

WESTERN AUSTRALIA

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# ROYAL COMMISSIONS AMENDMENT ACT

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No. 3 of 1991

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**AN ACT to amend the *Royal Commissions Act 1968*.**

*[Assented to 23 May 1991.]*

The Parliament of Western Australia enacts as follows:

## **Short title**

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

## **Commencement**

2. This Act is deemed to have come into operation on 8 January 1991.

## Principal Act

3. In this Act the *Royal Commissions Act 1968\** is referred to as the principal Act.

[\*Act No. 65 of 1968; amended by Acts Nos. 98 of 1985 and 72 of 1990.]

## Section 4 amended

4. Section 4 of the principal Act is amended by deleting the definition of “Chairman” and substituting the following definition—

“ “Chairman” means—

- (a) where there is one Commissioner, that Commissioner;
- (b) where there is more than one Commissioner and a Commissioner is acting separately from the other or others, that Commissioner so acting;
- (c) subject to paragraphs (a) and (b), a person appointed as Chairman under section 6; ”.

## Section 7 amended

5. Section 7 of the principal Act is amended—

- (a) by inserting after the section designation “7.” the subsection designation “(1)”;
- (b) by inserting at the end before the full stop the following—

“ , and, where there is more than one Commissioner, may determine from time to time whether in any respect one or more of the Commissioners will act separately from the other or others ”; and

(c) by inserting the following subsection—

“ (2) Subsection (1) has effect subject to section 8 and the terms of a Commission’s appointment. ”.

### **Section 9 amended**

6. Section 9 of the principal Act is amended by deleting “The Chairman” and substituting the following—

“ A Commissioner ”.

### **Section 10 amended**

7. Section 10 of the principal Act is amended by deleting “the Chairman”, in both places where it appears, and substituting the following—

“ a Commissioner ”.

### **Section 18 inserted**

8. After section 17 of the principal Act the following section is inserted—

#### **Search warrants**

“ 18. (1) This section does not apply to a Commission unless by the terms of appointment or in an instrument made by the Governor the provisions of this section are expressly declared to so apply.

(2) Where a Judge of the Supreme Court is satisfied, on the application of a Commissioner or a person appointed by the Attorney General to assist the Commission, that there are reasonable grounds for suspecting that there may be relevant material in or on particular premises, the Judge may issue a search warrant authorizing a named person or named persons—

(a) to enter and search the premises; and

- (b) where the premises comprise a vehicle, vessel, aircraft or the like, to stop and detain and give directions as to the movement of the same.

(3) A person or persons on whom authority is conferred by a warrant may be accompanied by such other persons as are necessary for the effective exercise of the powers conferred by this section and those other persons have those powers as if they were named in the warrant.

(4) In addition to exercising the powers in subsection (2) an authorized person acting under a warrant issued under that subsection may—

- (a) break open and search any package or receptacle in or on the premises;
- (b) seize any relevant material and deliver it to the Commission;
- (c) secure any relevant material against interference;
- (d) request any person found in or on the premises to produce any relevant material which at the time of the request is in the possession, under the control, or at the order or disposition, of that person whether in or on the premises or elsewhere; and
- (e) take photographs or copies of, or extracts or notes from, any relevant material.

(5) An authorized person acting under a warrant issued under subsection (2) may use such force as is necessary.

(6) The Commission may—

- (a) retain possession of any relevant material in accordance with section 21;

- (b) at any time release any relevant material, whether conditionally or unconditionally, to any person who appears to be entitled to possession of it.

(7) A person shall not without reasonable excuse—

- (a) prevent or attempt to prevent an authorized person from exercising any power conferred by or under this section;
- (b) hinder or obstruct an authorized person in the exercise of any such power; or
- (c) fail to comply with a direction or request of an authorized person under subsection (2) (b) or (4) (d).

(8) A person shall not furnish to an authorized person acting under a warrant information that is false in a material particular.

(9) A person is not excused from producing any relevant material under subsection (4) (d) on the ground that it contains information that might incriminate or tend to incriminate him or render him liable to a penalty.

(10) A person who, without reasonable excuse—

- (a) fails to comply with a condition imposed on the person under subsection (6) (b); or
- (b) contravenes or fails to comply with subsection (7) or (8),

may be dealt with on the motion of the Attorney General as if he were in contempt of the Supreme Court and the Supreme Court has jurisdiction accordingly.

(11) In this section—

“authorized person” means the named person or named persons on whom authority is conferred by a warrant and other persons referred to in subsection (3);

“relevant material” means documents, books, writings or things that are or appear likely to be relevant to the Commission’s inquiry. ”.

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