



LAWS OF SARAWAK

ONLINE VERSION

Chapter 6
(1958 Edition)

COMMISSIONS OF INQUIRY ORDINANCE

Incorporating all amendments up to 30th September, 2009

PREPARED AND PUBLISHED BY
THE COMMISSIONER OF LAW REVISION, SARAWAK
UNDER THE AUTHORITY OF THE REVISION OF LAWS ORDINANCE, 1992
2009

COMMISSIONS OF INQUIRY ORDINANCE

CHAPTER 6 (1958 Ed.)

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COMMISSIONS OF INQUIRY ORDINANCE

CHAPTER 6 (1958 Ed.)

An Ordinance to provide for Commissions of Inquiry.

[16th December, 1946]

Short title

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

Power to issue Commissions

2.—(1) It shall be lawful for the Yang di-Pertua Negeri wherever he shall deem it advisable to issue a Commission appointing one or more Commissioners, and authorizing such Commissioners or any quorum of them therein mentioned, to inquire into the conduct of any officer or officers in the public service of Sarawak, the conduct or management of any department of the public service or any public or local institution or into any matter within the legislative or executive authority of the State in which an inquiry would, in the opinion of the Majlis Mesyuarat Kerajaan Negeri be for the public welfare.

[Mod. Swk. L.N. 68/64; Am.Ord. No. 9/76; Cap. A28.]

(2) The Commission shall specify the subject of the inquiry and may if there is more than one Commissioner—

(a) direct which Commissioner shall be Chairman;

(b) direct where and when such inquiry shall be made and the report thereof rendered;

- (c) prescribe how such Commission shall be executed; and
- (d) direct whether the inquiry, or any part thereof, shall or shall not be held in public.

Power to add or substitute Commissioners

3.—(1) The Yang di-Pertua Negeri may add to the persons named in any such Commission, and, in case any person appointed or added under this Ordinance shall die or resign or desire to be discharged or refuse or become incapable to act, the Yang di-Pertua Negeri may appoint a new Commissioner in his place, and all the powers and duties by this Ordinance conferred and imposed on a Commissioner shall be exercised and performed by the Commissioner so added or appointed.

(2) When a new Commissioner has been appointed under subsection (1), it shall not be necessary for any evidence which may have been taken before the Commission prior to such appointment to be retaken.

Extension of time

4. The Yang di-Pertua Negeri may, by indorsement under his hand on a Commission, extend the time for the execution of the Commission, whether the time for the execution thereof has expired or not.

[Am. Ord. No. 9/76.]

Change of Yang di-Pertua Negeri

5. No Commission issued under this Ordinance shall lapse by reason of, or be otherwise affected by, the death, absence, retirement or removal of the Yang di-Pertua Negeri issuing such Commission.

[Am. Ord. No. 9/76.]

Appointment of Secretary

6. The Yang di-Pertua Negeri may appoint a Secretary to attend the sittings of the Commission, to record their proceedings, to keep their papers, summon and record the evidence of witnesses and generally to perform such duties connected with the inquiry as the Commissioners shall order, subject to the directions, if any, of the Yang di-Pertua Negeri.

[Am. Ord. No. 9/76.]

As to oath of office by Commissioners

7. It shall be the duty of each Commissioner appointed under this Ordinance to make and subscribe an oath or affirmation in the form in the Schedule, which oath or affirmation may be taken before the Yang di-Pertua Negeri, or before such person as the Yang di-Pertua Negeri may appoint, and shall be deposited by the Commissioner with the State Secretary.

*[Added Ord. No. 7/61; Mod. Swk. L.N. 68/64;
Am. Ord. No. 9/76.]*

Duties of Commissioners defined

8. It shall be the duty of the Commissioner, after taking such oath or making such affirmation, to make a full, faithful and impartial inquiry into the matter specified in such Commission, and to conduct such inquiry in accordance with the directions, if any, in the Commission, and, in due course, to report to the Yang di-Pertua Negeri in writing the result of such inquiry; and also, when required, to furnish to the Yang di-Pertua Negeri a full statement of the proceedings of such Commission, and of the reasons leading to the conclusions arrived at or reported.

[Added Ord. No. 7/61; Am. Ord. No. 9/76.]

Division of opinion of Commissioners

9. If the Commissioners shall, in any case, be equally divided on any question that arises during the proceedings of the Commission, the Chairman of the Commission shall have a second or casting vote.

[Added Ord. No. 7/61.]

Duty of witness summoned

10. All persons summoned to attend and give evidence, or to produce books, plans, or documents at any sitting of any such Commission shall be bound to obey the summons served upon them as fully in all respects as witnesses are bound to obey a summons issued from the High Court.

[Added Ord. No. 7/61.]

