

THIRD SUPPLEMENT TO THE GIBRALTAR GAZETTE

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INQUIRIES BILL 2024

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FOR

AN ACT to make provision about the convening and conduct of inquiries.

ENACTED by the Legislature of Gibraltar.

Title and commencement.

1.(1) This Act may be cited as the Inquiries Act 2024 and comes into operation on the day appointed by the Government by notice in the Gazette.

(2) A notice under this section—

- (a) may include any transitory, transitional or saving provision that the Government considers necessary or expedient;
- (b) may appoint different days for different purposes.

Interpretation.

2.(1) In this Act—

“assessor” means an assessor appointed under section 13;

“chairman”, in relation to an inquiry, means the chairman of the inquiry;

“the course of the inquiry” and similar expressions are to be read in accordance with subsection (2);

“date of conversion” has the meaning given by section 17(1);

“document” includes information recorded in any form (and see subsection (3));

“event”, except in section 15, includes any conduct or omission;

“inquiry”, except where the context requires otherwise, means an inquiry under this Act;

“inquiry panel” is to be read in accordance with section 5(2);

“interested party”, in relation to an inquiry, means a person with a particularly significant interest in the proceedings or outcome of the inquiry;

“interim report” means a report under section 26(4);

“member”, in relation to an inquiry panel, includes the chairman;

“public authority” has the same meaning as in the Freedom of Information Act 2018;

“report” means a report under section 26(1);

“retained enforceable EU obligation” means an obligation (as modified from time to time) which forms part of retained EU law by virtue of sections 6 and 7 of the European Union (Withdrawal) Act 2019;

“setting-up date” means the date specified under section 7(1)(a);

“statutory provision” means a provision contained in, or having effect under, any enactment;

“terms of reference”, in relation to an inquiry under this Act, has the meaning given by section 7(6).

(2) References in this Act to the course of an inquiry are to the period beginning with the setting-up date, or (in the case of an inquiry converted under section 17) the date of conversion, and ending with the date on which the inquiry comes to an end (which is given by section 16).

(3) References in this Act to producing or providing a document, in relation to information recorded otherwise than in legible form, are to be read as references to producing or providing a copy of the information in a legible form.

Power to establish inquiry.

3.(1) The Government may cause an inquiry to be held under this Act in relation to a case where it appears to it that—

- (a) particular events have caused, or are capable of causing, public concern; or
- (b) there is public concern that particular events may have occurred.

(2) References in this Act to an inquiry, except where the context requires otherwise, are to an inquiry under this Act.

No determination of liability.

4.(1) An inquiry panel is not to rule on, and has no power to determine, any person's civil or criminal liability.

(2) But an inquiry panel is not to be inhibited in the discharge of its functions by any likelihood of liability being inferred from facts that it determines or recommendations that it makes.

The inquiry panel.

5.(1) An inquiry is to be undertaken either—

- (a) by a chairman alone; or
- (b) by a chairman with one or more other members.

(2) References in this Act to an inquiry panel are to the chairman and any other member or members.

Appointment of inquiry panel.

6.(1) Each member of an inquiry panel is to be appointed by the Government by Legal Notice in the Gazette.

(2) The instrument appointing the chairman must state that the inquiry is to be held under this Act.

(3) Before appointing a member to the inquiry panel (otherwise than as chairman) the Government must consult the person it has appointed, or proposes to appoint, as chairman.

Setting-up date and terms of reference.

7.(1) In the instrument under section 6 appointing the chairman, or by a notice given to him within a reasonable time afterwards, the Government must—

- (a) specify the date that is to be the setting-up date for the purposes of this Act; and
- (b) before that date—
 - (i) set out the terms of reference of the inquiry;
 - (ii) state whether or not the Government proposes to appoint other members to the inquiry panel, and if so how many.

(2) An inquiry must not begin considering evidence before the setting-up date.

(3) The Government may at any time after setting out the terms of reference under this section amend them if it considers that the public interest so requires.

(4) Before setting out or amending the terms of reference the Government must consult the person it proposes to appoint, or has appointed, as chairman.

(5) Functions conferred by this Act on an inquiry panel, or a member of an inquiry panel, are exercisable only within the inquiry's terms of reference.

