

**RULES OF PROCEDURE OF THE
SECURITY INTELLIGENCE REVIEW COMMITTEE**

RULE 1

APPLICATION, PURPOSE AND INTERPRETATION

Application

1.01 These rules apply to complaints, reports, and references made to the Committee under paragraph 38(1)(c) of the *Act* received on or after May 1, 2014.

Purpose

- 1.02 Except as otherwise prescribed by the *Act*, these rules are enacted to ensure that
- (a) all parties to an investigation have the fullest opportunity to participate and be heard;
 - (b) arguments and evidence be disclosed and presented in a timely and efficient manner; and
 - (c) all proceedings before the Committee be conducted as informally and expeditiously as possible.

Definitions

1.03 (1) In these rules, unless the context requires otherwise,

“*Act*” means the *Canadian Security Intelligence Service Act*;

“assigned member” means the member assigned by the Chair to investigate a complaint, report or reference;

“Chair” means the Chair of the Committee;

“Committee” means the Security Intelligence Review Committee;

“document” includes a paper, book, record, account, sound recording, videotape, film, photograph, chart, graph, map, plan, survey and information recorded or stored by computer or by means of any other device;

“Executive Director” means the Executive Director of the Committee

“holiday” means

- (a) Saturday and Sunday,
- (b) the period from December 25 until January 1, inclusive,

- (c) Good Friday,
- (d) Easter Monday,
- (e) Victoria Day,
- (f) Canada Day,
- (g) the Ontario civic holiday in August,
- (h) the first Monday in September, designated Labour Day,
- (i) Thanksgiving Day,
- (j) Remembrance Day, and
- (k) any special holiday proclaimed by the Governor General;

“investigation” means an investigation under paragraph 38(1)(c) of the *Act*;

“member” means a member of the Committee;

“Registrar” means the Registrar of the Committee.

(2) A word or phrase used in these rules that is defined in the *Act* bears the definition contained in the *Act*.

Interpretation of Rules

1.04 (1) These rules shall be liberally construed to advance the purposes set out in rule 1.02.

(2) These rules are not exhaustive and the Committee retains the authority to decide any issue of procedure not provided for by these rules.

RULE 2

NON-COMPLIANCE WITH RULES

Effect of non-compliance

2.01 A failure to comply with a procedural requirement in these rules is an irregularity and does not render an investigation or a step or document in an investigation a nullity.

Motion to attack irregularity

2.02 (1) A party may by motion challenge any step taken by another party for non-compliance with these rules.

(2) A motion under subrule (1) shall be brought as soon as practicable after the moving party obtains knowledge of the irregularity.

Orders on motion

2.03 Where, on a motion brought under rule 2.02, a member finds that a party has not complied with these rules, the member may, by order,

- (a) dismiss the motion, where the motion was not brought within a sufficient time after the moving party became aware of the irregularity to avoid prejudice to the respondent in the motion;
- (b) grant any amendments required to address the irregularity; or
- (c) set aside the proceeding, in whole or in part.

Dispensing with compliance

2.04 On the motion of a party or on a member's own motion, a member may dispense with compliance with any procedural requirement in these rules where it advances the purposes set out in rule 1.02.

RULE 3

TIME

Computing Time

- 3.01 In computing time under these rules, or under a direction made under these rules,
- (a) where there is a reference to a number of days between two events, they shall be counted by excluding the day on which the first event happens and including the day on which the second event happens;
 - (b) where a period of less than seven days is prescribed, holidays shall not be counted; and
 - (c) where the time for doing an act expires on a holiday, the act may be done on the next day that is not a holiday.

Extension or abridgment of time periods

3.02 (1) On the motion of a party or on a member's own motion, a member may extend or abridge any time prescribed by these rules, or by a direction made under these rules, where it advances the purposes set out in rule 1.02.

(2) A motion for an extension of time may be made before or after the expiration of the time prescribed.

RULE 4

CONFLICT OF INTEREST

Conflict of interest

4.01 A member who

- (a) has had, apart from his functions as a member of the Committee, any previous or current personal, business, or professional association with any person affected by an investigation of the Committee under paragraph 38(1)(c) of the *Act*; or
- (b) is an employee, associate, counsel or member of a firm that is representing the person affected before the Committee

shall withdraw from any further participation in the Committee's investigation in relation to that person.

