



*Commissions of Inquiry Act 1951 (Chapter 31)*

**ROYAL COMMISSION OF INQUIRY INTO PROCESS AND PROCEDURES  
FOLLOWED BY THE GOVERNMENT OF PAPUA NEW GUINEA INTO  
OBTAINING THE OFF-SHORE LOAN FROM THE UNION BANK OF  
SWITZERLAND AND RELATED TRANSACTIONS**

**PRACTICE NOTE**

*No. 2 of 2021*

**Commencement of hearings**

1. Section 5 of the *Commissions of Inquiry Act 1951* (“the Act”) provides that the Commission may make such rules, not inconsistent with the terms of the instrument of its appointment, for the conduct of proceedings before it, for the times and places of its meetings and for adjournment, as it thinks proper.
2. These rules of procedure are made by the Commission to apply to the Commission of Inquiry directed by the Prime Minister on 30 August 2019, to inquire into, make findings and report on the processes and procedures followed by the Government of Papua New Guinea in obtaining the off-shore loan from the Union Bank of Switzerland in 2014 and related transactions.

**Public hearings**

3. Public hearings are currently intended to be held at *Apec House*, Waigani, National Capital District, Papua New Guinea. In view of the Covid Pandemic, hearings may be conducted by video link, using Zoom, and will be video recorded with a transcript taken. The Commission may sit at other locations and use video-conference and telephone facilities, as it sees fit.
4. Dates for public hearings will be communicated on the Commission website.
5. Any person can attend a public hearing, unless directed otherwise by the Commission.

**Leave to appear**

6. Any person who has a *bona fide* interest in the subject matter of the Inquiry may make an application to the Commission for leave to appear either in person or by counsel.
7. Those who have already appeared before the Commission upon the Commission’s request and with leave of the Commission, need not re-apply for leave. The Commission may review and

vary the conditions upon which leave was granted to render consistency with this Practice Note. The Commission may make such use, as it sees fit, of the documents already submitted to the Commission at preliminary hearings of the Commission. Counsel assisting the Commission may also make use, as they see fit, of those documents in the course of preparing the particular witness' evidence for the public hearings.

8. Any application for leave under paragraph 6 above, should be lodged in writing as soon as practicable with the Secretary of the Commission.
9. A written application seeking leave to appear shall include:
  - (a) an outline of no more than three pages identifying the term or terms of reference ([Terms of Reference | Coiubsl](#)) in which the person claims an interest, explaining the nature of that interest and giving reasons why they should be given leave to appear before the Commission in person or be represented by counsel having regard to section 8 of the Act;
  - (b) provide contact details; and
  - (c) be accompanied by a signed affidavit by the person having a *bona fide* interest in the subject matter.
10. A written application seeking leave to appear should either be emailed to the Secretary to the Commission, Mr Mathew Yuangu, at [myuangu64@gmail.com](mailto:myuangu64@gmail.com) or filed in hard copy at the Office of the Commission at *Apec Haus*, National Capital District, Papua New Guinea.
11. The Commission may deal with any application seeking leave to appear under paragraph 6 above without oral hearing, in which case there will be written or email communication to the person or their counsel representing as to the application.
12. An application seeking leave to appear under paragraph 6 may be listed for oral hearing at such time as determined and communicated by the Commission at *Apec Haus*, Waigani or at such other location as the Commission directs. The Commission may invite an applicant to make oral submissions in support of their application for leave to appear.
13. Subject to any direction to the contrary, a person or party who has satisfied the Commission that they have a *bona fide* interest in the matter and has been granted leave to appear having regard to section 8 of the Act may appear at public hearings of the Commission at which evidence will be taken or submissions received relating to issues in which the party has been granted leave.
14. Participation in public hearings, further to the granting of leave to appear, including the examination of witnesses or the presentation of submissions, requires the grant of further leave by the Commission, which leave may be granted on terms which may include (without limitation) the following:
  - (a) limitation of the particular topics or issues upon which the party may examine or present submissions;
  - (b) the imposition of time or other limitations upon examination or presentation of submissions;

- (c) the provision of prior notice to the Commission of documents or other evidence relevant to the terms of reference to be referred to in examination or submissions together with written outline of any proposed submissions; and
- (d) the requirement that submissions be presented in writing only.

15. Nothing in this Practice Note prevents a person from seeking leave to appear at any time if something that has occurred during the hearing leads the person to believe their interest may be affected which would entitle such person to appear or be represented by counsel as provided in section 8 of the Act.

