



## **Canon 21**

### **Discipline**

#### ***PREAMBLE***

*As members of the Christian community, within the Anglican Diocese of Huron we recognize that through our baptism we have committed our lives to following the life and teachings of Jesus Christ. In this commitment, we have willingly and knowingly entered into a covenant relationship with God and with each other, part of which covenant is the promise to strive for justice and peace among all people and to respect the dignity of every human being. In order to achieve such a standard, we, as the people of the Diocese of Huron, commit ourselves to be accountable to God, to each other, to ourselves and to the world as we model the Reign of Christ in order to bring people into a relationship with Jesus.*

*As a result, when the Church seeks to do justice, it tries to do so in a manner which would find approval with God.*

*The Canon which follows tries to express a genuine concern and to maintain a balance for all parties to which it is applied. The overall purpose of the Canon is to seek forgiveness and reconciliation and to work towards the restoration of the offender, though that may not necessarily mean restoration to the practice of ministry.*

*It is the earnest hope of the persons drafting this Canon that mediation might take place between the parties, if appropriate, before recourse is made to this Canon.*

*As much as possible, the Diocese of Huron will offer professional assistance which may lead to restoration of the individual, but it must be recognized that effective rehabilitation requires the active participation of the person involved.*

#### **PART I INTERPRETATION**

1. In this Canon:

- (a) “accused” shall mean any person charged with an offence under any Canon on Church discipline;
- (b) “applicant” shall mean any party in the position of plaintiff with respect to any matter referred to the court by the Bishop other than under the Canon on Discipline;



- (c) "Bishop" shall mean the Bishop of the Diocese of Huron and shall include an Administrator of the Diocese or Bishop's Commissary;
- (d) "Canons" shall include the Canons of the Diocese as well as the Canons of the Synod of the Ecclesiastical Province of Ontario and the Canons of the General Synod of the Anglican Church of Canada;
- (e) "cause" shall mean any matter referred to the Court;
- (f) "Chancellor" shall mean the Chancellor of the Diocese of Huron;
- (g) "charge" shall mean an accusation of any breach of discipline under the Canons;
- (h) "cleric" shall mean a person who has been ordained by, or a person who has been received by and whose ordination has been recognized by the Anglican Church of Canada;
- (i) "commenced" for the purposes of sections 18 and 19 of this Canon shall mean the date on which the Court is convened and the charge is read to the accused and a plea thereto is taken;
- (j) "commission" shall mean the commission of the Bishop requiring the court to deal with a cause;
- (k) "complainant" shall mean any person who instigates a charge or complaint;
- (l) "complaint" shall mean the document upon which a charge is based;
- (m) "Court" and "Diocesan Court" shall mean the Diocesan Court established by section 35 of this Canon;
- (n) "Diocese" shall mean The Incorporated Synod of the Diocese of Huron;
- (o) "Diocesan Council" shall mean the Diocesan Council of Synod;
- (p) "Diocesan Sub-Council" shall mean the Diocesan Sub-Council of Synod;
- (q) "party" shall mean any party to the proceedings;
- (r) "President" shall mean the person presiding over the Court;
- (s) "proceeding" shall mean any cause or matter referred to the Court;
- (t) "Provincial Court of Appeal" shall mean the Court of Appeal of the



Ecclesiastical Province of Ontario;

- (u) "Registrar" shall mean the Registrar of the Court;
- (v) "respondent" shall mean any party responding to any other matter referred to the Court by the Bishop;
- (w) "rules" shall mean the rules enacted from time to time by the Court;
- (x) "Supreme Court of Appeal" shall mean the Supreme Court of Appeal for the Anglican Church of Canada;
- (y) "Supreme or Superior Court" shall mean the Superior Court of Justice of the Province of Ontario;
- (z) "Synod" shall mean an assembly of the voting members of The Incorporated Synod of the Diocese of Huron.

All paragraph headings and subparagraph headings have been inserted in this Canon for convenience of reference only, do not form part of the Canon and shall not be used in the interpretation of this Canon.