RULE 5

COMMENCEMENT OF COMPLAINTS

How complaint commenced

5.01 (1) A complaint under section 41 of the *Act* shall be made in writing using Form 41.

(2) A complaint under section 42 of the *Act* shall be made in writing using Form 42.

Manner of filing a complaint

5.02 A complaint shall be filed by sending the appropriate form under rule 5.01 to the Registrar by mail or courier.

When a complaint deemed received

5.03 A complaint made under section 41 of the *Act* is deemed received when the Committee has received the following:

- (a) Form 41 as per subrule 5.01(1);
- (b) Copy of the complainant's letter to the Director;
- (c) Copy of the Director's response, if any; and
- (d) A statement from the complainant indicating that he or she is dissatisfied with the Director's response or a statement that a period of more than thirty days has lapsed since writing to the Director.

5.04 A complaint made under section 42 of the *Act* is deemed received when the Committee has received the following:

- (a) Form 42 as per subrule 5.01(2); and
- (b) Copy of the letter from the deputy head informing of the decision to deny or revoke the security clearance.

RULE 6

SERVICE OF DOCUMENTS

Manner of service

6.01 Unless otherwise directed, a document shall be served by filing the document with the Registrar, and the Registrar shall thereafter serve the other parties.

RULE 7

MOTIONS

Notice of Motion

7.01 (1) A party may bring a motion at any time by filing a notice of motion with the Registrar.

Contents of Notice of Motion

(2) The moving party shall include with the notice of motion the grounds upon which the motion is sought, a summary of the material facts upon which the moving party relies, the documents and other evidence upon which the moving party relies, written submissions, and authorities, if any.

Responding Party's Obligations

(3) Within seven days of receiving the notice of motion, the responding party may file a summary of the material facts upon which the responding party relies, the documents and other evidence upon which the responding party relies, written submissions, and authorities, if any.

Motions in writing

7.02 Motions are to be in writing, unless otherwise directed by a member.

Motions by members

7.03 This rule shall not apply to motions brought by a member.

RULE 8

AMENDMENT OF COMPLAINT

Amendment of complaint

8.01 (1) At any stage of an investigation, on the motion of a party or on a member's own motion, a member shall grant leave to amend a complaint where it advances the purposes set out in rule 1.02, unless prejudice would result that could not be compensated for by an adjournment.

(2) Notwithstanding subrule (1), a member shall not grant leave to amend a complaint unless the requirements of paragraph 41(1)(a) of the *Act*, as the case may be, have been complied with.

RULE 9

ABANDONMENT OF COMPLAINTS

Abandonment

9.01 A complainant may request the abandonment of the complaint by serving notice on the Committee.

Deemed abandonment

9.02 A complaint shall be deemed abandoned when the Committee has been unable to communicate with the complainant despite reasonable attempts to do so.

RULE 10

DETERMINATION OF JURISDICTION

Complaints made pursuant to section 41 of the Act

10.01 (1) Upon receipt of a complaint, the Registrar shall advise the complainant and the Service of their right to make written representations on the Committee's jurisdiction to investigate the complaint.

(2) Written representations shall be filed with the Committee no later than four weeks following notice to that effect.

10.02 After receiving written representations from the parties, if any, a member shall conduct a preliminary review of the complaint in order to determine if, pursuant to paragraphs 41(1)(a) and (b) and subsection 41(2) of the *Act*, the Committee has jurisdiction to investigate the complaint. The member may, of his or her own motion, determine the Committee's jurisdiction or forward the complaint to the Committee for a determination on jurisdiction.

10.03 The member is not required to hold an oral hearing to determine the Committee's jurisdiction to investigate the complaint but may do so if the member is of the opinion that it would assist in determining jurisdiction.

10.04 If the member or the Committee, determines that any of the conditions precedent to the investigation of a complaint set out in paragraphs 41(1)(a) and (b) of the *Act* have not been fulfilled, the Executive Director shall notify the complainant and the Service that the Committee does not have the jurisdiction to investigate the complaint and set out which of the grounds in said paragraphs 41(1)(a) and (b) of the *Act* deprived it of jurisdiction to investigate.