(6) In this Act “terms of reference”, in relation to an inquiry under this Act, means—

- (a) the matters to which the inquiry relates;
- (b) any particular matters as to which the inquiry panel is to determine the facts;
- (c) whether the inquiry panel is to make recommendations;
- (d) any other matters relating to the scope of the inquiry that the Government may specify.

Government’s duty to inform Parliament.

8.(1) If the Government proposes to cause an inquiry to be held, or if it has already done so without making a statement under this section, it must as soon as is reasonably practicable make a statement to that effect to Parliament.

(2) A statement under subsection (1) must state—

- (a) who is to be, or has been, appointed as chairman of the inquiry;
- (b) whether the Government has appointed, or proposes to appoint, any other members to the inquiry panel, and if so how many;
- (c) what are to be, or are, the inquiry's terms of reference.

(3) Where the terms of reference of an inquiry are amended under section 7(3), the Government must, as soon as is reasonably practicable, make a statement to Parliament setting out the amended terms of reference.

(4) A statement under this section may be oral or written.

Further appointments to inquiry panel.

9.(1) The Government may at any time (whether before the setting-up date or during the course of the inquiry) appoint a member to the inquiry panel—

- (a) to fill a vacancy that has arisen in the panel (including a vacancy in the position of chairman); or
- (b) to increase the number of members of the panel.

(2) The power to appoint a member under subsection (1)(b) is exercisable only—

- (a) in accordance with a proposal under section 7(1)(b)(ii); or
- (b) with the consent of the chairman.

(3) The power to appoint a replacement chairman may be exercised by appointing a person who is already a member of the inquiry panel.

Suitability of inquiry panel.

10.(1) In appointing a member of the inquiry panel, the Government must have regard—

- (a) to the need to ensure that the inquiry panel (considered as a whole) has the necessary expertise to undertake the inquiry;
- (b) in the case of an inquiry panel consisting of a chairman and one or more other members, to the need for balance (considered against the background of the terms of reference) in the composition of the panel.

(2) For the purposes of subsection (1)(a) the Government may have regard to the assistance that may be provided to the inquiry panel by any assessor whom the Government proposes to appoint, or has appointed, under section 13.

Requirement of impartiality.

11.(1) The Government must not appoint a person as a member of the inquiry panel if it appears to the Government that the person has—

- (a) a direct interest in the matters to which the inquiry relates; or
- (b) a close association with an interested party,

unless, despite the person's interest or association, his appointment could not reasonably be regarded as affecting the impartiality of the inquiry panel.

(2) Before a person is appointed as a member of an inquiry panel he must notify the Government of any matters that, having regard to subsection (1), could affect his eligibility for appointment.

(3) If at any time (whether before the setting-up date or during the course of the inquiry) a member of the inquiry panel becomes aware that he has an interest or association falling within paragraph (a) or (b) of subsection (1), he must notify the Government.

(4) A member of the inquiry panel must not, during the course of the inquiry, undertake any activity that could reasonably be regarded as affecting his suitability to serve as such.

Appointment of judge as panel member.

12. If the Government proposes to appoint as a member of an inquiry panel a particular person who is a judge of a description specified in the first column of the following table, he must first consult the person specified in the second column.

<i>Description of judge:</i>	<i>Person to be consulted:</i>
Justice of the Court of Appeal	The President of the Court of Appeal
Judge of the Supreme Court	The Chief Justice

Assessors.

13.(1) One or more persons may be appointed to act as assessors to assist the inquiry panel.

(2) The power to appoint assessors is exercisable—

(a) before the setting-up date, by the Government;

(b) during the course of the inquiry, by the chairman (whether or not the Government has appointed assessors) with the consent of the Government.

(3) Before exercising its powers under subsection (2)(a) the Government must consult the person it proposes to appoint, or has appointed, as chairman.

(4) A person may be appointed as an assessor only if it appears to the Government or the chairman (as the case requires) that he has expertise that makes him a suitable person to provide assistance to the inquiry panel.

(5) The chairman may at any time terminate the appointment of an assessor, but only with the consent of the Government in the case of an assessor appointed by the Government.

Duration of appointment of members of inquiry panel.

14.(1) Subject to the following provisions of this section, a member of an inquiry panel remains a member until the inquiry comes to an end (or until his death if he dies before then).

(2) A member of an inquiry panel may at any time resign his appointment by notice to the Government.

