

COMMISSIONS OF INQUIRY LAW, 5729-1968\*

Decision to set up commission.

1. When it appears to the Government that a matter exists which is at the time of vital public importance and requires clarification, it may decide to set up a commission of inquiry which shall inquire into the matter and shall make a report to it.

Definition of subject of inquiry.

2. In the decision setting up a commission of inquiry, the Government shall define the matter which is to be the subject of the inquiry.

Number of members of commission.

3. A commission of inquiry shall consist of three members unless the Government, after consultation with the President of the Supreme Court, determines that it shall consist of a greater uneven number of members.

Appointment of chairman and members of commission.

4. (a) When the Government has decided to set up a commission of inquiry, it shall notify such fact to the President of the Supreme Court, who shall appoint the chairman and the other members of the commission.

(b) The chairman of the commission of inquiry shall be a Judge of the Supreme Court or a Judge of a District Court. Where a commission includes more than one judge, the Judge of the court of higher rank, and where it includes more than one Judge of a court of a particular rank, the one with the greatest length of service in that court shall be the chairman of the commission.

(c) The appointment of a Judge as member of a commission of inquiry shall not require the consent of the Minister of Justice under section 19 of the Judges Law, 5713-1953<sup>1</sup>).

Notice of setting-up of commission.

5. Notice of the setting-up of a commission of inquiry, of the subject of the inquiry, as defined by the Government, and of the names of the members of the commission shall be published in *Reshumot*.

Changes in membership.

6. (a) If a member of a commission of inquiry has died or is permanently unable to carry out his functions, the President of the Supreme Court shall appoint another person to be a member of the commission in his place.

(b) Where the composition of a commission of inquiry has changed, then, unless the commission otherwise decides, it shall continue its work from the stage which it had reached before the change.

Procedure.

7. A commission of inquiry shall prescribe the procedure for its work and deliberations in so far as it is not prescribed by this Law or by regulations thereunder.

\* Passed by the Knesset on the 9th Tevet, 5729 (30th December, 1968) and published in *Sefer Ha-Chukkim* No. 548 of the 18th Tevet, 5729 (8th January, 1969), p. 28; the Bill and an Explanatory Note were published in *Haiza'ot Chok* No. 747 of 5728, p. 8.

1) *Sefer Ha-Chukkim* of 5713, p. 149 — *LSI* vol. VII, p. 124.

8. (a) Save as otherwise provided in this Law or in regulations made thereunder, a commission of inquiry is not bound to follow the rules of procedure of a court, and it may admit any evidence in any manner deemed by it to be expedient and lay down procedure for the examination of witnesses.

Independence as to rules of procedure and rules of evidence.

(b) Save as otherwise provided in this Law, a commission of inquiry is not bound by the rules of evidence.

9. (a) The chairman of a commission of inquiry may, with the sanction of the commission —

Powers of chairman.

(1) summon, and resummon, a person to attend before the commission and to testify or to produce documents or other exhibits in his possession;

(2) require a witness to testify on oath or affirmation in accordance with the provisions of the enactment applicable to the matter in a civil court;

(3) compel the attendance of a person who without satisfactory excuse has failed to comply with a summons under paragraph (1);

(4) order the taking of evidence abroad.

(b) The powers of the chairman of a committee as to these matters shall be the same as those of a court in a civil proceeding.

10. (a) A person summoned to testify before or to produce a document or other exhibit to a commission of inquiry shall have the same duties as a person examined under section 2 of the Criminal Procedure (Evidence) Ordinance<sup>1</sup>).

Status of witness.

(b) Subsection (a) shall not derogate from sections 5A to 5F of the Evidence Ordinance<sup>2</sup>).

11. (a) Where a person —

Refusal to testify.

