

c2017-060A  
OPP--OPPOSITION

**LEGISLATIVE COUNCIL**

**Charitable Fundraising Amendment (Inquiries) Bill 2017**

**First print**

**Proposed amendments**

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**No. 1 Determination of costs**

Page 3, Schedule 1 [3]–[5], lines 12–22. Omit all words on those lines. Insert instead:  
Insert after section 41 (2):

- (2A) A public inquirer conducting a public inquiry may direct that the costs of the inquiry are payable by one or more persons or organisations in the proportions that the inquirer considers appropriate (having regard to the solvency of each person or organisation). The costs are payable by those persons or organisations in the proportions directed and are recoverable from each of them in a court of competent jurisdiction as a debt due to the Crown.

**No. 2 Tabling of reports**

Page 5, Schedule 1, proposed section 41E (3), lines 16–18. Omit all words on those lines. Insert instead:

- (3) The Minister must cause a copy of a report provided to the Minister to be tabled in both Houses of Parliament, excluding any material that the public inquirer has recommended should be treated as confidential.

**No. 3 Procedural guidelines**

Page 5, Schedule 1 [6]. Insert after line 33:

**41F Procedural guidelines relating to public inquiries**

- (1) A public inquirer is to issue guidelines relating to the conduct of the public inquiry to persons assisting the public inquirer in conducting the inquiry.
- (2) The guidelines are to provide guidance on the following aspects of the conduct of the public inquiry:
- (a) the investigation of evidence that might exculpate affected persons,
  - (b) the disclosure of exculpatory and other relevant evidence to affected persons,
  - (c) the opportunity to cross-examine witnesses as to their credibility,
  - (d) providing affected persons and other witnesses with access to relevant documents and a reasonable time to prepare before giving evidence,

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- (e) any other matter the public inquirer considers necessary to ensure procedural fairness.
  - (3) The public inquirer is to ensure that the guidelines are made publicly available.
  - (4) The public inquirer is to conduct the public inquiry having regard to the guidelines and the requirements of procedural fairness.
  - (5) In this section:  
*affected person* means a person against whom substantial allegations have been made in the course of or in connection with the public inquiry.

No. 4      **Public hearings**

Page 5, Schedule 1 [6], proposed section 41F (3), lines 38–40. Omit all words on those lines. Insert instead:

- (3) The public inquirer:
  - (a) if satisfied that holding a hearing in public would not be in the public interest—must direct that the hearing be held in private, and
  - (b) in other cases—may direct that a hearing (or part of a hearing) be held in private if satisfied that it is desirable to do so because of the confidential nature of any evidence or matter or for any other reason.

No. 5      **Legal representation**

Page 6, Schedule 1 [6], proposed section 41G (3), line 8. Omit “may”. Insert instead “must”.

No. 6      **Legal representation**

Page 6, Schedule 1 [6], proposed section 41G. Insert after line 10:

- (4) The public inquirer is required to give a reasonable opportunity for a person giving evidence at the public inquiry to be legally represented.

No. 7      **Legal or financial assistance**

Page 6, Schedule 1 [6]. Insert after line 13:

**41H    Legal and financial assistance for witness**

- (1) A witness who is appearing or about to appear before a public inquiry may apply to the Attorney General for legal or financial assistance.
- (2) The Attorney General may approve the provision of legal or financial assistance to the applicant if of the opinion that this is appropriate, having regard to any one or more of the following:
  - (a) the prospect of hardship to the witness if assistance is declined,
  - (b) the significance of the evidence that the witness is giving or appears likely to give,
  - (c) any other matter relating to the public interest.
- (3) On giving the approval, the Attorney General may authorise the provision to the witness of legal or financial assistance determined by the Attorney General in respect of the witness’s appearance before the public inquiry. The assistance is to be provided out of money provided by Parliament for the purpose.
- (4) The assistance may be provided unconditionally or subject to conditions determined by the Attorney General.
- (5) The Attorney General may delegate one or more of his or her functions under this section to the Secretary of the Department of Justice.

No. 8      **Self-incrimination**

Page 7, Schedule 1 [6], proposed section 41L (6), line 45. Omit “(except subsection (2) (b))”.