10.05 If the member or the Committee, determines that, under subsection 41(2) of the *Act*, the Committee does not have jurisdiction to investigate the complaint, the Executive Director shall so advise the complainant and the Service by registered mail or personal service of the Committee's determination.

Member to be assigned

10.06 Once it is determined that the Committee has jurisdiction to investigate the complaint under section 41 of the *Act*, the Chair shall assign one or more members to investigate the complaint.

Notice of jurisdiction and right to oral hearing

10.07 If a member, or the Committee, determines that the Committee has jurisdiction to investigate the complaint, the Executive Director shall, by registered mail or personal service, advise the complainant and the Service of

- (a) the determination of jurisdiction;
- (b) the requirements of section 48 of the *Act*;
- (c) the complainant's right to an oral hearing on the merits of the complaint; and
- (d) that if the complainant does not exercise his right to an oral hearing, he may make representations in writing to the assigned member.

Complaints made pursuant to section 42 of the Act

10.08 (1) Upon receipt of a complaint, the Registrar shall advise the complainant and the deputy head concerned of their right to make written representations on the Committee's jurisdiction to investigate the complaint.

(2) The Registrar shall advise the Service that a complaint has been filed with the Committee.

(3) Written representations on the Committee's jurisdiction to investigate the complaint shall be filed with the Committee no later than four weeks following notice to that effect.

10.09 After receiving written representations from the parties, if any, a member shall conduct a preliminary review of the complaint in order to determine if, pursuant to section 42 of the *Act*, the Committee has jurisdiction to investigate the complaint. The member may, of his or her own motion, determine the Committee's jurisdiction or forward the complaint to the Committee for a determination on jurisdiction.

10.10 The member is not required to hold an oral hearing to determine the Committee's jurisdiction to investigate the complaint but may do so if the member is of the opinion that it would assist in determining jurisdiction.

10.11 If the member or, the Committee, is of the opinion that, under subsections 42(1) or 42(2) of the *Act*, that the Committee does not have jurisdiction to investigate, the Executive Director shall so advise the complainant, the deputy head and the Service by registered mail or by personal service.

10.12 If the member, or the Committee, determines that, under the time limits in subsection 42(4) of the *Act*, the Committee does not have jurisdiction to investigate the complaint, he shall so report and determine whether or not to allow a longer period for the making of a complaint.

Member to be Assigned

10.13 Once it is determined that the Committee has jurisdiction to investigate the complaint under section 42 of the *Act*, the Chair shall assign one or more members to investigate the complaint.

Notice of jurisdiction and right to oral hearing

10.14 If a member, or the Committee, determines that the Committee has jurisdiction to investigate the complaint, the Executive Director shall, by registered mail or personal service, advise the complainant, the deputy head and the Service of,

- (a) the determination of jurisdiction;
- (b) the requirements of section 48 of the *Act*;
- (c) the complainant's right to an oral hearing on the merits of the complaint;
and
- (d) that if the complainant does not exercise his right to an oral hearing, he may make representations in writing to the assigned member.

Notice under section 47 of the Act

10.15 The Executive Director shall, before the commencement of the investigation, issue the notifications required by section 47 of the *Act* by registered mail or personal service.

Information from Director and Deputy Head

10.16 The Executive Director shall obtain from the Director and deputy head concerned, after issuance of the notifications required by section 47 of the *Act*, such information as will enable the complainant to be as fully informed as possible of the circumstances giving rise to the denial of the security clearance or of the contract, as the case may be.

Statement under section 46 of the Act and Representations

10.17 Upon receipt of the information referred to in rule 10.16, the assigned member shall, after consulting with the Director pursuant to subsection 55(a) of the *Act*, instruct the Registrar on his behalf to send the statement and copies referred to in section 46 of the *Act* by registered mail or personal service.

REFERENCES UNDER PARAGRAPH 45(2)(B) OF THE *CANADIAN HUMAN RIGHTS ACT*

Member to be Assigned

10.18 Upon receipt of the reference referred to in paragraph 45(2)(b) of the *Canadian Human Rights Act*, the Chair shall assign one or more members of the Committee to investigate the matter.

