

Commission of Inquiry

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COMMISSION OF INQUIRY

RULES

PART I

Evidence

1. (1) The commission panel will send a written request for a written statement to any person from whom the inquiry panel proposes to take evidence.
- (2) The commission panel may make a written request for further evidence, being either a written statement or oral evidence.
- (3) Any request for a written statement will include a description of the matters or issues to be covered in the statement.

Oral evidence

2. (1) Subject to paragraphs (2) to (4), where a witness is giving oral evidence at an inquiry hearing, only counsel to the inquiry and the commission panel may ask questions of that witness.
- (2) Where a witness has been questioned orally in the course of an inquiry hearing pursuant to paragraph (1), the chairman may direct that the witness's legal representative may ask the witness questions.
- (3) Where
 - (a) a witness has been questioned orally in the course of an inquiry hearing; and
 - (b) that witness's evidence relates to the evidence of another witness, the legal representative of the witness to whom the evidence relates may apply to the chairman for permission to question the witness who has given oral evidence.

- (4) When making an application under paragraph (3), the legal representative must state
 - (a) the issues in respect of which a witness is to be questioned; and
 - (b) whether the questioning will raise new issues or, if not, why the questioning should be permitted.

Opening and closing statements

3.
 - (1) Only counsel to the inquiry may make an opening statement to the commission panel at the commencement of the first of any oral hearings.
 - (2) Subject to paragraph 3, only counsel to the inquiry may make a closing statement to the commission panel at the conclusion of any oral hearings.
 - (3) A witness or a witness's legal representative may make a closing statement to the commission panel with the permission of the chairman.
 - (4) The commission panel may impose time restrictions on the length of any closing statements referred to in paragraph (3).

Disclosure of evidence

4.
 - (1) In this rule-

‘restricted evidence’ means any evidence (whether given orally or in writing) which is in the possession of the commission panel, or any member of the commission panel, and which is the subject of an order made pursuant to paragraph (2).
 - (2) The commission panel may, whether on the application of any witness or any other person or of its own motion, order the restriction of publication of any evidence or any class of evidence before the commission panel.
 - (3) When an order is made pursuant to paragraph (2), the chairman may nonetheless order the disclosure of the restricted evidence to a witness on a confidential basis where the chairman considers it necessary or reasonable to do so.

Public Access

5. Subject to any orders in respect of restricted evidence, the chairman will take such steps as he considers reasonable to secure that members of the public (including reporters) are able –
 - (a) to attend the inquiry;
 - (b) to obtain or to view a record of evidence and documents, given produced or provided to the inquiry or commission panel.

Warning letters

6. (1) The commission panel may send a warning letter to any person-
 - (a) it considers may be, or who has been, subject to criticism in the inquiry proceedings; or
 - (b) about whom criticism may be inferred from evidence that has been given during the inquiry proceedings; or
 - (c) who may be subject to criticism in the report, or any interim report.
- (2) The commission panel must not include any explicit or significant criticism of a person in the report, or in any interim report, unless-
 - (a) the chairman has sent that person a warning letter; and
 - (b) the person has been given a reasonable opportunity to respond to the warning letter.

Records management

7. Subject to the legal rights of any person-
 - (a) during the course of the inquiry, the chairman will have regard to the need to ensure that the record of the inquiry is comprehensive and well-ordered; and
 - (b) at the end of the inquiry, the chairman will transfer custody of the inquiry record to an appropriate public record office, as the Premier directs.

Powers of Subpoena

8. (1) In this rule –
- “a preliminary or non-public sitting” shall mean a hearing attended by one or more commissioners who may attend in person or by means of telephone, electronic or other communications facilities.
- (2) The commission panel may issue a subpoena for the production of evidence or the answering of questions at a preliminary or non-public sitting.
- (3) Documents or responses received at a preliminary or non-public sitting shall form part of the record of inquiry to be considered by the full commission panel.
- (4) A claim by a person that –
- (a) he is unable to comply with the subpoena, or
- (b) it is unreasonable in all the circumstances to require him to comply with such a subpoena,
- shall be submitted in writing to the commission panel and will be determined by the chairman who may revoke or vary the subpoena on that ground.
- (5) In deciding whether to revoke or vary a subpoena on the ground mentioned in paragraph (4) the chairman will consider the public interest in the information in question being obtained by the inquiry, having regard to the likely importance of the information.
- (6) Claims under paragraph (4) should be submitted in writing to the commission panel as soon as possible and in any event prior to any return date of the subpoena.

PART II

Times of Sitting

9. The hours, times and location of the Commission’s public sittings will be as directed by the commission panel and published from time to time.