



COMMONWEALTH OF AUSTRALIA

Offshore Petroleum and Greenhouse Gas Storage Act 2006

Royal Commissions Act 1902

COMMISSION OF INQUIRY

MONTARA WELLHEAD PLATFORM UNCONTROLLED HYDROCARBON RELEASE

**STATEMENTS OF RIGHTS AND OBLIGATIONS OF A PERSON SERVED WITH A
NOTICE UNDER THE *ROYAL COMMISSIONS ACT 1902***

1. A person served with a summons to appear as a witness at a hearing before the Commission of inquiry (the **Inquiry**) shall not without reasonable excuse fail to attend as required by the summons, or fail to attend from day to day unless the person is excused or released from further attendance by the Commissioner: s3(1),(1b).

The penalty for each of these offences is a fine of \$1000 or imprisonment for 6 months: s3(1).

If you fail to attend the Inquiry in answer to a summons, the Commissioner may issue a warrant for your apprehension: s6B(1). You would then be apprehended and brought before the Inquiry, and detained in custody until released by order of the Commissioner: s6B(2).

2. Pursuant to subsection 6(1), if any person appearing as a witness before the Inquiry refuses to be sworn or to make an affirmation, or to answer any question relevant to the inquiry put by the Commissioner, the person shall be guilty of an offence.
3. Pursuant to subsection 6A(2), a person appearing as a witness is not excused from answering a question that the person is required to answer by the Commissioner on the ground that answering the question might tend to:
 - (a) incriminate the person; or
 - (b) make the person liable to a penalty.

Subsection 6A(2) does not apply to the answering of a question if:

- (a) the answer might tend to incriminate the person in relation to an offence or make the person liable to a penalty; and
 - (b) the person has been charged with the offence, or proceedings in relation to the penalty have commenced; and
 - (c) the charge, or penalty proceedings, have not been finally dealt with by a court or otherwise disposed of: s6A(3), (4).
4. If any witness appearing before the Inquiry requests that the witness' evidence relating to a particular subject be taken in private on the ground that the evidence relates to the profits or financial position of any person, and that the taking of evidence in public would be unfairly prejudicial to the interests of that person, the Inquiry may if it thinks proper, take that evidence in private, and no person who is not expressly authorised by the Inquiry to be present shall be present during the taking of that evidence: s6D(2).
 5. Pursuant to subsection 6D(3), the Inquiry may direct that any evidence given before it shall not be published, or shall not be published except in such manner, and to such persons, as the Inquiry specifies.

The Penalty for the offence of failing to comply with such direction, is, on summary conviction, a fine not exceeding \$2000 or imprisonment not exceeding 12 months: s6D(4).

6. A statement or disclosure made by a person in the course of giving evidence before the Inquiry is not admissible in evidence against the person in any civil or criminal proceedings in any Commonwealth, State or territory Court, except in proceedings for an offence against the *Royal Commissions Act 1902*: s6DD.
7. A witness appearing before the Inquiry shall be paid a reasonable sum for the expense of the person's attendance in accordance with the scale prescribed by the *Royal Commissions Regulations 2001*: s6G. A witness may also be entitled to allowances for travelling expenses and maintenance while absent from home: s8(1).
8. Pursuant to section 6H, a person shall not, at a hearing before the Inquiry, intentionally give evidence that the person knows to be false or misleading with respect to any matter, being a matter that is material to the inquiry being made by the Inquiry.

This is an indictable offence punishable on conviction by imprisonment for a period not exceeding 5 years or by a fine not exceeding \$20,000, or on summary conviction, by imprisonment for a period not exceeding 12 months or a fine not exceeding \$2000: s 6H(2), (4)

9. A person summonsed as a witness at a hearing before the Inquiry shall not fail to produce a document or other thing that the person is required to produce by a summons issued under the *Royal Commissions Act 1902* or that the person is required to produce by the Commissioner presiding at the hearings: s3(2).

Failure to produce a document or other thing, as required, is punishable by a fine of \$1000 or imprisonment for 6 months: s3(2).

10. Subsection 3(2B) does not apply if the person has a reasonable excuse.
11. Subsection 3(3) provides that it is a defence to a prosecution under subsection 3(2) if the document or thing is not relevant to the matters into which the Inquiry is inquiring.
12. Pursuant to subsection 6A(1), a person appearing as a witness at a hearing is not excused from refusing or failing to produce a document or thing on the ground that such production might tend to:
 - (a) incriminate the person; or
 - (b) make the person liable to a penalty.

Subsection 6A(1) does not apply to the failure or refusal to produce a document or thing if:

- (a) the production might tend to incriminate the person in relation to an offence or make the person liable to a penalty;
 - (b) the person has been charged with the offence, or proceedings in respect of the penalty have commenced; and
 - (c) the charge, or penalty proceedings, have not been finally dealt with by a court or otherwise disposed of: s6A(3), (4).
13. Pursuant to subsection 6F(2), where the retention of a document or other thing by the Inquiry ceases to be reasonably necessary for the purposes of the inquiry to which the document or other thing is relevant, the Inquiry shall, if a person who appears to the Inquiry to be entitled to the document or the other thing so requests, cause the document or other thing to be delivered to that person or body referred to in subsections 6P(1), (2), (2A) or (2B).
14. Pursuant to subsection 6K(1), a person commits an offence in the following circumstances:
 - (a) the person acts or omits to act; and
 - (b) this results in a document or other thing being concealed, mutilated, destroyed, or being made unidentifiable, or in the case of documents, rendered illegible or indecipherable; and

- (c) the person knows, or is reckless as to whether , the document or other thing is one that may be required in evidence before the Inquiry, or a person has been, or is likely to be, required to produce the document or thing to the Inquiry pursuant to a summons.

The offence under subsection 6K(1) is an indictable offence, punishable on conviction by imprisonment for a period not exceeding 2 years or by a fine not exceeding \$10,000, or, on summary conviction, by imprisonment for a period not exceeding 12 months, or by a fine not exceeding \$2000: s6K(2), (4).

- 15. A document or other thing produced by a person pursuant to a summons is not admissible in evidence against the person in any civil or criminal proceedings in any Commonwealth, State or Territory court, except in proceedings for an offence against the *Royal Commissions Act 1902*: s6DD.