Notice to the Director and the Minister

10.19 The Executive Director on behalf of the assigned member shall, pursuant to section 47 of the *Act*, before commencement of the investigation, notify the Director and the Minister referred to in subsection 45(2) of the *Canadian Human Rights Act*.

Right to make representations

10.20 The Executive Director shall, on behalf of the assigned member, advise the complainant, the Minister referred to in subsection 45(2) of the *Canadian Human Rights Act* and the Director of their opportunity to make representations under subsection 48(2) of the *Act*, of the time limits they have established within which those representations must be made and advise them of the procedures for the making of representations.

Information from the Minister

10.21 The Executive Director shall, on behalf of the assigned member, obtain from the Minister referred to in rule 10.19 information relating to the security considerations referred to in subsection 45(2) of the *Canadian Human Rights Act*.

Statement under section 46 of the *Act*

10.22 Upon receipt of the information referred to in rule 10.21, the assigned member shall, after consulting with the Director pursuant to subsection 55(a) of the *Act*, instruct the Registrar to send the statement referred to in subsection 45(6) of the *Canadian Human Rights Act* on his behalf.

Service of Report

10.23 After the report is finalized and after consulting with the Director pursuant to subsection 55(b) of the *Act*, and not later than forty-five days after the matter is referred to it, the Committee shall provide the Commission, the Minister referred to in subsection 45(2) of the *Canadian Human Rights Act*, and the complainant with its report.

REPORTS UNDER SUBSECTION 19(2) OF THE *CITIZENSHIP ACT*

Member to be Assigned

10.24 Upon receipt of a report under subsection 19(2) of the *Citizenship Act*, the Chair shall assign one or more members of the Committee to investigate the grounds on which the report is based.

Right to make representations

10.25 The Executive Director shall, on behalf of the assigned member, advise the person, the Minister referred to in subsection 19(2) of the *Citizenship Act* and the Director by registered mail or personal service of their opportunity to make representations under subsection 48(2) of the *Act*, of the time limits they have established within which those representations must be made and advise them of the procedures for the making of representations.

Information from the Minister

10.26 The Executive Director shall, on behalf of the assigned member, obtain from the Minister referred to in subsection 19(2) of the *Citizenship Act* information relating to the grounds for believing that the person will engage in the activity described in paragraphs 19(2)(a) or (b) of the *Citizenship Act*.

Statement under section 46 of the Act

10.27 Upon receipt of the information referred to in rule 10.27, the assigned member shall, after consulting with the Director pursuant to subsection 55(a) of the *Act*, instruct the Registrar to send the statement referred to in subsection 19(5) of the *Citizenship Act* on his behalf.

Service of Report

10.28 Upon completion of his investigation, the assigned member shall make a report to the Governor in Council under subsection 19(6) of the *Citizenship Act* and shall consult with the Director pursuant to subsection 55(b) of the *Act* prior to providing the complainant by registered mail or personal service with a report containing conclusions of the report as required by subsection 19(6) of the *Citizenship Act*.

RULE 11

CONFERENCES

Mandatory pre-hearing conference

11.01 (1) On a date to be set by the Registrar, a pre-hearing conference shall be conducted by a member.

Matters to be dealt with

- (2) At a pre-hearing conference, a member may discuss with the parties,
 - (a) whether the parties are requesting an oral hearing or whether it may proceed in writing;
 - (b) the identification, limitation or simplification of the issues;
 - (c) the identification and limitation of evidence;
 - (d) whether the parties will make any formal admissions;
 - (e) witness management, including,
 - (i) the identification and limitation of witnesses,
 - (ii) the order of witnesses,
 - (iii) whether any summons are required;
 - (f) disclosure of documents;
 - (g) whether the services of an interpreter are needed for an oral hearing;
 - (h) the scheduling of any pre-hearing motions (procedural issues);
 - (i) the scheduling of the hearing;
 - (j) the location of the hearing;
 - (k) any other matter relevant to the investigation.

Request for case management conference

11.02 (1) A party to an investigation may, at any time, request that a case management conference be conducted by a member.

Request to Registrar

(2) A request by a party for a case management conference shall be made to the Registrar.

