

**NORTHERN TERRITORY OF AUSTRALIA**

**INQUIRIES ACT 1945**

As in force at 1 May 2016

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# NORTHERN TERRITORY OF AUSTRALIA

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As in force at 1 May 2016

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## INQUIRIES ACT 1945

### An act to provide for inquiries into matters in relation to the Northern Territory of Australia

#### 1 Short title

This Act may be cited as the *Inquiries Act 1945*.

#### 2 Repeal

The *Board of Enquiry Ordinance 1929*, the *Board of Enquiry Ordinance 1933* and the *Board of Enquiry Ordinance 1934* are repealed.

#### 3 Definitions

In this Act:

***acting in an official capacity***, in relation to a Board member, Commissioner or authorised person, means the Board member, Commissioner or authorised person is exercising powers or performing functions under, or otherwise related to the administration of, this Act.

***authorised person*** means a person authorised by the Chairperson of the Board or Commissioner under section 6A.

***Board*** means a Board of Inquiry appointed under section 4 or 4A, and includes the members of a Board and a quorum thereof as specified in the instrument of appointment.

***Commissioner*** means a person appointed under section 4 or 4A to inquire into any matter.

***contempt***, see section 12.

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**reasonable excuse**, in relation to any act or omission by a person summoned as a witness before a Board or a Commissioner, means any excuse which would excuse an act or omission of a similar nature by a witness or person summoned as a witness before a court of law.

*Note for section 3*

*The Interpretation Act 1978 contains definitions and other provisions that may be relevant to this Act.*

### **3A Application of Criminal Code**

Part IIAA of the Criminal Code applies to an offence against this Act.

*Note for section 3A*

*Part IIAA of the Criminal Code states the general principles of criminal responsibility, establishes general defences, and deals with burden of proof. It also defines, or elaborates on, certain concepts commonly used in the creation of offences.*

## **4 Appointment of Boards and Commissioners**

- (1) The Minister may, from time to time, appoint a Board of Inquiry or any person to inquire into, and report to the Minister on, any matter in relation to the Territory which is specified in the instrument of appointment.
- (2) The Minister may appoint a member of the Board to be the Chairperson of the Board.

### **4A Appointment of Boards and Commissioners on resolution of Legislative Assembly**

- (1) If the Legislative Assembly passes a resolution that a Board of Inquiry or a person be appointed to inquire into and report to the Administrator on a matter which is specified in the resolution and which relates to the Territory, the Administrator must appoint a Board of Inquiry or a person to inquire into and report on that matter.
- (2) The Administrator may appoint a member of a Board appointed under subsection (1) to be the Chairperson of the Board.
- (3) A Board or person appointed under this section must inquire into and report on the matter specified in the resolution.

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- (4) The Administrator must, not later than the first meeting of the Legislative Assembly which commences more than 14 days after the Administrator has received a report under this section, table the report in the Legislative Assembly.

## **5 Protection of members of Boards and Commissioners**

Every member of a Board and every Commissioner has, in the exercise of their functions under this Act, the same protection and immunity as a Supreme Court Judge.

## **6 Boards and Commissioners not to be bound by rules of evidence**

A Board or Commissioner is to make a thorough investigation without regard to legal forms and solemnities and is not bound by any rules of evidence, but may inform themselves on any matter in such manner they think fit.

## **6A Authorised persons**

- (1) A Commissioner, or a Board, appointed to inquire into and report on a matter, may authorise a person or persons (the **authorised person**) to exercise powers and perform functions for the inquiry.
- (2) The authorised person may exercise the powers and perform the functions specified in the instrument of authorisation.

## **7 Witnesses may be represented by legal practitioner**

A person summoned to attend a Board or Commissioner may, with the approval of the Board or Commissioner, be represented by a legal practitioner or agent, who may examine witnesses and address the Board or Commissioner on the person's behalf.

