

**GENERAL SCHEME OF THE JUDICIAL
COUNCIL BILL**

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Head 1: Short title and commencement

Provide that

(1) This Bill may be cited as the Judicial Council Bill 2009

(2) The provisions of this Bill shall come into operation on such day or days as may be as the Minister may appoint by order or orders either generally or with reference to any particular purpose or provision, and different days may be so appointed for different purposes and for different provisions.

Head 2: Interpretation

Provide that:

In these Heads, unless the context otherwise requires—

"Bench books" means compilations of legal materials for use by the judiciary;

"Board" means the Board of the Council;

"breach of judicial conduct" means misconduct by a judge whether in the execution of his or her office or otherwise, and whether generally or on a particular occasion, which constitutes a departure from acknowledged standards of judicial conduct and brings the administration of justice into disrepute and for this purpose

"misconduct" includes any act or omission;

"complaint" means a complaint under Head 25;

"the Council" means the Judicial Council established under Head 3;

"designated member" shall be construed in accordance with Head 23;

"establishment day" shall be construed in accordance with Head 3;

"functions" includes powers and duties and references to the performance of functions include, with respect to powers and duties, references to the exercise of the powers and the carrying out of the duties;

"investigating judge" means a judge undertaking an investigation in accordance with Head 26;

"judge" means a judge of the Supreme Court, a judge of the High Court, a judge of the Circuit Court or a judge of the District Court;

"Judicial Conduct Committee" shall be construed in accordance with Head 20;

"lay member" shall be construed in accordance with Heads 20 and 28;

"the Minister" means the Minister for Justice, Equality and Law Reform;

"Panel of Inquiry" shall be construed in accordance with Head 28;

"Presiding Judge" means the President of the High Court, the President of the Circuit Court or the President of the District Court;

"the Secretary" shall be construed in accordance with Head 16.

Head 3: Establishment of Judicial Council

Provide that:

(1) The Minister may by order appoint a day to be the establishment day for the purposes of this Act.

(2) On the establishment day, there shall be established a council to be known as Tionól na mBreitheamhan or, in the English language, the Judicial Council, and in these Heads referred to as "the Council", to perform the functions conferred on it by this Act.

(3) The Council shall be a body corporate with perpetual succession and power to sue and be sued in its corporate name.

(4) The seal of the Council shall be authenticated by the signature of its chairperson, or by the signature of a member of the Council authorised by the Council to act in that behalf together with a signature of the Secretary authorised by the Council to act in that behalf.

(5) Judicial notice shall be taken of the seal of the Council and every document purporting to be an instrument made by, and to be sealed with, the seal of the Council (purporting to be authenticated in accordance with this section) shall be received in evidence and be deemed to be such instrument without proof unless the contrary is shown.

(6) The Council shall, subject to the provisions of this Act, be independent in the exercise of its functions.

Head 4: Membership of Judicial Council

Provide that:

(1) The Council shall consist of—

(a) the Chief Justice and the ordinary judges of the Supreme Court,

(b) the President of the High Court and the ordinary judges of that Court,

(c) the President of the Circuit Court and the ordinary judges of that Court,

(d) the President of the District Court and the ordinary judges of that Court.

(2) Subject to a quorum for a meeting being achieved, the Council may act notwithstanding one or more vacancies in its membership.

(3) If a member of the Council ceases to be a judge, he or she shall thereupon cease to be a member of the Council.

(4) The Chief Justice shall be the chairperson, and the President of the High Court shall be the vice- chairperson, of the Council.

(5) The vice-chairperson shall act as chairperson of the Council in the absence of the chairperson.

Head 5: Functions of Judicial Council

Provide that:

(1) The functions of the Council shall be to maintain and promote

(a) excellence in the exercise by judges of their judicial functions,

(b) high standards of conduct among judges,

(c) the efficient and effective use of judicial resources.

(d) continuing education among judges, and

(e) respect for the independence of the judiciary.

(2) Without prejudice to the generality of subhead (1), the functions of the Council shall, subject to this Scheme, include:

(a) the review of recommendations and reports prepared for, or furnished to, it by the Board or a Committee of the Council,

(b) the adoption, where appropriate, of decisions in relation to recommendations or reports prepared for or furnished to it under paragraph (a),

(c) the adoption of draft guidelines governing judicial conduct and ethics, drawn up under head 21;

(d) the development and management of schemes for education and training of assistance to judges,

(e) the preparation and dissemination among judges of information for their use in the exercise of their functions as judges, and in the administration of justice generally.

(3) The Council shall have all such powers as are necessary or expedient for, or incidental to, the exercise of its functions, including

(a) the power to establish committees in accordance with this Scheme and

(b) the power to delegate functions of the Council to the Board or a Committee of the Council established under this Scheme.

(4) The Council may, subject to the consent of the Minister,

- acquire, hold and dispose of land, or an interest in land, or any other property,
- enter into contracts or other arrangements,
- engage consultants and advisers in connection with the performance of its functions.

(5) Notwithstanding any other provision of this Head, the functions at subhead (2) (a) to (c) shall be performed exclusively by the Council.

Head 6: Meetings and procedures of Council

Provide that:

(1) The Council shall hold such and so many meetings as may be necessary for the performance of its functions but in any case shall meet not less frequently than once a year.

(2) The first meeting of the Council shall be held within three months after the establishment day.

(3) The quorum for a meeting of the Council shall be 50% of the membership of the Council and at least 25% of the members of each jurisdiction or such greater number of members in each case as the Council may from time to time determine.

(4) The chairperson of the Council shall preside at all meetings of the Council at which he or she is present and, in the absence of the chairperson, the senior available judge shall preside at the meeting.

(5) Every question at a meeting of the Council shall be determined by a majority of the votes of the members present and voting on the question and, in case of an equal division of votes, the chairperson or other member presiding at the meeting shall have a second or casting vote.

(6) Subject to this Act, the Council shall regulate, by standing orders or otherwise, the procedure and business of the Council.

Head 7 : Courts Service

Provide that:

(1) Where a decision by the Council and/or the Board of the Council established pursuant to this Scheme is relevant to the discharge of any of the functions of the Courts Service established pursuant to the Courts Service Act 1998, the Council or, as appropriate, the Board shall provide notice in writing of such decision to the Courts Service.

(2) Section 5 of the Courts Service Act 1998 is hereby amended by:

(a) the insertion of "(1) " before the words "The functions";
and

(b) the addition of the following subsection:

"(2) In the discharge of its functions, the Service shall have regard to decisions of the Judicial Council and /or the Board of the Council established by the Judicial Council Bill 2009, which are communicated in writing to the Service."

Head 8: Board of the Judicial Council

Provide that:

(1) There shall be a Board of the Council (in these Heads “the Board”) which shall consist of—

(a) the Chief Justice for the time being or a judge of the Supreme Court nominated by the Chief Justice,

(b) a judge of the Supreme Court elected by the judges of that court,

(c) the President for the time being of the High Court or a judge of the High Court nominated by the President of that Court,

(d) a judge of the High Court elected by the judges of that court,

(e) the President for the time being of the Circuit Court or a judge of the Circuit Court nominated by the President of that Court,

(f) a judge of the Circuit Court elected by the judges of that court,

(g) the President for the time being of the District Court or a judge of the District Court nominated by the President of that Court,

(h) a judge of the District Court elected by the judges of that court, and

(i) a judge alternately of the Supreme Court, the High Court, the Circuit Court and the District Court co-opted in rotation every four years to be a member of the Board by the other members of the Board.

(2) The Chief Justice shall be the chairperson of the Board or, if the Chief Justice nominates a judge of the Supreme Court under subhead (1)(a), that judge shall be chairperson.

(3) The Chief Justice may rescind a nomination under subhead (1)(a) at any time.

(4) If a member of the Board ceases to hold the office by virtue of which he or she became or was eligible to become a member of the Board, he or she shall thereupon cease to be a member of the Board.