## **PART II EPISCOPAL JURISDICTION**

### **PRESERVATION OF EPISCOPAL JURISDICTION REGARDING DISCIPLINE**

2. It is hereby acknowledged that the Bishop has by virtue of the office of Bishop, ecclesiastical jurisdiction, authority and power of discipline over all clergy and lay members of the Anglican Church of Canada within the Diocese or otherwise under the jurisdiction of the Bishop.

### **CONTINUING AUTHORITY OF BISHOP OF HURON**

3. Nothing in this Canon shall be interpreted as impairing, diminishing or affecting in any way the pastoral or disciplinary aspects of the authority and jurisdiction of the Bishop with respect to a cleric or a lay person who is a member of the Anglican Church of Canada, except only in relation to:
  - (i) the determination of whether the cleric has committed an ecclesiastical offence established by this Canon;
  - (ii) the determination of whether a lay person who has been appointed, elected or commissioned to an office, appointment or responsibility in a parish/congregation or the Diocese, has committed an ecclesiastical offence established by this Canon; and
  - (iii) the determination of the penalty appropriate for the commission of an



ecclesiastical offence established by this Canon.

### **INITIAL DISCIPLINARY JURISDICTION**

4. (a) Where it has been alleged that a cleric subject to the jurisdiction of the Bishop or a lay person as described in section 6 of this Canon has committed an ecclesiastical offence established by this Canon, the Bishop shall have initial jurisdiction with respect to the determination of whether an ecclesiastical offence has been committed and the penalty for the commission of the offence.
- (b) The Bishop may refer the determination of whether an ecclesiastical offence has been committed or the determination of a penalty to the Diocesan Court having jurisdiction with respect to the discipline of the person charged with the commission of an ecclesiastical offence without exercising the initial jurisdiction described in section 4(a).
- (c) The procedures to be used in the exercise by the Bishop of the initial jurisdiction described in this section shall be determined by the Bishop; however, such procedures shall be subject to the principles set out in Part VI of this Canon.

### **REVIEW BY THE COURT**

5. (a) A person convicted of an ecclesiastical offence by the Bishop may require the determination of the Bishop that an ecclesiastical offence was committed by the person, or the penalty imposed by the Bishop, to be reviewed by the Diocesan Court of the Diocese, which Court may either confirm or overturn the determination of the Bishop and confirm or vary the penalty imposed.
- (b) The Diocesan Council of the Diocese, on its own motion or on the petition of the person or persons who made the allegation of an ecclesiastical offence which was tried by the Bishop alone, may require the determination of the Bishop that an ecclesiastical offence was committed, or the penalty imposed by the Bishop, to be reviewed by the Diocesan Court of the Diocese, which Court may either confirm or overturn the determination of the Bishop and confirm or vary the penalty imposed.
- (c) Where a review by the Court pursuant to this section is of a determination by the Bishop that an ecclesiastical offence has been committed, the review shall be conducted as if it were an original trial held in the Court.
- (d) Where a review by the Court pursuant to this section is of a determination by the Bishop of the penalty appropriate for the commission of an ecclesiastical offence, only evidence relevant to the question of the appropriate penalty shall be considered by the Court.



## **PART III COURT JURISDICTION**

### **JURISDICTION OF DIOCESAN COURT**

6. The Diocesan Court of the Diocese shall have ecclesiastical jurisdiction with respect to the discipline of:
- (a) clerics who carry out their ministry in the Diocese and who hold a licence or permit from the Bishop, for any ecclesiastical offence, wherever committed;
  - (b) subject to section 24, clerics of the Anglican Church of Canada who do not hold a licence or permit from the Bishop, in respect of any ecclesiastical offence committed in the Diocese;
  - (c) lay persons who have been appointed, elected or commissioned to an office, appointment or responsibility in a parish/congregation of the Diocese, for an ecclesiastical offence committed in the Diocese;
  - (d) lay persons who have been appointed, elected or commissioned to an office, appointment or responsibility in the Synod of the Ecclesiastical Province of Ontario, or the General Synod of the Anglican Church of Canada, for an ecclesiastical offence committed in the Diocese; and
  - (e) clerics and lay persons of any other Diocese when a transfer is made pursuant to section 25 of this Canon.

