

## ROYAL COMMISSIONS.

### No. 4 of 1912.

An Act to amend the *Royal Commissions Act 1902*.

[Assented to 19th August, 1912.]

**B**E it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows :—

Short title and citation.

1.—(1.) This Act may be cited as the *Royal Commissions Act 1912*.

(2.) The *Royal Commissions Act 1902* is in this Act referred to as the Principal Act.

(3.) The Principal Act, as amended by this Act, may be cited as the *Royal Commissions Act 1902–1912*.

Amendment of s. 2.

2. Section two of the Principal Act is amended by omitting therefrom the words “material to the subject-matter of the inquiry,” and inserting in their stead the words “which he is required by the summons to produce.”

3. After section one of the Principal Act the following sections are inserted :—

Power to issue Royal Commission.

“1A. Without in any way prejudicing, limiting, or derogating from the power of the King, or of the Governor-General, to make or authorize any inquiry, or to issue any commission to make any inquiry, it is hereby enacted and declared that the Governor-General may, by Letters Patent in the name of the King, issue such commissions, directed to such person or persons, as he thinks fit, requiring or authorizing him or them or any of them to make inquiry into and report upon any matter specified in the Letters Patent, and which relates to or is connected with the peace, order, and good government of the Commonwealth, or any public purpose or any power of the Commonwealth.

Definition.

“1B. In this Act, unless the contrary intention appears—

‘Commission’ and ‘Royal Commission’ means any Commission of inquiry issued by the Governor-General by Letters Patent in pursuance of this Act or of any other power, and includes the members of the Commission, or a quorum thereof, or the sole Commissioner, sitting for the purposes of the inquiry ;

‘reasonable excuse’ in relation to any act or omission by a witness or a person summoned as a witness before a Commission means an excuse which would excuse an act or omission of a similar nature by a witness or a person summoned as a witness before a court of law.”

4. Section five of the Principal Act is amended by omitting the words "be liable, on summary conviction, to a penalty not exceeding Fifty pounds" and inserting in their stead the words "be guilty of an offence."

Amendment of s. 5.

Penalty : Five hundred pounds."

5. Section five of the Principal Act is amended by adding thereto the following sub-section :—

Further amendment of s. 5.

"(2.) It shall be a defence to a prosecution under this section for failing without reasonable excuse to produce any documents, books, or writings, if the defendant proves that the documents, books, or writings were not relevant to the inquiry."

6. Section six of the Principal Act is amended—

Amendment of s. 6.

- (a) by inserting after the word "question" the words "relevant to the inquiry";
- (b) by omitting the words "touching the subject-matter of the inquiry"; and
- (c) by omitting the words "be liable on summary conviction to a penalty not exceeding Fifty pounds" and inserting in their stead the words "be guilty of an offence."

Penalty : Five hundred pounds."

7. After section six of the Principal Act the following sections are inserted :—

"6A. Every witness who has been summoned to attend a Royal Commission shall appear and report himself from day to day unless excused by the President or Chairman of the Commission or until he is released from further attendance by the President or Chairman of the Commission.

Duty of witness to continue in attendance.

"6B.—(1.) If any person served with a summons to attend a Royal Commission as a witness fails to attend the Commission in answer to the summons, the President or Chairman may, on proof by statutory declaration of the service of the summons, issue a warrant for his apprehension.

Arrest of witness failing to appear.

"(2.) The warrant shall authorize the apprehension of the witness and his being brought before the Commission, and his detention in custody for that purpose until he is released by order of the President or Chairman.

"(3.) The warrant may be executed by any member of the police force of the Commonwealth or of a State or Territory, or by any person to whom it is addressed, and the person executing it shall have power to break and enter any place building or vessel for the purpose of executing it.

"(4.) The apprehension of any witness under this section shall not relieve him from any liability incurred by him by reason of his non-compliance with the summons.

Acts or omissions on different days to constitute separate offences.

“6C. Where any person has on any day done or omitted to do something, and his act or omission amounts to an offence against section five or section six of this Act, and does or omits to do the same thing at any meeting of the Commission held on some other day, each such act or omission shall be a separate offence.

Witness need not disclose secret process.

“6D. Nothing in this Act shall make it compulsory for any witness before a Royal Commission to disclose to the Commission any secret process of manufacture.

Statements made by witness not admissible in evidence against him.

“6DD. A statement or disclosure made by any witness in answer to any question put to him by a Royal Commission or any of the Commissioners shall not (except in proceedings for an offence against this Act) be admissible in evidence against him in any civil or criminal proceedings in any Commonwealth or State Court or any Court of any Territory of the Commonwealth.