(5) Subject to Head 8(3), the Board may act notwithstanding one or more vacancies in its membership.

(6) Every judge elected to the Board under subhead (1) shall, unless he or she sooner resigns from membership or ceases to hold the office by virtue of which he or she became or was eligible to become a member of the Board, be a member of the Board for a term of 4 years from the date of his or her election, which term shall be renewable.

(7) A member of the Board who has been elected or co-opted to be such a member may resign from membership by letter addressed to the chairperson of the Board and the resignation shall take effect on receipt of the letter by the chairperson.

(8) If a member of the Board who has been elected or co-opted resigns from membership or ceases to hold the office by virtue of which he or she became a member of the Board, a judge may be appointed to be a member of the Board to fill the casual vacancy so occasioned and the person so appointed shall be appointed in the same manner as the member of the Board who occasioned the casual vacancy.

(9) A person elected or co-opted to be a member of the Board by virtue of this section shall hold that position for the remainder of the term of the member who occasioned the casual vacancy thus filled and shall be eligible for re-appointment as a member of the Board .

Head 9: Functions of the Board

Provide that:

(1) The function of the Board shall be to exercise on behalf of the Council the functions conferred on the Council by this Scheme subject to and in accordance with such directions and / or guidance as may be given to the Board by the Council and save as otherwise provided in this Scheme.

(2) Without prejudice to the generality of subhead (1), the functions of the Board shall include:

- (a) the elaboration of the policies of the Council;
- (b) the submission of policy proposals, reports or recommendations to the Council in relation to any matters connected with the Council's functions or in relation to which the Council has requested it to make such policy proposals, reports or recommendations;
- (c) the review of draft guidelines concerning judicial conduct and ethics submitted to it by the Judicial Conduct Committee;
- (d) the review of any draft amendments to any such guidelines submitted to it by the Judicial Conduct Committee;
- (e) such other functions as the Council may delegate to the Board pursuant to Head 5.

(3) Subject to this Scheme, the Board shall have all such powers as are necessary or expedient for the exercise of its functions, including the power to delegate functions to the Secretary appointed under Head 16. The Board may also refer matters to a Committee

of the Council or, in relation to the functions of the Judicial Conduct Committee, to that Committee, for their consideration.

Head 10: Meetings and procedures of the Board

Provide that:

(1) The Board shall hold such and so many meetings as may be necessary for the performance of its functions but in any case shall meet not less frequently than once in every period of three months.

(2) The first meeting of the Board shall be held within one month after the holding of the first meeting of the Judicial Council.

(3) The quorum for a meeting of the Board shall be 5 or such greater number of members as the Board may from time to time determine.

(4) The chairperson of the Board shall preside at all meetings of the Board at which he or she is present and in the absence of the chairperson the most senior judge present shall preside at the meeting.

(5) Every question at a meeting of the Board shall be determined by a majority of the votes of the members present and voting on the question and, in case of an equal division of votes, the chairperson or other member presiding at the meeting shall have a second or casting vote.

(6) Subject to this Act, the Board shall regulate, by standing orders or otherwise, the procedure and business of the Board.

Head 11: Committees of the Council

Provide that:

(1) In addition to the committees established under Heads 12 (the Judicial Studies Institute) and 13 (Judicial Support Committees) the Council may from time to time establish such other committees of the Council, as the Council considers appropriate, for the purposes of enabling it to carry out its functions under this Act.

(2) The Council may at any time dissolve a committee established under subhead (1).

(3) The Council may appoint to committees established under subhead (1) persons who are not members of the Council but who have special knowledge and/or experience related to the functions of the committee.

(4) Appointment to a committee established under subhead (1) shall be subject to such terms and conditions as the Council may determine.

(5) Each committee established under this Head may refer a matter to the Council or the Board for consideration.

(6) The Council may request one or more committees established under this Head to act jointly, or coordinate their respective activities, in respect of any matter designated by the Council.

(7) The acts of a committee established under this Head shall be subject to confirmation by the Council, unless the Council dispenses with the necessity for confirmation.

(8) The Council may regulate the procedure of a committee established under this Head but subject to any such regulation a committee may regulate its own procedure.

(9) The powers of the Council under this Head are without prejudice to the entitlement of judges, respectively, of the Supreme Court, the High Court, the Circuit Court or the District Court to meet or form committees to deal with matters of mutual interest.

(10) Each of the committees of the Council established under this Head shall furnish such reports in respect of their activities to the Council or the Board, as the Council may direct.

Head 12: Judicial Studies Institute

Provide that:

- (1) The Council shall establish a committee of the Council (in this Head referred to as "the Institute") to be known as the Judicial Studies Institute and may determine the membership and chairpersonship of the Institute as it considers appropriate.
- (2) The membership of the Institute, or of subcommittees of the Institute, may include persons who are not members of the Judicial Council, but who have a special knowledge or experience related to the purposes of the Institute or a subcommittee, as the case may be.
- (3) The functions of the Institute shall be to facilitate the continuing education of judges in relation to all aspects of the judicial function.
- (4) Without limiting subhead (3), the functions shall include -
 - (a) the preparation and distribution of Bench Books and any other materials,
 - (b) where the Institute considers it appropriate, the publication of material relevant to its function,
 - (c) the organisation of conferences, seminars and meetings, relevant to its function,
 - (d) the provision of training for judges in relation to information technology, and
 - (e) the dissemination of information on sentencing.
- (5) The Council shall provide administrative support for the Judicial Studies Institute and may
 - (a) specify the arrangements it considers appropriate as to the meetings and procedures of the Institute, and

(b) establish one or more subcommittees of the Institute to assist it in carrying out its functions under this Head.

Head 13: Judicial Support Committees

Provide that:

(1) There shall be a Supreme Court Judicial Support Committee which shall consist of:

- (a) the Chief Justice or his or her nominee; and
- (b) one ordinary judge of the Supreme Court elected by the ordinary judges of that Court.

(2) There shall be a High Court Judicial Support Committee which shall consist of:

- (a) the President of the High Court or his or her nominee; and
- (b) two judges of the High Court elected by the ordinary judges of that Court.

(3) There shall be a Circuit Court Judicial Support Committee which shall consist of:

- (a) the President of the Circuit Court or his or her nominee; and
- (b) two judges of the Circuit Court elected by the ordinary judges of that Court.

(4) There shall be a District Court Judicial Support Committee which shall consist of:

- (a) the President of the District Court or his or her nominee; and
- (b) two judges of the District Court elected by the ordinary judges of that Court.

(5) Each of the committees referred to in subheads (1) to (4) respectively shall be a committee of the Council.

(6) The function of each of the committees being established under this Head shall be to advise and assist the Council in the performance of its functions under this Act.

(7) Each of the committees referred to in subheads (1) to (4) respectively may:

- (a) regulate its own procedure; and
- (b) refer a matter, related to the functions of the Council, to the Council for its consideration.

(8) The Council may request one or more committees established under this Head to act jointly, or coordinate their respective activities, in respect of any matter designated by the Council.

(9) The acts of a committee established under this Head shall be subject to confirmation by the Council, unless the Council dispenses with the necessity for confirmation.

(10) If a member of a committee referred to in subheads (1), (2), (3) or (4) ceases to hold the office by virtue of which he or she became or was eligible to become a member of the committee, he or she shall thereupon cease to be a member of the committee.

(11) Every judge elected or nominated to a committee referred to in subheads (1), (2), (3) or (4) shall, unless he or she sooner resigns from membership or ceases to hold the office by virtue of which he or she became or was eligible to become a member of the committee, be a member of the committee for a term of four years from the date of his or her election or nomination, which term may be renewed.

Head 14: Annual and other Reports of the Council

Provide that:

(1) The Council—

(a) shall, not later than 6 months after the end of each period of 12 months commencing on the establishment day or the anniversary of the establishment day, publish a report of its activities in that year, and

(b) may publish such other reports as it considers appropriate.

