

AMENDMENT TO RULES OF PRACTICE AND PROCEDURE

THE CORNWALL PUBLIC INQUIRY



L'ENQUÊTE PUBLIQUE SUR CORNWALL

The Honourable G. Normand Glaude, Commissioner

L'honorable G. Normand Glaude, commissaire

January 16, 2006

Notice to Parties with Standing in Part I

Amendment to Rules of Procedure and Practice

Rule 39 is repealed. Rules 5, 14, 17, 26, 31, 40 and 41 are repealed and replaced by the followings Rules:

5. Insofar as it needs to gather evidence, the Commission is committed to a process of public hearings. However, applications on some aspects of its mandate may be made to proceed *in camera* and/or under a publication ban. Such applications should be made in writing at the earliest possible opportunity pursuant to the provisions of Section III (vi) below.
14. The Commission may, to the extent it considers advisable, refer to and rely on the material listed in paragraph 5 of the Order in Council establishing the Commission, and to such other related material as the Commission considers relevant to its duties.
17. Where Commission counsel refuse to call a witness or present evidence, a party may apply to the Commissioner for an order that such witness be called or such evidence be presented. If the Commissioner is satisfied that the witness or evidence is needed, Commission counsel will call the witness or present the evidence.
26. All evidence shall be categorized and marked P for public sittings and, if necessary, C for sittings in camera and/or under a publication ban.
31. The Commission expects all relevant documents to be produced to the Commission by any party with standing where the documents are in the possession, control or power of the party. Where a party objects to the production of any document on the grounds of privilege, the document shall be produced in its original unedited form to Commission counsel who will

review and determine the validity of the privilege claim. The party and/or that party's counsel may be present during the review process. In the event the party claiming privilege disagrees with Commission counsel's determination, the Commissioner, on application, may either inspect the impugned document(s) and make a ruling or may direct the issue to be resolved by a judge assigned by the Chief Justice of the Superior Court of Justice.

39. Without limiting the application of s. 4 of the *Public Inquiries Act*, the Commissioner may, in his discretion and in appropriate circumstances, conduct hearings in private, and/or issue orders prohibiting the disclosure, publication, broadcast or communication of any testimony, document or evidence, when he is of the opinion that intimate medical or personal matters, or other matters, are of such a nature, having regard to the circumstances, that the desirability of avoiding disclosure outweighs the desirability of adhering to the general principle that the hearings should be open to the public. Subject to the discretion of the Commissioner, only the Commissioner, Commission staff and counsel, counsel for parties with standing, counsel for the witness who has been granted Confidentiality and media representatives may be present during testimony being heard in private.
40. A witness may apply to the Commissioner for measures aimed at protecting his or her identity for a compelling reason as determined in the sole discretion of the Commissioner. Upon a successful application to the Commissioner the witness may be granted the status of "Confidentiality". For the purposes of the Inquiry, Confidentiality may include the right to have his or her identity disclosed only by way of non-identifying initials. The witness may also request to testify before the Commission in private, and request the application of any other privacy measure that the Commissioner, in his discretion, may grant.

Technical changes were also made to the following provisions: 3, 12, 33, 43 (now 42).