Member may convene case management conference

11.03 A member upon request or of his own motion may convene a case management conference.

Notice of conference

11.04 (1) The Registrar shall serve on the parties a notice setting out the manner in which the conference will be conducted, the date, time and if required, the place of the conference.

(2) Any conference may be conducted over the telephone or by attendance in person.

Attendance at conference

(3) Unless otherwise directed by the member conducting the conference, all the parties to the investigation, or their representatives, are required to participate in or attend at the conference.

Failure to participate or attend

(4) Where a person who is required to participate in or attend at a conference does not participate in or attend at, the member conducting the conference may proceed in the absence of the person or without the person's participation.

RULE 12

COMPLAINTS RESOLUTION

Application

12.01 This rule applies to complaints under section 41 and section 42 of the *Act*.

Purpose

12.02 The purpose of a resolution meeting is to resolve some or all of the issues in a complaint.

Requesting resolution meeting

12.03 A party may, at any time, request a resolution meeting.

Request to Registrar

12.04 A request by a party to convene a resolution meeting shall be made to the Registrar.

Member may convene

12.05 Where a member determines that the circumstances require it, he or she may request a resolution meeting.

Notice of resolution meeting

12.06 Upon consent of the parties, the Registrar shall serve on the parties a notice setting out the date, time and place of the resolution meeting.

Member to conduct resolution meeting

12.07 (1) A member shall conduct the resolution meeting.

(2) The member conducting the resolution meeting shall not investigate the merits of the complaint or participate in further deliberations regarding the complaint.

Confidentiality

12.08 Discussions in a resolution meeting and documents prepared for the purposes of such a meeting are confidential and shall not be disclosed.

Notice of settlement

12.09 (1) Where a settlement of all or part of a proceeding is reached at a resolution meeting, it shall be reduced to writing and signed by the member conducting the resolution.

Report of a partial settlement

(2) Where a settlement of only part of a proceeding is reached at a resolution meeting, the member conducting the resolution meeting shall make an order setting out the issues that have been resolved.

Notice of failure to settle

(3) Where no settlement can be reached at a resolution meeting, the member conducting the resolution meeting shall record that fact on the Committee's file.

RULE 13

ADJOURNMENTS

How to obtain

Before date of hearing

13.01 (1) Where a hearing is scheduled and prior to the date of the hearing a party wishes to adjourn the hearing to another date, the party shall bring a motion for an adjournment.

On date of or during hearing

(2) Where a hearing is scheduled and on the date scheduled for the hearing or during the course of the hearing a party wishes to adjourn the hearing, or the remaining part of the hearing, to a future date, the party shall make a motion to the assigned member for a direction adjourning the hearing, or the remaining part of the hearing, to a future date.

Considerations

13.02 In considering whether to grant an adjournment, a member may consider

- (a) prejudice to a person;
- (b) the timing of the request for the adjournment;
- (c) the number of prior requests for an adjournment;
- (d) the number of adjournments already granted;
- (e) prior directions or orders with respect to the scheduling of future hearings or motions;
- (f) the public interest;
- (g) the costs of an adjournment;
- (h) the availability of witnesses;
- (i) the efforts made to avoid the adjournment;
- (j) the requirement for a fair hearing;
- (k) any other relevant factor.

RULE 14

DEEMED UNDERTAKING

Application

14.01 (1) This rule applies to information or evidence obtained by the parties in the course of an investigation before the Committee.

(2) This rule does not apply to information or evidence obtained otherwise than under subrule (1).

Deemed undertaking

(3) All parties and their lawyers are deemed to undertake not to use information or evidence to which this rule applies for any purposes other than those of the investigation in which the evidence was obtained.

Exceptions

(4) Subrule (3) does not prohibit a use to which the person who disclosed the information or evidence consents.

(5) Subrule (3) does not prohibit a prosecution of a person for an offence under section 131 of the *Criminal Code* (perjury).

Direction that undertaking does not apply

14.02 If satisfied that the public interest outweighs any prejudice that would result to a party who disclosed information or evidence, a member may direct that subrule 14.01(3) does not apply to information or evidence, and may impose such terms and give such directions as are just.