(2) A report under subhead (1) shall include information on the discharge by the Council of its functions during the year to which it relates and such other information in such form as the Council thinks fit.

Head 15: Expenses of members of Board and Committees etc.

Provide that:

(1) A member of the Board or a judge who is a member of a Committee of the Council, shall be paid such allowances for expenses as the Minister, with the consent of the Minister for Finance, may from time to time determine.

(2) A member of a Committee of the Council, other than such a member who is a judge, shall be paid such remuneration, if any, and allowances for expenses as the Minister, in consultation with the Minister for Finance, may from time to time determine.

Head 16: Secretary of the Council

Provide that:

(1) There shall be a Secretary of the Council (who is referred to in this Act as "the Secretary") who shall be appointed by the Board.

(2) The Secretary shall hold office under a written contract of service (which contract may be renewed) for such period as is specified in the contract, and subject to such terms and conditions (including terms and conditions relating to remuneration and suspension and termination of employment) as may be determined by the Board and approved by the Minister, with the consent of the Minister for Finance.

(3) In subhead (2), 'remuneration includes allowances for expenses, benefits-in-kind and superannuation.

(4) The Public Service Management (Recruitment and Appointments) Act 2004 shall not apply to the appointment of a person as the Secretary.

Head 17: Functions of the Secretary

Provide that:

(1) The Secretary shall manage and control generally the staff and the administration of the business of the Council and shall perform such other functions as are conferred on him or her by or under this Scheme or delegated to him or her, by the Board

(2) The Secretary shall be responsible to the Board for the performance of his or her functions and shall act subject to its directions given in pursuance of its functions and the functions of the Council under the Act..

(3) The Secretary shall provide to the Board such information (including financial information) in relation to the performance of his or her functions as the Board may from time to time require.

(4) The Secretary shall attend such meetings of the Council, and committees of the Council, as the Council may direct and such meetings of the Board as the Board may direct.

(5) Such of the functions of the Secretary as may from time to time be specified by him or her may, with the consent of the Board, be performed by such member of the staff of the Council as may be authorised by the Secretary.

(6) The functions of the Secretary may be performed during his or her absence or when the position of Secretary is vacant by such member of the staff of the Council as may from time to time be designated for that purpose by the Board.

Head 18: Staff

Provide that

(1) The Board may appoint such number of persons to be members of the staff of the Council as may be approved by the Minister with the consent of the Minister for Finance.

(2) The Board shall determine the grades of staff of the Council and the numbers of staff in each grade as may be approved by the Minister with the consent of the Minister for Finance.

(3) A member of the staff of the Council shall be a civil servant in the Civil Service of the State.

(4) The appropriate authority (within the meaning of the Public Service Management (Recruitment and Appointments) Act 2004, and the Civil Service Regulation Acts 1956 to 2005) in relation to the staff of the Council shall be the Board.

(5) In this Head "civil servant in the Civil Service of the State" means a person holding a position in the Civil Service of the State.

Part 2

Judicial Conduct Committee

Head 19 - Application of this Part

This Part shall apply to any misconduct by a judge (including any act or omission by that judge) after the commencement of this Part.

Head 20: Judicial Conduct Committee

Provide that:

(1) There shall be, and is hereby constituted, a Judicial Conduct Committee which shall consist of—

(a) the Chief Justice or a judge of the Supreme Court nominated by the Chief Justice,

(b) a judge of the Supreme Court elected by the ordinary judges of that court,

(c) the President of the High Court or a judge of that court nominated by the President of the court,

(d) a judge of the High Court elected by the ordinary judges of that court,

(e) the President of the Circuit Court or a judge of that court nominated by the President of the court,

(f) a judge of the Circuit Court elected by the ordinary judges of that court ,

(g) the President of the District Court or a judge of that court nominated by the President of the court,

(h) a judge of the District Court elected by the ordinary judges of that court, and

(i) three persons of standing in the community (in these Heads “lay members”) appointed by the Government.

(2) Every member of the Judicial Conduct Committee elected under subhead (1) (b), (d), (f) or (h) or appointed under subhead (1) (i) shall, unless he or she sooner resigns from, or by virtue of subhead (4) or (11), as the case may be, ceases to be a member of, the committee, be a member of the committee for a term of 4

years from the date of his or her appointment, which term may be renewed.

(3) The Chief Justice or, where the Chief Justice has nominated a judge under paragraph (a) of subhead (1) to act in his or her place, that judge, shall be the chairperson of the Judicial Conduct Committee.

(4) If a member of the Judicial Conduct Committee ceases to hold the office by virtue of which he or she became or was eligible to become a member of the Committee, he or she shall thereupon cease to be a member of the Committee.

(5) If a member of the Judicial Conduct Committee elected under paragraph (b),(d), (f), (h) of subhead (1) ceases to hold the office by virtue of which he or she was elected a member of the Committee or resigns from membership of the Committee, a person may be elected to be a member of the Committee to fill the casual vacancy so occasioned in the same manner as the member of the committee who occasioned the casual vacancy.

(6) A person elected to be a member of the Judicial Conduct Committee by virtue of subhead (5) shall hold that position for the remainder of the term of the member who occasioned the casual vacancy he or she is elected or to fill and shall be eligible for re-appointment as a member of the committee.

(7) The following persons shall not be eligible to be a lay member of the Judicial Conduct Committee:

(a) judges,

(b) retired judges,

(c) persons who are practising or have practised as solicitors or barristers,

(d) members of Dáil and Seanad Éireann,

(e) members of a local authority within the meaning of the Local Government Act 1941.

(8) Subject to subhead (11), every lay member of the Judicial Conduct Committee appointed by the Government shall, unless he or she sooner resigns from membership of the Committee, be a member of the Committee for a term of 4 years from the date of his or her appointment, which term shall be renewable.

(9) A member of the Judicial Conduct Committee elected under subhead (1)(b),(d),(f),(h) may resign from membership of the Judicial Conduct Committee by notice in writing addressed to the Chairperson of the Committee and the resignation shall take effect on receipt of such notice by the Chairperson.

(10) A lay member may resign from membership of the Judicial Conduct Committee by notice in writing addressed to the Minister, a copy of which notice shall be sent to the Chairperson of the Committee at the same time, and shall cease to be a member on receipt of such notice by the Minister.

(11) A lay person shall cease to be a member of the Judicial Conduct Committee on becoming a person ineligible to be a member of the Committee.

(12) If a lay member of the Judicial Conduct Committee resigns from, or ceases to be a member of, that Committee before the expiry of his or her term of office, the Government may appoint a person to be a member of the Committee to fill the casual vacancy so occasioned.

(13) A person appointed to be a member of the Judicial Conduct Committee by virtue of subhead (12) shall hold that position for the remainder of the term of the member who occasioned the casual vacancy he or she is appointed to fill and shall be eligible for re-appointment as a member of the committee.

(14) Subject to Head 22(3), the Judicial Conduct Committee may act notwithstanding one or more vacancies in its membership, provided always that there are at least 2 lay members.

(15) Where a member of the Judicial Conduct Committee who is a judge becomes the subject of a complaint that has been determined to be admissible in accordance with this Part, or the subject of an investigation into a matter referred to in head 25 (9), he or she shall forthwith cease to attend meetings of, or participate in the work of, the Committee until such time as the complaint has been finally disposed of, or the investigation concluded, as the case may be, under the provisions of this Act.

(16) A member of the Judicial Conduct Committee shall not participate, or (as the case may be) further participate in any deliberations of the Committee in respect of any other complaint made to the committee or any matter referred to in Head 25(9), which is or is to be the subject of an investigation where his or her participation, or further participation, would not be consistent with the requirements of justice.

(17) The Secretary of the Council shall be the secretary of the Judicial Conduct Committee and when discharging any function for or on behalf of the Committee shall be styled and known (and is referred to in this Scheme) as "Secretary of the Judicial Conduct Committee".