(3) The Government may at any time by notice terminate the appointment of a member of an inquiry panel—

- (a) on the ground that, by reason of physical or mental illness or for any other reason, the member is unable to carry out the duties of a member of the inquiry panel;
- (b) on the ground that the member has failed to comply with any duty imposed on him by this Act;
- (c) on the ground that the member has-
 - (i) a direct interest in the matters to which the inquiry relates; or
 - (ii) a close association with an interested party,such that his membership of the inquiry panel could reasonably be regarded as affecting its impartiality;
- (d) on the ground that the member has, since his appointment, been guilty of any misconduct that makes him unsuited to membership of the inquiry panel.

(4) In determining whether subsection (3)(a) applies in a case where the inability to carry out the duties is likely to be temporary, the Government may have regard to the likely duration of the inquiry.

(5) The Government may not terminate a member's appointment under subsection (3)(c) if the Government was aware of the interest or association in question when appointing him.

(6) Before exercising his powers under subsection (3) in relation to a member other than the chairman, the Government must consult the chairman.

(7) Before exercising his powers under subsection (3) in relation to any member of the inquiry panel, the Government must—

- (a) inform the member of the proposed decision and of the reasons for it, and take into account any representations made by the member in response; and
- (b) if the member so requests, consult the other members of the inquiry panel (to the extent that no obligation to consult them arises under subsection (6)).

Power to suspend inquiry.

15.(1) The Government may at any time, by notice to the chairman, suspend an inquiry for such period as appears to the Government to be necessary to allow for—

- (a) the completion of any other investigation relating to any of the matters to which the inquiry relates; or

(b) the determination of any civil or criminal proceedings (including proceedings before a disciplinary tribunal) arising out of any of those matters.

(2) The power conferred by subsection (1) may be exercised whether or not the investigation or proceedings have begun.

(3) Before exercising that power the Government must consult the chairman.

(4) A notice under subsection (1) may suspend the inquiry until a specified day, until the happening of a specified event or until the giving by the Government of a further notice to the chairman.

(5) Where the Government gives a notice under subsection (1) it must—

(a) set out in the notice its reasons for suspending the inquiry;

(b) lay a copy of the notice, as soon as is reasonably practicable, before Parliament.

(6) A member of an inquiry panel may not exercise the powers conferred by this Act during any period of suspension; but the duties imposed on a member of an inquiry panel by section 11(3) and (4) continue during any such period.

(7) In this section “period of suspension” means the period beginning with the receipt by the chairman of the notice under subsection (1) and ending with whichever of the following is applicable—

(a) the day referred to in subsection (4);

(b) the happening of the event referred to in that subsection;

(c) the receipt by the chairman of the further notice under that subsection.

End of inquiry.

16.(1) For the purposes of this Act an inquiry comes to an end—

(a) on the date, after the delivery of the report of the inquiry, on which the chairman notifies the Government that the inquiry has fulfilled its terms of reference; or

(b) on any earlier date specified in a notice given to the chairman by the Government.

(2) The date specified in a notice under subsection (1)(b) may not be earlier than the date on which the notice is sent.

(3) Before exercising his power under subsection (1)(b) the Government must consult the chairman.

- (4) Where the Government gives a notice under subsection (1)(b) it must—
- (a) set out in the notice its reasons for bringing the inquiry to an end;
 - (b) lay a copy of the notice, as soon as is reasonably practicable, before the Parliament.

Conversion of inquiries

Power to convert other inquiry into inquiry under this Act.

17.(1) Where—

- (a) an inquiry (“the original inquiry”) is being held, or is due to be held, by one or more persons appointed otherwise than under this Act;
- (b) the Government gives a notice under this section to those persons; and
- (c) the person who caused the original inquiry to be held consents,

the original inquiry becomes an inquiry under this Act as from the date of the notice or such later date as may be specified in the notice (the “date of conversion”).

(2) The power conferred by this section is exercisable only if the original inquiry relates to a case where it appears to the Government that—

- (a) particular events have caused, or are capable of causing, public concern; or
- (b) there is public concern that particular events may have occurred.

(3) Before exercising that power the Government must consult the chairman.

(4) A notice under this section must—

- (a) state that, as from the date of conversion, the inquiry is to be held under this Act;
- (b) in the case of an inquiry panel consisting of more than one member, identify who is to be chairman of the panel;
- (c) set out what are to be the terms of reference of the inquiry.

(5) The terms of reference set out under subsection (4) may be different from those of the original inquiry.

