

Number 33 *of* 2023

JUDICIAL APPOINTMENTS COMMISSION ACT 2023

REVISED

Updated to 1 January 2025

This Revised Act is an administrative consolidation of the *Judicial Appointments Commission Act 2023*. It is prepared by the Law Reform Commission in accordance with its function under the *Law Reform Commission Act 1975* (3/1975) to keep the law under review and to undertake revision and consolidation of statute law.

All Acts up to and including the *Family Courts Act 2024* (48/2024), enacted 13 November 2024, and all statutory instruments up to and including the *Health (Provision of Information for Health Examination and Treatment Service) Regulations 2024* (S.I. No. 750 of 2024), made 17 December 2024, were considered in the preparation of this Revised Act.

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JUDICIAL APPOINTMENTS COMMISSION ACT 2023

REVISED

Updated to 1 January 2025

An Act to establish a body to be known as *An Coimisiún um Cheapacháin Bhreithiúnacha* or, in the English language, the Judicial Appointments Commission; to provide for the making of applications to that Commission for recommendation for appointment, or nomination for appointment or election, to judicial office in the State or outside the State; to amend and extend the qualification and eligibility requirements for appointment to judicial office; to provide for the publication, by the Commission, of a statement of selection procedures to be applied in considering applications and a statement of requisite knowledge, skills and attributes required by applicants seeking such recommendation; to provide for the making, by the Commission, of recommendations for such appointment or nomination to be based on merit; to provide for the aforementioned matters having regard to the recommendation of the Council of Europe's Group of States against Corruption (GRECO) that the system of selection, recommendation and promotion of judges target the appointments to the most qualified and suitable candidates in a transparent way, and having regard to Recommendation CM/Rec(2010)12 of the Committee of Ministers to Member States on judges: independence, efficiency and responsibilities adopted by the Committee of Ministers on 17 November 2010, under the terms of Article 15.b of the Statute of the Council of Europe; to provide for the establishment of a Judicial Appointments Commission Office; to dissolve the Judicial Appointments Advisory Board; to provide for expressions of interest in assignment to a particular district court district or circuit to be made by eligible judges to the President of the court concerned; to provide for the funding of the Commission and the Judicial Council by the Courts Service; and for those and other purposes to amend or repeal certain provisions of the Courts of Justice Act 1936, the Courts (Supplemental Provisions) Act 1961, the Courts Act 1973, the Courts Act 1977, the Courts and Court Officers Act 1995, the Standards in Public Office Act 2001 and the Judicial Council Act 2019; and to provide for related matters.

[8*th December*, 2023]

Be it enacted by the Oireachtas as follows:

PART 1

Preliminary and General

Short title, collective citation and commencement

1. (1) This Act may be cited as the Judicial Appointments Commission Act 2023.

(2) (a) *Sections 63*, *64* and *65* and the Courts (Supplemental Provisions) Acts 1961 to 2021 may be cited as the Courts (Supplemental Provisions) Acts 1961 to 2023.

(b) *Section 62* and the Courts of Justice Acts 1924 to 2019 may be cited together as the Courts of Justice Acts 1924 to 2023.

(3) This Act shall come into operation on such day or days as the Minister may, by order or orders appoint either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions, and for the repeal of different provisions of the enactment effected by *section 6*.

Annotations

Editorial Notes:

E1 A table of commencement information ordered by section is available at https://www.irishstatutebook.ie/eli/isbc/2023_33.html.

E2 Power pursuant to subsection (3) exercised (1.01.2025) by *Judicial Appointments Commission Act 2023 (Commencement) (No. 2) Order 2024* (S.I. No. 553 of 2024).

2. The 1st day of January 2025 is appointed as the day on which the Judicial Appointments Commission Act 2023 (No. 33 of 2023), insofar as it is not already in operation, shall come into operation.

E3 Power pursuant to subsection (3) exercised (27.03.2024, 15.06.2024) by *Judicial Appointments Commission Act 2023 (Commencement) Order 2024* (S.I. No. 114 of 2024).

3. The 27th day of March 2024 is appointed as the day on which the following provisions of the Act of 2023 shall come into operation:

(a) Part 1, other than section 6;

(b) Part 2, other than section 28;

(c) Part 3;

(d) the Schedule.