(18) The Secretary of the Judicial Conduct Committee shall attend such of its meetings as the Judicial Conduct Committee may direct.

(19) Administrative support, including staff, appropriate accommodation, facilities and services, for the Judicial Conduct Committee as may be necessary for its proper functioning, shall, subject to Head 21 (3), be provided to it by the Council.

(20) There shall be paid :

- (a) such allowances for expenses, if any, to a member of the Judicial Conduct Committee or a member of a Panel of Inquiry, who is a judge, and

(b) such remuneration (if any) and allowances for expenses, if any, to a lay member of the Judicial Conduct Committee or of a Panel of Inquiry,

as the Minister, with the consent of the Minister for Finance, may from time to time determine.

Head 21: Functions of Judicial Conduct Committee

Provide that:

(1) The function of the Judicial Conduct Committee shall be to maintain and promote high standards of judicial conduct.

(2) Without prejudice to the generality of subhead (1)

(a) the Judicial Conduct Committee shall

(i) consider complaints and undertake investigations regarding the conduct of individual judges, and

(ii) as a result of such consideration and/or investigation, take such action, if any, in accordance with this Part as it considers necessary for the purpose of safeguarding the administration of justice

(b) the Judicial Conduct Committee shall

(i) prepare and submit to the Board draft guidelines concerning judicial conduct and ethics, with a view to their adoption by the Council under Head 5(2)(c), and

(ii) whether at the request of the Board or the Council or on its own initiative, draft amendments to any such guidelines

(c) the Judicial Conduct Committee may provide advice and recommendations to members of the judiciary concerning judicial conduct and ethics.

- (3) The Judicial Conduct Committee shall, subject to this Act, be independent in the performance of its functions.
- (4) The Judicial Conduct Committee may obtain legal advice or medical or other advice in connection with the performance of any of its functions.
- (5) Persons engaged under subhead (4) shall be paid such fees as may, with the approval of the Minister given with the consent of the Minister for Finance, be from time to time determined by the Judicial Conduct Committee.

Head 22: Meetings and Procedures of the Judicial Conduct Committee

Provide that:

(1) The Judicial Conduct Committee shall hold such and so many meetings as may be necessary for the performance of its functions but in any case shall meet not less frequently than once in every period of three months.

(2) The first meeting of the Judicial Conduct Committee shall be held within one month after the date of the holding of the first meeting of the Council.

(3) The quorum for a meeting of the Judicial Conduct Committee shall be five or such greater number of members as that Committee may from time to time determine, at least two of whom is are lay members.

(4) The chairperson of the Judicial Conduct Committee shall preside at all meetings of the Committee at which he or she is present and in the absence of the chairperson the most senior judge who is a member of that committee shall so preside.

(5) Every question at a meeting of the Judicial Conduct Committee shall be determined by a majority of the votes of the members present and voting on the question and, in case of an equal division of votes, the chairperson or other member presiding at the meeting shall have a second or casting vote.

(6) Subject to this Scheme, and save where such procedure has been regulated by regulations made under Head 24, the Judicial Conduct Committee may regulate, by standing orders or otherwise, its own procedure.

Head 23: Designated Members

Provide that:

(1) The Judicial Conduct Committee shall from time to time invite two judicial and one lay member of that Committee to undertake the functions of designated members set out in Head 25 and, if a person so invited accepts the invitation, the Judicial Conduct Committee shall designate him or her for the purposes of this section.

(2) Each person designated under this Head (referred to in these Heads as a "designated member") shall, subject to subhead (3), hold that position for such period, not being less than six months and not exceeding twelve months, as the Judicial Conduct Committee shall determine and shall state in the designation.

(3) The Judicial Conduct Committee may invite a designated member to accept reappointment to that position and if he or she accepts the said invitation, the designated member shall continue to perform the functions of designated members set out in Head 25 for such period, not being less than six months and not exceeding twelve months (which may be extended by a reappointment in accordance with this subhead), as the Judicial Conduct Committee shall determine and shall state in the designation.

(4) A designated member shall cease to be a designated member on his or her ceasing to be a member of the Judicial Conduct Committee or on his or her indicating in writing to the Chairperson of the Judicial Conduct Committee his or her desire to cease being a designated member, and the vacancy so arising shall be filled by another judicial or lay member as the case may be.

(5) The designated members shall report to the other members of the Judicial Conduct Committee-

(a) at such intervals (being intervals of not more than six months) as the designated members consider appropriate in relation to the general operation of the functions of designated members set out in Head 25, and

(b) from time to time in relation to any matters relating to the operation of those functions which the designated members consider should be reported.

(6) Where a matter is required to be determined by the designated members, each member shall have one vote and, in the absence of unanimity, the matter shall be determined by a majority of the votes of the members.

Head 24: Procedure for conduct of investigations

Provide that

(1) Subject to subhead (3) the Judicial Conduct Committee shall, having regard to the provisions of the Act, the need to discharge its functions in an effective manner and in particular the need to observe fair procedures, make regulations in relation to the procedure to be followed concerning the making and investigation of complaints, and the making of determinations by the Judicial Conduct Committee, under this Part.

(2) Without prejudice to the generality of subhead (1), regulations under this Head may provide in particular for

(a) the procedure to be followed -

- (i) in making a complaint,
- (ii) in considering the admissibility of a complaint,
- (iii) in informal investigations and the resolution or attempted resolution of complaints the subject of informal investigations under Head 26,
- (iv) by a Panel of Inquiry appointed under Head 27,
- (v) on a determination by the Judicial Conduct Committee under Head 31, and

(b) the time limits to apply for the taking of any step under fixed by this Scheme.

(3) Every regulation made by the Judicial Conduct Committee under this Head shall be laid by the Committee before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either such House within the next 21 days on which that House has sat after the regulation is laid before it, the regulation shall be annulled

accordingly but without prejudice to the validity of anything previously done thereunder.

Head 25: Initiation of investigations

Provide that:

(1) The Judicial Conduct Committee may determine (whether on foot of a complaint made under subhead (2) or of its own initiative) whether an investigation as to whether there has been a breach of judicial conduct by a judge, whether in the execution of his or her office or otherwise, and whether generally or on a particular occasion, should be undertaken in accordance with the provisions of these Heads and may initiate such an investigation.

(2) A person may make a complaint to the Judicial Conduct Committee regarding breach of judicial conduct by a judge by writing to the Secretary in the manner prescribed by regulations made under Head 24.

(3) A complaint under subhead (2) shall be admissible if -

(a) it is made within 6 months of the date of the alleged existence of the circumstances or occurrence of the conduct giving rise to the complaint,

(b) the person making the complaint—

(i) was directly affected by or witnessed the alleged conduct giving rise to the complaint, or

(ii) is a duly authorised officer of the Incorporated Law Society of Ireland or the General Council of the Bar in Ireland carrying out representative functions on behalf of its members and such complaint, if true, affects a member of that body,

(c) the complaint does not relate solely to—

(i) conduct by the judge concerned in proceedings before that judge in respect of which a remedy by

way of appeal, judicial review, or other proceedings is or may have been provided for in, or in respect of, the proceedings concerned, or

(ii) the merits of a judicial decision, and

(d) the complaint is not manifestly unfounded, frivolous or vexatious.

(4) (a) Where the Secretary is of opinion that the complaint is not admissible in accordance with subhead (3), he or she shall notify the complainant and the judge against whom the complaint has been made in writing of that opinion and the reasons therefore and, subject to subhead (6), inform the complainant and the judge that no further action will be taken in respect of the complaint.

(b) A notice under paragraph (a) shall inform the complainant that he or she may seek a review of the decision by request in writing to the Secretary.

(5) (a) Where the Secretary receives a request referred to in subhead (4)(b) he or she shall refer the complaint, the notice and the request to the designated members.