(1) having been summoned to attend before a commission of inquiry has not so attended, or has attended but has without permission left the commission's place of sitting before giving evidence; or

(2) having been required to produce a document or other exhibit in his possession has not produced it; or

(3) having been lawfully required to take an oath or make an affirmation has not done so; or

(4) having been lawfully required to answer a question has not answered it or has knowingly given an evasive answer,

the chairman of the commission may, with the sanction of the commission, impose on him, even in his absence, a fine not exceeding 200 pounds.

1) *Laws of Palestine* vol. I, cap. 34, p. 467 (English Edition).

2) *Laws of Palestine* vol. I, cap. 54, p. 670 (English Edition).

(b) Where the chairman of the commission of inquiry has imposed a fine under subsection (a) on a person in his absence, he may, on the application of that person and with the sanction of the commission, reconsider the fine and may reduce or cancel it, and he shall cancel it if he is satisfied that the applicant refrained from doing as required for reasons beyond his control.

(c) Where the chairman of the commission of inquiry has imposed a fine under subsection (a), he shall immediately notify such fact, in writing, to the President of the Supreme Court, and the President or another Judge of the Supreme Court may, upon the application of the person on whom the fine has been imposed or otherwise, cancel or reduce the fine.

(d) A fine imposed under subsection (a) shall be collected like a fine imposed by a court in a criminal proceeding.

(e) Where a person, having failed to comply on being summoned or required as specified in subsection (a), is again so summoned or required and without reasonable excuse again fails to comply, he shall be liable to imprisonment for a term of two years. The imposition of a fine under subsection (a) shall not prevent the filing of a charge under this subsection.

Search  
warrant.

12. Where it appears to a commission of inquiry that a search should be made in order to ensure the production of a document or other exhibit required for the inquiry, the chairman of the commission may issue a search warrant. The warrant shall be issued and executed in like manner as a search warrant under the Criminal Procedure (Arrest and Searches) Ordinance<sup>1</sup>.

Collection of  
material.

13. (a) Where it appears to the commission that it is necessary to collect material required for the inquiry, the chairman of the commission may assign this task to a person who in the opinion of the commission is qualified for it.

(b) Where the commission sees fit to entrust the collection of material to an attorney of the State Attorney's Department or to a police officer, the same shall be placed at its disposal by the Attorney-General or by the Inspector-General of the Israel Police, as the case may be.

(c) Sections 9(a) (1) and 10 shall apply to the collection of material under this section.

Status of  
testimony.

14. Testimony given before a commission of inquiry or before a person entrusted with the collection of material under section 13 shall not be evidence in any legal proceeding, other than a criminal action in respect of the giving of that testimony.

Person  
likely to be  
harmed.

15. (a) Where it appears to a commission of inquiry that a particular person is likely to be harmed by the inquiry or by its results, the chairman

1) *Laws of Palestine* vol. I, cap. 33, p. 459 (English Edition).

of the commission shall notify that person in what respect he is likely to be harmed and shall place at his disposal, in such manner as he may think fit, such evidence relevant to that potential harm as is in the possession of the commission or of a person entrusted with the collection of material under section 13.

(b) A person notified under subsection (a) may attend before the commission either himself or through an advocate, make statements and examine witnesses (even if they have already testified before the committee), and the commission may permit him to present evidence, all in relation to the said potential harm.

(c) A person at whose disposal evidence has been placed under subsection (a) shall not publish any part thereof without the prior approval of the commission.

16. The Attorney-General may, himself or through his representative, attend before a commission of inquiry, within the framework of the procedure laid down under sections 7 and 8, take part in the examination of witnesses and make statements, and he shall do so if the commission so requests.

Attorney-General.

17. A commission of inquiry may instruct an advocate not in the State Service to assist it in any matter it may think fit, including the examination of witnesses testifying before it.

Appointment of advocate.

18. (a) A commission of inquiry shall deliberate in public: Provided that it may hold the whole or part of any hearing *in camera* if it deems it necessary so to do in the interest of protecting the security of the State, safeguarding morality or safeguarding the welfare of a minor.