RULE 15

EVIDENTIARY BOOK OF DOCUMENTS

Complaints under section 41 of the Act

Obligations of the Complainant

15.01 (1) The complainant shall file with the Registrar, no later than thirty-five days before the hearing or on a date to be fixed by the member, a book of documents containing

- (a) a copy of every document that is relevant to the Committee's investigation; and
- (b) for every witness upon whose evidence the complainant intends to rely, a summary of the anticipated evidence of the witness and a list of documents or things, if any, to which the witness will refer.

Obligations of the Service

(2) The Service shall file with the Registrar, no later than thirty days before the hearing or on a date to be fixed by the member, a book of documents containing

- (a) a copy of every document that is relevant to the Committee's investigation; and
- (b) for every witness upon whose evidence the Service intends to rely, a summary of the anticipated evidence of the witness and a list of documents or things, if any, to which the witness will refer.

Complaints under section 42 of the Act

Obligations of the Service and the Deputy Head

15.02 (1) The Service and deputy head shall file with the Registrar, no later than thirty days before the hearing or on a date to be fixed by the member, a book of documents containing

- (a) a copy of every document which is relevant to the Committee's investigation; and
- (b) for every witness upon whose evidence the Service and the deputy head intend to rely, a summary of the anticipated evidence of the witness and a list of documents or things, if any, to which the witness will refer.

Obligations of the Complainant

(2) The complainant shall file with the Registrar, not later than thirty days before the hearing or on a date to be fixed by the member, a book of documents containing

- (a) a copy of every document that is relevant to the Committee's investigation; and
- (b) for every witness upon whose evidence the complainant intends to rely, a summary of the anticipated evidence of the witness and a list of documents or things, if any, to which the witness will refer.

Evidence may not be introduced

15.03 Evidence that is not disclosed as required under rules 15.01 and 15.02 may not be introduced as evidence in a hearing, except with leave of the assigned member.

RULE 16

HEARING

Notice of Hearing

16.01 (1) When an investigation is ready for a hearing, the Registrar shall serve the parties with a Notice of Hearing.

(2) The Notice of Hearing shall advise the parties of the time and place of the hearing.

(3) The member, in his or her discretion, may advise the parties of the time and place of an *ex parte* hearing, but only the party presenting evidence at that hearing has a right to such notice.

Hearings are investigative

16.02 (1) Hearings before the Committee are investigative in nature.

(2) The assigned member may, of his or her own motion, summon, examine, and cross-examine witnesses.

(3) Counsel to the Committee may examine and cross-examine witnesses and request that witnesses be summoned and introduce any relevant documents into evidence.

(4) The assigned member may adjourn the hearing at any time to obtain such additional information under paragraphs 39(2)(a) and (b) or subsection 50(a) of the *Act* as the member deems necessary to the full investigation and consideration of the complaint or other matter before them.

Hearing by one member

16.03 Hearings may be conducted by one or more members of the Committee.

Hearing in English or French

16.04 A hearing shall be conducted in the English or French language.

Right to a hearing

16.05 In the course of an investigation of a complaint, the complainant, the deputy head concerned and the Director shall be given an opportunity to present evidence and to make representations to the Committee.

Right to counsel

16.06 A party to a hearing may be heard personally or be represented by counsel.

***Ex parte* hearing**

16.07 (1) A party may request, pursuant to subsection 48(2) of the *Act*, that the hearing or a portion of the hearing proceed in the absence of the other parties, for reasons of national security or other reasons considered valid by the assigned member.

(2) Subject to section 37 of the *Act*, it is within the discretion of the assigned member to exclude from the hearing one or more parties during the giving of evidence or the making of representations by another party.

(3) Subject to section 37 of the *Act*, it is within the discretion of the assigned member in balancing the requirements of preventing threats to the security of Canada and providing fairness to the person affected to determine, when a party has been excluded from portions of the hearing, if the facts of the case justify that the substance of the evidence given or representations made by other parties should be disclosed to that party.

(4) If the assigned member decides that the substance of the evidence or the representations made by other parties shall be disclosed to a party, he shall consult with the Director before determining the extent of the disclosure to ensure compliance with section 37 of the *Act*.

Examination-in-chief, cross-examination, and re-examination

Examination-in-chief

16.08 (1) A party to a hearing may call and examine witnesses.