## **8 Powers of entry, inspection and seizure**

A Board member, Commissioner or authorised person (if appropriately authorised), for the purposes of the inquiry in respect of which the Board or Commissioner is appointed, may, without a warrant:

- (a) enter and search a building or a place; and
- (b) inspect and make extracts from, or copies of, books, documents or papers; and
- (c) seize any item, book, document or paper that they reasonably believe to be related to the inquiry.

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**8A      Obstruction of Board member, Commissioner or authorised person**

- (1) A person commits an offence if:
- (a) the person intentionally obstructs another person; and
  - (b) the other person is a Board member, Commissioner or authorised person; and
  - (c) the person knows the Board member, Commissioner or authorised person is acting in an official capacity.

Maximum penalty:      100 penalty units.

- (2) Strict liability applies to subsection (1)(b).

- (3) In this section:

***obstruct***, includes hinder and resist.

**9            Power to send for witnesses and documents**

- (1) The Chairperson of a Board or a Commissioner may, in writing, summon any person to attend the Board or Commissioner at a time and place mentioned in the summons and then and there to give evidence and to produce any books, documents and writings in the person's possession or control which the person is required by the summons to produce.
- (2) A summons under this section must be served personally or by leaving it at the usual place of residence of the person to whom it is addressed.

**10          Board and Commissioner may examine on oath**

A Board or Commissioner may require a person appearing before the Board or Commissioner to give evidence on oath.

**11          Contempt**

- (1) A person commits an offence if:
- (a) the person intentionally engages in conduct; and
  - (b) the conduct constitutes contempt of a Board or Commissioner and the person was reckless in relation to that circumstance.

Maximum penalty:      100 penalty units or 6 months imprisonment.

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- (2) It is a defence to a prosecution for an offence against subsection (1) if the defendant has a reasonable excuse.

**12 Conduct constituting contempt of the Board or Commissioner**

A person's conduct constitutes **contempt** of a Board or Commissioner if the person:

- (a) was served with a summons under section 9 to attend the Board or Commissioner; and
- (b) when required by the Board or Commissioner, fails to:
  - (i) attend before the Board or Commissioner to give evidence; or
  - (ii) take an oath; or
  - (iii) answer a question; or
  - (iv) produce a book, document or writing as required by the summons.

**13 Statements made by witness not admissible in evidence against witness**

A statement or disclosure made by any witness to a Board or Commissioner is not, except in proceedings for an offence arising under this Act, admissible in evidence against the witness in any civil or criminal proceedings in any court.

**14 Misleading information**

- (1) A person commits an offence if:
- (a) the person intentionally gives information to another person; and
  - (b) the other person is a Board member, Commissioner or authorised person; and
  - (c) the person knows the information is misleading; and
  - (d) the person knows the Board member, Commissioner or authorised person is acting in an official capacity.

Maximum penalty: Imprisonment for 12 months.

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- (2) A person commits an offence if:
- (a) the person intentionally gives a document to another person; and
  - (b) the other person is a Board member, Commissioner or authorised person; and
  - (c) the person knows the document contains misleading information; and
  - (d) the person knows the Board member, Commissioner or authorised person is acting in an official capacity.

Maximum penalty: Imprisonment for 12 months.

- (3) Strict liability applies to subsections (1)(b) and (2)(b).
- (4) Subsection (2) does not apply if the person, when giving the document:
- (a) draws the misleading aspect of the document to the Board member, Commissioner or authorised person's attention; and
  - (b) to the extent to which the person can reasonably do so – gives the Board member, Commissioner or authorised person the information necessary to remedy the misleading aspect of the document.
- (5) In this section:

***misleading information*** means information that is misleading in a material particular or because of the omission of a material particular.

#### **14A Confidentiality of information**

- (1) A person commits an offence if the person:
- (a) obtains information in the course of performing functions connected with the administration of this Act; and
  - (b) intentionally engages in conduct that results in the disclosure of the information.

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

- (2) Strict liability applies to subsection (1)(a).

