

STATE OF SABAH

INQUIRY COMMISSIONS ENACTMENT 1981 (Sabah No. 13 of 1981)

LIST OF AMENDMENTS

<i>Enactment No.</i>	<i>Sections amended</i>	<i>Effective date of amendment</i>
2/1987	19	16-4-1987

An Enactment to enable the Yang di-Pertua Negeri to appoint Commissioners to inquire into and report on matters referred to them and to perform other functions in connection therewith.

[3rd September 1981]

ENACTED by the Legislature of the State of Sabah as follows:

Short title.

1. This Enactment may be cited as the Inquiry Commissions Enactment, 1981.

Interpretation.

2. "Government Agency" means any body corporate established by State laws or any body corporate wholly owned by Government established under any written laws.

Power to issue commissions.

3. It shall be lawful for the Yang di-Pertua Negeri 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 inquire for the purposes of the State of Sabah into the conduct of any officer or officers in the public service of the State of Sabah or any members or officers, or servants of any Government Agency, the conduct or management of any department of the public service, any Government Agency or any public or local institution, or into any matter in which an inquiry would, in the opinion of the Yang di-Pertua Negeri be for the public welfare of the State. The Commission shall specify the subject of the inquiry and may, in the discretion of the Yang di-Pertua Negeri, if there is more than one Commission direct which Commissioner shall be Chairman, and direct where and when such inquiry shall be made and the report thereof rendered and prescribe how such Commission shall be executed and may direct whether the inquiry or any part thereof shall or shall not be held in public.

Power to add or substitute Commissioners.

4. (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 Enactment 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 Enactment 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 the provisions of 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.

Enlargement of time.

5. The Yang di-Pertua Negeri may by endorsement under his hand on a Commission enlarge the time for the execution of the Commission whether the time for the execution thereof has expired or not.

Change of Yang di-Pertua Negeri.

6. No Commission issued under this Enactment 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.

Appointment of Secretary.

7. 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, 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.

Powers of Commissioners.

8. 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 the High Court) or by statutory declaration;
 - (c) to summon any person in the State of Sabah 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 five hundred ringgit;
 - (e) to fine in a sum not exceeding one thousand five hundred ringgit any person who being required by the Commissioners to give evidence on oath or affirmation or to produce a document or other thing, refuses to do so and does

- not excuse such refusal to the satisfaction of the Commissioners;
- (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 10 such sums as in the opinion of the Commissioners may have been reasonably incurred by him by reason of such attendance.

Power to surcharge.

9. If it appears to the Commissioners that any person who is or was in the employment of any Government Agency—
- (a) has failed to collect any moneys owing to the Government Agency for the collection of which he is or was responsible;
 - (b) is or was responsible for any improper payment of moneys of the Government Agency or for any payment of moneys which is not duly vouched;
 - (c) is or was responsible for any deficiency in, or the destruction of, any moneys, stamps, securities, stores, or other property of the Government Agency;
 - (d) being or having been an accounting officer, fails or has failed to keep proper accounts or records;
 - (e) has failed to make any payment, or is or was responsible for any delay in the payment of Government Agency to any person to whom such payment is due under any law or under any contract, agreement or arrangement entered into between that person and the Government Agency, and if a satisfactory explanation is not, within a period specified by the Commissioners furnished to

the Commissioners with regard to the failure to Collect, improper payment, payment not duly vouched, deficiency or destruction, or failure to keep proper accounts or record, or failure to make payment, or delay in making payment, the Commissioners may surcharge against the said person a sum not exceeding the amount of any such amount not collected, such payment, deficiency, or loss or the value of the property destroyed, as the case may be; and with regard to the failure to keep proper accounts or records, or the failure to make payment, or the delay in making payment, the Commissioners may surcharge against the said person such sum as the Commissioners may think fit.

Interpreters.

10. (1) The Commissioners shall have the powers 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 authorised 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.

11. Any sums awarded by the Commissioners under paragraph (h) of section 8 shall be paid out of the public funds of the State.

Use of evidence in civil and criminal proceedings.

12. No evidence taken under this Enactment 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.

13. (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 and shall be liable on conviction to imprisonment for one year.

(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 and shall be liable on conviction to imprisonment for one year.

Penalty for contempt.

14. Any person who commits an act of contempt as defined in section 15 against the Commissioners or any of them shall be guilty of an offence and shall be liable to a fine of one thousand five hundred ringgit or to imprisonment for three months.

Definition of contempt.

15. The following shall be deemed to be an act of contempt within the meaning of section 14—

- (a) any act of disrespect or any insult or threat offered to the Commissioners or any of them while sitting in Commission;
- (b) any act of disrespect or any insult or threat offered to a Commissioner at any other time and place on account of his proceedings in his capacity as a Commissioner.

Manner of dealing with contempt.

16. (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 14.

(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 the provisions of section 14.

(3) If any person who has been summoned in accordance with the provisions of 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.

Public Prosecutor to aid Commissioners.

17. The Commissioners may require the Public Prosecutor to cause any matter relevant to the inquiry to be investigated.

Preservation of order by the police.

18. The Yang di-Pertua Negeri may direct 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 duties as such Commissioners shall direct.

Right to representation by counsel.

19. Any person whose conduct is the subject of inquiry under this Enactment, 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 Commissioner or Commissioners be represented in the manner aforesaid. The State Attorney-General or the Deputy State Attorney-General shall be entitled at any time to appear before and address the Commissioners on any matter which to the State Attorney-General appears to be relevant to

the inquiry.

Commissioners to be public servants and inquiries to be judicial proceedings under the Penal Code.

20. 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 Enactment shall be deemed to be a judicial proceeding within the meaning of the same code.

Commissioners to have power of Judge.

21. 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 Judge of the High Court.

Protection of Commissioners and witnesses.

22. (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 Enactment 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.

23. Subject to the provisions of this Enactment 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 Enactment shall be in the discretion of the Commissioners.

Repeal.

24. The Inquiry Commissions Ordinance Chapter 61 [Cap. 61.] is hereby repealed.