



## 2013 CHAPTER 2

### *Inquiry proceedings*

#### **Evidence and procedure**

6.—(1) Subject to any provision of this Act or of rules under section 21, the procedure and conduct of the inquiry are to be such as the chairperson may direct.

(2) In particular, the chairperson may take evidence on oath, and for that purpose may administer oaths.

(3) Subject to any provision of rules under section 21, a statement made to the inquiry on oath by a person outside Northern Ireland through a live link is to be treated for the purposes of Article 3 of the Perjury (Northern Ireland) Order 1979 as having been made in Northern Ireland.

(4) In making any decision as to the procedure or conduct of the inquiry, the chairperson must act with fairness and with regard also to the need to avoid any unnecessary cost (whether to public funds or to witnesses or others).

(5) In this section “live link” means a live television link or other arrangement whereby a person, while absent from the place where the inquiry is being held, is able to see and hear, and be seen and heard by, a person at that place.

(6) For the purposes of subsection (5) any impairment of sight or hearing is to be disregarded.

#### **Public access to inquiry proceedings and information**

7.—(1) Subject to subsection (3) and any restrictions imposed by an order under section 8, the chairperson must take such steps as the chairperson considers reasonable to secure that members of the public (including reporters) are able—

- (a) to attend the inquiry or to see and hear a simultaneous transmission of proceedings at the inquiry;
  - (b) to obtain or to view a record of evidence and documents given, produced or provided to the inquiry or inquiry panel.
- (2) No recording or broadcast of proceedings at the inquiry may be made except—
- (a) at the request of the chairperson; or
  - (b) with the permission of the chairperson and in accordance with any terms on which permission is given.
- (3) The proceedings of that part of the inquiry described in its terms of reference as the Acknowledgment Forum are to be held in private and references to the inquiry in subsection (1) do not include that part of the inquiry.

**Restrictions on public access, etc.**

- 8.—**(1) Restrictions may, in accordance with this section, be imposed on—
- (a) attendance at the inquiry, or at any particular part of the inquiry;
  - (b) disclosure or publication of any evidence or documents given, produced or provided to the inquiry;
  - (c) disclosure or publication of the identity of any person.
- (2) Restrictions may be imposed by being specified in an order (a “restriction order”) made by the chairperson during the course of the inquiry.
- (3) A restriction order must specify only such restrictions—
- (a) as are required by any statutory provision, enforceable EU obligation or rule of law, or
  - (b) as the chairperson considers to be conducive to the inquiry fulfilling its terms of reference or to be necessary in the public interest, having regard in particular to the matters mentioned in subsection (4).
- (4) Those matters are—
- (a) the extent to which any restriction on attendance, disclosure or publication might inhibit the allaying of public concern;
  - (b) any risk of harm or damage that could be avoided or reduced by any such restriction;
  - (c) any conditions as to confidentiality subject to which a person acquired information which that person is to give, or has given, to the inquiry;
  - (d) the extent to which not imposing any particular restriction would be likely —
    - (i) to cause delay or to impair the efficiency or effectiveness of the inquiry, or

(ii) otherwise to result in additional cost (whether to public funds or to witnesses or others).

(5) The chairperson may vary or revoke a restriction order by making a further order during the course of the inquiry.

(6) Subject to subsection (7), restrictions imposed under this section on disclosure or publication of evidence or documents (“disclosure restrictions”) continue in force indefinitely unless—

- (a) under the terms of the relevant order the restrictions expire at the end of the inquiry or at some other time; or
- (b) the relevant order is varied or revoked under subsection (5) or (8).

(7) After the end of the inquiry disclosure restrictions do not apply to a public authority (within the meaning of the Freedom of Information Act 2000) in relation to information held by the authority otherwise than as a result of the breach of disclosure restrictions.

(8) After the end of the inquiry OFMDFM may by a notice published in a way which it considers appropriate—

- (a) revoke a restriction order containing disclosure restrictions which are still in force; or
- (b) vary it so as to remove or relax any of the restrictions.

### **Powers to require production of evidence**

**9.—(1)** The chairperson may by notice require a person to attend at a time and place stated in the notice—

- (a) to give evidence;
- (b) to produce any documents in the custody or under the control of that person which relate to a matter in question at the inquiry;
- (c) to produce any other thing in the custody or under the control of that person for inspection, examination or testing by or on behalf of the inquiry.

(2) The chairperson may by notice require a person within a period stated in the notice—

- (a) to provide evidence to the inquiry in the form of a written statement;
- (b) to provide any documents in the custody or under the control of that person which relate to a matter in question at the inquiry;
- (c) to produce any other thing in the custody or under the control of that person for inspection, examination or testing by or on behalf of the inquiry.

(3) A notice under subsection (1) or (2) must—

- (a) explain the possible consequences of not complying with the notice;

(b) indicate what the recipient of the notice should do to make a claim within subsection (4).

(4) A claim by a person that—

(a) that person is unable to comply with a notice under this section, or

(b) it is not reasonable in all the circumstances to require that person to comply with a notice under this section,

is to be determined by the chairperson, who may revoke or vary the notice on that ground.

(5) In deciding whether to revoke or vary a notice on the ground mentioned in subsection (4)(b), the chairperson must consider the public interest in the information in question being obtained by the inquiry, having regard to the likely importance of the information.

(6) For the purposes of this section a thing is under the control of a person if it is in that person's possession or if that person has a right to possession of it.

(7) The powers conferred by this section are exercisable only in respect of evidence, documents or other things which are wholly or primarily concerned with a transferred matter.

(8) In subsection (7) "transferred matter", in relation to a power conferred by this section, means a matter which, when the power is exercised, is a transferred matter within the meaning of the Northern Ireland Act 1998.

#### **Privileged information, etc.**

**10.—**(1) A person may not under section 9 be required to give, produce or provide any evidence or document if—

(a) that person could not be required to do so if the proceedings of the inquiry were civil proceedings in a court in Northern Ireland, or

(b) the requirement would be incompatible with an EU obligation.

(2) The rules of law under which evidence or documents are permitted or required to be withheld on grounds of public interest immunity apply in relation to the inquiry as they apply in relation to civil proceedings in a court in Northern Ireland.