
AN ACT

An Act to enable the appointment of Commissions of Inquiry, to prescribe their powers and procedure, to facilitate the performance of their functions, and to provide for matters connected with or incidental to the aforesaid matters.

BE IT ENACTED BY THE NITIJELA OF THE MARSHALL ISLANDS:

1 Section 1. Short title and effective date.

2 This Act may be cited as the Commissions of Inquiry Act 1986
3 and shall come into effect on the date on which it becomes law.

4 Section 2. Power to appoint Commissions of Inquiry.

5 (1) Whenever it appears to the President to be necessary that
6 an inquiry should be held and information obtained as to -

7 (a) the administration of any department of
8 Government or of any public or local authority
9 or institution; or

10 (b) the conduct of any member of the public
11 service; or

12 (c) any matter in respect of which an inquiry will
13 in his opinion, be in the interest of the
14 public safety, national security or welfare,

15 the President may, by warrant under the Public Seal of the Republic,
16 appoint a Commission of Inquiry consisting of one or more members to
17 inquire into and report upon such administration, conduct or matter.

18 (2) Every warrant issued under this Act shall -

19 (a) set out the name of the member or each of the
20 members of the Commission

1 (b) where a Commission consists of more than one
2 member specify the member who is to be the
3 Chairman of the Commission;

4 (c) contain the terms of reference of the
5 Commission; and

6 (d) include a direction whether the inquiry or
7 any part thereof shall or shall not be held
8 in public.

9 Section 3. Appointment of additional members.

10 (1) The President may add to the numbers of any
11 commission appointed under Section 2, and where any member so appointed
12 or added dies, or resigns, or desires to be discharged, or refuses or
13 becomes unable to act, the President may appoint a new member in his
14 place.

15 (2) When a new member has been appointed under the provisions
16 of Subsection (1), it shall not be necessary for any evidence which may
17 have been taken before the Commission prior to such appointment, to be
18 retaken.

19 Section 4. Extension of time.

20 The President may, from time to time, by endorsement under his
21 hand on a warrant issued under this Act, extend the time for the
22 rendering of the report of the Commission appointed by such warrant,
23 whether the time for the rendering of such report has expired or not.

24 Section 5. Alteration or revocation of warrant.

25 The President may at any time alter for the purposes of

1 Section 3 or Section 4, or revoke, any warrant issued under this Act.

2 Section 6. Change of President.

3 No warrant issued under this Act shall lapse by reason of, or
4 be affected by, the death, absence, retirement, resignation or removal
5 of the President who issued the warrant.

6 Section 7. Powers of Commission.

7 A Commission appointed under this Act shall have the following
8 powers: -

- 9 (a) to procure and receive all such evidence,
10 written or oral, and to examine all such
11 persons as witnesses as the Commission may
12 think it necessary or desirable to procure
13 or examine;
- 14 (b) to require the evidence (whether written or
15 oral) of any witness to be given on oath or
16 affirmation, such oath or affirmation to be
17 that which is required of the witness if he
18 were giving evidence in a court of law, and
19 to administer or cause to be administered by
20 an officer authorized in that behalf by the
21 Commission an oath or affirmation to every
22 such witness;
- 23 (c) to summon any person residing in the Republic
24 of the Marshall Islands to attend any meeting
25 of the Commission to give evidence or produce

1 any document or other thing in his possession,
2 and to examine him as a witness or require
3 him to produce any document or other thing in
4 his possession;

5 (d) notwithstanding any of the provisions of the
6 rules of evidence in force, to admit any
7 evidence, whether written or oral, which
8 might be inadmissible in civil or criminal
9 proceedings;

10 (e) subject to any direction contained in the
11 warrant -

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

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

16 (f) to recommend that any person whose conduct is
17 the subject of inquiry under this Act or who
18 is in any way implicated or concerned in the
19 matter under inquiry be awarded such sum of
20 money as, in the opinion of the commission,
21 may have been reasonably incurred by such
22 person as costs and expenses in connection
23 with the inquiry. In this paragraph "costs
24 and expenses" includes the costs of
25 representation by attorney-at-law, and

1 travelling and other expenses incidental to
2 the inquiry or consequential upon the
3 attendance of such person at the inquiry.

4 Section 8. Conferment of additional powers on a Commission.

5 (1) All or any of the following powers may be conferred by
6 the President on a Commission appointed under this Act if the Commission
7 so requests: -

8 (a) to require by written notice the manager of any
9 bank in the Republic of the Marshall Islands to
10 produce, as specified in the notice, any book or
11 document of the bank containing entries relating
12 to the account of any person whose conduct is
13 being inquired into by the Commission or of the
14 spouse or a son or daughter of such person, or
15 to furnish, as so specified, certified copies of
16 such entries;

17 (b) to require by written notice the Chief of
18 Revenue to furnish, as specified in the notice,
19 all information available to such chief relating
20 to the affairs of any person whose conduct is
21 being inquired into by the Commission or of any
22 spouse or a son or daughter of such person, and
23 to produce or furnish, as so specified, any
24 document relating to such person, spouse, son or
25 daughter, which is in the possession or under
26 the control of such Chief.

