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Province of Alberta

PUBLIC INQUIRIES ACT

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Chapter P-39

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Chapter P-39

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HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of Alberta, enacts as follows:

Definition

1 In this Act, “Minister” means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act.

RSA 2000 cP-29 s1

Appointment of commissioner

2 When the Lieutenant Governor in Council considers it expedient and in the public interest to cause an inquiry to be made into and concerning a matter within the jurisdiction of the Legislature and

- (a) connected with the good government of Alberta or the conduct of the public business of Alberta, or
- (b) that the Lieutenant Governor in Council declares by commission to be a matter of public concern,

the Lieutenant Governor in Council may by commission appoint one or more commissioners to make the inquiry and to report on it.

RSA 1980 cP-29 s1

Powers of commissioner

3(1) The commissioner or commissioners may engage the services of

- (a) counsel, clerks, reporters and assistants, and
- (b) experts, persons having special technical or other knowledge or any other qualified person

to assist them in the inquiry.

(2) The commissioner or commissioners may authorize a person referred to in subsection (1)(b) to inquire into any matter within the scope of the inquiry.

(3) A person authorized under subsection (2) has the same powers, privileges and immunities that the commissioner or commissioners have under this Act.

(4) A person authorized under subsection (2) shall report the evidence and the person's findings, if any, to the commissioner or commissioners.

RSA 1980 cP-29 s2

Evidence

4 The commissioner or commissioners have the power of summoning any persons as witnesses and of requiring them to give evidence on oath, orally or in writing, and to produce any documents, papers and things that the commissioner or commissioners consider to be required for the full investigation of the matters into which the commissioner or commissioners are appointed to inquire.

RSA 1980 cP-29 s3

Attendance of witnesses

5 The commissioner or commissioners have the same power to enforce the attendance of persons as witnesses and to compel them to give evidence and to produce documents and things as is vested

in a court of record in civil cases, and the same privileges and immunities as a judge of the Court of Queen's Bench.

RSA 1980 cP-29 s4

Contempt

6(1) When a judge of the Court of Queen's Bench is appointed as a commissioner or as one of several commissioners, the commissioner or commissioners so appointed have the same power of committal for contempts of the commissioner or commissioners as a judge of the Court of Queen's Bench has in respect of that Court.

(2) When pursuant to an Act of the Legislature a person or group of persons is or may be vested with the power to inquire into any matter and that Act grants to that person or group of persons the powers of a commissioner under this Act, subsection (1) applies to those powers if the person so appointed or any of the persons composing the group appointed is a judge of the Court of Queen's Bench.

RSA 1980 cP-29 s5

Inspection of public buildings

7(1) This section does not apply to an inquiry unless the Lieutenant Governor in Council declares that this section applies.

(2) In this section,

- (a) "Government funded service" means a service that is provided on behalf of the Government and in respect of which the Government makes a payment by grant or under an agreement;
- (b) "public building" includes
 - (i) a facility as defined in the *Social Care Facilities Review Committee Act*,
 - (ii) a hospital as defined in the *Health Facilities Review Committee Act*, and
 - (iii) any other building or part of a building where a Government funded service is carried on.

(3) If a commissioner who is also a judge of the Court of Appeal, the Court of Queen's Bench or the Provincial Court is of the opinion that a view or inspection of any public building will assist the inquiry, the commissioner may issue an order permitting any person whom the commissioner names in the order, together with

any peace officer that person calls on for assistance, to enter, if necessary by force, and view or inspect the public building.

(4) A commissioner other than one referred to in subsection (3) who has reasonable grounds to believe that a view or inspection of any public building will assist the inquiry may apply ex parte to the Court of Queen's Bench for an order permitting any person named in the order, together with any peace officer that person calls on for assistance to enter, if necessary by force, and view or inspect the public building.

(5) A person who views or inspects a public building pursuant to an order under subsection (3) or (4) may take possession of any document, paper or thing that the person considers to be relevant to the subject-matter of the inquiry and may retain the document, paper or thing until the conclusion of the inquiry or until it is no longer required, and then the person shall return it to the person from whose custody it was removed or the person entitled to it.