Publicity of hearings.

(b) The provisions of sections 38(d), 39, 40(b), (d) and (e), 41, 42 and 43 of the Courts Law, 5717-1957<sup>1</sup>), shall apply *mutatis mutandis* to a commission of inquiry, and the provisions of section 38 of the Penal Law (State Security, Foreign Relations and Official Secrets) Law, 5717-1957<sup>2</sup>), shall apply *mutatis mutandis* to a person who attends before a commission under section 15. The powers vested in the court by the said provisions shall vest in the chairman of the commission.

19. (a) Upon completion of its proceedings, a commission of inquiry shall prepare a report of the results of its inquiry and, if it sees fit to add recommendations, of such recommendations, and shall submit such report to the Government.

Report of commission.

(b) Where a member of the commission dissents from the commission's report, his dissenting opinion shall be attached to such report.

20. (a) A commission of inquiry shall publish its report shortly after its submission to the Government: Provided that it may refrain from

Publication.

1) *Sefer Ha-Chukkim* of 5717, p. 148; *LSI* vol. XI, p. 157.

2) *Sefer Ha-Chukkim* of 5717, p. 172; *LSI* vol. XI, p. 186.

publishing the whole or part of the report if it deems it necessary so to do in the interest of protecting the security of the State, safeguarding morality or safeguarding the welfare of a minor.

(b) If the commission decides not to publish anything of its report, it shall publicly announce the submission of the report to the Government and its decision not to publish it.

(c) The commission may, if it sees fit so to do, publish the whole or part of the minutes of its proceedings.

Right of person suspected of an offence.

21. If the report of a commission of inquiry raises a suspicion that a particular person has committed an offence, and it has been decided not to bring him to trial for that offence, the Attorney-General shall, on his application, notify him of the reasons for the decision and, on his application, publish such reasons.

Report not to be evidence.

22. The report of a commission of inquiry shall not be evidence in any legal proceeding.

Subject requiring secrecy.

23. Where the Government, with the approval of the Foreign Affairs and Security Committee of the Knesset, determines that the subject-matter of the inquiry, or the proceedings of the commission, requires or require secrecy, the following provisions shall apply, unless the Government, with approval as aforesaid, decides to deviate from all or part of them :

(1) A notice of the setting-up of the commission of inquiry shall not be published;

(2) the provisions of section 38 of the Penal Law (State Security, Foreign Relations and Official Secrets) Law, 5717-1957, shall apply *mutatis mutandis*;

(3) a person who attends before the commission under section 15 shall only be represented by an advocate authorised to act as defence counsel under section 18 of the Military Justice Law, 5715-1955<sup>1)</sup>;

(4) the proceedings of the commission shall be held *in camera*;

(5) the commission shall submit its report also to the Foreign Affairs and Security Committee of the Knesset;

(6) the commission shall not publish its report or the minutes of its proceedings.

Immunity of member of commission.

24. A person who serves or has served as a member of a commission of inquiry shall, in connection with his functions as a member of the commission, have every immunity granted by law to a Judge, and, for the purposes of section 131 of the Criminal Code Ordinance, 1936<sup>2)</sup>, he shall be deemed to be a Judge.

1) *Sefer Ha-Chukkim* of 5715, p. 171; *LSI* vol. IX, p. 184.

2) *P.G.* of 1936, Suppl. I, No. 652, p. 285 (English Edition).

25. In the Criminal Code Ordinance, 1936 —

Amendment of  
Criminal Code  
Ordinance,  
1936.

(1) the words "or commission of inquiry" shall be inserted after the words "or tribunal" in the fourth paragraph of section 117(1);

(2) the words "or commission of inquiry" shall be inserted after the words "or tribunal" in section 119;

(3) the words "and also a commission of inquiry or a person appointed under section 13 of the Commissions of Inquiry Law, 5729-1968" shall be inserted at the end of the definition of "authority" in section 120A.

