

## COMMONWEALTH OF DOMINICA

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## COMMONWEALTH OF DOMINICA

STATUTORY RULES AND ORDERS NO. 21 of 2012

### RULES

MADE by the Integrity Commission under section 58 of the  
Integrity in Public Office Act, 2003, (Act No. 6 of 2003).

(Gazetted July 12, 2012.)

### PART I PRELIMINARY

1. (1) These Rules may be cited as the—

Short title and  
commencement.

#### INTEGRITY COMMISSION (INQUIRIES) RULES 2012.

(2) These Rules shall be deemed to have come into force  
on the 1<sup>st</sup> day of March, 2012.

2. (1) In these Rules—

Interpretation.

“the Act” means the Integrity in Public Office Act, 2003;

“complainee” means the person in public life who is the subject of  
the complaint giving rise to an inquiry under the Act;

“attorney- at- law” includes a barrister or solicitor;

“counsel to the Commission” means an attorney-at-law, who is  
retained by the Commission to act as counsel for an  
inquiry;

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“deponent” means a person giving a written statement or an affidavit for use in an inquiry;

“designated email address” means–

- (a) in the case of the Commission, an email address notified to a witness (and the witness’s attorney-at-law, if any) by the secretary to the inquiry, in whatever manner the secretary sees fit, for the purpose of sending or receiving documents relating to the inquiry by email; and
- (b) in the case of a witness, an email address notified in writing by the witness or the attorney-at-law of the witness to the secretary to the inquiry, for the purpose of sending or receiving documents relating to the inquiry by email;

“designated fax number” means–

- (a) in the case of the Commission, a facsimile number notified to a witness (and the witness’s attorney-at-law, if any) by the secretary to the inquiry, in whatever manner the secretary sees fit, for the purpose of communication by facsimile transmission; and
- (b) in the case of any witness, a facsimile number notified in writing by the witness or the attorney-at-law of the witness to the secretary to the inquiry for the purpose of communication by facsimile transmission;

“designated postal address” means–

- (a) in the case of the Commission, an address notified to a witness (and the witness’s attorney-at-law, if any)

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by the secretary to the inquiry, in whatever manner the secretary sees fit, for the purposes of sending documents by post or leaving documents; and

(b) in the case of a witness, an address notified in writing by the witness or the attorney-at-law of the witness to the secretary to the inquiry for the purposes of sending documents by post or leaving documents;

“inquiry” means an inquiry which the Commission holds under the Act;

“inquiry hearing” means an oral hearing of sittings of the Commission in the course of any inquiry under the Act.

“rule” means a rule of procedure;

“secretary to the inquiry” means a person designated by the Commission to give administrative support and assist in the management of an inquiry;

“solicitor to the Commission” means an attorney-at-law, if any, who is retained by the Commission to act as solicitor for an inquiry;

“witness” includes any person from whom the Commission proposes to take written or oral evidence;

“witness statement” includes the written statements made or presented to the Commission by the complainant and the complainee in respect of an inquiry to which these Rules apply.

(2) In these Rules, references to things to be published or written shall be construed to include references to the things to be published or written by electronic means or in electronic form.

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Rules of evidence.

**3.** (1) The Commission in determining the admissibility of evidence shall have regard to the principles of natural justice and equity.

(2) Original or certified copies of registered documents may be admitted without requiring formal proof of their execution.

Secretary to the inquiry.

**4.** (1) For the purposes of an inquiry, the Commission shall designate a person to act as secretary to the inquiry.

(2) The secretary to the inquiry shall provide administrative support to the Commission.

(3) Without prejudice to the generality of sub-rule (2) the secretary to the inquiry is responsible for—

- (a) giving notice of sittings of the Commission;
- (b) receiving documents in respect of an inquiry on behalf of the Commission;
- (c) recording the proceedings of the Commission in respect of an inquiry;
- (d) providing to members copies of the records of the proceedings of the Commission in respect of an inquiry;
- (e) preparing the correspondence and reports of the Commission; and
- (f) carrying out such other tasks as are assigned to the secretary to the inquiry by the Solicitor to the Commission and the Commission.