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- (3) Subsection (1) does not apply if:
- (a) the person discloses the information:
    - (i) for the administration of this Act; or
    - (ii) with the consent of the person to whom the information relates; or
    - (iii) for legal proceedings arising out of the operation of this Act; or
  - (b) the information is otherwise available to the public.

*Note for subsection (3)*

*In addition to the circumstances mentioned in subsection (3), a person who discloses confidential information will not be criminally responsible for an offence if the disclosure is justified or excused by or under a law (see section 43BE of the Criminal Code).*

## **15 Protection and liability of witnesses**

A witness before a Board or a Commissioner has the same protection and has, in addition to the penalties provided by this Act, the same liabilities in any civil or criminal proceeding as a witness in any matter before the Supreme Court.

## **16 Inquiry may be heard in camera**

A Board or Commissioner may direct that the whole or any part of the proceedings on an inquiry under this Act be heard in private if the Board or Commissioner considers that it is desirable in the public interest so to do.

## **17 Protection of reports or proceedings**

- (1) No action or proceeding, civil or criminal, lies against any person for publishing in good faith for the information of the public:
  - (a) a copy of, or a fair extract from, or a fair abstract of, any report made by a Board or Commissioner; or
  - (b) a fair and accurate report of the proceedings before any Board or Commissioner, not being proceedings directed to be heard in private.
- (2) A publication is taken to be made in good faith for the information of the public if the person by whom it is made is not actuated in making it by ill-will to the person defamed or by any other improper motive.

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**18 Regulations**

- (1) The Administrator may make regulations under this Act.
- (2) The Regulations may provide for the following:
  - (a) a scale of allowances to be paid to a witness summoned under this Act;
  - (b) a scale of allowances to be paid to a Board member, or a person, in exercising their functions under this Act for their travel expenses while absent from their usual place of residence.

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**ENDNOTES**
**1****KEY**

Key to abbreviations

<b>amd = amended</b>	<b>od = order</b>
<b>app = appendix</b>	<b>om = omitted</b>
<b>bl = by-law</b>	<b>pt = Part</b>
<b>ch = Chapter</b>	<b>r = regulation/rule</b>
<b>cl = clause</b>	<b>rem = remainder</b>
<b>div = Division</b>	<b>renum = renumbered</b>
<b>exp = expires/expired</b>	<b>rep = repealed</b>
<b>f = forms</b>	<b>s = section</b>
<b>Gaz = Gazette</b>	<b>sch = Schedule</b>
<b>hdg = heading</b>	<b>sdiv = Subdivision</b>
<b>ins = inserted</b>	<b>SL = Subordinate Legislation</b>
<b>lt = long title</b>	<b>sub = substituted</b>
<b>nc = not commenced</b>	

**2****LIST OF LEGISLATION*****Inquiries Ordinance 1945 (Act No. 8, 1945)***

Assent date	6 December 1945
Commenced	6 December 1945

***Inquiries Ordinance 1963 (Act No. 34, 1963)***

Assent date	25 April 1963
Commenced	25 April 1963

***Ordinances Revision Ordinance 1973 (Act No. 87, 1973)***

Assent date	11 December 1973
Commenced	11 December 1973 (s 12(2))

**Amending Legislation*****Ordinances Revision Ordinance 1974 (Act No. 34, 1974)***

Assent date	26 August 1974
Commenced	11 December 1973 (s 3(2))

***Ordinances Revision Ordinance (No. 2) 1974 (Act No. 69, 1974)***

Assent date	24 October 1974
Commenced	11 December 1973 (s 3)

***Ordinances Revision Ordinance 1976 (Act No. 27, 1976)***

Assent date	28 June 1976
Commenced	ss 1, 2 and 6: 28 June 1976 (s 6(2)); ss 3 and 4: 11 December 1973; s 5: 24 October 1974

***Statute Law Revision Act 1978 (Act No. 95, 1978)***

Assent date	5 September 1978
Commenced	5 September 1978

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**Statute Law Revision Act (No. 2) 1979 (Act No. 128, 1979)**