Penalty in case of offence committed after a previous conviction.

“6E. Where any person, who has been convicted of any offence against section five or section six of this Act, is subsequently convicted on information by the Attorney-General of any offence against either of those sections, committed by him after the first-mentioned conviction and in relation to the same Commission, he shall be liable to a penalty of not less than Five hundred pounds and not more than One thousand pounds, and to imprisonment for such period not exceeding three months as the Court thinks fit to order.

Power of Commission in relation to documents produced

“6F. A Royal Commission may inspect any documents, books, or writings produced before it, and may retain them for such reasonable period as it thinks fit, and may make copies of such matter as is relevant to the inquiry or take extracts from them.

Witness to be paid expenses.

“6G.—(1.) Any witness appearing before a Royal Commission shall be paid a reasonable sum for the expenses of his attendance in accordance with the prescribed scale.

(2.) In the absence of a prescribed scale, the President, or Chairman of the Commission, or the sole Commissioner, may authorize the payment of such sum as he deems reasonable.

Giving false testimony.  
Cf. Qd. C.C.  
s. 123.

“6H. Any witness before a Royal Commission who knowingly gives false testimony touching any matter, material in the inquiry being made by the Commission, shall be guilty of an indictable offence.

Penalty : Imprisonment for five years.

Bribery of witness.  
Cf. Qd. C.C.  
s. 127.

“6I. Any person who—

- (a) gives, confers, or procures, or promises or offers to give or confer, or to procure or attempt to procure, any property or benefit of any kind to, upon, or for, any person, upon any agreement or understanding that any person called or to be called as a witness before any Royal Commission shall give false testimony or withhold true testimony, or
- (b) attempts by any means to induce a person called or to be called as a witness before any Royal Commission to give false testimony, or to withhold true testimony, or

(c) asks, receives or obtains, or agrees or attempts to receive or obtain any property or benefit of any kind for himself, or any other person, upon any agreement or understanding that any person shall as a witness before any Royal Commission give false testimony or withhold true testimony,

shall be guilty of an indictable offence.

Penalty : Imprisonment for five years.

“6j. Any person who practises any fraud or deceit, or knowingly makes or exhibits any false statement, representation, token, or writing, to any person called or to be called as a witness before any Royal Commission with intent to affect the testimony of that person as a witness, shall be guilty of an indictable offence.

Fraud on witness.  
Cf. Qd. C.C. s. 125.

Penalty : Imprisonment for two years.

“6k. Any person who, knowing that any book, document, or writing is or may be required in evidence before any Royal Commission, wilfully destroys it or renders it illegible or undecipherable or incapable of identification, with intent thereby to prevent it from being used in evidence, shall be guilty of an indictable offence.

Destroying books or documents.  
Cf. ib. s. 129.

Penalty : Imprisonment for two years.

“6l. Any person who wilfully prevents or wilfully endeavours to prevent any person who has been summoned to attend as a witness before any Royal Commission from attending as a witness or from producing anything in evidence pursuant to the summons to attend shall be guilty of an indictable offence.

Preventing witness from attending.  
Cf. ib. s. 130.

Penalty : Imprisonment for one year.

“6m. Any person who uses, causes, inflicts, or procures, any violence, punishment, damage, loss, or disadvantage to any person for or on account of his having appeared as a witness before any Royal Commission, or for or on account of any evidence given by him before any Royal Commission, shall be guilty of an indictable offence.

Injury to witness.  
Cf. Act No. 1, 1905 s. 10.

Penalty : Five hundred pounds, or imprisonment for one year.

“6n.—(1.) Any employer who dismisses any employee from his employment, or prejudices any employee in his employment, for or on account of the employee having appeared as a witness before a Royal Commission, or for or on account of the employee having given evidence before a Royal Commission, shall be guilty of an indictable offence.

Dismissal by employers of witness.  
Cf. ib. s. 11.

Penalty : Five hundred pounds, or imprisonment for one year.

(2.) In any proceeding for any offence against this section it shall lie upon the employer to prove that any employee shown to have been dismissed or prejudiced in his employment was so dismissed or prejudiced for some reason other than the reasons mentioned in sub-section (1.) of this section.

“6o.—(1.) Any person who wilfully insults or disturbs a Royal Commission, or interrupts the proceedings of a Royal Commission, or uses any insulting language towards a Royal Commission, or by

Contempt of Royal Commission.  
Cf. Act No. 13, 1904, s. 53.

writing or speech uses words false and defamatory of a Royal Commission, or is in any manner guilty of any wilful contempt of a Royal Commission, shall be guilty of an offence.

