



Australian Capital Territory

Royal Commissions Act 1991

A1991-1

Republication No 5

Effective: 9 April 2004 – 29 April 2004

Republication date: 9 April 2004

Last amendment made by A2004-15

Not all amendments are in force: see last endnote

Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *Royal Commissions Act 1991* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 9 April 2004. It also includes any amendment, repeal or expiry affecting the republished law to 9 April 2004.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at www.legislation.act.gov.au):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication does not include amendments made under part 11.3 (see endnote 1).

Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

Penalties

The value of a penalty unit for an offence against this republished law at the republication date is—

- (a) if the person charged is an individual—\$100; or
- (b) if the person charged is a corporation—\$500.



Australian Capital Territory

Royal Commissions Act 1991

Contents

	Page
Part 1	Preliminary
1	Short title 2
3	Interpretation for Act 2
Part 2	Royal commissions
5	Appointment 4
6	Commissioners 4
7	Terms and conditions of appointment 5
9	Cessation of office 5
10	Resignation 5
11	Termination of appointment 5
12	Staff 5

R5
09/04/04

Royal Commissions Act 1991
Effective: 09/04/04-29/04/04

contents 1

	Page
Part 3 Inquiries	
13 Terms of reference	7
14 Conduct	7
15 Reports of commissions	7
16 Presenting reports	8
16A Chief Minister to explain non-presentation of report	8
Part 4 Proceedings of commissions	
Division 4.1 General	
17 Determination of questions	10
18 Counsel assisting commissions	10
19 Protection of commissioners etc	10
20 Nondisclosure of information by commissioners etc	11
21 Disclosure of information by commissions	12
22 Outstanding matters	12
Division 4.2 Evidence	
23 Procedure	13
24 Admissibility of evidence	13
Division 4.3 Powers	
25 Search warrants	13
26 Inspection and retention of documents	15
27 Additional powers	16
Division 4.4 Hearings	
28 Power to hold	16
29 Person presiding	17
30 Conduct	17
31 Appearance and representation	17
32 Presence of persons at private hearings	18
33 Examination of witnesses	18
34 Power to summon witnesses and take evidence	18
34A Appearance by audiovisual or audio links	19
35 Apprehension of witnesses failing to appear	20
35A Proposed adverse comments in reports	21

	Page
Part 5	Offences
36	Failure of witnesses to attend or produce documents 23
37	Refusal to be sworn or give evidence 24
38	False evidence 24
39	Improper dealings with documents 24
40	Intimidation or dismissal of witnesses 25
41	Preventing witnesses from attending 26
42	Bribery of witnesses 26
43	Fraud on witnesses 27
44	Contempt of commissions 27
45	False representation 27
46	Dealing with certain offences summarily 28
Part 6	Miscellaneous
47	Protection of certain officers 29
48	No proceedings against commissions 29
49	Publication of published proceedings, reports and comments protected 29
50	Reimbursement of expenses of witnesses 30
51	Approved forms 30
52	Regulation-making power 30
Endnotes	
1	About the endnotes 31
2	Abbreviation key 31
3	Legislation history 32
4	Amendment history 34
5	Earlier republications 36
6	Uncommenced amendments 37



Australian Capital Territory

Royal Commissions Act 1991

An Act relating to royal commissions

Part 1 Preliminary

1 Short title

This Act may be cited as the *Royal Commissions Act 1991*.

3 Interpretation for Act

(1) In this Act:

Note A definition applies except so far as the contrary intention appears (see *Legislation Act 2001*, s 155).

authorised person means a person or class of persons declared in writing by the chairperson to be an authorised person or authorised class of persons for this Act.

chairperson means the chairperson of a commission appointed under section 6 (2) or (4).

chief police officer means the police officer who is responsible for the day-to-day administration and control of police services in the ACT.

commission means—

- (a) a royal commission appointed under section 5; and
- (b) in relation to an inquiry—the royal commission appointed to conduct that inquiry.

commissioner means—

- (a) in relation to a commission constituted by 1 person—that person; or
- (b) in relation to a commission constituted by 2 or more persons—each of those persons.

judge means—

- (a) a justice of the High Court; or
- (b) a judge of the Federal Court or Family Court; or
- (c) a judge of the Supreme Court; or
- (d) a judge of the Supreme Court of a State or the Northern Territory.

premises includes—

- (a) a building or other structure; and
 - (b) an aircraft, vehicle or vessel; and
 - (c) a place, whether enclosed or built on, or not.
- (2) In this Act, a reference to the ***chairperson*** of a commission is, in relation to a commission constituted by 1 person, a reference to that person.

Part 2 Royal commissions

5 Appointment

- (1) The Executive may, in writing, appoint 1 or more persons as a royal commission to inquire into a matter specified in the instrument of appointment.
- (2) An appointment is a notifiable instrument.

Note A notifiable instrument must be notified under *Legislation Act 2001*.