(6) The Government may at any time after setting out the terms of reference under this section amend them if it considers that the public interest so requires.

- (7) The Government must consult the chairman before—
- (a) setting out terms of reference that are different from those of the original inquiry; or
 - (b) amending the terms of reference under subsection (6).
- (8) Section 8 applies, with any necessary modifications, in relation to—
- (a) converting an inquiry under this section; or
 - (b) amending an inquiry's terms of reference under subsection (6),

as it applies in relation to causing an inquiry to be held, or amending an inquiry's terms of reference under section 7(3).

Inquiries converted under section 17.

18.(1) This section applies where an inquiry (the “original inquiry”) is converted under section 17 into an inquiry under this Act.

- (2) The appointment of a person who at the date of conversion is—
- (a) one of the persons holding, or due to hold, the original inquiry (an “original member”);
 - (b) an assessor, counsel or solicitor to the inquiry; or
 - (c) a person engaged to provide assistance to the inquiry,

continues as if made under this Act, and for the purposes of section 14(5) is treated as made by the Government on the date of conversion.

(3) Any obligation arising under an order of the original inquiry, or otherwise in connection with that inquiry, is enforceable only as it would be if the original inquiry had not been converted.

(4) No rights or obligations arise under or by virtue of this Act before the date of conversion.

Inquiry proceedings

Evidence and procedure.

19.(1) Subject to any provision of this Act or of rules under section 35, the procedure and conduct of an inquiry are to be such as the chairman of the inquiry may direct.

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

(3) In making any decision as to the procedure or conduct of an inquiry, the chairman 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).

Public access to inquiry proceedings and information.

20.(1) Subject to any restrictions imposed by a notice or order under section 21, the chairman must take such steps as he 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 an inquiry may be made except—

- (a) at the request of the chairman; or
- (b) with the permission of the chairman and in accordance with any terms on which permission is given.

(3) Any request or permission under subsection (2) must be framed so as not to enable a person to see or hear by means of a recording or broadcast anything that he is prohibited by a notice under section 21 from seeing or hearing.

(4) Section 12(4) of the Freedom of Information Act 2018 (certain inquiry records etc exempt from obligations under that Act) does not apply in relation to information contained in documents that, in pursuance of rules under section 35(1)(b) below, have been passed to and are held by a public authority.

Restrictions on public access etc.

21.(1) Restrictions may, in accordance with this section, be imposed on—

- (a) attendance at an inquiry, or at any particular part of an inquiry;
- (b) disclosure or publication of any evidence or documents given, produced or provided to an inquiry.

(2) Restrictions may be imposed in either or both of the following ways—

- (a) by being specified in a notice (a “restriction notice”) given by the Government to the chairman at any time before the end of the inquiry;
 - (b) by being specified in an order (a “restriction order”) made by the chairman during the course of the inquiry.
- (3) A restriction notice or restriction order must specify only such restrictions—
- (a) as are required by any statutory provision or rule of law; or
 - (b) as the Government or chairman 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 that he 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) In subsection (4)(b) “harm or damage” includes in particular—
- (a) death or injury;
 - (b) damage to national security or international relations;
 - (c) damage to the economic interests of Gibraltar;
 - (d) damage caused by disclosure of commercially sensitive information.

Further provisions about restriction notices and orders.

22.(1) Restrictions specified in a restriction notice have effect in addition to any already specified, whether in an earlier restriction notice or in a restriction order.

(2) Restrictions specified in a restriction order have effect in addition to any already specified, whether in an earlier restriction order or in a restriction notice.

(3) The Government may vary or revoke a restriction notice by giving a further notice to the chairman at any time before the end of the inquiry.

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

(5) Subject to subsection (6), restrictions imposed under section 21 on disclosure or publication of evidence or documents (“disclosure restrictions”) continue in force indefinitely, unless—

(a) under the terms of the relevant notice or order the restrictions expire at the end of the inquiry, or at some other time; or

(b) the relevant notice or order is varied or revoked under subsection (3), (4) or (7).

(6) After the end of the inquiry, disclosure restrictions do not apply to a public authority, in relation to information held by the authority otherwise than as a result of the breach of any such restrictions.

(7) After the end of an inquiry the Government may, by a notice published in a way that it considers suitable—

(a) revoke a restriction order or restriction notice containing disclosure restrictions that are still in force; or

(b) vary it so as to remove or relax any of the restrictions.