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**PART II  
MANNER OF PROCEEDINGS ETC.**

**5.** The Commission shall—

Sittings in Private.

- (a) hold its sittings in private; and
- (b) sit as often as may be necessary to perform its duties and exercise its powers in an expeditious manner.

**6. (1)** The Commission may—

Requests for evidence in writing.

- (a) require evidence or arguments to be presented in writing;
- (b) decide the matters upon which it will hear oral evidence or arguments;
- (c) make a written request for further evidence, being either a written statement or oral evidence; and
- (d) subject to sub-rule (2), send a written request to any person for a written statement of evidence.

(2) The Commission must send a written request to any person that the Commission wishes to produce any document or other thing.

(3) Any written request sent or made under this rule must include the date or time by which the statement, document, other thing or further evidence must be provided to the Commission.

**7. (1)** A person filing any statement or affidavit in respect of an inquiry under these Rules shall—

Document to be filed with affidavit.

- (a) file one copy of the statement or the affidavit;

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(b) file, along with the statement or affidavit, a list of the documents on which the person intends to rely; and

(c) where the person intends to examine witness, file along with the statement or affidavit—

(i) a list of witness with their full particulars and addresses whom the person would like to examine in support of his statement or affidavit, and

(ii) a summary of facts which the witness are likely to depose.

(2) Where a statement or affidavit is filed in any language other than English, the statement or affidavit must be accompanied by a certified translation of its contents in the English language.

(3) Where a complainant or deponent relies on any document, the complainant or deponent must file, along with the statement or affidavit, the original document or duly certified copy of that document.

(4) Where a document referred to in sub-rule (3)—

(a) is not in the possession or control of the complainant or deponent, the complainant or, as the case may be, the deponent shall disclose the particulars of the person in whose custody the document is available along with the particulars of the document; or

(b) is an official record, the complainant or, as the case may be, the deponent shall specify the department or the officer of the department having custody or control of the document.



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(5) Where—

(a) information contained in the statement is derived from any document or records, the complainant or deponent, as the case may be, shall indicate or disclose—

(i) the particulars and nature of such document or records,

(ii) the particulars of the person in custody or control of such document or records, and

(iii) the source of such information; and

(b) any part of the statement is based on information received by the complainant or deponent, the complainant or deponent, as the case may be, shall disclose the source of such information.

(6) For the purposes of sub-rule (1)(c), the person filing the statement or affidavit shall—

(a) against the name of each witness, indicate briefly the fact which the witness is expected to prove in his examination; and

(b) give reasons, why the examination of the witness on affidavit will not suffice.

**8.** (1) All witness statements and documents in respect of every inquiry shall be submitted to the Commission.

Examination of documents and witness statements.

(2) Upon receipt of the witness statements and documents submitted to the Commission, the Commission—

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(a) shall adduce what it considers material; and

(b) may, at its discretion, take up all the allegations at once, in convenient groups or seriatim.

(3) The Commission may, on its own cognizance or on an application made by any witness, delete or expunge any matter from any complaint, affidavit or other document which, in the opinion of the Commission, is irrelevant or needlessly offensive, scurrilous or scandalous.

(4) The Commission may reject any statement which—

(a) is not accompanied by an affidavit; or

(b) in the opinion of the Commission, is irrelevant or needlessly offensive, scurrilous or scandalous.

(5) The Commission may at any stage of the proceedings require any person, who in its opinion may have relevant information relating to a matter which is the subject of the inquiry—

(a) to file a statement of facts by way of affidavit; and

(b) to produce any materials or records in the possession of the person.

(6) After reviewing a witness statement or an affidavit, the Commission may request a witness or the deponent to produce, by way of affidavit, further particulars with respect to the facts that the witness or deponent has disclosed.

(7) On examination of all statements submitted under this rule, the Commission may, if it considers necessary in the interest of justice, call upon any person filing a statement accompanied by an affidavit to give oral evidence and submit himself to cross-examination.

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(8) The statement supported by an affidavit filed by a person shall be treated as part of the Examination-in-Chief of the person.