## **PART IV**

### **ECCLESIASTICAL OFFENCES**

#### **DISCIPLINARY ACTION REGARDING OFFENCES**

7. All persons who are subject to ecclesiastical jurisdiction in the Church shall be liable to discipline for any of the following offences:
- (a) conviction of an indictable offence under the *Criminal Code* (Canada), the *Controlled Drugs and Substances Act* (Canada), or replacement legislation imposing criminal penalties;
  - (b) immorality, including, but not limited to sexual immorality;
  - (c) narcotic, alcohol or other drug or other substance addiction or abuse;
  - (d) wilful disobedience to the Bishop to whom such person has sworn canonical obedience;



- (e) wilful violation of any lawful Constitution or Canon of the Church, whether of the Diocese, the Ecclesiastical Province of Ontario or the General Synod of the Anglican Church of Canada, by which the person is bound;
- (f) wilful or habitual neglect of the exercise of the ministry of the person without cause;
- (g) wilful or habitual neglect of the duties of any office or position of trust to which the person has been appointed or elected;
- (h) teaching or advocating doctrines contrary to those accepted by the Anglican Church of Canada.

## **PART V PENALTIES FOR ECCLESIASTICAL OFFENCES**

### **PENALTIES GENERALLY**

8. Where it has been determined that a person has committed an ecclesiastical offence, the following penalties may be imposed against such person by the Bishop:
- (a) admonition or reprimand;
  - (b) suspension from the exercise of ministry or office;
  - (c) deprivation of office or ministry;
  - (d) deposition from the exercise of ministry if the person is a cleric.

### **ADMONITION OR REPRIMAND**

9. Admonition or reprimand shall be delivered by the Bishop.
10. Admonition or reprimand may be in public or private as the Bishop determines.

### **SUSPENSION**

11. (a) When a penalty of suspension is imposed, the Bishop, after receiving the recommendation (if any) of the Court, shall fix the duration of the suspension and may impose such other conditions on the suspension as the Bishop considers appropriate.
- (b) During the term of a suspension, the person suspended from the exercise of ministry or office shall not exercise the function of their ministry anywhere in Canada.



- (c) If a person suspended from the exercise of ministry exercises their ministry contrary to section 11(b) hereof, or otherwise violates the conditions of the suspension, the Bishop may, after a further hearing, impose the penalty of deprivation of office.
- (d) During the term of a suspension, the Bishop may deprive the suspended person of the whole or part of any stipend, income or emoluments associated with the ministry or office from which the person stands suspended and may authorize the application of the whole or part of such stipend, income or emoluments to the payment of a substitute.

### **DEPRIVATION**

- 12. (a) Upon the penalty of deprivation of office or ministry being pronounced, the connection between the person deprived and their Parish, mission, congregation, Diocese or office is severed and all revenues to which the person was entitled by virtue of the office or ministry shall wholly cease.
- (b) A person who has been deprived of office or ministry shall be ineligible to hold any office or perform any function in any Diocese in the Anglican Church of Canada until restored pursuant to subsections (c) or (d) hereof.
- (c) Any person so deprived shall be and remain deprived until restored by the Bishop or the Bishop's successor in office.
- (d) Restoration pursuant to subsection (c) may be to any office or ministry in the Diocese whether or not it be the specific office from which the person was deprived.

### **DEPOSITION**

- 13. The penalty of deposition shall include all of the consequences of deprivation and at the same time will have the same effect as if the person had relinquished the exercise of the ordained ministry pursuant to the Canons of the Anglican Church of Canada.

### **NOTICES**

- 14. (a) Where the penalty of suspension is imposed, notice thereof shall be given to all clerics of the Diocese and all Bishops of the Anglican Church of Canada.
- (b) Where a penalty of deprivation of office or ministry or of deposition is imposed, notice thereof shall be given to all clerics of the Diocese, all Bishops of the Anglican Church of Canada and all Metropolitans of the Anglican Communion.