(b) Where a complaint is referred to the designated members under paragraph (a), the designated members shall consider the matter and determine whether—

(i) the complaint is admissible, or

(ii) notwithstanding that the complaint is not admissible, it would be just and reasonable in all the circumstances that the subject matter of the complaint be investigated, or

(iii) the complaint is not admissible and should not be investigated.

(c) The Secretary shall inform the complainant and the judge concerned in writing of the determination under paragraph (b) and, in the case of a determination under subparagraph

(iii) of that paragraph, inform the complainant and the judge concerned that no further action will be taken in respect of the complaint.

(6) (a) Where the Secretary is of opinion that a complaint is not admissible but that prima facie there has been a breach of judicial conduct by the judge concerned and that, in the particular circumstances, the investigation of the matter is necessary for the safeguarding of the administration of justice generally, he or she shall refer the complaint to the Judicial Conduct Committee, who shall determine whether or not the subject matter of the complaint shall be investigated as if it were a matter referred to in subhead (9).

(b) Where the Judicial Conduct Committee decides to initiate an investigation under subhead (9) the Secretary shall, in lieu of a notice under subhead (4), notify the complainant and the judge concerned of the decision.

(7) Where the Secretary considers a complaint to be admissible or where under subhead (5) the designated members determine, that the complaint is admissible the Secretary shall formally refer the complaint to the Judicial Conduct Committee

(8) For the purpose of deciding whether or not a complaint is admissible, the Secretary or the designated members may make or cause to be made such informal enquiries as appear to them to be necessary.

(9) The Judicial Conduct Committee may initiate an investigation under this Head notwithstanding that no admissible complaint has been made if it appears to the Committee that prima facie there has been a breach of judicial conduct by the judge concerned and that, in the particular circumstances, the investigation of the matter is necessary for the safeguarding of the administration of justice generally. Where the Committee decides to initiate an investigation under this subhead the Secretary shall advise the judge concerned of that decision.

(10) Where a complaint alleges a number of matters, a part of the complaint may be treated as not admissible and not investigated notwithstanding that another part of the complaint is admissible or is, notwithstanding that it is not admissible, to be investigated.

(11) If a complaint relates to conduct in proceedings which have not been finally determined, the Judicial Conduct Committee may adjourn the investigation pending the final determination of the proceedings.

(12) Where the complainant fails or refuses to provide all reasonable cooperation to the Judicial Conduct Committee, the Committee may decline to proceed with an investigation and dismiss the complaint.

(13) Where a complaint or a matter referred to in subhead (9) is to be investigated, the Judicial Conduct Committee shall initiate the investigation by either—

(a) if it is of opinion that the complaint or matter to be investigated is of a minor nature and suitable for informal resolution, referring it for informal investigation and resolution under Head 26, or

(b) if it is not of that opinion, appointing a Panel of Inquiry to investigate the matter under Head 27.

(14) For the purpose of deciding whether to initiate an investigation in accordance with subhead (13)(a) or (b), the Judicial Conduct Committee may make or cause to be made such informal enquiries as appear to it to be necessary.

Head 26: Informal investigations

Provide that:

(1) Where—

(a) the Judicial Conduct Committee has decided pursuant to Head 25 (13)(a) that a complaint or matter referred to in Head 25 (9) is suitable for informal investigation and resolution and

(b) the judge concerned is an ordinary judge of the Supreme Court, High Court, Circuit Court or District Court,

the Judicial Conduct Committee may request the Chief Justice or the president of the court, as the case may be, to undertake on its behalf an investigation in accordance with the provisions of this Head.

(2) Where—

(a) the Judicial Conduct Committee has decided pursuant to Head 25(13)(a) that a complaint or matter referred to in Head 25(9) is suitable for informal investigation and resolution and

(b) the judge concerned is the President of the High Court, the Circuit Court or the District Court,

the Judicial Conduct Committee may request the Chief Justice to undertake on its behalf an investigation in accordance with the provisions of this Head.

(3) Where—

(a) the Judicial Conduct Committee has decided pursuant to Head 25(13)(a) that a complaint or matter referred to in

Head 25(9) is suitable for informal investigation and resolution and

(b) the judge concerned is the Chief Justice,

the Judicial Conduct Committee may request the President of the High Court, the Circuit Court and the District Court to meet and to undertake on its behalf an investigation in accordance with the provisions of this Head.

(4) An investigation under this Head shall be with a view to securing an informal resolution of the complaint or matter under investigation that is just and reasonable in all the circumstances.

(5) Where, during an investigation under this Head, the investigating judge becomes, or the investigating judges become, of opinion that the complaint or matter under investigation is not of a minor nature or is otherwise not suitable for informal resolution, he or she or they shall inform the Judicial Conduct Committee accordingly in writing as soon as may be and the Judicial Conduct Committee shall, as soon as may be, refer the matter for investigation under Head 27 and that Head shall thereupon apply and have effect accordingly in relation to the investigation.

(6) Where during the course of an investigation under this Head, the investigating judge becomes, or (as the case may be) the investigating judges become of the opinion that the complaint or matter under investigation (or part thereof) concerns or may concern the health and/or capacity of the judge concerned, the investigating judge or (as the case may be) the investigating judges shall

(a) recommend to the judge concerned that he or she receive medical or other assistance or take other steps as the investigating judge considers or (as the case may be) the investigating judges consider appropriate, and

(b) report such opinion and recommendation to the Judicial Conduct Committee.

(7) Where the judge concerned does not comply with a recommendation made under subhead (6) the investigating judge or (as the case may be) the investigating judges shall report such non-compliance to the Judicial Conduct Committee in the report to be submitted to the Judicial Conduct Committee under subhead (8).

(8) On completion of an investigation under this Head, the investigating judge or (as the case may be) the investigating judges shall furnish to the Judicial Conduct Committee a report of the investigation containing the opinion of the investigating judge, or (as the case may be) the investigating judges or, if there is no unanimity, of a majority of them, as to whether the complaint or matter has been informally resolved.

(9) Where an investigation under this section was conducted on foot of an admissible complaint the Secretary of the Judicial Conduct Committee shall notify in writing the person who made the complaint of the result of the investigation under this Head.

(10) A statement and all communications made by a complainant or a judge the subject of an investigation under this head and made in connection with or for the purpose of an investigation under this Head shall not be admissible in any proceedings whatsoever.

Head 27: Panel of Inquiry

Provide that:

(1) Where—

(a) the Judicial Conduct Committee considers pursuant to Head 25(13)(b) that a complaint or a matter referred to in Head 25(9) requires investigation but is not suitable for informal resolution, or

(b) during the informal investigation under Head 26 of a complaint or matter referred to in Head 25(9), the circumstances in subhead (5) of Head 26 arise, or

(c) the Judicial Conduct Committee is satisfied, on completion of an investigation under Head 26 of a complaint or matter referred to in Head 25(9), that the complaint or matter has not been informally resolved,

the Judicial Conduct Committee shall appoint a Panel of Inquiry to carry out on its behalf an investigation into the complaint or matter and report to the Judicial Conduct Committee on the investigation in accordance with Head 30.

(2) Where a complaint or matter is to be investigated under this Head the Secretary shall notify in writing

(a) the judge concerned and

(b) in the case of a complaint, the person who made the complaint.

Head 28: Membership of Panel of Inquiry

Provide that:

(1) The Judicial Conduct Committee shall appoint—

(a) two judges, and

(b) one lay member drawn from a panel of persons of standing in the community, appointed from time to time by the Government for the purpose,

to be members of a Panel of Inquiry to carry out on its behalf an investigation into a complaint or matter referred to in Head 25(9).

(2) (a) One of the judges appointed under subhead (1) shall be a judge of the same Court as the judge the subject matter of the investigation.

(b) Where the matter to be investigated relates to the President of the High Court, Circuit Court or District Court, the President shall be treated for the purposes of paragraph (a) as a member of the Supreme Court, High Court or Circuit Court respectively.