Cross-examination

(2) Subject to section 37 of the *Act*, it is within the discretion of the assigned member in balancing the requirements of preventing threats to the security of Canada and providing fairness to the person affected to determine if the facts of the case justify that a party be given the right to cross-examine witnesses called by other parties.

Re-examination

(3) Subject to section 37 of the *Act*, it is within the discretion of the assigned member to determine if the facts of the case justify that a party be given the right to re-examine his or her witness.

Prohibition of photography, recording, etc.

16.09 No person shall take or attempt to take a photograph, motion picture, audio recording or other record capable of producing visual or oral representations by electronic means or otherwise,

- (a) at a hearing,
- (b) of any person entering or leaving the room in which a hearing is to be or has been convened, or
- (c) of any person in the building in which a hearing is to be or has been convened where there is reasonable ground for believing that the person is there for the purpose of attending or leaving the hearing.

Interpreter

16.11 (1) A party shall advise the Registrar no later than thirty days before the hearing that the services of an interpreter will be required.

(2) At a hearing, reasonable efforts shall be made by the Committee to provide, upon request, any person affected who is not fluent in either official language with an interpreter.

Notice of Accommodation Required

16.12 A party shall notify the Registrar as early as possible of any needs of the party or his, her or its witnesses that may require accommodation.

RULE 17

WRITTEN HEARINGS

17.01 (1) If the complainant does not exercise his right to an oral hearing, the Registrar on behalf of the assigned member shall advise the parties of the deadlines within which the evidence and written representations of the parties will be received.

(2) Subject to section 37 of the *Act*, it is within the discretion of the assigned member in balancing the requirements of preventing threats to the security of Canada and providing fairness to the person affected to determine if the facts of the case justify that the substance of the evidence and written representations made by one party should be disclosed to one or more of the other parties.

(3) If the assigned member decides that the substance of the evidence and written representations made by one party shall be disclosed to another party, the assigned member shall consult with the Director before determining the extent of the disclosure to ensure compliance with section 37 of the *Act*.

(4) If the assigned member decides that the substance of the evidence and written representations made by one party shall be disclosed to other parties, the other parties shall have the right to present evidence in reply and to comment on those written representations.

RULE 18

EVIDENCE

Admissible evidence

18.01 Subject to rule 18.02, the assigned member may admit as evidence at a hearing, whether or not given or proven under oath or affirmation or admissible as evidence in a court,

- (a) any oral testimony; and
- (b) any document,

relevant to the subject-matter of the investigation and may act on such evidence, but the assigned member may exclude anything unduly repetitious.

Taking official notice of facts

18.02 The assigned member may

- (a) take notice of facts that may be judicially noticed; and
- (b) take notice of any generally accepted technical facts, information or opinions within the member's specialized knowledge.

Summons

18.03 (1) The assigned member may, by summons, require any person

- (a) to give evidence on oath or affirmation at a hearing; and
- (b) to produce in evidence at a hearing specified documents.

Form of summons

- (2) A summons shall be in Form 1803.

Signing of summons

- (3) A summons may be signed by the Registrar.

Summons may be issued in blank

(4) On the request of a party, the Registrar shall issue to the party a blank summons and the party may complete the summons and insert the name of the witness to be summoned.

Service of summons

(5) Subject to subrule (6), the party who obtains a summons shall serve the summons on the witness to be summoned.

Witness fees

(6) The party who obtains a summons shall pay or tender to the witness to be summoned, at the same time that the party serves the summons on the witness, witness fees and travel expenses in the amount set out in Tariff A of the *Federal Court Rules*.

Witness's right to counsel

(7) A witness called by a party or summoned by the assigned member to give oral or written evidence or to produce documents is entitled to be advised by counsel as to his rights but such counsel may take no other part in the hearing.

Idem

(8) A witness and his counsel are entitled to be present at the hearing only when that witness is giving evidence.

Protection under section 51 of the Act

(9) The assigned member shall advise each witness, prior to the giving of evidence, of the protection afforded by section 51 of the *Act*.

Member may investigate beyond evidence adduced by parties

18.04 In conducting its investigation, the Committee is not limited to the evidence admitted at a hearing.