### **Conduct of hearings**

16. The Commission's usual public hearing hours will be from 9:30 am to 12:30 pm and from 2:00 pm to 4:30 pm. The Commission may sit different hours. The Commission will endeavour to notify parties given leave to attend or other interested parties of the timing and places of its hearing; but such notice may not always be able to be given on the website.
17. Subject to the control of the Commission, Counsel Assisting the Commission will determine which witnesses are called at public hearing and when, and what documents are sought to be tendered to the Commission.
18. The Commission may request or direct the appearance of witnesses to provide a synopsis of the evidence they propose to give.

### **Applications to call a witness or tender a document**

19. Any person who has satisfied the Commission that they have a *bona fide* interest in the matter and has been granted leave to attend the Commission and who wishes to have the evidence of a witness placed before the Commission should notify the Secretary of the Commission of the name of the witness in writing and provide a signed affidavit of his or her expected evidence. The Commission's Solicitors or Counsel Assisting the Commission may interview the witness and take a further statement from them. Counsel Assisting the Commission will then decide whether to call the witness at public hearing.
20. Any person who has satisfied the Commission that they have a *bona fide* interest in the matter or has been granted leave to attend the Commission and who wishes to tender a document to the Commission should notify the Secretary of the Commission in writing of the document, and should provide a copy of the document if it has not already been produced to the Commission. Counsel Assisting the Commission will then decide whether to seek to tender the document.
21. If Counsel Assisting the Commission has declined a person's request to call a witness or tender a document, the person may write to the Secretary to the Commission setting out the reasons why it is contended that the witness should be called or the document tendered.
22. Should Counsel Assisting the Commission affirm their decision not to place the evidence before the Commission, the person concerned may apply to the Secretary of the Commission for the application for leave to call the witness or tender the document to be determined by the Commission. The Commission may determine that application without oral hearing or in such other way as it directs.

**Relevant information**

23. Any person who has any information relevant to any of the Terms of Reference whether that information relates to a person or to a document or thing should contact the Secretary to the Commission to discuss.

**Examination of witnesses**

24. All witnesses will be called by Counsel Assisting the Commission who will generally examine the witness first.
25. Any application then made for the further examination of the witness by their own legal representative, or by or on behalf of any person considered by the Commission to have sufficient interest in doing so will then be determined by the Commission in accordance with paragraph 14 of this Practice Note.
26. Any application under paragraph 14 of this Practice Note will need to identify the topics on which leave is sought to examine and the Commission may impose such conditions or restrictions on that leave as it sees fit in the interests of efficiency and fairness.
27. A copy of any document proposed to be put to a witness in further examination must be provided to Counsel Assisting the Commission as soon as possible after a decision is made to use the document for the purpose and in all cases well prior to being put to the witness.
28. Following any further examination Counsel Assisting the Commission may re-examine the witness.

**Procedural Matters.**

29. If a person who has satisfied the Commission that they have a *bona fide* interest in the matter or has been granted leave to appear intends to raise a procedural matter, the person should write to the Secretary of the Commission identifying the issue to be raised and setting out a brief outline of the submissions the person proposes to make in relation to the issue.
30. A party who wishes to raise such an issue should give the Secretary to the Commission as much written advance notice as possible of that intention.
31. Without limiting its generality, the term “procedural matters” includes objections to or restrictions on the production or use of documents, matters relating to the way in which witnesses are to be examined, applications for corrections to any transcript and administrative arrangements for the conduct of hearings.

**Media**

32. Media will be allowed access to public hearings. The media must respect the integrity of the proceedings and do nothing to interfere with the conduct of proceedings. Cameras will not be allowed in the hearing room during the conduct of hearings, unless specifically allowed by direction of the Commission. The public hearings will generally be recorded.

**Counsel Assisting the Commission**

33. A reference in this practice note to Counsel Assisting the Commission is to Dr James Renwick CSC SC, Dr Dominic Katter, and, or Mr Levente Jurth; or such other Counsel Assisting as may be appointed.

### Presence of Children

34. Due to the nature of various matters being inquired into, unless specifically allowed by direction of the Commission, children shall not be allowed into the hearing room during Commission hearings.

### Variation of practice

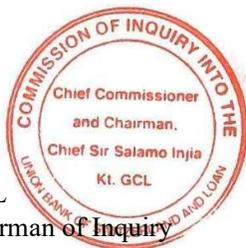
35. The Commission may vary the practices set out in this practice note.

### Effect

36. This *Practice Note No. 2 of 2021* is effective from the date of signing.

37. *Practice Note No.1 of 2019* is repealed from the date of signing of this *Practice Note*.

  
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 Chief Sir Salamo Injia Kt GCL  
 Chief Commissioner and Chairman of Inquiry  
 Dated: 22 March 2021



  
 .....  
 The Honourable Margaret White AO  
 Commissioner  
 Dated: 22 March 2021