26. A person who, without approval, publishes any part of material placed at his disposal under section 15 or who publishes any part of the proceedings of a commission of inquiry held *in camera* or of any unpublished report or minutes of a commission of inquiry shall be liable to imprisonment for a term of six months.

Prohibition of  
publication.

27. (a) A member of a commission of inquiry is entitled to receive expenses in amounts fixed by the Director of Courts. The Director of Courts may award to a member of a commission of inquiry a remuneration of an amount fixed by him if he deems it justified so to do in the circumstances of the case.

Expenses and  
remuneration.

(b) Where a witness has been summoned to testify, or to produce any document or other exhibit, before a commission of inquiry, the chairman of the commission may award him travelling and lodging expenses, and a loss-of-working-time allowance, as if he were a witness summoned to testify before a court.

(c) A person not in the State Service charged with the collection of material under section 13 or an advocate charged with a task under section 17A is entitled to receive, in addition to reasonable expenses, remuneration of an amount fixed by the commission.

(d) Where a person has attended before a commission of inquiry under section 15, the commission may award him expenses, including representation expenses, of an amount fixed by it.

(e) The amounts referred to in this section shall be paid out of the Treasury.

28. (a) This Law shall not derogate from the power of a Minister to appoint an investigation commission to examine any matter within the scope of his functions so long as a commission of inquiry under this Law has not been appointed in respect thereof. Where a commission of inquiry has been appointed, an investigation commission shall not continue its activity.

Saving of  
powers and  
adaptation of  
enactments.

(b) Wherever under any enactment a person or authority is or may be granted powers of a commission of inquiry under the Commissions of Inquiry Ordinance<sup>1</sup>), and wherever a person or authority has been em-

1) *Laws of Palestine* vol. I, cap. 21, p. 157 (English Edition).

powered by any enactment to collect evidence for the purpose of exercising his or its power under any law, the provisions of sections 9 to 11 shall apply to him or it *mutatis mutandis*.

Bar to  
delegation  
of powers.

29. The powers of the Government under this Law are not capable of delegation.

Repeal.

30. The Commissions of Inquiry Ordinance is hereby repealed.

Implementation  
and regulations.

31. The Minister of Justice is charged with the implementation of this Law and may make regulations as to any matter relating to such implementation, including the procedure of commissions of inquiry.

LEVI ESHKOL  
*Prime Minister*

YAAKOV S. SHAPIRO  
*Minister of Justice*

SHNEUR ZALMAN SHAZAR  
*President of the State*

(No. 11)

EMERGENCY REGULATIONS (AREAS HELD BY THE DEFENCE  
ARMY OF ISRAEL — CRIMINAL JURISDICTION AND LEGAL  
ASSISTANCE) (EXTENSION OF VALIDITY) LAW, 5729-1968\*

Extension of  
validity.

1. The validity of the Emergency Regulations (Areas Held by the Defence Army of Israel — Criminal Jurisdiction and Legal Assistance), 5727-1967<sup>1)</sup>, is hereby extended until the 22nd Tevet, 5730 (31st December, 1969).

Commencement.

2. This Law shall come into force on the 10th Tevet, 5729 (31st December, 1968).

LEVI ESHKOL  
*Prime Minister*

YAAKOV S. SHAPIRO  
*Minister of Justice*

SHNEUR ZALMAN SHAZAR  
*President of the State*

\* Passed by the Knesset on the 9th Tevet, 5729 (30th December, 1968) and published in *Sefer Ha-Chukkim* No. 548 of the 18th Tevet, 5729 (8th January, 1969), p. 32; the Bill and an Explanatory Note were published in *Hatza'ot Chok* No. 798 of 5729, p. 20.

1) *Kovetz Ha-Takkanot* No. 2069 of 5727, p. 2741; *Sefer Ha-Chukkim* No. 517 of 5728, p. 20 — *LSI* vol. XXII, p. 20.