4. The 15th day of June 2024 is appointed as the day on which section 67 of the Act of 2023 shall come into operation.

Interpretation

2. (1) In this Act—

"Act of 1961" means the Courts (Supplemental Provisions) Act 1961;

"Act of 1995" means the Courts and Court Officers Act 1995;

"Act of 2001" means the Standards in Public Office Act 2001;

"Act of 2014" means the Companies Act 2014;

"Act of 2018" means the Data Protection Act 2018;

"applicant" means a person who makes an application under *section 43*;

"Assembly of State Parties" means the Assembly of State Parties established under Article 112 of the Rome Statute;

"chairperson", other than in *section 23*, means the chairperson of the Commission;

"Commission" has the meaning assigned to it by *section 8(1)*;

"committee" means a committee of the Commission established under *section 16*;

"Committee of Ministers" means the Committee of Ministers established by Article 10(i) of the Statute of the Council of Europe done at London on the 5th day of May 1949;

"Data Protection Regulation" means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016[1] on the protection of natural persons with regard to the processing of personal data and on the free movement of such data and repealing Directive 95/46/EC (General Data Protection Regulation);

"Director" has the meaning assigned to it by *section 36(1)*;

"diversity statement" means a diversity statement that stands published under *section 28*;

"eligible person" shall be construed in accordance with *section 40*;

"establishment day" shall be construed in accordance with *section 7*;

"European Convention on Human Rights" means the Convention for the Protection of Human Rights and Fundamental Freedoms done at Rome on the 4th day of November 1950, as amended by—

(a) Protocol No.11 to the Convention for the Protection of Human Rights and Fundamental Freedoms done at Strasbourg on 11 May 1994,

(b) Protocol No.14 to the Convention for the Protection of Human Rights and Fundamental Freedoms done at Strasbourg on 13 May 2004, and

(c) Protocol No.15 to the Convention for the Protection of Human Rights and Fundamental Freedoms done at Strasbourg on 24 June 2013;

"European Court of Human Rights" means the Court established under Article 19 of the European Convention on Human Rights;

"International Criminal Court" means the Court established under Article 1 of the Rome Statute;

"judicial office" means the office of—

(a) Chief Justice,

(b) the President of the Court of Appeal, the President of the High Court, the President of the Circuit Court or the President of the District Court,

(c) an ordinary judge of the Supreme Court, an ordinary judge of the Court of Appeal, an ordinary judge of the High Court or an ordinary judge of the Circuit Court,

(d) a specialist judge of the Circuit Court,

(e) a judge of the District Court,

(f) a judge of the Court of Justice,

(g) an Advocate-General of the Court of Justice,

(h) a judge of the General Court,

(i) a judge of the European Court of Human Rights, or

[1] OJ No. L 119, 4.5.2016, p.1

(j) a judge of the International Criminal Court;

"judicial office in the State" means the office of—

(a) Chief Justice,

(b) the President of the Court of Appeal, the President of the High Court, the President of the Circuit Court or the President of the District Court,

(c) an ordinary judge of the Supreme Court, an ordinary judge of the Court of Appeal, an ordinary judge of the High Court or an ordinary judge of the Circuit Court,

(d) a specialist judge of the Circuit Court, or

(e) a judge of the District Court;

"judicial office outside the State" means the office of—

(a) a judge of the Court of Justice,

(b) an Advocate-General of the Court of Justice,

(c) a judge of the General Court,

(d) a judge of the European Court of Human Rights, or

(e) a judge of the International Criminal Court;

"judicial selection statement" has the meaning assigned to it by *section 57(1)*;

"law officer" means a person employed in the service of the State where a condition for the employment of the person was that he or she was a practising barrister or a practising solicitor;

"lay member" means a lay person who is a member of the Commission;

"lay person" means a person who—

(a) does not hold, and has never held, judicial office,

(b) is not and never has been the Attorney General, the Director of Public Prosecutions, the Chief State Solicitor or a law officer,

(c) is not, and in the relevant period specified in *subsection (2)* for the purposes of this paragraph, was not, a practising barrister or a practising solicitor, and

(d) does not hold or occupy, and has never held or occupied, an office or position in a place outside the State equivalent to an office or position referred to in *paragraph (a)* or *(b)* and is not, and in the relevant period specified in *subsection (2)* for the purposes of this paragraph, was not a solicitor or barrister practising in a jurisdiction outside the State in accordance with the law of that jurisdiction;

"Minister" means the Minister for Justice;

"Office" has the meaning assigned to it by *section 35(1)*;

"personal data" has the same meaning as it has in the Data Protection Regulation;

"practising barrister" has the same meaning as it has in the Legal Services Regulation Act 2015;

"practising solicitor" has the same meaning as it has in the Legal Services Regulation Act 2015;

"processing" has the same meaning as it has in the Data Protection Regulation;

"requisite knowledge, skills and attributes" means the knowledge, skills, competencies, personal attributes and characteristics that a person must possess in order that he or she may be considered to be suitable for recommendation for appointment, or for nomination for appointment or election, to judicial office;

"Rome Statute" means the Rome Statute of the International Criminal Court done at Rome on 17 July 1998;

"special categories of personal data" has the same meaning as it has in the Act of 2018;

"statement of requisite knowledge, skills and attributes" means the statement of requisite knowledge, skills and attributes which stands adopted by the Commission under *section 57*;

""statement of selection procedures" means the statement of selection procedures which stands adopted by the Commission under *section 57*;

"TFEU" means the Treaty on the Functioning of the European Union;

"vetting disclosure" has the same meaning as it has in the National Vetting Bureau (Children and Vulnerable Persons) Act 2012.