Assent date 15 October 1979  
Commenced 15 October 1979

**Statute Law Revision Act 1985 (Act No. 49, 1985)**

Assent date 1 October 1985  
Commenced 1 October 1985

**Legal Profession (Consequential Amendments) Act 2007 (Act No. 7, 2007)**

Assent date 17 May 2007  
Commenced s 10: 1 July 2007 (Gaz G26, 27 June 2007, p 3);  
rem: 17 May 2007

**Oaths, Affidavits and Declarations (Consequential Amendments) Act 2010 (Act No. 40, 2010)**

Assent date 18 November 2010  
Commenced 1 March 2011 (s 2, s 2 *Oaths, Affidavits and Declarations Act 2010* (Act No. 39, 2010) and Gaz G7, 16 February 2011, p 4)

**Inquiries Amendment (Penalties) Act 2011 (Act No. 6, 2011)**

Assent date 16 March 2011  
Commenced 16 March 2011

**Inquiries Amendment Act 2016 (Act No. 7, 2016)**

Assent date 6 April 2016  
Commenced 1 May 2016 (Gaz s35, 29 April 2016)

**Local Court (Related Amendments) Act 2016 (Act No. 8, 2016)**

Assent date 6 April 2016  
Commenced 1 May 2016 (s 2, s 2 *Local Court (Repeals and Related Amendments) Act 2016* (Act No. 9, 2016) and Gaz S34, 29 April 2016)

### 3 GENERAL AMENDMENTS

General amendments of a formal nature (which are not referred to in the table of amendments to this reprint) are made by the *Ordinances Revision Ordinance 1973* (Act No. 87, 1973) (as amended) to the following provisions: ss 3, 4A, 11, 12 and 14.

### 4 GENERAL AMENDMENTS

General amendments of a formal nature (which are not referred to in the table of amendments to this reprint) are made by the *Interpretation Legislation Amendment Act 2018* (Act No. 22, 2018) to: ss 1 and 3.

### 5 LIST OF AMENDMENTS

It	amd No. 49, 1985, s 4
s 1	amd No. 49, 1985, s 4
s 3	amd No. 34, 1963, s 2; No. 49, 1985, s 4; No. 7, 2016, s 4
s 3A	ins No. 7, 2016, s 5
s 4	amd No. 49, 1985, s 4; No. 7, 2016, s 11
s 4A	ins No. 34, 1963, s 3 amd No. 128, 1979, s 16; No. 49, 1985, s 4; No. 7, 2016, s 11

## ENDNOTES

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s 5	amd No. 49, 1985, s 4; No. 7, 2016, s 11; No. 8, 2016, s 45
s 6	amd No. 7, 2016, s 11
s 6A	ins No. 7, 2016, s 6
s 7	amd No. 7, 2007, s 16; No. 7, 2016, s 11
s 8	amd No. 49, 1985, s 4 sub No. 7, 2016, s 7
s 8A	ins No. 7, 2016, s 7
s 9	amd No. 7, 2016, s 11
s 10	amd No. 49, 1985, s 4 sub No. 40, 2010, s 45
s 11	amd No. 49, 1985, s 4; No. 6, 2011, s 3 sub No. 7, 2016, s 8
s 12	amd No. 49, 1985, s 4; No. 40, 2010, s 46; No. 6, 2011, s 4 sub No. 7, 2016, s 8
s 13	amd No. 49, 1985, s 4; No. 7, 2016, s 11
s 14	sub No. 7, 2016, s 9
s 14A	ins No. 7, 2016, s 9
s 15	amd No. 49, 1985, s 4; No. 7, 2016, s 11
s 16	amd No. 49, 1985, s 4
s 17	amd No. 7, 2016, s 11
s 18	sub No. 34, 1963, s 4 amd No. 95, 1978, s 14; No. 49, 1985, s 4 sub No. 7, 2016, s 10