1 (2) A Commission appointed under this Act may exercise any
2 power conferred on the commission under Subsection (1) of this Section,
3 and any person to whom the Commission issues any direction in the
4 exercise of such power shall carry out such direction notwithstanding
5 anything to the contrary in any other law.

6 Section 9. Members of Commissions deemed to be public servants.

7 The members of a Commission appointed under this Act shall,
8 as long as they are acting as such members, be deemed to be public
9 servants for the purposes of 11 TTC Chapter 7 and Chapter 22 (1980 Edn.),
10 and every inquiry under this Act shall be deemed to be a judicial
11 inquiry for the purposes of 11 TTC (1980 Edn.).

12 Section 10. Punishment of contempt.

13 Every offence of contempt committed against or in disrespect
14 of the authority of a commission appointed under this Act shall be
15 punishable by the High Court as though it were an offence of contempt
16 committed against or in disrespect of the authority of that court.

17 Section 11. Summons.

18 (1) Every summons shall, in any case where a commission
19 consists of one member only, be under the hand of that member, and in
20 any case where a commission consists of more than one member, be under
21 the hand of the Chairman of the ~~Commission~~.

22 Provided that where a person has been appointed under
23 Section 19 to act as secretary, any such summons may, with the authority
24 of the commission, be issued under the hand of the secretary.

1 (2) Any summons may be served by delivering it to the person
2 named therein, or if that is not practicable, by leaving it at the last
3 known place of abode of that person.

4 (3) Every person on whom a summons is served shall attend
5 before the commission at the time and place specified therein, and shall
6 give evidence or produce such documents or other things as are required
7 of him and are in his possession or power, according to the tenor of the
8 summons.

9 Section 12. Failure to obey summons, to give evidence etc.

10 (1) If any person upon whom a summons is served under this
11 Act

12 (a) fails without cause which in the opinion of the
13 commission is reasonable, to appear before the
14 commission at the time and place specified in
15 the summons; or

16 (b) refuses to be sworn or affirmed or, having been
17 duly sworn or affirmed refuses or fails without
18 cause which in the opinion of the commission is
19 reasonable, to answer any question put to him
20 touching the matters directed to be inquired
21 into by the commission; or

22 (c) refuses or fails without cause which in the
23 opinion of the commission is reasonable, to produce
24 to the commission any document or other thing which
25 is in his possession or power and which is in the

1 opinion of the commission necessary for
2 arriving at the truth of the matters to be
3 inquired into,
4 such person shall be guilty of the offence of contempt against or in
5 disrespect of the authority of the commission.

6 (2) Where a commission determines that a person has committed
7 any offence of contempt (referred to in Subsection (1) against or in
8 disrespect of its authority, the commission may cause its secretary to
9 transmit to the High Court a certificate setting out such determination;
10 every such certificate shall be signed by the Chairman of the
11 commission, or where the Commission consists of only one person, by that
12 person.

13 (3) In any proceedings for the punishment of an offence of
14 contempt which the High Court may think fit to take cognizance of as
15 provided in Section 10, any document purporting to be a certificate
16 signed and transmitted to the court under Subsection (2) shall -

17 (a) be received in evidence, and be deemed to be
18 a certificate without further proof unless the
19 contrary is proved; and

20 (b) be conclusive evidence that the determination
21 set out in the certificate was made by the
22 commission, and of the facts stated in the
23 determination.

24 (4) In any proceedings taken as provided in Section 10 for
25 the punishment of any alleged offence of contempt against or in

1 disrespect of the authority of any Commission, no member of the
2 Commission shall, except with his own consent, be summoned or examined
3 as a witness.

4 Section 13. Privileges of witnesses.

5 Every witness who gives evidence before a commission appointed
6 under this Act shall, in respect of such evidence, be entitled to all
7 the privileges to which a witness giving evidence in a court of law is
8 entitled in respect of the evidence given by him before such court. In
9 case of any inconsistency or conflict with the rest of the provisions of
10 this Act, the provisions of this section shall prevail.

11 Section 14. Special immunity for witnesses.

12 Where the President in the warrant of appointment of a
13 Commission or by subsequent order declare that this Section shall apply
14 to or in relation to such commission, the following provisions shall
15 have effect, that is to say: -

16 (a) Subject as hereinafter provided, no person
17 shall, in respect of any evidence, written or
18 oral, given by that person to or before the
19 commission at the inquiry, be liable to any
20 action prosecution or other proceedings in any
21 civil or criminal court.