(2) The relevant period for the purposes of *paragraphs (c)* and *(d)* of the definition of "lay person" in *subsection (1)* is the period of 5 years immediately preceding the latest date on which the person may apply to participate in a selection process held by the Public Appointments Service under *section 13(1)*.

References to recommendation for appointment and recommendation for nomination for appointment or election

3. In this Act—

(a) a reference to recommendation for appointment is a reference to recommendation for appointment to a judicial office in the State, and

(b) a reference to recommendation for nomination for appointment or election is a reference to recommendation for nomination for appointment or election to a judicial office outside the State.

Expenses

4. The expenses incurred by the Minister and the Minister for Foreign Affairs in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Public Expenditure, National Development Plan Delivery and Reform, be paid out of moneys provided by the Oireachtas.

Service of documents

5. (1) A notice or other document that is required to be served on or given to a person under this Act shall be addressed to the person concerned by name and may be so served on or given to the person in one of the following ways:

(a) by delivering it in person;

(b) by leaving it at the address at which the person ordinarily resides or, in a case in which an address for service has been furnished, at that address;

(c) by sending it by post in a prepaid registered letter to the address at which the person ordinarily resides or, in a case in which an address for service has been furnished, to that address;

(d) by electronic means, in a case in which the person has given notice in writing to the person serving or giving the notice or document concerned of his or her consent to the notice or document (or notices or documents of a class to which the notice or document belongs) being served on, or given to, him or her in that manner.

(2) For the purposes of this section, a company formed and registered under the Act of 2014 or an existing company within the meaning of that Act shall be deemed to be ordinarily resident at its registered office, and every other body corporate and every unincorporated body of persons shall be deemed to be ordinarily resident at its principal office or place of business.

Repeals

6. Part IV, other than section 19A, of the Act of 1995 is repealed.

PART 2

Judicial Appointments Commission

Establishment day

7. The Minister shall, by order, appoint a day to be the establishment day for the purposes of this Act.

Annotations

Editorial Notes:

E4 Power pursuant to section exercised (1.01.2025) by *Judicial Appointments Commission Act 2023 (Establishment Day) Order* (S.I. No. 554 of 2024).

2. The 1st day of January 2025 is appointed as the establishment day for the purposes of the Judicial Appointments Commission Act 2023 (No. 33 of 2023).

Establishment of Judicial Appointments Commission

8. (1) There shall stand established on the establishment day a body to be known as *An Coimisiún um Cheapacháin Bhreithiúnacha* or, in the English language, the Judicial Appointments Commission (in this Act referred to as the "Commission").

(2) The *Schedule* shall apply to the Commission.

Membership of Commission

9. (1) The Commission shall consist of 9 members, subject to *section 45*, being—

(a) the Chief Justice,

(b) subject to *subsection (2)*, the President of the Court of Appeal,

(c) 2 members of the Judicial Council nominated and appointed in accordance with *section 12*,

(d) subject to *subsection (3)*, the Attorney General, and

(e) 4 lay members appointed under *section 13*.

(2) Where the Commission is performing the function of selecting and recommending persons for appointment to judicial office in the High Court, Circuit Court or District Court, the President of the Court concerned, and not the President of the Court of Appeal, shall be the member for the purpose of performance of that function.

(3) The Attorney General shall not, as a member of the Commission, have a right to vote on any matter coming before the Commission for a vote.

(4) The Chief Justice shall be the chairperson of the Commission.

Functions of Commission

10. (1) The general functions of the Commission shall be—

(a) to select and recommend persons—

(i) to the Minister for appointment and nomination for appointment to judicial office, and

(ii) to the Minister for Foreign Affairs in so far as a nomination for election to the European Court of Human Rights and the International Criminal Court is concerned,

and

(b) for the purposes of *paragraph (a)*, to adopt a statement of selection procedures and a statement of requisite knowledge, skills and attributes for inclusion in a judicial selection statement.

(2) The Commission shall be independent in the performance of its functions.

(3) The Commission shall have all such powers as are necessary or expedient for the performance of its functions.