(8) In this section “restriction notice” and “restriction order” have the meaning given by section 21(2).

Powers of chairman to require production of evidence etc.

23.(1) The chairman of an inquiry 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 his custody or under his control that relate to a matter in question at the inquiry;

(c) to produce any other thing in his custody or under his control for inspection, examination or testing by or on behalf of the inquiry panel.

(2) The chairman may by notice require a person, within such period as appears to the inquiry panel to be reasonable—

- (a) to provide evidence to the inquiry panel in the form of a written statement;
 - (b) to provide any documents in his custody or under his control that relate to a matter in question at the inquiry;
 - (c) to produce any other thing in his custody or under his control for inspection, examination or testing by or on behalf of the inquiry panel.
- (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 if he wishes to make a claim within subsection (4).
- (4) A claim by a person that—
- (a) he is unable to comply with a notice under this section; or
 - (b) it is not reasonable in all the circumstances to require him to comply with such a notice,

is to be determined by the chairman of the inquiry, 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 chairman 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 a person's control if it is in his possession or if he has a right to possession of it.

Privileged information etc.

24.(1) A person may not under section 23 be required to give, produce or provide any evidence or document if—

- (a) he could not be required to do so if the proceedings of the inquiry were civil proceedings in a court in Gibraltar; or
- (b) the requirement would be incompatible with a retained 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 an inquiry as they apply in relation to civil proceedings in a court in Gibraltar.

Risk of damage to the economy.

25.(1) This section applies where it is submitted to an inquiry panel, on behalf of the Government or the Financial Services Commission that there is information held by any person which, in order to avoid a risk of damage to the economy, ought not to be revealed.

(2) The panel must not permit or require the information to be revealed, or cause it to be revealed, unless satisfied that the public interest in the information being revealed outweighs the public interest in avoiding a risk of damage to the economy.

(3) In making a decision under this section the panel must take account of any restriction notice given under section 21 or any restriction order that the chairman has made or proposes to make under that section.

(4) In this section—

- (a) “damage to the economy” means damage to the economic interests of Gibraltar;
- (b) “revealed” means revealed to anyone who is not a member of the inquiry panel.

(5) This section does not prevent the inquiry panel from communicating any information in confidence to the Government.

(6) This section does not affect the rules of law referred to in section 24(2).

Inquiry reports

Submission of reports.

26.(1) The chairman of an inquiry must deliver a report to the Government setting out—

- (a) the facts determined by the inquiry panel;
- (b) the recommendations of the panel (where the terms of reference required it to make recommendations).

(2) A report under subsection (1) may also contain anything else that the panel considers to be relevant to the terms of reference (including any recommendations the panel sees fit to make despite not being required to do so by the terms of reference).

(3) In relation to an inquiry that is brought to an end under section 16(1)(b), the duty imposed by subsection (1) to deliver a report is to be read as a power to do so.

(4) Before making a report under subsection (1) the chairman may deliver to the Government a report under this subsection (an “interim report”) containing anything that a report under subsection (1) may contain.

(5) A report of an inquiry must be signed by each member of the inquiry panel.

(6) If the inquiry panel is unable to produce a unanimous report, the report must reasonably reflect the points of disagreement.

(7) In subsections (5) and (6) “report” includes an interim report.

Publication of reports.

27.(1) It is the duty of the Government, or the chairman if subsection (2) applies, to arrange for reports of an inquiry to be published.

(2) This subsection applies if—

(a) the Government notifies the chairman before the setting-up date that the chairman is to have responsibility for arranging publication; or

(b) at any time after that date the chairman, on being invited to do so by the Government, accepts responsibility for arranging publication.

(3) Subject to subsection (4), a report of an inquiry must be published in full.

(4) The person whose duty it is to arrange for a report to be published may withhold material in the report from publication to such extent—

(a) as is required by any statutory provision, retained enforceable EU obligation or rule of law; or

(b) as the person considers to be necessary in the public interest, having regard in particular to the matters mentioned in subsection (5).

(5) Those matters are—

(a) the extent to which withholding material might inhibit the allaying of public concern;

(b) any risk of harm or damage that could be avoided or reduced by withholding any material;

(c) any conditions as to confidentiality subject to which a person acquired information that he has given to the inquiry.