Penalty : One hundred pounds or imprisonment for three months.

(2.) If the President or Chairman of a Royal Commission or the sole Commissioner is a Justice of the High Court, or a Judge of the Supreme Court or County Court or District Court of a State, he shall, in relation to any offence against sub-section (1.) of this section committed in the face of the Commission, have all the powers of a Justice of the High Court sitting in open Court in relation to a contempt committed in face of the Court, except that any punishment inflicted shall not exceed the punishment provided by sub-section (1.) of this section."

Repeal of sub-sec.(3.) of s. 7.

8. Section seven of the Principal Act is amended by omitting therefrom sub-section (3.).

9. After section eight of the Principal Act the following heading and sections are inserted :—

"LEGAL PROCEEDINGS.

Institution of proceedings for indictable offences.

"9. Proceedings for the commitment for trial of any person charged with an indictable offence against this Act may be instituted by any person.

Institution of proceedings in respect of other offences.

Cf. Act No. 6, 1901 s. 245.

"10.—(1.) Proceedings in respect of any offence against this Act (other than an indictable offence) may be instituted by action, information, or other appropriate proceeding, in the High Court by the Attorney-General in the name of the King, or by information or other appropriate proceeding by any person in any court of summary jurisdiction.

(2.) Any proceedings in the High Court under this section may be heard and determined by a single Justice of the High Court sitting without a jury.

Procedure in cases instituted in the High Court.

Cf. ib. s. 247.

"11. Proceedings in the High Court under the last preceding section may be commenced, prosecuted, and proceeded with in accordance with the practice and procedure of the Court applicable to Crown suits for the recovery of penalties, or in accordance with the directions of the Court or a Justice.

Powers of Court on conviction as regards pecuniary penalties.

Cf. ib. s 253.

"12. Where any pecuniary penalty is adjudged to be paid by any person convicted of an offence against this Act the Court may—

- (a) commit the offender to gaol until the penalty is paid ; or
- (b) release the offender upon his giving security for the payment of the penalty ; or
- (c) exercise for the enforcement of the recovery of the penalty any power of distress or execution possessed by the Court for the enforcement and recovery of penalties in any other case.

Levy of execution notwithstanding committal of offender.

Cf. ib. s. 259.

"13. The powers of distress and execution for the enforcement and recovery of penalties may be exercised in the case of any pecuniary penalty adjudged to be paid by any offender, notwithstanding that he has been committed to gaol until the penalty is paid.

“ 14. The gaoler of any gaol to which any offender has been committed for non-payment of any penalty shall discharge him—

Release of  
offender.  
Cf. Act No. 6,  
1901 s. 280.

- (a) on payment, by the offender to him, of the penalty adjudged ; or  
 (b) on a certificate from the proper officer of the Court that the penalty has been paid or realized ; or  
 (c) if the penalty adjudged to be paid is not paid or realized, according to the following table :—

Amount of Penalty.	Period after commencement of Imprisonment at the expiration of which Defendant is to be discharged.
£2 or under	Seven days.
Over £2 and not more than £5	Fourteen days.
Over £5 and not more than £20	One month.
Over £20 and not more than £50	Two months.
Over £50 and not more than £100	Three months.
Over £100 and not more than £200	Six months.
Over £200	One year.

“ 15. In any proceedings for an offence against this Act (other than proceedings for the commitment for trial of a person charged with an indictable offence) the Court may award costs against any party, and all provisions of this Act relating to the recovery of penalties, except as to commitment to gaol, shall extend to the recovery of any costs adjudged to be paid.

Costs.  
Cf. ib. s. 268.

“ 16. In all legal proceedings the production—

- (a) of a document purporting to be Letters Patent in the name of the King, and purporting to be signed by the Governor-General and to be sealed with the seal of the Commonwealth, and purporting to be directed to any person or persons and to appoint him or them to be a Commissioner or Commissioners to make inquiry into any matter, or to authorize or require him or them to make inquiry into any matter, or  
 (b) of a document purporting to be a copy of any such Letters Patent and certified in writing by the person named therein as President or Chairman of the Commission or sole Commissioner, as the case may be, to be a true copy of the Letters Patent,

Evidence of  
issue of  
Commission.

shall be evidence that the Governor-General has issued the Commission.”

10. The provisions of this Act shall apply in relation to any Royal Commission issued before the commencement of this Act as well as in relation to Royal Commissions issued after its commencement.

Application of  
Act.

Provided that this section shall not be construed to authorize the application of this Act to proceedings in respect of offences committed before its commencement.