Power to appoint consultants and advisers and enter into contracts

11. (1) The Commission may, as it considers necessary to assist it in the performance of its functions—

(a) enter into contracts or arrangements with any person, and

(b) with the consent of the Minister, appoint consultants or advisers.

(2) Subject to *section 57(6)*, a contract or arrangement with a person, or appointment of a consultant or adviser, referred to in *subsection (1)* shall not enable the person, consultant or advisor to do any thing for the purpose of the performance by the Commission of the function of selection and recommendation of persons for appointment or for nomination for appointment or election to judicial office.

(3) The Commission may, out of the resources at its disposal, pay to a person, consultant or adviser referred to in *subsection (1)* such fees (if any) or allowances for expenses (if any) as the Commission may determine.

(4) The appointment of a consultant or adviser shall be for such period and, subject to *subsection (3)*, be on such terms and conditions, as the Commission considers appropriate.

Nomination of members of Judicial Council and appointment as members of Commission

12. (1) Subject to *subsections (2) and (3)*, the Judicial Council shall nominate 2 members of the Council to be members of the Commission.

(2) The 2 nominees shall comprise one male and one female nominee—

(a) one of whom shall be a judge of the Supreme Court, of the Court of Appeal or of the High Court and one of whom shall be a judge of the Circuit Court or the District Court, and

(b) one of whom shall be a judge who, at the time of his or her appointment as a judge, was qualified for such appointment by virtue of having been a practising solicitor and one of whom shall be a judge who, at the time of his or her appointment as a judge, was qualified for such appointment by virtue of having been a practising barrister.

(3) The Judicial Council shall not nominate the President of the High Court, the President of the Circuit Court or the President of the District Court to be a member of the Commission.

(4) For the purposes of *subsection (2)(b)*, a reference to having been qualified for such appointment by virtue of having been a practising solicitor or practising barrister shall, in relation to a judge who at the time of his or her appointment as a judge was qualified for such appointment by virtue of section 45A of the Act of 1961, be taken to be a reference to having been qualified for such appointment by virtue of having been, as part of that qualification, a practising barrister or practising solicitor, as the case may be, in accordance with that section.

(5) The Minister shall appoint each person nominated under *subsection (1)* to be a member of the Commission.

(6) Where a judge, appointed under this section, ceases to be a member of the Commission in accordance with *section 18(4)*, the Judicial Council shall nominate a judge—

(a) of the same gender as the judge who ceases to be a member,

(b) of the Supreme Court, the Court of Appeal or the High Court if the judge who ceases to be a member was a judge of one of those courts, or of the Circuit Court or District Court if the judge who ceases to be a member was a judge of one of those courts, and

(c) who was qualified for appointment as a judge, as referred to in *subsection (2)(b)*, on the same basis as the judge who is being replaced.

(7) The Minister shall appoint the person nominated under *subsection (6)* to be a member of the Commission and that person shall hold office for that period of the term of office of the member, who occasioned that vacancy, that remains unexpired at the date of such appointment.

Recommendation for appointment and appointment of lay members

13. (1) The Minister shall, from time to time as required, request the Public Appointments Service to undertake a selection process for the purpose of identifying and recommending to the Minister persons whom it is satisfied are suitable for appointment as lay members.

(2) Upon receipt of a request under *subsection (1)*, the Public Appointments Service shall undertake a selection process and, subject to *subsection (3)*, recommend to the Minister, from among the persons who participated in the process, those persons whom it is satisfied are suitable for appointment as lay members.

(3) The Minister shall agree with the Public Appointments Service the selection criteria and procedures applicable to a selection process under this section having regard to—

(a) the objective that the lay members will, having regard to the functions of the Commission, amongst them possess knowledge of, and experience, qualifications, training or expertise in, the matters specified in *subsection (4)*,

(b) the need, in so far as possible, to ensure that recommendations made under *subsection (2)* should comprise an equal number of women and men and reflect the diversity of the population of the State as a whole, and

(c) the need to ensure that a person recommended to the Minister under *subsection (2)* is a fit and proper person to be a lay member.

(4) The matters referred to in *subsection (3)* are matters connected with—

(a) business, finance or public service,

(b) corporate governance and human resources (including making, or recommending persons for, senior appointments),

(c) the courts and the operation of the justice system both in the State and in places outside the State, and

(d) the importance of protection of human rights and equality.

(5) Subject to *subsection (6)*, the Minister shall appoint lay members from among the persons recommended by the Public Appointments Service under *subsection (2)*.

(6) The Minister shall not make an appointment under *subsection (5)* unless a resolution approving the appointment has been passed by each House of the Oireachtas.

