

1980

## c 411 Public Inquiries Act

Ontario

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## CHAPTER 411

## Public Inquiries Act

## 1. In this Act,

Interpre-  
tation

- (a) "commission" means the one or more persons appointed to conduct an inquiry under this Act;
- (b) "inquiry" means an inquiry under this Act. 1971, c. 49, s. 1.

## PART I

2. Whenever the Lieutenant Governor in Council considers it expedient to cause inquiry to be made concerning any matter connected with or affecting the good government of Ontario or the conduct of any part of the public business thereof or of the administration of justice therein or that he declares to be a matter of public concern and the inquiry is not regulated by any special law, he may, by commission, appoint one or more persons to conduct the inquiry. 1971, c. 49, s. 2.

Appoint-  
ment of  
commission

3. Subject to sections 4 and 5, the conduct of and the procedure to be followed on an inquiry is under the control and direction of the commission conducting the inquiry. 1971, c. 49, s. 3.

Procedure

4. All hearings on an inquiry are open to the public except where the commission conducting the inquiry is of the opinion that,

Hearings  
to be open,  
exceptions

- (a) matters involving public security may be disclosed at the hearing; or
- (b) intimate financial or personal matters or other matters may be disclosed at the hearing that are of such a nature, having regard to the circumstances, that the desirability of avoiding disclosure thereof in the interest of any person affected or in the public interest outweighs the desirability of adhering to the principle that hearings be open to the public,

in which case the commission may hold the hearing concerning any such matters *in camera*. 1971, c. 49, s. 4.

Rights of  
persons  
interested

**5.**—(1) A commission shall accord to any person who satisfies it that he has a substantial and direct interest in the subject-matter of its inquiry an opportunity during the inquiry to give evidence and to call and examine or to cross-examine witnesses personally or by his counsel on evidence relevant to his interest.

Rights of  
persons  
before  
misconduct  
found

(2) No finding of misconduct on the part of any person shall be made against him in any report of a commission after an inquiry unless that person had reasonable notice of the substance of the misconduct alleged against him and was allowed full opportunity during the inquiry to be heard in person or by counsel. 1971, c. 49, s. 5.

Stated  
case

**6.**—(1) Where the authority to appoint a commission under this Act or the authority of a commission to do any act or thing proposed to be done or done by the commission in the course of its inquiry is called into question by a person affected, the commission may of its own motion or upon the request of such person state a case in writing to the Divisional Court setting forth the material facts and the grounds upon which the authority to appoint the commission or the authority of the commission to do the act or thing are questioned.

Order  
directing  
stated  
case

(2) If the commission refuses to state a case under subsection (1), the person requesting it may apply to the Divisional Court for an order directing the commission to state such a case.

Court to  
hear and  
determine  
stated  
case

(3) Where a case is stated under this section, the Divisional Court shall hear and determine in a summary manner the question raised.

Proceedings  
stayed

(4) Pending the decision of the Divisional Court on a case stated under this section, no further proceedings shall be taken by the commission with respect to the subject-matter of the stated case but it may continue its inquiry into matters not in issue in the stated case. 1971, c. 49, s. 6.

Power to  
summon  
witnesses,  
papers, etc.

**7.**—(1) A commission may require any person by summons,

- (a) to give evidence on oath or affirmation at an inquiry; or
- (b) to produce in evidence at an inquiry such documents and things as the commission may specify,

## PART II

relevant to the subject-matter of the inquiry and not inadmissible in evidence at the inquiry under section 11.

(2) A summons issued under subsection (1) shall be in Form 1 and shall be served personally on the person summoned and he shall be paid at the time of service the like fees and allowances for his attendance as a witness before the commission as are paid for the attendance of a witness summoned to attend before the Supreme Court. 1971, c. 49, s. 7.

Form and  
service of  
summons

8. Where any person without lawful excuse,

Stated case  
for contempt  
for failure  
to attend  
hearing, etc.

- (a) on being duly summoned under section 7 as a witness at an inquiry, makes default in attending at the inquiry; or
- (b) being in attendance as a witness at an inquiry, refuses to take an oath or to make an affirmation legally required by the commission to be taken or made, or to produce any document or thing in his power or control legally required by the commission to be produced to it, or to answer any question to which the commission may legally require an answer; or
- (c) does any other thing that would, if the commission had been a court of law having power to commit for contempt, have been contempt of that court,

the commission may state a case to the Divisional Court setting out the facts and that court may, on the application of the commission or of the Attorney General, inquire into the matter and, after hearing any witnesses who may be produced against or on behalf of that person and after hearing any statement that may be offered in defense, punish or take steps for the punishment of that person in like manner as if he had been guilty of contempt of the court. 1971, c. 49, s. 8; 1972, c. 1, s. 9 (7).