22 (b) Subject as hereinafter provided, no evidence
23 of any statement made or given by any person
24 to or before the commission for purposes of the
25 commission shall be admissible against that

1 person in any action, prosecution, or other
2 proceedings in any civil or criminal court:

3 Provided, however, that nothing in the preceding paragraphs shall -

4 (i) abridge or affect or be deemed or
5 construed to abridge or affect the
6 liability of any person to any pro-
7 secution or penalty for any offence
8 under Sections 56, 57, 58 and 59 of the
9 Judiciary Act 1983 read with Section 9
10 of this Act; or

11 (ii) prohibit or be deemed or construed to
12 prohibit the publication or disclosure
13 of the name or of the evidence or any part
14 of the evidence of any witness who gives
15 evidence at the inquiry, for the purpose
16 of the prosecution of that witness for any
17 offence under 11 TTC Chapter 25 (1980 Edn.).

18 Section 15. Presumption on production of record of evidence.

19 Every document produced before any court and purporting to
20 be a record or memorandum of the evidence or any part of the evidence
21 given by a witness examined before a Commission under this Act and
22 purporting to be signed by the members thereof shall be presumed to be
23 genuine and shall be admissible in evidence without further proof.

24 Section 16. Representation of persons.

25 Every person who is the subject of inquiry under this Act, or

1 who is in any way implicated or concerned in the matter under inquiry,
2 shall be entitled to be represented by one or more attorneys-at-law at
3 the whole of the inquiree; and any other person who may consider it
4 desirable that he should be so represented may, by leave of the
5 commission, be represented in the manner aforesaid.

6 Section 17. Costs and other expenses.

7 (1) On the conclusion of any inquiry under this Act, and on
8 the recommendation of the commission, the Minister of Finance may, by
9 order under his hand, award to any person whose conduct has been the
10 subject of such inquiry or who has been in any way implicated or
11 concerned in the matter under inquiry or to any bank whose manager has
12 complied with a notice issued in connection with such inquiry by the
13 commission in the exercise of powers conferred on the commission by the
14 President under Section 3(1)(a) such sum of money as the Minister of
15 Finance may in his discretion, specify in the order as sufficient to
16 meet the costs and expenses which may have been reasonably incurred by
17 such person or bank in connection with the inquiry. In this Subsection
18 "costs and expenses" includes the costs of representation by
19 attorney-at-law, and travelling and other expenses incidental to the
20 inquiry or consequential upon the attendance of such person at the
21 inquiry, and, in the case of a bank, the clerical, travelling and other
22 expenses consequential upon compliance with the aforesaid notice.

23 (2) All moneys awarded by order of the Minister of Finance
24 under Subsection (1) shall be a charge on the Marshall Islands General
25 Fund and the payment of all such moneys is hereby authorized.

1 Section 18. Protection of members of Commissions.

2 No civil or criminal proceedings shall lie against any member
3 of a commission in respect of any act in good faith done or omitted to
4 be done by him as such member.

5 Section 19. Appointment of Secretary and interpreters.

6 (1) The President may appoint any person to act as secretary
7 to a commission and such person shall perform such duties connected with
8 the inquiry as the Commission may order subject to the directions, if
9 any, of the President.

10 (2) A Commission may appoint any person to act as interpreter
11 in any matter arising at the inquiry and to translate any book
12 document, or other writing produced at the inquiry.

13 Section 20. Exemption from stamp duty.

14 No stamp duty shall attach or be payable for any process
15 issued by or by the authority of a commission appointed under this Act.

16 Section 21. Service of process.

17 Every process issued by a Commission appointed under this Act
18 shall be served and executed by the Chief of Police.

19 Section 22. Remuneration of members of commission.

20 The members of a commission appointed under this Act may be
21 paid such compensation and allowances to meet expenses reasonably
22 incurred by them in the performance of their duties as such members, as
23 the President may determine.

24 Section 23. Report of commissions.

25 The report of any commission appointed under this Act shall be

1 presented by the President to the Nitijela as soon as may be convenient.
2 and published as a sessional paper of the Nitijela.

3 Certificate

4 I hereby certify:

5 (1) that the Nitijela Bill No. 71 N.D.-1 has been passed by the
6 Nitijela of the Marshall Islands on the 4th day of December, 1986; and

7 (2) that I am satisfied that Nitijela Bill No. 71 N.D.-1 has
8 been passed in accordance with the Constitution of the Marshall Islands
9 and the Rules of the Nitijela.

10 I hereby place my signature before the Clerk of the Nitijela this 6th
11 day of January, 1987.

12

13 /s/ Andrew Hisaiah
14 Andrew Hisaiah, Vice Speaker
Nitijela of the Marshall Islands

15

16 Attest:

17

18 /s/ Rufina N. Jack
19 Rufina N. Jack, Clerk
Nitijela of the Marshall Islands

20