(6) In subsection (5)(b) “harm or damage” includes in particular—

(a) death or injury;

- (b) damage to national security or international relations;
- (c) damage to the economic interests of Gibraltar;
- (d) damage caused by disclosure of commercially sensitive information.

(7) Subsection (4)(b) does not affect any obligation of the Government, or any other public authority that may arise under the Freedom of Information Act 2018.

(8) In this section “report” includes an interim report.

Laying of reports before Parliament.

28. Whatever is required to be published under section 27 must be laid by the Government, either at the time of publication or as soon afterwards as is reasonably practicable, before Parliament.

Supplementary

Offences.

29.(1) A person is guilty of an offence if he fails without reasonable excuse to do anything that he is required to do by a notice under section 23.

(2) A person is guilty of an offence if during the course of an inquiry he does anything that is intended to have the effect of—

- (a) distorting or otherwise altering any evidence, document or other thing that is given, produced or provided to the inquiry panel; or
- (b) preventing any evidence, document or other thing from being given, produced or provided to the inquiry panel,

or anything that he knows or believes is likely to have that effect.

(3) A person is guilty of an offence if during the course of an inquiry—

- (a) he intentionally suppresses or conceals a document that is, and that he knows or believes to be, a relevant document; or
- (b) he intentionally alters or destroys any such document.

(4) For the purposes of subsection (3) a document is a “relevant document” if it is likely that the inquiry panel would (if aware of its existence) wish to be provided with it.

(5) A person does not commit an offence under subsection (2) or (3) by doing anything that he is authorised or required to do—

- (a) by the inquiry panel; or
- (b) by virtue of section 24 or any privilege that applies.

(6) Proceedings for an offence under this section may be instituted by the chairman with the consent of the Attorney General.

(7) A person who is guilty of an offence under this section is liable on summary conviction to a fine not exceeding level three on the standard scale or to imprisonment for a term not exceeding six months or both.

Enforcement by Supreme Court.

30.(1) Where a person—

- (a) fails to comply with, or acts in breach of, a notice under section 21 or 23 or an order made by an inquiry; or
- (b) threatens to do so,

the chairman of the inquiry, or after the end of the inquiry the Government, may certify the matter to the Supreme Court.

(2) The court, after hearing any evidence or representations on a matter certified to it under subsection (1), may make such order by way of enforcement or otherwise as it could make if the matter had arisen in proceedings before the court.

Immunity from suit.

31.(1) No action lies against—

- (a) a member of an inquiry panel;
- (b) an assessor, counsel or solicitor to an inquiry; or
- (c) a person engaged to provide assistance to an inquiry,

in respect of any act done or omission made in the execution of his duty as such, or any act done or omission made in good faith in the purported execution of his duty as such.

(2) Subsection (1) applies only to acts done or omissions made during the course of the inquiry, otherwise than during any period of suspension (within the meaning of section 15).

(3) For the purposes of the law of defamation, the same privilege attaches to—

- (a) any statement made in or for the purposes of proceedings before an inquiry (including the report and any interim report of the inquiry); and
- (b) reports of proceedings before an inquiry,

as would be the case if those proceedings were proceedings before a court in Gibraltar.

Time limit for applying for judicial review.

32.(1) An application for judicial review of a decision made—

- (a) by the Government in relation to an inquiry; or
- (b) by a member of an inquiry panel,

must be brought within 14 days after the day on which the applicant became aware of the decision, unless that time limit is extended by the court.

(2) Subsection (1) does not apply where an earlier time limit applies by virtue of Civil Procedure Rules.

(3) Subsection (1) does not apply to—

- (a) a decision as to the contents of the report of the inquiry;
- (b) a decision of which the applicant could not have become aware until the publication of the report.

In this subsection “report” includes any interim report.

Payment of inquiry expenses by Government.

33.(1) The Government may agree to pay to—

- (a) the members of the inquiry panel;
- (b) any assessor, counsel or solicitor to the inquiry; and
- (c) any person engaged to provide assistance to the inquiry,

such remuneration and expenses as the Government may determine.

(2) The Government must pay any amounts awarded under section 34.

(3) The Government must meet any other expenses incurred in holding the inquiry, including the cost of publication of the report and any interim report of the inquiry (whether or not the chairman has responsibility for arranging publication).

(4) Subsection (5) applies where the Government—

- (a) believes that there are matters in respect of which an inquiry panel is acting outside the inquiry's terms of reference, or is likely to do; and
- (b) gives a notice to the chairman specifying those matters and the reasons for its belief.