(3) The following persons shall not be eligible to be a member of a panel referred to in paragraph (b) of subhead (1):

(a) judges,

(b) retired judges

(c) persons who are practising or have practised as solicitors or barristers,

(d) members of Dáil and Seanad Éireann,

(e) members of a local authority within the meaning of the Local Government Act 1941.

(4) No member of the Judicial Conduct Committee may be a member of a Panel of Inquiry.

(5) A member of a Panel of Inquiry shall, where he or she considers his or her participation, or further participation, in an investigation would not be consistent with the requirements of justice, so inform the Judicial Conduct Committee immediately, whereupon that member shall be deemed to have resigned and the Judicial Conduct Committee shall -

(a) where the former member concerned is a judge, appoint another judge from the same court as a member of the Panel of Inquiry in that judge's place;

(b) where the former member concerned is a lay person, appoint another lay person as a member of the Panel of Inquiry in that person's place.

(6) The Judicial Conduct Committee shall nominate one member of a Panel of Inquiry to be the chairperson of that Panel of Inquiry.

(7) Subject to subsection (8), the Judicial Conduct Committee shall appoint a new Panel of Inquiry to carry out on its behalf each new investigation.

(8) Where the Judicial Conduct Committee considers it appropriate in all the circumstances, a Panel of Inquiry may carry out more than one investigation.

(9) An investigation by a Panel of Inquiry shall, unless otherwise directed by the Judicial Conduct Committee, be held in private.

(10) The Secretary of the Judicial Conduct Committee, or such member of staff of the Council as he or she may nominate, shall act as secretary of a Panel of Inquiry.

Head 29: Investigation by Panel of Inquiry

Provide that:

(1) A Panel of Inquiry shall conduct an investigation into a complaint or matter referred to in Head 25(9) referred to it by the Judicial Conduct Committee in accordance with the provisions of this Head and any regulations made under Head 24.

(2) In conducting the investigation, the Panel of Inquiry may initiate such inquiries into the subject matter of the investigation (hereinafter in this head referred to as the "matter") as it thinks appropriate.

(3) A Panel of Inquiry may conduct a hearing in connection with its investigation.

(4) For the purposes of an investigation under this Head, the Panel of Inquiry may—

(a) direct in writing any person, including the judge concerned , to attend before the Panel of Inquiry on a date and at a place and time specified in the direction and there to give evidence and to produce any document that is in the person's possession or power and is specified in the direction,

(b) direct the person to answer questions that it believes to be relevant to the matter under investigation,

(c) examine the person on oath or affirmation, or by use of a statutory declaration or written interrogatories, and administer oaths for that purpose,

(d) examine or cross -examine the person to the extent the Panel thinks proper in order to elicit information relevant to the matter under investigation,

(e) direct in writing any person to produce to the Panel of Inquiry any document that is in his or her possession, power or procurement and is specified in the direction,

(f) record, or cause to be recorded, in writing, the answers of a person so examined.

(5) Where the matter or a part thereof has been the subject of court proceedings, a Panel of Inquiry may for the purposes of its investigation take account of those proceedings and the outcome thereof.

(6) A Panel of Inquiry shall, for the purpose of an investigation or hearing under this Head, have the powers, rights and privileges vested in the High Court or a judge thereof on hearing an action in respect of—

(i) the enforcement of the attendance of witnesses and their examination on oath or otherwise, and

(ii) the compelling of the production of documents, and the attendance of any person may be enforced, and the production by any person of any document may be required, by a Panel of Inquiry by the issuing to such person of a summons in the manner provided for by regulations made under Head 24.

(7) The Panel of Inquiry may, if it considers it appropriate in the circumstances, hold a preliminary hearing prior to the issuing of a summons or Production Order wherein the person likely to be affected will have the opportunity prior to the issuing of the order of making representations with regard thereto.

(8) Where during the course of an investigation or hearing under this Head, the Panel of Inquiry becomes of the opinion that the matter under investigation (or part thereof) concerns or may concern the health and/or capacity of the judge concerned, the

Panel of Inquiry may report that opinion to the Judicial Conduct Committee.

(9) Where the Judicial Conduct Committee receives a report under subhead (8) it may -

(a) where the judge concerned is an ordinary judge of the Supreme Court, High Court, Circuit Court or District Court refer the report to the Chief Justice, in the case of a judge of the Supreme Court or to the President of the court of which the judge is a member;

(b) where the judge concerned is the President of the High Court, Circuit Court or District Court, refer the report to the Chief Justice; or

(c) where the judge concerned is the Chief Justice refer the report to the Presidents of the High, Circuit and District Courts.

(10) On receipt of a report in accordance with subhead (9) the Chief Justice, president of the court concerned or the presidents, (as the case may be), may

(a) recommend to the judge concerned that he or she receive medical or other assistance or take other steps as the Chief Justice, the president of the court concerned or the presidents (as the case may be) consider appropriate, and

(b) report such recommendation to the Judicial Conduct Committee.

(11) Where the judge concerned does not comply with a recommendation referred to in subhead (10) the Chief Justice, the president of the court concerned or the presidents (as the case may be) shall report such non-compliance to the Judicial Conduct Committee.

(12) Where the Judicial Conduct Committee receives a report under subhead (8) or a report of non-compliance under subhead (11) it may direct the Panel of Inquiry as to whether it should or should not continue with the investigation.

(13) Where a Panel of Inquiry considers that a complainant has failed or refused to provide all reasonable cooperation to it in connection with the investigation of his or her complaint -

(a) the Panel of Inquiry shall report such failure or refusal to the Judicial Conduct Committee and may suspend its investigation pending receipt of a direction from the Committee referred to in subparagraph (b);

(b) the Judicial Conduct Committee shall give a direction to the Panel of Inquiry as to whether it should or should not continue with the investigation.

(14) Where a judge in relation to whose conduct a matter is before a Panel of Inquiry fails to co-operate with an investigation under this head, the Panel of Inquiry may, if it considers it appropriate in all the circumstances, thereupon conclude its investigation. and make a report and recommendation to the Judicial Conduct Committee.

(15) Where a person—

(a) on being duly summoned to attend before the Panel of Inquiry makes default in attending, without reasonable excuse, or

(b) on being duly required by a Panel of Inquiry to produce a document to it makes default in producing it,

(c) being in attendance as a witness before a Panel of Inquiry, refuses to take an oath lawfully required by the Panel of Inquiry to be taken, or to produce any document in his or her possession, power or procurement lawfully required by the Panel of Inquiry to be produced by him or

her or to answer any question to which the Panel of Inquiry may lawfully require an answer, or

(d) being in attendance before a Panel of Inquiry, does anything which, if the Panel of Inquiry were a court of law having power to commit for contempt, would be contempt of court, such person shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding €3,000.

(16) Any person who, while giving evidence pursuant to this Head, makes a statement material in the investigation concerned that the person knows to be false or does not believe to be true is guilty of an offence and shall be liable on summary conviction to a fine not exceeding €3,000.

(17) Subject to subhead (19), a person who gives evidence to a Panel of Inquiry or who produces or sends a document to a Panel of Inquiry, as directed by the Panel of Inquiry, shall be entitled to the same immunities and privileges in respect of that evidence or document and is, in addition to the penalties provided by this Act, subject to the same liabilities, as if he or she were a witness in proceedings before the High Court.

(18) Subject to subhead (19) nothing in this Act compels -

(a) the disclosure by any person of any information that the person would be entitled under any rule of law or enactment to refuse to disclose on the grounds of any privilege or any duty of confidentiality, or

(b) the production of any document in the person's possession, power or procurement containing such information.

(19) Where during the course of an investigation it appears to a Panel of Inquiry to be appropriate in all the circumstances, the Panel may adjourn the investigation and resume it at a time of its choosing or may adjourn the investigation and submit an interim

report in writing to the Judicial Conduct Committee containing an interim recommendation concerning the matter before it.