6 Commissioners

- (1) A person shall not be appointed as a commissioner unless the person—
 - (a) is or has been a judge; or
 - (b) is a legal practitioner and has been enrolled as a legal practitioner for not less than 5 years.
- (2) Where a commission is constituted by 2 or more persons, the Executive shall appoint 1 of those persons to be the chairperson.
- (3) Where—
 - (a) a commission is constituted by 2 or more persons; and
 - (b) a commissioner dies, resigns or is removed from office under section 11;the remaining commissioners shall constitute the commission.
- (4) Where—
 - (a) a commission is constituted by more than 2 persons; and
 - (b) the chairperson dies, resigns or is removed from office under section 11;

the Executive shall appoint 1 of the remaining commissioners to be the chairperson.

- (5) The appointment of a commissioner is not invalid because of a defect or irregularity in connection with the commissioner's appointment.

7 Terms and conditions of appointment

A commissioner holds office on such terms and conditions in relation to matters not provided for by this Act as are determined in writing by the Executive.

9 Cessation of office

A commissioner ceases to hold office as a commissioner—

- (a) when the commission's report of its inquiry has been submitted to the Chief Minister in accordance with section 15; or
- (b) if section 22 applies—when the commission notifies the Chief Minister in accordance with that section that any outstanding matters have been finalised.

10 Resignation

A person may resign as a commissioner or as the chairperson by writing signed by the person and delivered to the Chief Minister.

11 Termination of appointment

The Executive may terminate the appointment of a commissioner for misbehaviour or physical or mental incapacity.

12 Staff

- (1) The staff of a commission shall be public servants made available to the commission by the chief executive.

Part 2 Royal commissions

Section 12

- (2) While a public servant is performing services for a commission, he or she shall perform those services in accordance with the directions of a commissioner, and not otherwise.

Part 3 Inquiries

13 Terms of reference

- (1) The Executive may, in writing, determine the terms of reference that are to apply in relation to a matter the subject of an inquiry to be conducted by a commission.
- (2) If the Executive makes a determination under subsection (1), the commission must conduct the inquiry in accordance with the terms of reference.
- (3) A determination under subsection (1) is a notifiable instrument.

Note A notifiable instrument must be notified under the *Legislation Act 2001*.

14 Conduct

Except as otherwise provided by this Act, an inquiry shall be conducted in such manner as the commission determines.

15 Reports of commissions

- (1) After completing an inquiry, a commission shall—
 - (a) prepare a report of the inquiry; and
 - (b) submit the report to the Chief Minister.
- (2) A report shall be submitted to the Chief Minister—
 - (a) where the Executive has fixed a date for submission of the report—on or before that date; or
 - (b) where paragraph (a) does not apply—as soon as practicable after completion of the inquiry.
- (3) A commission may submit with its report a recommendation that, for the reasons specified in the recommendation, the report or part of the report should not be published.

- (4) When submitting its report to the Chief Minister, a commission shall commit any documents or things (except documents or things required for the purpose of finalising matters under section 22) then in its possession to the custody of the Chief Minister for safekeeping.

16 Presenting reports

- (1) The Chief Minister may present a copy of a report or part of a report submitted by a commission to the Legislative Assembly.
- (2) The Chief Minister may make a report or part of a report public whether or not the Legislative Assembly is sitting and whether or not the report or part has been presented to the Assembly.
- (3) The Chief Minister is not civilly or criminally liable in relation to the publication of a report or part of a report.

16A Chief Minister to explain non-presentation of report

- (1) This section applies if—
 - (a) a commission submits a report to the Chief Minister under section 16; and
 - (b) the Chief Minister does not present a copy of the report to the Legislative Assembly within the reporting period.
- (2) On the next sitting day after the end of the reporting period, the Chief Minister must present to the Legislative Assembly a written statement explaining why a copy of the report was not presented within the reporting period.
- (3) In this section:
reporting period, for a report, means the shorter of the following periods:
 - (a) either—

- (i) if there is a sitting day within 1 calendar month after the day the report is submitted by the commission to the Chief Minister—1 calendar month after the day the report is submitted; or
 - (ii) if there is no sitting day within 1 calendar month after the day the report is submitted by the commission to the Chief Minister—the period ending on the 1st sitting day after the report is submitted;
- (b) the period ending on the 2nd last sitting day before the polling day for the next general election of members of the Legislative Assembly.

Part 4 Proceedings of commissions

Division 4.1 General

17 Determination of questions

- (1) A question arising before a commission constituted by 2 or more persons shall be decided—
 - (a) where the commission consists of more than 2 commissioners—in accordance with the opinion of a majority of the commissioners; or
 - (b) where the commission consists of 2 commissioners and those commissioners are divided in opinion—in accordance with the opinion of the chairperson.
- (2) Where, in relation to a question arising before a commission constituted by 2 or more persons, the commissioners are not unanimous in opinion, there shall, if a commissioner so requires, be recorded in the commission's report particulars of the opinions of the commissioners on that question.

18 Counsel assisting commissions

A commission may appoint a legal practitioner to assist the commission, either generally or in relation to a particular matter.