Powers of Commissioners

11. The Commissioners shall have the following powers—

(a) to procure and receive all such evidence, written or oral, and to examine all such persons as witnesses as the Commissioners may think it necessary or desirable to procure or examine;

(b) to require the evidence, whether written or oral, of any witness to be made on oath or affirmation (such oath or affirmation to be that which could be required of the witness if he were giving evidence in a court) or by statutory declaration;

(c) to summon any person in Sarawak to attend any meeting of the Commissioners to give evidence or produce any document or other thing in his possession, and to examine him as a witness or require him to produce any document or other thing in his possession;

(d) to issue a warrant of arrest to compel the attendance of any person who, after having been summoned to attend, fails to do so, and does not excuse such failure to the satisfaction of the Commissioners, and to order him to pay all costs which may have been occasioned in compelling his attendance or by reason of his refusal to obey the summons, and also to fine such person a sum not exceeding one hundred ringgit;

[Am. Ord. No. 16/57.]

(e) to fine, in a sum not exceeding one hundred ringgit, any person attending, but leaving the Commission without the permission of the Commissioners, or refusing without cause to give evidence on oath or affirmation or 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 or omitting 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 on him;

[Sub. Ord. No. 7/61.]

(f) to admit any evidence, whether written or oral, which might be inadmissible in civil or criminal proceedings;

(g) subject to any direction contained in the Commission—

(i) to admit or exclude the public from the inquiry or any part thereof;

(ii) to admit or exclude the press from the inquiry or any part thereof;

(h) to award any person who has attended any meeting of the Commissioners, including any interpreter appointed under section 12, such sums as, in the opinion of the Commissioners, may have been reasonably incurred by him by reason of such attendance.

Interpreters

12.—(1) The Commissioners shall have the power to appoint any person, whether in the service of the Government or not, to act as interpreter in any matter brought before them and to translate any books, papers or writings produced to them.

(2) Any interpreter appointed under this section shall make and subscribe before the Commissioners the following affirmation—

“I..... do solemnly declare and affirm that I will faithfully perform the duties of interpreter and will truly interpret the questions put and the answers given by witnesses, and also statements made by the Commissioners, and will truly translate or explain and transcribe all documents entrusted to me for such purpose to the best of my ability, and that I will not, except as authorized by the Commissioners, directly or indirectly reveal the contents of such documents as may be entrusted to me, nor the evidence given by witnesses which may have been interpreted by me.”.

Allowances

13. Any sums awarded by the Commissioners under section 11 (*h*) shall be paid out of the public funds.

Use of evidence in civil and criminal proceedings

14. No evidence taken under this Ordinance shall be admissible in any civil or criminal proceedings whatsoever against the person who gave such evidence, except when such person is charged with giving or fabricating false evidence.

Penalty for threats, etc. to witnesses

15.—(1) Any person who hinders or attempts to hinder any person from giving evidence before the Commissioners, or by threats deters or attempts to deter any person from giving such evidence, shall be guilty of an offence: Penalty, imprisonment for two years and a fine of five thousand ringgit.

[Am. Ord. No. 16/57.]

(2) Any person who threatens, insults or injures any person for having given evidence, or on account of the evidence which he has given, before the Commissioners shall be guilty of an offence: Penalty, imprisonment for two years and a fine of five thousand ringgit.

[Am. Ord. No. 16/57.]

Penalty for contempt

16. Any person who commits an act of contempt as defined in section 17 against any Commissioner or the Secretary shall be guilty of an offence: Penalty, imprisonment for three months or a fine of five hundred ringgit.

[Am. Ord. No. 16/57; Ord. No. 7/61.]

Definition of contempt

17. The following shall be deemed to be an act of contempt within the meaning of section 16—

(a) any act of disrespect or any insult or threat offered to any Commissioner or the Secretary while sitting in Commission;

(b) any act of disrespect or any insult or threat offered to a Commissioner or the Secretary at any other time and place on account of his proceedings in his capacity as a Commissioner or the Secretary.

[Am. Ord. No. 7/61].

Manner of dealing with contempt

18.—(1) Where an act of contempt is committed in the presence of the Commissioners sitting in Commission, the Commissioners may, after hearing the offender in his defence, pass sentence upon him forthwith in accordance with section 16.

(2) In any other case, the Commissioners may summon the offender to appear before them at a time and place to be specified in such summons, there to show cause why he should not be judged to have committed an act of contempt and be dealt with in accordance with section 16.

(3) If any person, who has been summoned in accordance with subsection (2), fails to attend at the time and place specified in the summons, the Commissioners may issue a warrant to compel the attendance of such person.

Police to aid Commissioners

19.—(1) The Commissioners may require the Commissioner of Police to cause any matter relevant to the inquiry to be investigated.