## **PART VI**

### **PRINCIPLES AND GENERAL PROCEDURES TO BE OBSERVED IN DISCIPLINE PROCEDURES**

#### **FUNDAMENTAL PRINCIPLES OF NATURAL JUSTICE**

15. All trials of persons charged with the offences under this Canon shall be conducted according to the principles of natural justice.
16. Without limiting the generality of the foregoing section, all persons tried for offences under this Canon are entitled to be:
  - (i) given full and complete written notice of the charge against them, the particulars of the charge and full disclosure of all relevant evidence against them sufficient for them to prepare a defence if they wish to do so;
  - (ii) presumed innocent until the commission of the offence by them is proved beyond a reasonable doubt;
  - (iii) heard in their own defence;
  - (iv) represented in their defence by counsel of their own choice;
  - (v) present, accompanied by their counsel, when any evidence or argument concerning the allegations against them is received by the Bishop or Court inquiring into the charges;
  - (vi) given opportunity to cross-examine, or have their counsel cross-examine, under oath, witnesses who have given evidence against them;
  - (vii) tried by persons who are not biased against them; and
  - (viii) tried within a reasonable time.
17. No person tried for an offence under this Canon is required to give evidence in the proceedings.
18. Disciplinary proceedings arising out of the alleged commission of an offence under this Canon shall be commenced (as that term is defined in this Canon) within:
  - (a) 12 months from the time when the facts giving rise to the charge became known to the general public in the case of an offence under sections 7(b) or 7(c); and
  - (b) subject to section 19 hereof, 12 months from date of the alleged offence in the





case of offences under any other subsection of section 7.

19. No proceedings shall be taken under this Canon in respect of an alleged offence under sections 7(f) or 7(g) unless at least six months' written notice of intent to take proceedings has been given to the individual or individuals against whom it is intended proceedings will be taken. Proceedings taken under this Canon in respect of an alleged commission of an offence under such subsections of section 7 shall be commenced (as that term is defined in this Canon) within 12 months of the date that such notice of intention is given.
20. All persons found to have committed an offence under this Canon are entitled to have the penalty imposed against them within 30 days of the determination that they committed an offence, subject to a stay of the imposition of a penalty in the event of an appeal as provided in section 38(b) hereof.
21. No person who has been acquitted of an offence under this Canon may be tried for the same offence on the same set of facts a second time.
22. No person who has been found guilty of and punished for an offence under this Canon may be tried or punished a second time for the same offence on the same set of facts.

### **INHIBITION**

23.
  - (a) If it appears to the Bishop that great scandal is likely to arise if a cleric or lay person continues to perform the duties of their office while a charge is under investigation or trial and that the person's ministry will be seriously impaired while a charge is pending, the Bishop may by notice in writing to such person inhibit the person charged from performing any or all of the duties of their office, either in the Diocese or elsewhere, pending the completion of such investigation or until the Bishop withdraws the inhibition, or until the end of the trial.
  - (b) During such inhibition imposed pursuant to section 23(a), the person inhibited shall not be deprived by the paying source of the stipend, income or emoluments associated with the person's office.
  - (c) Where it is alleged that a Bishop has committed an ecclesiastical offence, inhibition may be ordered or withdrawn by the Metropolitan of the Ecclesiastical Province of Ontario, or, if the Bishop is the Metropolitan, by the Primate of the Anglican Church of Canada in consultation with the Diocesan Council of the Diocese.



### **CLERICS FROM ANOTHER DIOCESE**

24. (a) In the event of an offence being alleged against a cleric who is not on the register of the Diocese, but who is on the register of another diocese, for an offence alleged to have been committed in the Diocese, proceedings with respect to such an offence shall not be instituted until notice of the allegation has been given to the bishop of the diocese in which the cleric is registered and that bishop has given consent for proceedings to be instituted by the Bishop.
- (b) A bishop of another diocese who refuses consent shall, within six months of receipt of notice pursuant to subsection (a) hereof, institute proceedings with respect to the alleged offence in accordance with the canons of the diocese in which such cleric is registered.

### **TRANSFER OF JURISDICTION**

25. (a) On the application of a person charged with an offence under this Canon to the president of the court having ecclesiastical jurisdiction over that person, that ecclesiastical jurisdiction may be transferred to another court, where it appears to the president of the court to which the application is made that such transfer is necessary to ensure that the fundamental principles of natural justice are respected and where the court to which the transfer is to be made consents to the transfer.
- (b) Where an application under subsection (a) is made to the President of the Court, the transfer may be made to another diocesan court in the Ecclesiastical Province of Ontario.