(7) The Minister may, prior to the establishment day, designate a person or persons, the subject of a recommendation under *subsection (2)*, to be the first lay member or members of the Commission.

(8) If, immediately before the establishment day, a person stands designated to be a first lay member under *subsection (7)*, the person shall be taken to have been appointed as a lay member on that day.

(9) A resolution referred to in *subsection (6)* shall not be required in respect of an appointment under *subsection (8)*.

Terms and conditions of membership of Commission

14. (1) Each member of the Commission shall act on a part-time basis subject to such terms and conditions (other than the payment of remuneration and allowances for expenses) as the Minister may determine.

(2) Each lay member shall be paid by the Commission such remuneration (if any) and allowances for expenses (if any) as the Minister may, with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform, from time to time determine.

(3) There may be paid by the Commission such allowances for expenses (if any), incurred by lay members on a panel established under *section 46(2)*, as the Commission may, with the consent of the Minister and the Minister for Public Expenditure, National Development Plan Delivery and Reform, determine.

(4) Subject to *section 19(3)*—

(a) a lay member shall hold office for a period of 3 years from the date of his or her appointment, and

(b) where the lay member's term of office expires with the passage of time, he or she may be reappointed by the Minister to the Commission for one further period of 3 years without a further recommendation by the Public Appointments Service or a further resolution under *section 13(6)*.

(5) Subject to *section 18(4)*—

(a) a member of the Judicial Council who is appointed as a member of the Commission under *section 12* shall hold office for a period of 3 years from the date of his or her appointment, and

(b) where that member's term of office expires with the passage of time, he or she may be nominated by the Judicial Council under *section 12* for appointment for one further period of 3 years.

(6) Nothing in *subsection (5) shall be construed as preventing* a judge, who has been a member of the Commission, from being a member of the Commission in accordance with—

(a) *subsection (1)(a)* or *(b)* or *(2)* of *section 9*, by virtue of holding the office of Chief Justice, President of the Court of Appeal, President of the High Court, President of the Circuit Court or President of the District Court,

(b) *subsections (2)* and *(3)* of *section 45*, by virtue of being the next most senior judge referred to in those provisions, or

(c) *subsection (2)* or *(3)* of *section 18*, by virtue of being the most senior ordinary judge referred to in those provisions.

Procedures of Commission

15. (1) The Commission shall hold such and so many meetings as may be necessary for the due performance of its functions.

(2) The chairperson shall fix the date, time and place of the first meeting of the Commission which shall be a date no later than the end of the period of 3 months beginning on the establishment day.

(3) At a meeting of the Commission the chairperson shall, if present, be the chairperson of the meeting or, where the chairperson is absent, the most senior judge present shall be chairperson of the meeting.

(4) Subject to the provisions of this Act, the Commission shall regulate its own procedures.

(5) The quorum for a meeting of the Commission shall, unless the Minister otherwise directs, be 6 members, not less than 3 of whom shall be lay members.

(6) The Commission may act notwithstanding one or more vacancies in its membership.

Committees of Commission

16. (1) The Commission may establish one or more committees of the Commission to assist it in the performance of its functions under this Act.

(2) A committee shall consist of such and so many members of the Commission as may be determined by the Commission and shall have an equal number of lay members and members who are members of the judiciary.

(3) The chairperson of a committee shall be the Chief Justice or such one of the members of the Commission, referred to in *paragraph (b)* or *(c)* of *section 9(1)*, as the Chief Justice shall determine.

(4) A committee shall determine its own procedures.

(5) There may be paid by the Commission such allowances for expenses (if any), incurred by members of a committee who are lay members, as the Commission may, with the consent of the Minister and the Minister for Public Expenditure, National Development Plan Delivery and Reform, determine.

Remote meetings of Commission and committees

17. (1) Meetings of the Commission or of a committee may consist of a conference between some or all of the members of the Commission or committee, as the case may be, who are not all in one place, but each of whom is able (directly or by means of electronic communications technology) to speak to each of the others and to be heard by each of the others.

(2) Any decision made, vote taken or other act done by means of a conference referred to in *subsection (1)* shall be as good and effectual as a decision made, vote taken or other act done by the members concerned would have been if such had been made, taken or done by those members in a meeting of them held in person.

(3) In this section, "electronic communications technology", means, in relation to a meeting, technology that enables real time transmission and real time two-way audio visual or audio communication.

Member of Commission ceasing to hold judicial office or resigning as member of Commission

18. (1) A person who is a member of the Commission by virtue of holding the judicial office of Chief Justice, President of the Court of Appeal, President of the High Court, President of the Circuit Court or President of the District Court shall, upon ceasing for any reason to hold that judicial office, cease to be a member of the Commission.