19 Protection of commissioners etc

- (1) A commissioner has, in the performance or exercise of any function or power as a commissioner in relation to an inquiry, the same protection and immunity as a judge of the Supreme Court in proceedings in that court.
- (2) A legal practitioner assisting a commission or appearing on a person's behalf at a hearing before a commission has the same

protection and immunity as a barrister has in appearing for a party in proceedings in the Supreme Court.

- (3) Subject to this Act, a person summoned to attend or appearing before a commission as a witness has the same protection and is subject to the same liabilities as a witness in proceedings in the Supreme Court.

20 Nondisclosure of information by commissioners etc

- (1) This section applies to—
- (a) a person who is or has been—
 - (i) a commissioner; or
 - (ii) a member of the staff of a commission; or
 - (iii) a legal practitioner assisting a commission; and
 - (b) any other person who has or has had access to information by virtue of that person's office or employment under this Act.
- (2) A person to whom this section applies shall not, either directly or indirectly, except in the performance or exercise of a function or power under this Act—
- (a) make a record of, or divulge or communicate to any person, any information acquired by the firstmentioned person by virtue of that person's office or employment under this Act; or
 - (b) make use of any such information; or
 - (c) produce to any person, or permit any person to have access to, a document furnished under this Act.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

21 Disclosure of information by commissions

Where, in the course of an inquiry, a commission obtains information that relates or may relate to the commission of an offence, or evidence of the commission of an offence, against a law of the Territory, the Commonwealth, a State or another Territory, the commission may, if in its opinion it is appropriate to do so, communicate the information or furnish the evidence to—

- (a) the Attorney-General or the appropriate Minister of State for the Commonwealth, a State or that other Territory; or
- (b) the chief police officer.

22 Outstanding matters

(1) Where—

- (a) a commission has submitted its report in accordance with section 15; and
- (b) there are any outstanding matters connected with the performance by the commission of its functions under this Act;

the commission shall—

- (c) notify the Chief Minister that there are outstanding matters; and
- (d) for such time as is necessary, continue to exercise its powers under this Act for the purpose of finalising those matters.

(2) When any outstanding matters have been finalised, the commission shall—

- (a) notify the Chief Minister accordingly; and
- (b) commit any documents or things still in its possession to the custody of the Chief Minister for safekeeping.

Division 4.2 Evidence

23 Procedure

In conducting its proceedings, a commission—

- (a) must comply with the rules of natural justice; and
- (b) is not bound by the rules of evidence but may inform itself of anything in the way it considers appropriate; and
- (c) may do whatever it considers necessary or convenient for the fair and prompt conduct of the inquiry.

24 Admissibility of evidence

A statement or disclosure made, or a document or other thing produced, by a witness in the course of giving evidence before a commission, or any information, document or thing obtained as a direct or indirect consequence of the making of the statement or disclosure, or of the production of the firstmentioned document or thing, is not (except in proceedings for an offence against this Act) admissible in evidence against that witness in any civil or criminal proceedings.

Division 4.3 Powers

25 Search warrants

- (1) The chairperson may issue a search warrant where—
 - (a) the chairperson has reasonable grounds for suspecting that there may be, at that time or within the next following 24 hours, in or on any premises, a thing of a particular kind connected with a matter into which the commission is inquiring (a *thing of the relevant kind*); and
 - (b) the chairperson believes on reasonable grounds that, if a search warrant were not issued for the production of the thing, that

thing might be concealed, lost, mutilated, destroyed or disposed of.

- (2) A search warrant shall authorise a police officer or an authorised person named in the warrant with such assistance, and by such force, as is necessary and reasonable—
 - (a) to enter the premises; and
 - (b) to search the premises for things of the relevant kind; and
 - (c) to seize any things of the relevant kind found in or on the premises; and
 - (d) to deliver any thing so seized to the commission.
- (3) A search warrant shall—
 - (a) state the purpose for which it is issued; and
 - (b) specify particular hours during which the entry is authorised or state that the entry is authorised at any time of the day or night; and
 - (c) include a description of the kind of things in relation to which the powers under the warrant may be exercised; and
 - (d) specify the date, being a date not later than 1 month after the date of issue of the warrant, on which the warrant ceases to have effect.
- (4) A search warrant may be executed, in accordance with its terms, at any time during the period commencing on the date of issue of the warrant and ending at the expiration of the date specified for subsection (3) (d).
- (5) If, in the course of searching under a search warrant for a thing of a relevant kind—
 - (a) the person executing the warrant finds a thing that the person believes on reasonable grounds to be connected with the matter

into which the commission is inquiring, although not of a kind specified in the warrant; and

- (b) the person believes on reasonable grounds that it is necessary to seize that thing in order to prevent its being concealed, lost, mutilated, destroyed or disposed of;

the person may seize that thing and shall deliver the thing so seized to the commission.