### **PART VII RIGHTS OF APPEAL IN DISCIPLINARY PROCEEDINGS**

26. An appeal to the Court of Appeal of the Ecclesiastical Province of Ontario may be taken from any judgment or order of the Diocesan Court or the President thereof.
27. All appeals shall be commenced according to the procedure of the Court of Appeal of the Ecclesiastical Province of Ontario within 30 days of the date of pronouncement of the judgment, imposition of penalty or order appealed from.
28. No limit or restriction on the rights of appeal granted by this Canon imposed by a Bishop or the Diocese shall be of any effect.



## **PART VIII GENERAL**

### **PREFERMENT OF CHARGE**

29. A charge may be preferred against any person set forth in section 6 of this Canon for any of the offences mentioned by three members of the Anglican Church of Canada resident in the Diocese, or by any Archdeacon of the Diocese, and such charge shall be in writing and shall be delivered to the Bishop, or the Bishop may prefer such a charge.
30. Upon a charge being preferred, the Bishop shall communicate in writing the contents of the charge to the person accused and after consideration the Bishop may deny the complaint and notify the complainant and the respondent of the decision of the Bishop.

### **ADMISSION OF CHARGE AND SUMMARY HEARING**

31. If any respondent admits the truth of the charges or the complaint and requests the Bishop to deal with the same in a summary way, the Bishop shall thereupon adjudge the party to be guilty, and shall impose such penalty under this Canon as in the Bishop's judgment and discretion may be considered appropriate to the offence and shall attach the Bishop's imposition of penalty and the answer of the respondent against whom the charge or complaint is made, to a memorial, and file the same of record with the Registrar of the Court, who shall forthwith transmit to the complainant(s) and the party charged a copy of such decision or imposition of penalty.

### **INVESTIGATION OF CHARGE**

32. If the Bishop does not deny the complaint pursuant to section 30, the Bishop may request by commission the Chancellor and/or their designee to investigate the charges, in which case such person or persons shall inform the respondent in writing of the nature of the charges and after consideration and investigation shall advise the Bishop either that a *prima facie* case has been established or that no case has been established.

### **SUBMISSION TO COURT**

33. If a *prima facie* case has been established, the Bishop shall submit the complaint to the Court with the Bishop's commission that the Court try the matter and report to the Bishop on its findings, and its recommendations as to penalty.

### **SUBMISSIONS AS TO PENALTY**

34. Upon a plea of guilty, or submission to the Bishop, or after receipt of the decision of the Court and any recommendations that it may make, the Bishop may hear



submissions as to penalty, along with such persons as the Bishop considers proper, and after hearing such submissions may proceed to impose a penalty in accordance with this Canon.

## **PART IX**

### **DIOCESAN COURT**

35. (a) There shall be a Court for the trial of causes in the Diocese to be known as the “Diocesan Court” and which shall be composed of the President of the Court and two clerics and two Lay members of Synod all of whom shall be appointed by the Bishop annually at the first meeting of Diocesan Council following the annual session of Synod and who shall hold office until their successors have been appointed.
- (b) No member of the Court may sit on any charge or complaint preferred by such member, or on any charge or complaint in which such member may have an interest.
- (c) Any vacancy which may occur in the membership of the Court during the year, by death, resignation or otherwise, shall be filled by the Bishop, and the appointment of any new member shall be announced by the Bishop at the next ensuing meeting of Diocesan Council, which shall report the appointment to Synod at its next session.
- (d) The Court shall be presided over by the President, or in their absence or inability to act, by some other member of the Court commissioned in writing by the Bishop.
- (e) The Court shall from time to time appoint a Registrar or acting Registrar, and such other officers as may be found necessary.
- (f) The Court may sit in any place in the Diocese and at such time as the President of the Court may order and direct.
- (g) No objection shall be effective as to the constitution, or appointment of any members of the Court or any other officers appointed to assist or advise the Bishop in the exercise of the Bishop’s power, authority and jurisdiction.
- (h) No objection shall be effective in any proceedings under this Canon that the offence, cause, breach or charge arose outside of the Diocese or arose outside Canada.
- (i) In any trial under this Canon, each member of the Court (including the President) shall have one vote, and a simple majority of the votes cast shall be required for any decision of the Court.



