

### **False evidence**

**13.** Any person who shall wilfully give false evidence before any commission under this Ordinance shall be guilty of perjury and shall be liable to be prosecuted and punished accordingly.

**Recovery of penalties**

**14. (1)** No proceedings shall be commenced for any penalty under this Ordinance except by the direction of the Attorney General or of the commissioners.

**(2)** The commissioners may direct their secretary, or such other person as they may think fit, to commence and prosecute the proceedings for such penalty.

**(3)** Any person whose conduct is the subject of enquiry under this Ordinance, or who is in any way implicated or concerned in the matter under enquiry, shall be entitled to be represented by counsel 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 commission, be represented in the manner aforesaid.

**Publication of commissions**

**15.** Every commission under this Ordinance shall be published by way of Proclamation and shall have effect from the date of such publication.

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**SCHEDULE**

*(Section 10)*

**COMMISSIONS OF ENQUIRY ORDINANCE****WITNESS SUMMONS**

To .....

You are hereby required to appear on the ..... day of .....,  
20....., at ..... precisely at .....,  
before the Commission appointed under a Proclamation dated the .....  
day of ....., 20....., and there give evidence according to your  
knowledge touching the matter of ....., being the  
subject of enquiry by the said Commission [and to produce such books, plans and  
documents touching upon the said matter as may be in your possession and  
particularly ..... ].

Given under my hand this ..... day of ....., 20..... .

*Secretary.*

*[or one of the Commissioners.]*

N.B.—Every person failing, without sufficient cause, to obey a Summons in the prescribed form shall be liable to a penalty not exceeding £50.