RSA 1980 cP-29 s6

Photocopy evidence

8(1) If a document or paper has been taken into possession under section 7 or admitted in evidence at an inquiry, the commissioner or commissioners shall, at the request of the person from whose custody it was removed or the person entitled to it, have the document or paper photocopied and release the document or paper to the person who makes the request or provide the photocopy of the document or paper to that person.

(2) If a commissioner or commissioners have a document or paper photocopied and released under subsection (1), the commissioner or commissioners may authorize the photocopy to be admitted in evidence at the inquiry in place of the document or paper.

RSA 1980 cP-29 s7

Admissibility of evidence

9(1) Every person has the same privileges in relation to the disclosure of information and the production of documents, papers and things under this Act as witnesses have in any court.

(2) Notwithstanding subsection (1), the rule of law that authorizes or requires the withholding of any document, paper or thing or the refusal to disclose any information on the ground that the disclosure would be injurious to the public interest does not apply in respect of an inquiry.

(3) Notwithstanding subsection (1),

- (a) no provision in an Act, regulation or order requiring a person to maintain secrecy or not to disclose any matter applies with respect to an inquiry, and
- (b) no person who is required by a commissioner or a person referred to in section 3(1)(b) to furnish information or to produce any document, paper or thing or who is summoned to give evidence at an inquiry shall refuse to disclose the information or produce the document, paper or thing on the ground that an Act, regulation or order requires the person to maintain secrecy or not to disclose any matter.

(4) Notwithstanding subsection (2) or (3), if the Minister certifies that in the Minister's opinion the production of any document, paper or thing or the disclosure of any information might involve the disclosure of

- (a) the deliberations or proceedings of the Lieutenant Governor in Council, the Executive Council or a committee of either of them,
- (b) matters of a secret or confidential nature or matters the disclosure of which would not be in the public interest, or
- (c) matters the disclosure of which cannot be made without prejudice to the interests of persons not concerned in the inquiry,

that document, paper, thing or information is privileged and shall not be produced or disclosed at the inquiry.

(5) The commissioner or commissioners may include in their report on the inquiry a reference to any occasion on which the Minister certifies a document, paper, thing or information under subsection (4).

(6) Any information disclosed or document, paper or thing produced to which subsection (2) or (3) applies shall not be published, released or disclosed in any manner without the written permission of the Minister, and the portion of the inquiry relating to the information or the document, paper or thing shall be held in private.

(7) No person is liable to prosecution for an offence against any Act by reason of the person's compliance with this section.

RSA 1980 cP-29 s8;1994 cG-8.5 s89

Commissioned evidence

10(1) If the commissioner or commissioners consider it advisable because of the distance a person resides from where the person's attendance is required or for any other reason, the commissioner or commissioners may appoint a person to take evidence of that person and to report it to the commissioner or commissioners.

(2) A person appointed to take evidence under subsection (1) must, before doing so, be sworn before a justice of the peace to faithfully execute that duty.

1983 c95 s2

Right to counsel

11 Any person appearing before a commissioner or commissioners may be represented by counsel.

1983 c95 s2

Right to call witnesses

12 Any witness who believes his or her interests may be adversely affected and any person who satisfies a commissioner or commissioners that any evidence given before a commissioner or commissioners may adversely affect the person's interests shall be given an opportunity during the inquiry to give evidence on the matter, and at the discretion of a commissioner or commissioners, to call and examine or cross-examine witnesses personally or by that person's counsel in respect of the matter.

1983 c95 s2

Notice of allegation of misconduct

13 No report of a commissioner or commissioners that alleges misconduct by any person shall be made until reasonable notice of the allegation has been given to that person and the person has had an opportunity to give evidence and, at the discretion of the commissioner or commissioners, to call and examine witnesses personally or by that person's counsel in respect of the matter, notwithstanding that the person may have already given evidence or may have already called and examined witnesses personally or by that person's counsel.

1983 c95 s2