- (6) A person executing a search warrant shall, on request by an occupant of the premises to which the warrant relates, show the warrant to that occupant.
- (7) A reference in subsection (1) to *the chairperson* includes a reference to a commissioner authorised by the chairperson to act under that subsection.

26 Inspection and retention of documents

- (1) A commission, a commissioner, a member of the staff of a commission or an authorised person may—
 - (a) inspect a document or other thing produced before, or delivered to, the commission; and
 - (b) retain possession of the document or thing for such period as is necessary for the purposes of the inquiry to which the document or thing relates; and
 - (c) in the case of a document produced before, or delivered to, the commission—make copies of, or take extracts from, such parts of the document as are relevant to a matter the subject of the inquiry.
- (2) Where a document is retained under subsection (1) (b)—
 - (a) the person otherwise entitled to possession of the document is entitled to be supplied, as soon as practicable, with a copy certified by a commissioner to be a true copy and the certified

copy shall be received in all courts as evidence as if it were the original; and

- (b) until the certified copy is supplied, the commission shall, at such times and places as it thinks appropriate, permit the person otherwise entitled to possession of the document, or a person authorised by that person, to inspect and make copies of, or take extracts from, the document.
- (3) Where the retention of a document or other thing by a commission ceases to be necessary for the purposes of an inquiry, the commission shall, if a person who appears to the commission to be entitled to the document or thing so requests, cause the document or thing to be delivered to the person.

27 Additional powers

A commission has power to do all things necessary or incidental to the performance of its functions.

Division 4.4 Hearings

28 Power to hold

- (1) For the purposes of conducting an inquiry, a commission may hold hearings.
- (2) Subject to subsection (3), a hearing shall be in public.
- (3) Where a commission is satisfied that it is desirable to do so because of the confidential nature of any evidence or matter, or for any other reason, the commission may—
 - (a) direct that a hearing or part of a hearing shall take place in private and give directions as to the persons who may be present; and
 - (b) give directions prohibiting or restricting the publication of evidence given at a hearing (whether in public or private) or of

matters contained in documents lodged with, or received in evidence by, the commission; and

- (c) give directions prohibiting or restricting the disclosure to some or all of the persons present at a hearing of evidence given before, or the contents of a document lodged with or received in evidence by, the commission.
- (4) In considering whether to give a direction under subsection (3), a commission shall take as the basis of its consideration the principle that it is desirable that hearings be in public and that evidence given before, or the contents of documents lodged with or received in evidence by, the commission should be made available to the public and to all persons present at the hearing, but shall pay due regard to any reasons given to the commission why the hearing should be held in private or why publication or disclosure of the evidence or the matter contained in the document should be prohibited or restricted.

29 Person presiding

The chairperson shall preside at a hearing.

30 Conduct

Except as otherwise provided by this Act, the procedure at a hearing shall be determined by the commission.

31 Appearance and representation

- (1) At a hearing—
 - (a) a person summoned to attend or appearing before the commission as a witness may be represented by a legal practitioner; and
 - (b) any other person who, in the opinion of the commission, has a sufficient interest in the inquiry may appear and be represented by a legal practitioner.

- (2) In subsection (1) (b):

person includes an unincorporated association.

32 Presence of persons at private hearings

Where a hearing is being held in private, a person shall not be present at the hearing unless the person is—

- (a) a commissioner; or
- (b) a member of the staff of the commission directed to be present; or
- (c) a legal practitioner assisting the commission; or
- (d) giving evidence before the commission; or
- (e) the legal practitioner representing the person giving evidence; or
- (f) entitled under a direction under section 28 (3) (a) to be present.

33 Examination of witnesses

At a hearing—

- (a) a legal practitioner assisting the commission; or
- (b) any other person present who is permitted by the chairperson to do so;

may, so far as the commission thinks appropriate, examine or cross-examine a witness on any matter that the commission considers relevant to its inquiry.

34 Power to summon witnesses and take evidence

- (1) For the purposes of a hearing before a commission, the chairperson, or a commissioner authorised by the chairperson, may summon a person to appear before the commission—

- (a) on a date specified in the summons to produce the documents and other things referred to in the summons; or
 - (b) at the hearing—
 - (i) to give evidence; or
 - (ii) to give evidence and produce the documents and other things referred to in the summons.
- (2) A person shall be taken to have complied with a summons of the kind referred to in subsection (1) (a) if the person delivers the documents and things to the commission before the date specified in the summons.
- (3) A summons must be served on a person in the way prescribed under the regulations.
- Note* If a form is approved under s 51 (Approved forms) for a summons, the form must be used.
- (4) At a hearing, the commission may take evidence on oath or affirmation and, for that purpose—
- (a) a commissioner may require a witness at the hearing either to take an oath or to make an affirmation; and
 - (b) a commissioner or authorised person may administer an oath or affirmation to a witness at the hearing.
- (5) At a hearing, the chairperson may—
- (a) require a witness to answer a question put to the witness; and
 - (b) require a person appearing at the hearing under a summons to produce a document or other thing specified in the summons.