## JURISDICTION

36. (a) The Court shall have jurisdiction and may try any member of the Anglican Church of Canada within the Diocese, clerical or lay, for offences against the provisions of the Constitution or Canons of the Diocese, the Ecclesiastical Province of Ontario, or of the General Synod of Canada of the Anglican Church of Canada.
- (b) The Court shall also determine any question which may be referred to it by the Bishop as to the sufficiency of the Bishop's reasons for refusing a *Bene Decessit* or Letters Dimissory to a cleric on removal from the Diocese.
- (c) The Court shall also have jurisdiction to determine any other question which may be referred to it by the Bishop.

## PROCEDURE

37. (a) Notwithstanding anything in this Canon and unless the Court otherwise directs, any proceedings may be disposed of by:
- (i) agreement;
  - (ii) consent order; or
  - (iii) decision of the Court given,
    - (A) without a hearing, or
    - (B) without compliance with any other requirement of this Canon, where the parties have waived such hearing or compliance.
- (b) It shall be the duty of the President of the Court to see that all of the proceedings of the Court as well as any imposition of penalty, or any action of the Bishop thereon, are duly recorded by the Registrar and retained with all proceedings in the matter, and the decision of the Court and any imposition of penalty of the Bishop shall be in writing.
- (c) All decrees, citations, orders and other instruments under seal, shall be issued by the Registrar of the Court and shall bear date on the day on which they are respectively issued.
- (d) The seal of the Court shall bear the device of the seal of the Diocese.
- (e) No member of the Court shall divulge the penalty recommended by it until such time as the penalty has been approved and confirmed by the Bishop, and further, no member of the Court shall at any time disclose the vote of any



particular member of the Court.

- (f) While the Court may make a recommendation to the Bishop with respect to a penalty to be imposed following a finding by the Court that an ecclesiastical offence has been committed, the sentence or penalty remains in the sole discretion of the Bishop.

### **APPEALS REGARDING HEARINGS**

- 38. (a) The decision of the Court and any sentence imposed in accordance with the provisions of this Canon shall be subject to appeal to the Provincial Court of Appeal of the Ecclesiastical Province of Ontario, or to the Supreme Court of Appeal of the Anglican Church of Canada in accordance with the Canons of the Provincial and General Synods constituting such courts.
- (b) On notice of appeal by an accused person being given and served as provided in the previous subsection from any conviction or sentence, such sentence shall not be enforced against the accused until further order of the Court appealed to.

### **RULES**

- 39. The rules of the Court shall be the rules set out in the schedule to this Canon. The Court may from time to time make such other rules and regulations as to the Court may seem expedient for regulating the practice and procedure of the Court, and every matter deemed expedient for carrying out the objects of this Canon. The Court may from time to time, suspend, repeal, vary or revive any such rules or regulations, but no order made by the Court shall have the effect of altering any matter defined by this Canon. Matters not provided for by the rules of the Court shall be regulated by analogy to the rules of the Superior Court of Justice of the Province of Ontario.

### **COSTS AND EXPENSES**

- 40. All expenses necessarily incurred by the Court or by anyone acting under its direction in any investigation or hearing pursuant to this Canon shall be paid by the Diocese. The costs including counsel fees of and incidental to any proceedings authorized to be dealt with by the Court are in the discretion of the Court. The Court has full power to determine by whom, or to what extent, costs shall be paid including the legitimate costs of any party by the Diocese and in any proceeding the Court may fix the amount of costs awarded or may in its discretion deal with the question of costs separately.



## **SCHEDULE TO CANON 21**

### **RULES OF THE DIOCESAN COURT**

#### **STYLE**

1. Any proceedings in the Court shall be styled "In The Diocesan Court of the Diocese of Huron" with the names of the complainant(s) and the name of the respondent, or a short description of the cause or matter.