(2) Where the person referred to in *subsection (1)* who ceases to hold judicial office is the Chief Justice, the most senior ordinary judge of the Supreme

Court shall be a member of the Commission until the successor to the Chief Justice is appointed.

(3) Where the person referred to in *subsection (1)* who ceases to hold judicial office is the President of the Court of Appeal, the President of the High Court, the President of the Circuit Court or the President of the District Court, the most senior ordinary judge of the court concerned shall be a member of the Commission until the successor to the President of the court concerned is appointed.

(4) A person appointed under *section 12* to be a member of the Commission shall, upon ceasing for any reason to hold judicial office, cease to be a member of the Commission and a member shall be nominated and appointed in his or her place in accordance with *subsection*s *(6)* and *(7)* of that section.

(5) A person who is a member of the Commission by virtue of having been appointed under *section 12* may resign from the Commission by notice in writing to the Minister and—

(a) the resignation shall take effect on the date the Minister receives the notice, or, if a date is specified in the notice and the Minister agrees, that date, and

(b) *subsection (4)* shall apply, with any necessary modifications, as it applies when he or she ceases to hold judicial office.

Lay member ceasing to be member of Commission

19. (1) A lay member shall cease to be a member of the Commission where he or she ceases to be a lay person.

(2) A lay member may resign from the Commission by notice in writing to the Minister and the resignation shall take effect on the date the Minister receives the notice or if a date is specified in the notice and the Minister agrees, that date.

(3) Where a lay member dies, resigns, is removed from office or otherwise ceases to hold office, the casual vacancy shall be filled in accordance with the procedure for the appointment of a lay member by the Minister under *section 13* and the person appointed to fill the casual vacancy shall hold office for that period of the term of office of the member who occasioned that vacancy that remains unexpired at the date of that person's appointment.

Ineligibility to become lay member and disqualification to act as lay member

20. A person shall not be eligible for appointment, and shall cease to hold office, as a lay member if he or she—

(a) is convicted on indictment of an offence,

(b) is convicted of an offence involving fraud or dishonesty,

(c) has a declaration made against him or her under section 819 of the Act of 2014 or is deemed to be subject to such a declaration by virtue of Chapter 5 of Part 14 of that Act, or

(d) is subject to, or is deemed to be subject to, a disqualification order within the meaning of Chapter 4 of Part 14 of the Act of 2014 whether by virtue of that Chapter or of any other provision of that Act.

Removal of lay member of Commission

21. (1) The Government may remove a lay member from office where they are satisfied that one or more of the grounds specified in *subsection (2)* apply to the member and then and only then where a resolution is passed by each House of the Oireachtas calling for the removal of that member from office.

(2) The grounds referred to in *subsection (1)* are that a lay member—

(a) has become incapable through ill health of effectively performing the functions of the office,

(b) has committed stated misbehaviour (other than misbehaviour which is the basis for a conviction referred to in *paragraph (a)* or *(b)* of *section 20* as a result of which the member is required to cease to hold office in accordance with that section),

(c) has a conflict of interest of such significance that he or she should cease to hold office, or

(d) is otherwise unfit to hold office or unable to discharge the functions of the office.

(3) Where the Government propose to remove a lay member under *subsection (1)*, they shall notify the member concerned in writing of their proposal.

(4) A notification under *subsection (3)* shall include a statement—

(a) of the reasons for the proposed removal,

(b) that the member may make representations to the Government, in such form and manner as may be specified by the Government, as to why the member should not be removed from office and any such representations shall be made before the expiration of—

(i) a period of 30 working days from the date of the notification, or

(ii) such other period as the Government may, having regard to the requirements of natural justice, specify in the notice,

and

(c) that where no representations are received within the period referred to in *paragraph (b)*, the Government will, without further notice to the member, proceed with the removal of the member from office in accordance with this section.

(5) In considering whether to remove a lay member from office, the Government shall take into account—

(a) any representations made by the member under *subsection (4)(b)* within the period referred to in that subsection, and

(b) any other matter the Government consider relevant for the purpose of their decision.

(6) Where, having taken into account the matters referred to in *subsection (5)*, the Government decide the lay member should be removed from office in accordance with this section, the Government shall cause notice to be given in writing to the member of the decision and the reasons for that decision.

Accountability of Director to Public Accounts Committee

22. (1) In this section, "Public Accounts Committee" means the Committee of Dáil Éireann established under the Standing Orders of Dáil Éireann to examine and report to Dáil Éireann on the appropriation accounts and reports of the Comptroller and Auditor General.