U 34A Appearance by audiovisual or audio links

- (1) This section applies where, in relation to a hearing or a part of a hearing (*the relevant hearing*), a commission has given a direction

under the *Evidence (Miscellaneous Provisions) Act 1991*, section 18 (1) or 30 (1).

- (2) Where this section applies a person who, in a relevant hearing—
- (a) is required or entitled to appear personally, whether as a party or as a witness; or
 - (b) is entitled to appear for another person;
- may appear in that hearing and participate or give evidence, as the case requires, in accordance with the direction.
- (3) A person who appears in a relevant hearing in accordance with this section shall be taken to be before the commission.

35 Apprehension of witnesses failing to appear

- (1) If a person served with a summons to appear before a commission as a witness fails to appear or attend under the summons, the chairperson may, on proof of the service of the summons, issue a warrant for the apprehension of the person.
- (2) A warrant authorises—
- (a) the apprehension of the witness; and
 - (b) the bringing of the witness before the commission; and
 - (c) the detention of the witness in custody for that purpose until the witness is released by order of the chairperson.
- (3) A warrant may be executed by—
- (a) a police officer; or
 - (b) a member of the police force of a State or the Northern Territory; or
 - (c) the person to whom it is addressed.

- (4) The person executing a warrant may, with such assistance, and by such force, as is necessary and reasonable, enter any premises for the purpose of executing the warrant.
- (5) The apprehension of a witness under this section does not relieve the witness from any liability incurred by reason of noncompliance by the witness with the summons.
- (6) Unless the warrant specifies otherwise, a police officer may cause the witness to be brought before the commission by an escort acting on behalf of the officer under the *Custodial Escorts Act 1998*.

35A Proposed adverse comments in reports

- (1) The commission must not include a comment in a report of an inquiry that is adverse to an entity who is identifiable from the report unless the commission has, before making the report, given the entity a copy of the proposed comment and a written notice under subsection (2).
- (2) The written notice to the entity must—
 - (a) tell the entity that the entity may—
 - (i) make a submission to the commission in relation to the proposed adverse comment; or
 - (ii) give the commission a written statement in relation to the proposed adverse comment; and
 - (b) tell the entity that, if the entity makes a submission or gives a written statement in relation to the comment, the submission or statement, or a summary of it, will be included in the commission's report of the inquiry; and
 - (c) state the period within which a submission may be made or statement given.
- (3) The period allowed under subsection (2) (c) must end not earlier than 14 days after the day the notice is given.

- (4) A copy of a submission made, or statement given, in relation to the comment within the time allowed, must be included in the commission's report of the inquiry.
- (5) However, if the board is satisfied on reasonable grounds that a submission made, or statement given, in relation to the comment is excessively long or contains defamatory or offensive language, the board may include a fair summary of the submission or statement in the report of the inquiry instead of the submission or statement.

Part 5 Offences

36 Failure of witnesses to attend or produce documents

- (1) A person served with a summons to appear as a witness at a hearing before a commission shall not, without reasonable excuse—
- (a) fail to appear before the commission as required by the summons; or
 - (b) fail to attend from day-to-day unless excused, or released from further attendance, by a commissioner.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) A person shall not, without reasonable excuse, refuse or fail to produce a document or other thing that the person was required to produce—
- (a) by a summons under this Act served on the person; or
 - (b) if the person appears as a witness at a hearing before a commission—by the chairperson.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (3) It is a defence to a prosecution for an offence against subsection (2) that the document or other thing was not relevant to the matter into which the commission was inquiring.
- (4) It is not a reasonable excuse for subsection (2) for a person to refuse or fail to produce a document or other thing on the ground that the production of the document or thing might tend to incriminate the person.

37 Refusal to be sworn or give evidence

- (1) A person appearing as a witness at a hearing before a commission shall not, without reasonable excuse, refuse or fail—
- (a) to comply with a requirement under section 34 (4) (a) to take an oath or make an affirmation; or
 - (b) to answer a question that the person is required by the chairperson to answer.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) Where a person has on any day done or omitted to do something, being an act or omission that constitutes an offence against subsection (1), and the person does or omits to do the same thing at a hearing of the commission held on some other day, each such act or omission constitutes a separate offence.
- (3) It is not a reasonable excuse for subsection (1) (b) for a person to refuse or fail to answer a question on the ground that the answer to the question might tend to incriminate the person.

38 False evidence

A person shall not, at a hearing before a commission, knowingly give evidence that is false or misleading in a material particular.

Maximum penalty: 500 penalty units, imprisonment for 5 years or both.

39 Improper dealings with documents

A person, knowing or having reasonable grounds for believing that a document or other thing is or may be required in evidence before a commission, shall not wilfully—

- (a) conceal, mutilate, destroy or alter the document or other thing; or

- (b) render the document or other thing incapable of identification; or
- (c) in the case of a document—render it illegible or indecipherable.

Maximum penalty: 200 penalty units, imprisonment for 2 years or both.