#### **FORM OF CHARGE AND HEARING BY COURT**

2. The Court may appoint two of its members to determine the sufficiency or insufficiency of the form in which the charge is presented, and of the answer thereto, and of any matter connected with the practice or procedure of the Court, subject to an appeal to the full Court in all matters in which either party may be dissatisfied; provided, however, that the evidence to be taken on which the Court is to act, and the hearing and adjudication of the subject matter of the complaint, must be given, heard and made before and by the Court.

#### **NOTICE OF HEARING**

3. A notice of hearing by the Court shall include a statement of the time, place and purpose of the hearing and a reference to the authority under which the hearing will be held, and shall also include a statement that if any party notified does not attend at the hearing, the Court may proceed in the absence of such party who will not be entitled to any further notice in the proceedings.

#### **SERVICE OF NOTICE OF HEARING**

4. Notice of hearing shall be served upon the respondent and other parties, or such service may be accepted by any party or his or her counsel or agent and a party shall be given reasonable notice of the hearing, the question of reasonableness in any case to be solely determined by the Court.

#### **PROCEDURE ON FAILURE TO ATTEND AFTER NOTICE**

5. Where notice of hearing has been given to a party and the party does not attend, the Court may proceed in the absence of the party, who shall not be entitled to any further notice of the proceedings.



## **FURNISHING INFORMATION TO PARTY WHERE CHARACTER OR CONDUCT IS IN ISSUE**

6. Where the good character, propriety of conduct or competence of a party is in issue in any proceedings, the party is entitled to be furnished prior to the hearing with particulars of all allegations with respect thereto.

## **REPRESENTATION BY COUNSEL**

7. A party to the proceedings may be represented by counsel or an agent; may call and examine witnesses and present arguments and submissions, and may conduct cross-examinations of witnesses at a hearing reasonably required for full and fair disclosure of the facts, and where any person is not so represented the Court may appoint a representative when the Court determines that such representation may be required in the interest of justice, and where any party is charged with any offence the Chancellor may appoint counsel to prosecute the charge.

## **WITNESS' RIGHTS**

8. A witness at a hearing is entitled to be advised by counsel or agent as to such witness' rights, but such counsel or agent as such may take no other part in the hearing without leave of the Court, and where a hearing is *in camera*, a counsel or agent for a witness is not entitled to be present except when that witness is giving evidence.

## **OPEN HEARINGS**

9. A hearing shall be open to the public except where the Court is of the opinion that matters involving intimate, financial or personal matters may be disclosed at any hearing of such a nature, having regard to the circumstances, that the desirability of avoiding disclosure in any interests of any person affected or in the public interest outweighs the desirability of adhering to the principle that hearings be open to the public, in which case the Court may hold the hearing *in camera*.

## **OATHS**

10. Any member of the Court and the Registrar of the Court has power to administer oaths and affirmations with respect to any of its proceedings, and the Court may require evidence before it to be given under oath or affirmation.

## **POWER TO SUMMON WITNESSES**

11. The Court may summon and examine witnesses, including any party, *viva voce* and in open Court to give evidence under oath or by affirmation and to produce in evidence documents and things so specified by the Court, and may for sufficient reason order any particular fact or facts to be proved by statutory declaration or





allow the affidavit or statutory declaration of any witness to be read in evidence at the hearing, or may direct any witness to be examined before an examiner or commissioner or the Registrar of the Court or other person authorized by the civil law of the Province of Ontario to examine witnesses or take statutory declarations.

### **SERVICE OF SUMMONS**

12. The summons herein referred to shall be served personally in accordance with the Rules of the Superior Court of Justice. If personal service cannot be reasonably effected, the Court may make such an order for substituted or other service as it deems fit.

### **INFERENCES**

13. The Court shall be entitled to draw inferences from evidence accepted by it whether of fact or law which might have been drawn therefrom if proved at a trial.

### **AFFIDAVIT EVIDENCE**

14. A witness at a hearing shall be examined *viva voce* but the Court may at any time for sufficient reason order or permit particular evidence or facts to be proved by affidavit or permit the affidavit of a witness may be read at the hearing.

### **DEPOSITIONS AND COMMISSION EVIDENCE**

15. The Court may, whenever it appears necessary, make an order for the examination before a member of the Court or any other person at any place and permit such deposition to be given in evidence, or the Court may order the issue of a commission to take such testimony as approved in the form of the Superior Court of Justice, and such testimony may be given in evidence.