9.—(1) A witness at an inquiry shall be deemed to have objected to answer any question asked him upon the ground that his answer may tend to criminate him or may tend to establish his liability to civil proceedings at the instance of the Crown or of any person, and no answer given by a witness at an inquiry shall be used or be receivable in evidence against him in any trial or other proceedings against him thereafter taking place, other than a prosecution for perjury in giving such evidence.

Protection  
of witnesses

(2) A witness shall be informed by the commission of his right to object to answer any question under section 5 of the *Canada Evidence Act*. 1971, c. 49, s. 9.

Right to  
object  
under  
R.S.C. 1970,  
c. E-10

Unsworn  
evidence  
admissible

**10.** A commission may admit at an inquiry evidence not given under oath or affirmation. 1971, c. 49, s. 10.

Privilege

**11.** Nothing is admissible in evidence at an inquiry that would be inadmissible in a court by reason of any privilege under the law of evidence. 1971, c. 49, s. 11.

Release of  
documents

**12.**—(1) Documents and things produced in evidence at an inquiry shall, upon request of the person who produced them or the person entitled thereto, be released to him by the commission within a reasonable time.

Photocopies  
of  
documents

(2) Where a document has been produced in evidence before a commission, the commission may or the person producing it may with the leave of the commission, cause the document to be photocopied and the photocopy may be filed in evidence in the place of the document produced, and a document purporting to be a copy of a document produced in evidence, certified to be a true copy thereof by the commission, is admissible in evidence in proceedings in which the document produced is admissible, as evidence of the document produced. 1971, c. 49, s. 12.

Power to  
administer  
oaths and  
require  
evidence  
under oath

**13.** A commission has power to administer oaths and affirmations for the purpose of an inquiry and may require evidence before it to be given under oath or affirmation. 1971, c. 49, s. 13.

Powers of  
each of two  
or more  
commis-  
sioners

**14.** Where two or more persons are appointed to make an inquiry, any one of them may exercise the powers conferred by section 7, 12 or 13. 1971, c. 49, s. 14.

### PART III

Application  
of Part III

**15.**—(1) This Part does not apply to an inquiry unless the Lieutenant Governor in Council declares that this Part does apply thereto.

Idem

(2) The Lieutenant Governor in Council may, if he is satisfied that it is necessary to achieve the purposes of an inquiry, in the order in council authorizing the issue of the commission for the inquiry, or by a subsequent order in council, declare that this Part applies to the inquiry and to the commission conducting it. 1971, c. 49, s. 15.

Warrant  
for  
apprehension  
of witness

**16.**—(1) Upon proof to the satisfaction of a judge of a county or district court of the service of a summons to appear at an inquiry upon a person and that,

(a) such person has failed to attend or to remain in attendance at the inquiry in accordance with the requirements of the summons;

- (b) a sufficient sum for his fees and allowances has been duly paid or tendered to him; and
- (c) his presence is material to achievement of the purposes of the inquiry,

the judge may, by his warrant in Form 2 directed to any sheriff, police officer or constable, cause such person to be apprehended anywhere within Ontario and forthwith to be brought before the commission conducting the inquiry and to be detained in custody as the judge may order until his presence as a witness before the inquiry is no longer required, or, in the discretion of the judge, to be released on a recognizance, with or without sureties, conditioned for appearance to give evidence.

(2) An application under subsection (1) may be made by the <sup>idem</sup> commission conducting the inquiry and the service of the summons and payment or tender of fees and allowances may be proved by affidavit. 1971, c. 49, s. 16.

17.—(1) A commission may in writing appoint a person to <sup>Appoint-</sup>make an investigation relevant to the subject-matter of the inquiry <sup>ment of</sup> <sup>investigators</sup> it is conducting.

(2) Where a judge of the county or district court is satisfied <sup>Search</sup> upon an *ex parte* application by a person appointed by a <sup>warrant</sup> commission to make an investigation under this section,

- (a) that the commission conducting the inquiry has appointed the applicant to make an investigation under this section; and
- (b) that there are reasonable grounds for believing that there are in any building, receptacle or place, including a dwelling house, in the county or district for which the judge is appointed any documents or things relevant to the subject matter of the inquiry,

the judge may issue a warrant in Form 3 authorizing the person making the investigation, together with such police officers and constables as he calls upon to assist him, to enter and search if necessary by force, such building, receptacle or place, for such documents or things.