40 Intimidation or dismissal of witnesses

- (1) A person shall not use, cause, inflict or procure any violence, punishment, damage, loss or disadvantage on or to a person—
 - (a) because the person appeared or is to appear before a commission as a witness or under a summons or warrant; or
 - (b) because of any evidence given, or any document or other thing produced, by the person before a commission; or
 - (c) because of anything that was seized or delivered to a commission under a search warrant.

Maximum penalty: 500 penalty units, imprisonment for 5 years or both.

- (2) An employer shall not dismiss an employee from employment or prejudice an employee in employment—
 - (a) because the employee appeared or is to appear before a commission as a witness or under a summons or warrant; or
 - (b) because of any evidence given, or any document or other thing produced, by the employee before a commission; or
 - (c) because of anything that was seized or delivered to a commission under a search warrant.

Maximum penalty: 500 penalty units, imprisonment for 5 years or both.

- (3) If all the elements of an offence against subsection (2) other than the reason for the employer's action are proved, the onus of proving that the dismissal or prejudice was not because the employee appeared or was to appear as a witness or gave evidence is on the employer.

41 Preventing witnesses from attending

A person shall not wilfully prevent a person who has been summoned to attend before a commission—

- (a) from so attending; or
- (b) from answering a question that the person is required by the chairperson to answer; or
- (c) from producing a document or other thing referred to in the summons.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

42 Bribery of witnesses

A person shall not—

- (a) give, confer or procure, or promise or offer to give, confer or procure any property or benefit of any kind to, on or for, any person on any agreement or understanding that any person called or to be called as a witness before a commission will give false testimony or withhold true testimony; or
- (b) induce a person called or to be called as a witness before a commission to give false testimony or to withhold true testimony; or
- (c) ask for, receive or obtain, or agree to receive or obtain, any property or benefit of any kind, whether for the person or for another person, on any agreement or understanding that any person called or to be called as a witness before a commission will give false testimony or withhold true testimony.

Maximum penalty: 500 penalty units, imprisonment for 5 years or both.

43 Fraud on witnesses

A person shall not practise any fraud or deceit, or knowingly make or exhibit any false statement, representation, token or writing, to any person called or to be called as a witness before a commission with intent to affect the testimony of that person as a witness.

Maximum penalty: 200 penalty units, imprisonment for 2 years or both.

44 Contempt of commissions

A person shall not—

- (a) wilfully insult or disturb a commission; or
- (b) wilfully interrupt the proceedings of a commission; or
- (c) use insulting language towards a commission; or
- (d) make a statement that is false and defamatory of a commission; or
- (e) commit a wilful contempt of a commission.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

45 False representation

- (1) A person shall not falsely represent himself or herself to be an officer of a commission.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

- (2) In subsection (1):

officer of a commission means—

- (a) a commissioner; or
- (b) a member of the staff of a commission; or
- (c) a legal practitioner assisting a commission; or
- (d) an authorised person.

46 Dealing with certain offences summarily

- (1) Notwithstanding that an offence against section 38 or 39 is an indictable offence, proceedings in respect of such an offence may be heard and determined by a court of summary jurisdiction where—
 - (a) the court is satisfied that it is proper to do so; and
 - (b) the defendant and prosecution both consent to the offence being so dealt with.
- (2) Where a person is convicted of an offence that has been dealt with under subsection (1), the penalty that the court may impose is a fine of 100 penalty units, imprisonment for 1 year or both.

Part 6 Miscellaneous

47 Protection of certain officers

A person who is or has been—

- (a) a public servant; or
- (b) a person acting under the direction of a commissioner;

is not liable, personally, to an action or other proceeding for or in relation to an act done or omitted to be done in good faith in performance or exercise or purported performance or exercise of any function, power or authority conferred on the person in that capacity for this Act.

48 No proceedings against commissions

No proceedings for an injunction, declaration or writ of mandamus, prohibition or certiorari shall be brought against a commission.

49 Publication of published proceedings, reports and comments protected

- (1) The proceedings of a hearing before a commission are taken to be a proceeding of public concern for the *Civil Law (Wrongs) Act 2002*, section 128.
- (2) Subsection (1) does not apply in relation to the publication of a report of proceedings, or a part of proceedings, if a direction given under section 28 (3) restricts publication of the proceedings or part of them and the publication of the report contravenes the direction.
- (3) A report of a commission that has been made public by the Chief Minister is taken to be a public document for the *Civil Law (Wrongs) Act 2002*, section 129.

50 Reimbursement of expenses of witnesses

A witness appearing before a commission is entitled to be paid by the Territory in respect of the expenses of the attendance of the witness an amount authorised in accordance with the Supreme Court scale of costs.

51 Approved forms

- (1) The Minister may, in writing, approve forms for this Act.
- (2) If the Minister approves a form for a particular purpose, the approved form must be used for that purpose.
- (3) An approved form is a notifiable instrument.

Note A notifiable instrument must be notified under the *Legislation Act 2001*.