(2) The Director shall, whenever required in writing to do so by the Public Accounts Committee, give evidence to that Committee in relation to—

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

(b) the economy and efficiency of the Commission in the use of its resources,

(c) the systems, procedures and practices employed by the Commission for the purpose of evaluating the effectiveness of its operations, and

(d) any matter affecting the Commission referred to in a special report of the Comptroller and Auditor General under section 11(2) of the Comptroller and Auditor General (Amendment) Act 1993 or in any other report of the Comptroller and Auditor General (in so far as that other report relates to a matter specified in *paragraph (a)*, *(b)* or *(c)*) that is laid before Dáil Éireann.

(3) In giving evidence under this section, the Director shall not—

(a) question or express an opinion on the merits of—

(i) any policy of the Government or a Minister of the Government, or

(ii) the objectives of such a policy,

or

(b) give any information that discloses or is likely to disclose proceedings, communications or matters referred to in *section 30*.

Accountability of Director to other Oireachtas Committees

23. (1) In this section, "Committee" means a Committee appointed by either House of the Oireachtas or jointly by both Houses of the Oireachtas (other than the Public Accounts Committee referred to in *section 22* or the Committee on Members' Interests of Dáil Éireann or the Committee on Members' Interests of Seanad Éireann) or a subcommittee of such a Committee.

(2) Subject to *subsection (3)*, the Director shall, at the request in writing of a Committee, attend before it to give account for the general administration of the Commission.

(3) The Director shall not be required to give account before a Committee—

(a) for any matter which is, has been or may at a future time be, the subject of proceedings before a court or tribunal in the State, or

(b) where the giving of such account would involve disclosure of proceedings, communications or matters contrary to *section 30*.

(4) Where the Director is of the opinion that a matter in respect of which he or she is requested to give an account before a Committee is a matter to

which *subsection (3)(a)* applies, he or she shall inform the Committee of that opinion and the reasons for the opinion and, unless the information is conveyed to the Committee at a time when the Director is before it, the information shall be so conveyed in writing.

(5) Where the Director has informed a Committee of his or her opinion in accordance with *subsection (4)* and the Committee does not withdraw the request referred to in *subsection (2)* in so far as it relates to a matter the subject of that opinion—

(a) the Director may, not later than 21 days after being informed by the Committee of its decision not to do so, apply to the High Court in a summary manner for determination of the question whether the matter is one to which *subsection (3)(a)* applies, or

(b) the chairperson of the Committee may, on behalf of the Committee, make such an application,

and the High Court shall determine the matter.

(6) Pending the determination of an application under *subsection (5)*, the Director shall not attend before the Committee to give account for the matter the subject of the application.

(7) If the High Court determines that the matter concerned is one to which *subsection (3)(a)* applies, the Committee shall withdraw the request referred to in *subsection (2)*, but if the High Court determines that *subsection (3)(a)* does not apply, the Director shall attend before the Committee and give account for the matter.

(8) In the performance of his or her duties under this section, the Director shall not—

(a) question or express an opinion on the merits of—

(i) any policy of the Government or a Minister of the Government, or

(ii) the objectives of such a policy,

or

(b) give any information that discloses or is likely to disclose proceedings, communications or matters referred to in *section 30*.

Advances to Commission

24. The Minister may, with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform, determine the amount or amounts, for the purposes of expenditure by the Commission in the performance of its functions, which shall from time to time be advanced by the Courts Service to the Commission out of moneys provided to it by the Oireachtas.

Accounts

25. (1) The Commission shall keep, in such form as may be approved by the Minister with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform, all proper and usual accounts (in this section referred to as "annual accounts") of all moneys received or expended by it.

(2) Annual accounts shall be submitted by the Commission to the Comptroller and Auditor General for audit not later than 1 April in the year immediately

following the financial year to which they relate or on such earlier date as the Minister may specify.

(3) The Commission shall, immediately after the audit referred to in *subsection (2)*, present to the Minister a copy of—

(a) the annual accounts, and

(b) the report of the Comptroller and Auditor General on those accounts.

(4) The Minister shall cause copies of the annual accounts and report presented to him or her under *subsection (3)* to be laid before each House of the Oireachtas as soon as practicable after such presentation.

Annual report

26. (1) The Commission shall, not later than 6 months after the end of each year, submit to the Minister a report on the activities, including those undertaken pursuant to a diversity statement, of the Commission in the preceding year, and the Minister shall, as soon as may be after receiving the report, cause copies of the report to be laid before each House of the Oireachtas.

(2) Where a new diversity statement is published in the year to which the annual report relates, the fact of its publication shall be included in the annual report.

(3) Notwithstanding *subsection (1)*, if, but for this subsection, the first report under this section would relate to a period of less than 6 months, the report shall relate to that period and to the year immediately following that period and shall be made as soon as may be, but not later than 6 months after the end of that year.