**9.** (1) An inquiry hearing shall open with an opening statement by the Chairman of the Commission and the Counsel to the Commission. Opening and closing statements.

(2) The complainee or his attorney-at-law and the complainant or his attorney at law may

(a) make an opening statement to the Commission at the commencement of an inquiry hearing; and

(b) make a closing statement to the Commission.

(3) Unless the Commission determines otherwise, the order of precedence as regards opening and closing statements and presentation to the Commission is as follows—

(a) the Commission or counsel to the Commission;

(b) the complainant or attorney- at- law of the complainant; and

(c) the complainee or attorney- at- law of the complainee.

**10.** (1) The Commission may— Oral evidence.

(a) in its discretion, refuse to call a complainee or witness for oral examination or cross examination;

(b) allow the person to be examined on affidavit through interrogatories delivered to him, or

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(c) issue a commission for the person to be examined on interrogatories, or otherwise; or

(d) refuse to summon any witness whose evidence, in its opinion—

(i) is frivolous or vexatious,

(ii) may tend to prejudice, embarrass or delay the proceedings, or

(iii) is otherwise an abuse of process.

(2) Where the Commission decides to hear oral evidence or arguments on or in a matter, the Commission -

(a) may determine the periods that are reasonably necessary for the fair and adequate presentation of the matter by the relevant parties and witness; and

(b) may require the matter to be presented within the respective periods so determined.

(3) Where the Commission so directs, oral evidence may be given at an inquiry hearing by a live television link or other such arrangement by which the witness is able to be seen and heard in the proceedings and is able to see and hear the proceedings while at a place outside the room where the hearing is held.

Examinations and cross-examinations.

**11.** (1) Where a person is giving oral evidence at an inquiry hearing-

(a) members of the Commission;

(b) counsel to the Commission;

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- (c) the complainee or his attorney-at-law and the complainant or his attorney-at-law may examine or cross-examine that person

**PART III  
MISCELLANEOUS PROVISIONS**

**12.** The secretary to the inquiry may receive any document on behalf of the Commission. Receipt of documents and statements.

**13.** (1) Any requirement under these Rules that a document is to be given or sent, to the Commission or to any other person, is satisfied by that document being— Service.

- (a) delivered in person;
  - (b) left at a designated postal address;
  - (c) sent to a designated postal address by registered mail;
  - (d) sent by facsimile transmission to a designated facsimile number; or
  - (e) sent to a designated electronic mail address.
- (2) Proof of service of a document by—
- (a) the means referred to in sub-rule (1)(d) may be proved by a facsimile transmission verification report; and
  - (b) the means referred to in sub-rule (1)(e) may be proved by an electronic mail return receipt.

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Confidentiality.

**14.** (1) Save and except as directed by the Commission—

(a) no person other than an authorised person shall make a record of the oral evidence, or part of the oral evidence, given during any sitting of the Commission; and

(b) no person shall publish any evidence given during any sitting of the Commission.

(2) For the purposes of sub-rule (1)(a), “authorised person” means—

(a) a member of the Commission;

(b) the counsel to the Commission;

(c) the solicitor to the Commission;

(d) the secretary to the inquiry;

(e) the complainant, and the complaine; or

(f) the attorney-at-law of the complainant or the complaine.

Use of experts.

**15.** The Commission may, in respect of any inquiry to which these rules apply, elicit the views of persons having expertise in the field relating to matters pertaining to that inquiry.

General authority of Commission.

**16.** The Commission has the power and authority to regulate the conduct of an inquiry to which these Rules apply in all matters not provided for in these Rules.

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Made is 7<sup>th</sup> day of   June, 2012.

**Julian N. Johnson**

*Chairman of the Integrity Commission*

**Alick B. Lazare**

*Member of the Integrity Commission*

**Davidson A. Bruney**

*Member of the Integrity Commission*

**Anthony P. La Ronde**

*Member of the Integrity Commission*

**Gerald Smith**

*Member of the Integrity Commission*

**Henry G. Dyer**

*Member of the Integrity Commission*

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