52 Regulation-making power

The Executive may make regulations for this Act.

Note Regulations must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

Endnotes

1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

2 Abbreviation key

am = amended	ord = ordinance
amdt = amendment	orig = original
ch = chapter	par = paragraph/subparagraph
cl = clause	pres = present
def = definition	prev = previous
dict = dictionary	(prev...) = previously
disallowed = disallowed by the Legislative Assembly	pt = part
div = division	r = rule/subrule
exp = expires/expired	reg = regulation/subregulation
Gaz = Gazette	renum = renumbered
hdg = heading	reloc = relocated
IA = Interpretation Act 1967	R[X] = Republication No
ins = inserted/added	RI = reissue
LA = Legislation Act 2001	s = section/subsection
LR = legislation register	sch = schedule
LRA = Legislation (Republication) Act 1996	sdiv = subdivision
mod = modified/modification	sub = substituted
o = order	SL = Subordinate Law
om = omitted/repealed	<u>underlining</u> = whole or part not commenced or to be expired

Endnotes

3 Legislation history

3 Legislation history

Royal Commissions Act 1991 No 1

notified 1 March 1991 (Gaz 1991 No S7)

s 1, s 2 commenced 1 March 1991 (s 2 (1))

remainder commenced 1 May 1991 (s 2 (2) and Gaz 1991 No 16)

as amended by

Act Revision (Position of Crown) Act 1993 No 44 sch 2

notified 27 August 1993 (Gaz 1993 No S165)

commenced 27 August 1993 (s 2)

Judicial Commissions (Consequential Amendments) Act 1994 No 10 s 10

notified 14 March 1994 (Gaz 1994 No S44)

commenced 14 March 1994 (s 2)

Public Sector Management (Consequential and Transitional Provisions) Act 1994 No 38 sch 1 pt 71

notified 30 June 1994 (Gaz 1994 No S121)

s 1, s 2 commenced 30 June 1994 (s 2 (1))

sch 1, pt 71 commenced 1 July 1994 (s 2 (2) and Gaz 1994 No S142)

Remuneration Tribunal (Consequential Amendments) Act 1997 No 41 sch 1 (as am by Act 2002 No 49 amdt 3.222)

notified 19 September 1997 (Gaz 1997 No S264)

commenced 24 September 1997 (s 2 as am by Act 2002 No 49 amdt 3.222)

Legal Practitioners (Consequential Amendments) 1997 No 96 sch 1

notified 1 December 1997 (Gaz 1997 No S380)

s 1, s 2 commenced 1 December 1997 (s 2 (1))

sch 1 commenced 1 June 1998 (s 2 (2))

Statute Law Revision (Penalties) Act 1998 No 54 sch

notified 27 November 1998 (Gaz 1997 No S207)

s 1, s 2 commenced 27 November 1998 (s 2 (1))

sch commenced 1 June 1998 (s 2 (2) and Gaz 1998 No 49)

Custodial Escorts (Consequential Provisions) Act 1998 No 67 pt 13

notified 23 December 1998 (Gaz 1998 No S212)

s 1, s 2 commenced 23 December 1998 (s 2 (1))

pt 13 commenced 23 December 1998 (s 2 (2) and Gaz 1998 No 51)

Courts and Tribunals (Audio Visual and Audio Linking) Act 1999 No 22 pt 13

notified 14 April 1999 (Gaz 1999 No S16)

s 1, s 2 commenced 14 April 1999 (s 2 (1))

pt 13 commenced 1 September 1999 (s 2 (2) and Gaz 1999 No 35)

Justice and Community Safety Legislation Amendment Act 2000 (No 3) No 17 sch 1

notified 1 June 2000 (Gaz 1997 No 22)

commenced 1 June 2000 (s (2))

Legislation (Consequential Amendments) Act 2001 No 44 pt 352

notified 26 July 2001 (Gaz 2001 No 30)

s 1, s 2 commenced 26 July 2001 (IA s 10B)

pt 352 commenced 12 September 2001 (s 2 and see Gaz 2001 No S65)

Statute Law Amendment Act 2002 (No 2) No 49 amdt 3.222

notified LR 20 December 2002

s 1, s 2 taken to have commenced 7 October 1994 (LA s 75 (2))

amdt 3.222 commenced 24 September 1997 (s 2 (3))

Note This Act only amends the Remuneration Tribunal (Consequential Amendments) Act 1997 No 41.