### **ADMISSION OF EVIDENCE**

16. The Court may admit as evidence at a hearing, whether or not given or proven under oath or affirmation or admissible as evidence in Court, any oral testimony or document or other thing relevant to the subject matter of the proceedings, but nothing is admissible in evidence that may be inadmissible in a Supreme or Superior Court by reason of any privilege under the law of evidence, or which would be inadmissible by statute.

### **COPIES OF DOCUMENTS**

17. A copy of a document may be admitted as evidence where the Court is satisfied as to its authenticity, and where the document may be filed as evidence the Court may authorize a copy to be filed in evidence when certified to be a true copy by a member of the Court.



### **JUDICIAL NOTICE**

18. The Court may take notice of facts that may be judicially noticed and take notice of any generally recognized scientific or technical facts, information, or opinions within its scientific or specialized knowledge.

### **DECISION IN WRITING**

19. The Court shall give its final decision or order, if any, in writing, and shall give reasons in writing therefor.

### **SERVICE OF DECISION**

20. The Court shall send by first class mail addressed to the parties to any proceedings at their last known address a copy of the Court's final decision or order, together with reasons where reasons have been given, and each party shall be deemed to have received a copy of the decision on the fifth day after the day of mailing unless a party acting in good faith did not receive the decision or order through absence, accident, illness, or other cause beyond the control of such party.

### **FILING OF DECISION WITH SUPERIOR COURT OF JUSTICE**

21. A certified copy of a final decision or order may be filed by the Court or any party in the office of the Registrar of the Superior Court of Justice, and it may be enforced at the instance of the Court, or of such party in the name of the Court, in the same manner as a judgment of the Superior Court of Justice.
22. Where any decision or order is made rescinding or varying a decision or order previously made by the Court that has been filed with the Registrar of the Superior Court of Justice, the decision or order rescinding or varying a former decision or order shall also be filed.

### **RECORD**

23. The Court shall compile a record of any proceeding before it which shall include the complaint, notice of hearing, the answer if any, any intermediate or interlocutory orders, all documentary evidence, transcripts if any of oral evidence, the decision of the Court and the reasons therefor.

### **MAINTENANCE OF ORDER**

24. The Court may make such orders or take such proceedings as it considers necessary for the maintenance of order at the hearing.



### **ABUSE OF PROCESS**

25. The Court may make such orders or give such directions in proceedings before it as it considers proper to prevent abuse of its processes.

### **EXCLUSION OF AGENTS**

26. The Court may exclude any person acting as agent from the hearing other than a barrister and solicitor qualified to practise in the Superior Court of Justice, if it finds that such person is not competent to properly advise or represent a witness or a party.

### **LIMITATION OF CROSS-EXAMINATION**

27. The Court may reasonably limit further cross-examination of a witness where it is satisfied that the cross-examination of a witness has been sufficient to disclose the facts.

### **ADJOURNMENT**

28. Any hearing may be adjourned from time to time by the Court.

### **NOTICE OF ORDER BY PUBLICATION**

29. Where the Court is of the opinion that because the parties to any proceedings are so numerous, or for any other reasons it is impracticable to send its decision and the material to all or any of the parties individually, the Court may cause reasonable notice of the decision or order to be given to such parties by public advertisement, or otherwise as the Court may direct.

### **AMENDMENTS**

30. Amendments to any proceeding or document may be made by order of the Court at any time.

### **ADDING OR DELETING PARTIES**

31. The Court may at any stage of the proceedings order that the name of any complainant or respondent improperly added be struck out and may also order that any persons who ought to have been joined, or whose presence is necessary, be added.



### **APPLICATION TO SUPERIOR COURT OF JUSTICE FOR DIRECTIONS**

32. The Court may apply to the Superior Court of Justice for such directions as it deems necessary or to enforce its orders with respect to evidence or for any other purpose, and the Court may state a case to the Superior Court of Justice, where permitted by law.

### **MATTERS NOT PROVIDED FOR**

33. As to all matters not provided for in these rules, the practice shall be regulated by analogy thereto and to the Rules of Practice of the Superior Court of Justice.