(2) Any person appointed by the Commissioner of Police to investigate any such matter shall, for the purposes of such investigations, have all the powers in relation to police investigations given to police officers in any seizable case by the Criminal Procedure Code [*Act 593*], and shall, when authorized in writing by the Commissioner of Police, search any premises and take possession of any articles or documents as specified in such authority.

Preservation of order by the police

20. The Yang di-Pertua Negeri may request the Commissioner of Police to detail police constables to attend upon any such Commissioners, to preserve order during the proceedings and to serve summonses on witnesses, and to perform such ministerial duties as such Commissioners shall direct.

[Mod. Swk. L.N. 68/64; Am. Ord. No. 9/76.]

Representation

21.—(1) Any person whose conduct is the subject of inquiry under this Ordinance, or who is in any way implicated or concerned in the matter under inquiry, shall be entitled to be represented by an advocate at the whole of the inquiry, and any other person who may consider it desirable that he should be so represented may, by leave of the Commissioners, be so represented.

(2) The State Attorney General, and any person acting under the direction of the State Attorney General may, if requested so to do by the Commissioners, or if in the opinion of the State Attorney General such course is expedient in the public interest, appear and examine witnesses or adduce evidence before the Commissioners, and shall have a right of audience before the Commissioners.

[Am. Ord. No. 2/57; Ord. No. 7/61; Mod. Swk. L.N. 68/64.]

Commissioners to be public servants and inquiries to be judicial proceedings

22. Every Commissioner appointed under this Ordinance shall, so long as he is acting as such Commissioner, be deemed to be a public servant within the meaning of the Penal Code [*Act 574*], and every inquiry under this Ordinance shall be deemed to be a judicial proceeding within the meaning of the said law.

Commissioners to have powers of Sessions Court

23. For the purposes of recovering any costs awarded, or enforcing the payment of any fine ordered or imposed, or giving effect to any warrant of arrest or order of imprisonment, the Commissioners or any of them shall have the powers of a Sessions Court.

[Am. Subordinate Courts Act 1948 (Act 92).]

Protection of Commissioners and witnesses

24.—(1) No Commissioner shall be liable to any suit or other proceeding for any act or thing done by him as such Commissioner.

(2) All evidence given for the purposes of any inquiry under this Ordinance shall be absolutely privileged, so that the witness giving such evidence shall not be liable to any suit or other civil proceeding in respect of such evidence.

Procedure and forms

25. Subject to this Ordinance, the procedure to be followed by the Commissioners and the form of any order, summons, warrant or other document made or issued for the purposes of this Ordinance shall be in the discretion of the Commissioners.

Remuneration to Commissioners

26. Commissioners appointed under this Ordinance shall not be entitled to any remuneration, unless such remuneration shall be specially granted by the Majlis Mesyuarat Kerajaan Negeri, beyond the actual expenses incurred in holding the inquiry, but the Majlis Mesyuarat Kerajaan Negeri may direct what remuneration (if any) shall be paid to the Secretary, and to any other person employed in or about any such Commission, and may direct payment of any other expenses attendant upon the carrying out of any such Commission, or upon any proceedings for any penalty under this Ordinance. Such sums, so granted or directed to be paid, shall be paid out of the Consolidated Fund of Sarawak.

[Am. Ord. No. 7/61; Mod. Swk. L.N. 678/64; Ord. No. 9/76].

Commissions, etc. to be published in the Gazette

27. Every Commission under this Ordinance and every revocation of any such Commission, shall be published in the *Gazette* and shall take effect from the date of such publication.

[Am. Ord. No. 7/61.]

SCHEDULE

(Section 7)

FORM OF OATH OR AFFIRMATION TO BE TAKEN BY A COMMISSIONER

I, _____, having been appointed under a Commission issued by the Yang di-Pertua Negeri and dated the day of _____ 19____, to be a Commissioner to inquire into the matters specified in the said Commission, do swear (or do solemnly and sincerely affirm) that I will faithfully, fully, impartially, and to the best of my ability discharge the trust, and perform the duties devolving upon me by virtue of the said Commission.

*In the case of an Oath here add
[So help me God.]*

Sworn / Affirmed by
at
this _____ day of

Before me:

Commissioner.

[Am. Ord. No. 9/76.]

LAWS OF SARAWAK

**Chapter 56
(1958 Edition)**

COMMISSIONS OF INQUIRY ORDINANCE

LIST OF AMENDMENTS

Amending law

Short titles

In force from



DICETAK OLEH PERCETAKAN NASIONAL MALAYSIA BERHAD, KUCHING, SARAWAK
BAGI PIHAK DAN DENGAN KUASA PERINTAH KERAJAAN SARAWAK