(20) Where a Panel of Inquiry adjourns an investigation under subhead (19) and submits an interim recommendation to the Judicial Conduct Committee, the Committee may direct it to resume or discontinue the investigation.

(21) None of the following is admissible as evidence against a person in any civil or criminal proceedings, except proceedings in relation to an offence under subhead (16):

(a) a statement or admission made by the person to the Panel of Inquiry

(b) a document given or sent to a Panel of Inquiry pursuant to a direction or request of the Panel to the person.

Head 30: Reports of Panel of Inquiry

Provide that:

(1) On conclusion of its investigation under Head 29, a Panel of Inquiry shall, as soon as may be, prepare and submit to the Judicial Conduct Committee a report in writing based on the evidence received by it, setting out its findings and, having regard to the investigation, it may include in the report any recommendations it considers necessary for the purpose of safeguarding the administration of justice.

(2) If for any reason (including insufficient, conflicting or inconsistent evidence) a Panel of Inquiry considers that the facts relating to a particular issue have not been established , the Panel of Inquiry in its report -

(a) shall identify the issue, and

(b) may indicate its opinion as to the quality and weight of any evidence relating to the issue.

(3) Without prejudice to the generality of subhead (1), a recommendation under subhead (1) may relate to any one, or more, of the following—

(a) the issuing of advice to the judge concerned,

(b) the making of a recommendation to the judge concerned as to a course of action which he or she should follow, which may include a recommendation that he or she attend a course of a type specified in the recommendation,

(c) the making of a recommendation to the Chief Justice where the judge concerned is an ordinary member of the

Supreme Court or to the President of the court of which the judge concerned is a member (unless the judge concerned is the Chief Justice or President of a court, in which case the recommendation shall be issued directly to the Chief Justice or the President, as the case may be)

(d) the issuing of a recommendation in respect of procedural change, practice directions, redistribution of work or related matters, or

(e) the issuing of a reprimand to the judge concerned.

(4) This Head applies to an interim report and recommendation made under Head 29 as it applies to a report and recommendation under subhead (1).

(5) Before submitting the final or an interim report to the Judicial Conduct Committee, the Panel of Inquiry shall send a draft of the report to the judge, the subject of the investigation.

(6) The draft report must be accompanied by a notice from the Panel of Inquiry specifying the time allowed for making submissions or requests to the Panel of Inquiry.

(7) A judge who receives a draft report from a Panel of Inquiry under subhead (5) and who believes that the Panel of Inquiry has not observed fair procedures in relation to him or her may, within the time specified by the Panel of Inquiry submit to the Panel of Inquiry a written statement setting out the reasons for the belief and requesting the Panel of Inquiry to review the draft in the light of the statement.

(8) After considering a statement submitted under subhead (7) and reviewing the draft report , the Panel of Inquiry may -

(a) amend the report, including by omitting any part of the report based on evidence received without observing fair procedures, or

(b) submit the report to the Judicial Conduct Committee without making any amendments.

(9) Where a Panel of Inquiry proceeds in accordance with subhead (8)(b) it shall include in its report to the Judicial Conduct Committee any statement submitted under subhead (7) and its reasons for not amending the report on foot of that statement.

Head 31: Determination of outcome of investigation by Panel of Inquiry

Provide that:

(1) The Judicial Conduct Committee shall consider and make a determination on any report submitted to it by a Panel of Inquiry which determination shall be in writing and shall include the reasons on which it was founded.

(2) A determination by the Judicial Conduct Committee under this Head shall be such determination as it considers necessary for the purpose of safeguarding the administration of justice, which may include one, or more, of the measures mentioned at paragraphs (a) to (e) of Head 30(3).

(3) In making such a determination, the Judicial Conduct Committee may reject or accept, with or without modification, any recommendation contained in the report of the Panel of Inquiry.

(4) The Secretary of the Judicial Conduct Committee shall notify in writing—

(a) the judge concerned, and

(b) if the investigation was into a matter the subject of a complaint, the person who made the complaint,

of the Judicial Conduct Committee's determination in respect of the investigation of the Panel of Inquiry and of the reasons for its determination.

(5) The Judicial Conduct Committee may cause any determination it makes in respect of an investigation by a Panel of Inquiry to be made public at such time and in such manner as it deems appropriate but in making such determination public it shall not identify the judge concerned, or where there has been a complaint, the complainant or publish any material which might tend to identify the said judge or said complainant.

(6) Where the Judicial Conduct Committee considers that a particular course of action should be taken following its consideration of the report of the Panel of Inquiry, it shall be for the Committee itself to initiate the taking of such action.

(7) Where a complaint is made, or the Judicial Conduct Committee of its own motion considers, that a judge may have failed to comply with a determination of the Committee, the Judicial Conduct Committee shall consider the most appropriate action to take in the circumstances, including the question of recommencing the investigation.

(8) Nothing in this Scheme shall affect the power of any member of the Oireachtas to table a motion calling for a resolution in accordance with Article 35 of the Constitution.

Head 32: Expenses of Judicial Conduct Committee

Provide that:

(1) A member of the Judicial Conduct Committee or of a Panel of Inquiry or a designated member appointed under Head 23, who is a judge, shall be paid such allowances for expenses as the Minister, in consultation with the Minister for Finance, may determine.

(2) A member of the Judicial Conduct Committee or of a Panel of Enquiry or a designated member appointed under Head 23, who is a lay member shall be paid such remuneration, if any, and allowances for expenses as the Minister, in consultation with the Minister for Finance, may determine.

Head 33: Annual and other Reports of Judicial Conduct Committee

Provide that:

(1) the Judicial Conduct Committee -

(a) shall not later than 6 months after the end of the year following the coming into operation of this Part, and not later than 6 months after the end of each subsequent year, publish a report of its activities in that year and

(b) may publish such other reports as it considers appropriate.

(2) The report under subhead (a) shall

(i) contain details of the number of complaints received and investigations undertaken during the year under report and how they were dealt with, other than the identity of the complainant or judge concerned, and

(ii) in the case of complaints received or matters referred to under Head 25(9), which were considered by the Judicial Conduct Committee, but not substantiated, contain details of such complaints or matters and the decision but shall not disclose the identity of any complainant or the judge concerned, unless the judge consents to his or her name being disclosed.

(3) The limitations on disclosure of identity provided for in subhead (2) shall apply to any other report published by the Judicial Conduct Committee which concerns the conduct of a judge.

Head 34: Incapacity of a judge due to physical or mental condition

Provide that:

(1) Whenever the Minister requests the Chief Justice to appoint a judge to investigate the condition of health, either physical or mental, of a judge, the Chief Justice shall appoint

(a) a judge of the Supreme Court, where the judge whose health is at issue is a judge of that court or of the High Court, or

(b) a judge of the Supreme Court or , with the consent of the President of the High Court, a Judge of the High Court, where the judge whose health is at issue is a judge of the Circuit Court or of the District Court, to conduct the investigation.

(2) Where the judge whose health is at issue is the Chief Justice, the Minister may request the Presidents of the High Court, of the Circuit Court and of the District Court to conduct an investigation under this Head.

(3) A judge, or the judges, so appointed shall conduct the investigation in private and in such manner as he or she thinks or they think proper, whether by examination of witnesses or otherwise and upon conclusion of the investigation shall report the result thereof to the Minister.

(4) Following receipt of the report the Minister may request the judge whose health is at issue to undergo such medical examination as the Minister may specify.

(5) Section 21 of the Courts of Justice (District Court) Act 1946 is hereby repealed.

Part 3: Miscellaneous

Head 35: Proceedings heard otherwise than in public

Provide that

(1) Save in accordance with the provisions of this Scheme or the requirements of the Constitution and notwithstanding the provisions of any other enactment all proceedings under Part 2 on foot of a complaint or concerning a matter referred to in Head 25(9), shall be confidential and shall be conducted in private.