Evidence (Miscellaneous Provisions) Amendment Act 2003 A2003-48 sch 2 pt 2.13

notified LR 31 October 2003

s 1, s 2 commenced 31 October 2003 (LA s 75 (1))

sch 2 pt 2.13 awaiting commencement (s 2)

Note default commencement under LA s 79: 30 April 2004

Royal Commissions Amendment Act 2003 A2003-53

notified LR 3 December 2003

s 1, s 2 commenced 3 December 2003 (LA s 75 (1))

remainder commenced 4 December 2003 (s 2)

Endnotes

4 Amendment history

Criminal Code (Theft, Fraud, Bribery and Related Offences) Amendment Act 2004 A2004-15 sch 2 pt 2.82

notified LR 26 March 2004

s 1, s 2 commenced 26 March 2004 (LA s 75 (1))

sch 2 pt 2.82 commenced 9 April 2004 (s 2 (1))

4 Amendment history

Commencement

s 2 om 2001 No 44 amdt 1.3827

Interpretation for Act

s 3 def *legal practitioner* om 1997 No 96 sch 1

Act binds Crown

s 4 om 1993 No 44 sch 2

Appointment

s 5 am 2001 No 44 amdts 1.3828-1.3830

Remuneration and allowances

s 8 am 1994 No 10 s 10
om 1997 No 41 sch 1

Staff

s 12 am 1994 No 38 sch 1 pt 71

Terms of reference

s 13 am 2001 No 44 amdt 1.3831, amdt 1.3832

Reports of commissions

s 15 am 1994 No 10 s 10

Presenting reports

s 16 sub A2003-53 s 4

Chief Minister to explain non-presentation of report

s 16A ins A2003-53 s 4

General

div 4.1 hdg (prev pt 4 div 1 hdg) renum R3 LA

Counsel assisting commissions

s 18 am 1997 No 96 sch 1

Nondisclosure of information by commissioners etc

s 20 am 1997 No 96 sch 1; 1998 No 54 sch

Outstanding matters

s 22 am 1994 No 10 s 10

Evidence	
div 4.2 hdg	(prev pt 4 div 2 hdg) renum R3 LA
Procedure	
s 23	sub A2003-53 s 5
Powers	
div 4.3 hdg	(prev pt 4 div 3 hdg) renum R3 LA
Search warrants	
s 25	am 1994 No 10 s 10
Hearings	
div 4.4 hdg	(prev pt 4 div 4 hdg) renum R3 LA
Presence of persons at private hearings	
s 32	am 1997 No 96 sch 1
Examination of witnesses	
s 33	am 1997 No 96 sch 1
Power to summon witnesses and take evidence	
s 34	am 1994 No 10 s 10; 2001 No 44 amdt 1.3833
Appearance by audiovisual or audio links	
s 34A	ins 1999 No 22 s 36 am 2000 No 17 sch 1; <u>A2003-48 amdt 2.18</u>
Apprehension of witnesses failing to appear	
s 35	am 1998 No 67 s 43
Proposed adverse comments in reports	
s 35A	ins A2003-53 s 6
Obstruction of authorised persons	
s 35B	(prev s 35A) ins 1994 No 10 s 10 am 1998 No 54 sch renum R4 LA om A2004-15 amdt 2.172
Failure of witnesses to attend or produce documents	
s 36	am 1998 No 54 sch
Refusal to be sworn or give evidence	
s 37	am 1998 No 54 sch
False evidence	
s 38	am 1998 No 54 sch
Improper dealings with documents	
s 39	am 1998 No 54 sch
Intimidation or dismissal of witnesses	
s 40	am 1994 No 10 s 10; 1998 No 54 sch

Endnotes

5 Earlier republishing

Preventing witnesses from attending

s 41 am 1998 No 54 sch

Bribery of witnesses

s 42 am 1998 No 54 sch

Fraud on witnesses

s 43 am 1998 No 54 sch

Contempt of commissions

s 44 am 1998 No 54 sch

False representation

s 45 am 1997 No 96 sch 1; 1998 No 54 sch

Dealing with certain offences summarily

s 46 am 1998 No 54 sch

Publication of published proceedings, reports and comments protected

s 49 am 1994 No 10 s 10
sub A2003-53 s 7

Approved forms

s 51 sub 2001 No 44 amdt 1.3834

Regulation-making power

s 52 ins 2001 No 44 amdt 1.3834

5 Earlier republishing

Some earlier republishing were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republishing has been published in electronic pdf format on the ACT legislation register. A selection of authorised republishing have also been published in printed format. These republishing are marked with an asterisk (*) in column 1. Except for the footer, electronic and printed versions of an authorised republishing are identical.

Republishing No	Amendments to	Republishing date
1	Act 1994 No 38	28 February 1995
2	Act 1991 No 22	1 September 1999
3	Act 2001 No 44	18 February 2002

Republication No	Amendments to	Republication date
3 (RI)	A2001-44‡	19 February 2003
4	A2003-53	4 December 2003

‡ includes retrospective amendments by A2002-49

6 Uncommenced amendments

The following amendments have not been included in this republication because they were uncommenced at the republication date:

<p>Evidence (Miscellaneous Provisions) Amendment Act 2003 A2003-48 sch 2 pt 2.13</p>

Part 2.13 Royal Commissions Act 1991

[2.18] Section 34A (1)

omit

section 18 (1) or 30 (1)

substitute

section 20 (1) (Territory courts may take evidence and submissions from outside ACT) or section 32 (1) (Use of link in proceedings)

© Australian Capital Territory 2004