(5) Subject to provision made by rules under section 35, the Government is not obliged under this section or otherwise to pay any amounts or to meet any expenses in so far as they are referable—

- (a) to any matters certified by the Government, in accordance with such provision, to be outside the inquiry's terms of reference; and
- (b) to any period falling after the date on which the notice under subsection (4) was given.

(6) Within a reasonable time after the end of the inquiry the Government must publish the total amount of what it has paid (or remains liable to pay) under this section.

Expenses of witnesses etc.

34.(1) The chairman may award reasonable amounts to a person—

- (a) by way of compensation for loss of time; or
- (b) in respect of expenses properly incurred, or to be incurred,

in attending, or otherwise in relation to, the inquiry.

(2) The power to make an award under this section includes power, where the chairman considers it appropriate, to award amounts in respect of legal representation.

(3) A person is eligible for an award under this section only if he is—

- (a) a person attending the inquiry to give evidence or to produce any document or other thing; or
- (b) a person who, in the opinion of the chairman, has such a particular interest in the proceedings or outcome of the inquiry as to justify such an award.

(4) The power to make an award under this section is subject to such conditions or qualifications as may be determined by the Government and notified by it to the chairman.

General

Rules.

35.(1) The Government may make rules dealing with—

- (a) matters of evidence and procedure in relation to inquiries;
- (b) the return or keeping, after the end of an inquiry, of documents given to or created by the inquiry;
- (c) awards under section 34.

(2) Rules under subsection (1) may in particular—

- (a) make provision as to how and by whom the amount of awards is to be assessed, including provision allowing the assessment to be undertaken by the inquiry panel or by such other person as the panel may nominate;
- (b) make provision for review of an assessment at the instance of a person dissatisfied with it.

Notices etc.

36. A notice or notification under this Act must be given in writing.

Transitory, transitional and saving provisions.

37.(1) Section 17 applies whether the original inquiry was caused to be held before or after the commencement of that section.

(2) Except as provided by section 17, this Act does not affect any power of any person (whether under a statutory provision or otherwise) to cause an inquiry to be held otherwise than under this Act.

(3) The repeal by this Act of any statutory provision under which an inquiry has been caused to be held does not affect any power or duty conferred or imposed in respect of the inquiry (“an existing inquiry”), and accordingly—

- (a) the existing inquiry may continue;
- (b) any report may be submitted and published; and
- (c) any proceedings arising out of the existing inquiry may be taken or continued,

as if the enactment had not been repealed.

(4) Save as otherwise specifically provided in this Act, the provisions of this Act shall apply to an existing inquiry with effect from the date that those provisions of this Act come into operation.

(5) Neither the repeal of the Commissions of Inquiry Act or anything in this Act shall affect the validity of any act or decision of the Commissioner under an existing inquiry, which acts and decisions shall remain legally valid and binding as if made under this Act and/or the Commissions of Inquiry Act as if that Act had not to that extent been repealed.

(6) Anything done, or having effect as if done, under (or for the purposes of or in reliance on) a provision of the Commissions of Inquiry Act has effect after that date as if done under (or for the purposes of or in reliance on) the corresponding provision of this Act.

(7) The provisions of section 12 of the Commissions of Inquiry Act shall continue to apply to any act or omissions to which that section applies which have been done or have been omitted to be done prior to the date on which section 29 of this Act comes into operation.

(8) This section has effect subject to any express amendment or specific transitional provision or saving made by or under this Act.

Repeals and revocations.

38. The Commissions of Inquiry Act is repealed.

Final provisions

Crown application.

39. This Act and any provisions made under it bind the Crown in right of His Majesty's Government of Gibraltar.

EXPLANATORY MEMORANDUM

This Bill for an Act brings the statutory law of Gibraltar into line with the UK's Inquiries Act 2005, which is the United Kingdom statute relating to public inquiries. It does so by replicating the provisions of the UK's Inquiries Act 2005, excluding provisions in the UK Act dealing with the powers of the devolved administrations, which have no application or relevance to Gibraltar, and also excluding provisions in the UK Act that empower individual Ministers to cause inquiries to be held in relation to matters for which the Minister has ministerial responsibility. The Bill preserves the present position under the Commissions of Inquiry Act whereby inquiries are caused to be held by the Government.

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