(2) Any court proceedings or other proceedings arising out of or connected with or related to a complaint, the admissibility of a complaint, an investigation under Part 2 or the determination of the outcome of such an investigation or otherwise shall be heard in camera.

(3) Nothing contained in an enactment that prohibits proceedings to which the enactment relates from being heard in public shall operate to prohibit the giving of information or evidence given in such proceedings to the Judicial Conduct Committee, a designated member appointed under Head 23, a Panel of Inquiry established by that Committee or the Secretary of the Judicial Conduct Committee for the purpose of the exercise of any function conferred on such a person or body by this Scheme or under regulations made under Head 24.

(4) No information or evidence referred to in subhead (3) shall be published or otherwise disclosed or made available to any person.

(5) Where a person causes or permits information or evidence to be published or otherwise disclosed or made available to any person in contravention of this Head, such person shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding €3,000.

Head 36: Privilege in respect of certain matters

Provide that:

(1) Communications made by a person to whom this Head applies for the purposes of the performance of the functions of the Council, a committee of the Council, the Board, the Judicial Conduct Committee, or a Panel of Inquiry under this Act shall be absolutely privileged and such communications and documents, or records, in any form prepared by a person to whom this Head applies, for the purpose of such performance and reports of the Council, a committee, the Board, the Judicial Conduct Committee or a Panel of Inquiry, shall be absolutely privileged wherever and however published.

(2) In this section “a person to whom this section applies” means—

- (a) a member of or the Secretary of the Council
- (b) a member of a committee of the Council
- (c) a member of the Board
- (d) a member or the Secretary of the Judicial Conduct Committee
- (e) a member or the Secretary of a Panel of Inquiry
- (f) a designated member appointed under Head 23
- (g) a member of the staff of the Council
- (h) an investigating judge within the meaning of head 26

(3) No action shall lie against the Secretary or a member of the Judicial Conduct Committee or a member of a Panel of Inquiry or a designated member appointed under Head 23 in respect of anything done by that person in good faith and in pursuance of this Scheme or any regulations made under Head 24.

Head 37 - Expenses

Any expenses incurred in the administration of this Scheme shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

Head 38 - Accounts and Accountable Person

(1) The Board shall keep, in such form and in respect of such accounting periods as may be approved by the Minister, with the consent of the Minister for Finance, all proper and usual accounts of moneys received or expended by the Council, the Board and Committees of the Council including an income and expenditure account and a balance sheet.

(2) Not later than 3 months after the end of the accounting period to which the accounts relate, the Board shall submit accounts held under this Head to the Comptroller and Auditor General for audit.

(3) Immediately after the audit the Board shall present to the Minister copies of -

(a) the audited accounts, including the income and expenditure account, the balance sheet and such other (if any) accounts kept under this section as the Minister, following consultation with the Minister for Finance, may direct, and

(b) the Comptroller and Auditor General's report on the accounts.

(4) As soon as practicable after the presentation of the audited accounts and the Comptroller and Auditor General's report, the Minister shall cause copies of them to be laid before each House of the Oireachtas.

(5) The Secretary shall be the accountable person in relation to the accounts of the Council, the Board and Committees of the Council and shall, whenever required to do so by the Committee of Public Accounts, give evidence to that Committee on -

(a) the regularity and propriety of the transactions recorded, in any book or other record of account subject to audit by the Comptroller and Auditor General that the Board is required under this Part to prepare,

(b) the economy and efficiency of the Council, the Board and Committees of the Council in the use of resources,

(c) the systems, procedures and practices employed by the Council, the Board and Committees of the Council for the purpose of evaluating the effectiveness of the operations of the Council, the Board and the Committees of the Council and

(d) any matter affecting the Council, the Board and Committees of the Council referred to in-

(i) a special report of the Comptroller and Auditor General under section 11(2) of the Comptroller and Auditor General (Amendment) Act 1993, or

(ii) any other report of the Comptroller and Auditor General that is laid before Dáil Éireann in so far as the report relates to a matter specified in any of paragraphs (a) to (c).

(6) The Secretary in giving evidence under this Head shall not question or express an opinion on the merits of any policy of the Government or a Minister of the Government or on the merits of the objectives of such policy.

Head 39 - Appearance of Secretary before Oireachtas Committees

(1) In this subhead "committee" means -

(a) a committee appointed by either House of the Oireachtas or jointly by both Houses of the Oireachtas (other than the Committee of Public Accounts, the Committee on Members' Interests of Dáil Éireann or the Committee on Members' Interests of Seanad Éireann), or

(b) a sub-committee of a committee as defined in paragraph (a).

(2) Subject to subhead (3), the Secretary shall, at the written request of a committee, attend before it to give account for the general administration of the Council (including Committees of the Council), the Board or of the Judicial Conduct Committee as may be required by the committee.

(3) He or she shall not be required to give account before a committee in relation to

(a) the exercise by a judge of his or her judicial functions including a matter which is, has been or may at a future time be the subject of proceedings before a court in the State, or

(b) any individual case with which the Judicial Conduct Committee is, or has been or may at a future time be concerned in the performance of its functions under this Act.

(4) Where the Secretary is of the opinion that subhead (3) applies to a matter about which he or she is requested to give an account before a committee, he or she shall inform the committee of that opinion and the reasons for the opinion.

(5) The information required under subhead (4) must be given to the committee in writing unless it is given by the Secretary when appearing before the committee.

(6) If, on being informed of the Secretary's opinion about the matter, the committee decides not to withdraw its request relating to the matter, the High Court may, on application under subhead (7), determine whether subhead (10) applies to the matter.

(7) Either the Secretary or the committee may apply in a summary manner to the High Court for a determination under subhead (6), but only if the application is made within 21 days after the date on which the Secretary is informed of the committee's decision not to withdraw its request.

(8) Pending the determination of an application under subhead (6), the Secretary shall not attend before the committee to give account for the matter that is the subject of the application.

(9) If the High Court determines that subhead (3) applies to the matter, the committee shall withdraw its request in so far as it relates to the matter, but if the Court determines that subhead (3) does not apply, the Secretary shall attend before the committee to give account for the matter.

(10) In carrying out duties under this head the Secretary shall not question or express an opinion on the merits of any policy of the Government or a Minister of the Government or on the merits of the objectives of such policy.

Head 40: Independence of exercise of judicial functions

Provide that:

No function conferred on or power vested in the Council or the Judicial Conduct Committee or any other body or person under this Scheme shall be exercised so as to interfere with -

(a) the conduct of that part of the business of the courts required by law to be transacted by or before one or more judges or to impugn the independence of a judge in the exercise of his or her judicial functions,

(b) the powers exercised by the Chief Justice or the President of the High Court by virtue of their offices under the Constitution or otherwise by law, or

(c) the powers conferred by statute on

(i) the President of the Circuit Court in respect of that court, and

(ii) the President of the District Court in respect of that court.

Head 41: Freedom of Information Acts

Provide that:

The Freedom of Information Acts, 1997 and 2003 shall have no application whatever to any record or document in the possession, power or procurement of

- (a) the Judicial Conduct Committee, and any member and the Secretary of that committee;
- (b) a member or the Secretary of a Panel of Inquiry, or
- (c) an investigating judge.

to the extent that any such record or document, or the circumstances of its being in such possession, power or procurement, relates to any matters provided for any purposes of this Scheme

Head 42: Data Protection Acts

Provide that:

The Data Protection Acts, 1988 and 2003 shall have no application whatever to any data received, retained or used in any manner by

- (a) the Judicial Conduct Committee, and any member and the Secretary of that committee;
- (c) a member or the Secretary of a Panel of Inquiry, or
- (d) an investigating judge,

to the extent that such data, or its receipt, retention or use, relates to any matters provided for any purposes of this Scheme.