(3) A person making an investigation under this section <sup>Removal of</sup> may, upon giving a receipt therefor, remove any document <sup>documents</sup> or thing found in his investigation relevant to the subject matter of the inquiry and deliver it to the commission which shall keep custody of it.

Release of  
documents,  
etc.

(4) Documents and things delivered to a commission by a person appointed to make an investigation under this section shall upon request of the person from whose custody they were removed or the person entitled thereto be released to him by the commission within a reasonable time.

Photocopies

(5) Where a document has been delivered to a commission by a person making an investigation under this section, the commission may cause the document to be photocopied and the photocopy may be filed in evidence in place of the document delivered to the commission and a copy of such document certified by the commission to be a true copy thereof, is admissible in evidence in proceedings in which the document so delivered is admissible, as evidence of the document so delivered. 1971, c. 49, s. 17.

Powers re in-  
quiries under  
other Acts  
powers of  
commission  
under  
Part II

**18.** Where, for the purpose of an investigation, inquiry or matter under any Act or regulation, any person or body is given the powers of or that may be conferred on a commissioner under *The Public Inquiries Act*, being chapter 379 of the Revised Statutes of Ontario, 1970, or the powers of a court in civil cases, such person or body may exercise the powers of a commission under Part II of this Act, which Part applies to such investigation, inquiry or matter as if it were an inquiry under this Act. 1971, c. 49, s. 18, *revised*.

## FORM 1

## (Section 7)

## SUMMONS TO WITNESS

RE:

To:

You are hereby summoned and required to attend before the ..... (name of commission)  
 at an inquiry conducted by the said commission to be held at .....  
 in the ..... of ..... on  
 ..... day, the ..... day of ..... 19....  
 at the hour of ..... o'clock in the ..... noon (local time) and so  
 from day to day until the inquiry is concluded or the commission otherwise  
 orders, to give evidence on oath touching the matters in question in the  
 inquiry and to bring with you and produce at such time and place.....  
 .....

Dated this ..... day of ..... 19....

..... (Name of Commission)

.....  
 Commissioner

## NOTE:

You are entitled to be paid the same personal allowances for your attendance at the hearing as are paid for the attendance of a witness summoned to attend before the Supreme Court.

If you fail to attend and give evidence at the inquiry, or to produce the documents or things specified, at the time and place specified, without lawful excuse, you are liable to punishment by the Supreme Court of Ontario in the same manner as if for contempt of that Court for disobedience to a subpoena.

1971, c. 49, Form 1.

## FORM 2

## (Section 16)

## BENCH WARRANT

RE:

To: A.B., Sheriff, etc.

WHEREAS proof has been made before me that C.D. was duly summoned to appear before (name of commission) .....  
 at the inquiry being conducted by the said commission at Toronto (or as the case may be) on the ..... day of ..... 19....;  
 that the presence of the said C.D. is material to achievement of the purposes of the inquiry, and that the said C.D. has failed to attend in accordance with the requirements of the summons.

THESE ARE therefore to command you to take the said C.D. to bring and have him before the said commission at Toronto (or as the case may be) there to testify what he may know concerning the matters in question in the said inquiry, and that you detain him in your custody until he has given his evidence or until the sittings of the said inquiry have ended or until other orders may be made concerning him.

GIVEN UNDER MY HAND this ..... day of ..... 19....,  
 at.....

.....  
 Judge.

1971, c. 49, Form 2.



FORM 3

(Section 17)

SEARCH WARRANT

RE:

To: *A.B. (investigator)* and to such police officers and constables as he calls upon to assist him:

WHEREAS it appears on the oath of ..... of the ..... of ..... in the ..... of ..... that there are reasonable grounds for believing that (*describe things to be searched for and the inquiry in respect of which search is to be made*) are in ..... at ..... (*hereinafter called the premises*);

This is, therefore, to authorize and require you between the hours of (*as the judge may direct*) to enter into the said premises and to search for the said things and to bring them before *E.F.*, the commission conducting the said inquiry.

GIVEN UNDER MY HAND this ..... day of ..... , 19...., at .....

.....  
Judge.

1971, c. 49, Form 3.