(4) An annual report submitted to the Minister under *subsection (1)* shall not contain any information that discloses or is likely to disclose proceedings, communications or matters referred to in *section 30*.

(5) The Minister may, having consulted with the Commission, direct the Commission to provide a report under this section in such form and manner as the Minister may specify.

(6) The Commission shall comply with a direction given under *subsection (5)*.

Request from Minister to Commission for report

27. The Minister may request the Commission to make a report to him or her on any matter relating to the functions of the Commission and the Commission shall comply with the request within the period of time specified in the request or within such other period of time as may be agreed by the Minister and the Commission.

Publication of diversity statement by Commission

28. (1) The Commission shall publish a diversity statement no later than 2 years after the coming into operation of this section and thereafter at least once in every 4 year period or such lesser period as the Commission may from time to time determine.

(2) A diversity statement shall set out the manner in which the Commission undertakes to give effect to the objective, set out in *section 39(2)(b)*, that membership of the judiciary in each court in the State should reflect the diversity of the population of the State as a whole, and shall include

procedures in place to achieve the objective, to the extent feasible and practicable, of improving the diversity of applicants and persons recommended for appointment and for nomination for appointment or election to judicial office including the procedures in place to assist in removing barriers faced by persons within the population as a whole that are under-represented in judicial office.

(3) The Commission shall consult with the President of the High Court, the President of the Circuit Court and the President of the District Court in so far as the diversity statement relates to judicial office in the court of the President concerned.

Confidential information

29. (1) A person shall not, unless he or she is required or permitted by law or duly authorised by the Commission to do so, disclose confidential information obtained by him or her while performing functions as—

(a) a member of the Commission or a committee, or

(b) the Director, a member of staff of the Office, a consultant, advisor or other person who is or was engaged under contract or other arrangement by the Commission.

(2) A person who contravenes *subsection (1)* is guilty of an offence and is liable—

(a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months, or both, or

(b) on conviction on indictment, to a fine not exceeding €50,000 or imprisonment for a term not exceeding 5 years, or both.

(3) In this section, "confidential information" includes—

(a) information that is expressed by the Commission to be confidential either as regards particular information or as regards information of a particular class or description, and

(b) proposals of a commercial nature or tenders submitted to the Commission by contractors, consultants or any other person.

Confidentiality of certain proceedings, communications and matters

30. (1) This section applies to a person who is or was—

(a) a member of the Commission or a committee, or

(b) the Director, a member of staff of the Office, a consultant, advisor or other person engaged under contract or other arrangement by the Commission.

(2) In addition to what is provided for in *section 29*, a person to whom this section applies shall not, unless he or she is required or permitted by law or duly authorised by the Commission to do so, disclose—

(a) in relation to an applicant and any application under *section 43*—

(i) proceedings of the Commission or of a committee,

(ii) communications between the Commission and a committee, or

(iii) communications between the Commission or a committee and the Minister or the Minister for Foreign Affairs,

or

(b) any matter concerning the removal of a lay member of the Commission before such removal takes place under *section 21*.

(3) A person who contravenes *subsection (2)* is guilty of an offence and is liable—

(a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months, or both, or

(b) on conviction on indictment, to a fine not exceeding €50,000 or imprisonment for a term not exceeding 5 years, or both.

Records of Commission

31. (1) Subject to *subsection (2)*, the Commission shall keep a record of—

(a) applications made to it under *section 43*, and

(b) deliberations and recommendations of the Commission relating to appointments or nominations for appointment or election to judicial office.

(2) Subject to such regulations (if any) which may be made under *section 33*, where a record referred to in *subsection (1)* includes personal data or special categories of personal data, those data may be processed, in accordance with the Data Protection Regulation and the Act of 2018, by a person for the purposes of the performance of the functions of the Commission and the Minister under this Act and for the purposes of the performance of the functions of the Government under this Act and the Constitution.

Restriction of rights and obligations under Data Protection Regulation

32. (1) Subject to such regulations (if any) which may be made under *section 33*, the rights and obligations provided for in Articles 12 to 22 (and Article 5 in so far as its provisions correspond to the rights and obligations provided for in Articles 12 to 22) and Article 34 of the Data Protection Regulation, in so far as the rights and obligations relate to the processing of personal data by a person or body specified in *subsection (2)*, are restricted to the extent necessary and proportionate to enable that person or body to perform his, her or its functions under *Part 4*.

(2) A person or body referred to in *subsection (1)* means—

(a) the Government,

(b) the Minister,

(c) the Minister for Foreign Affairs,

(d) the Commission,

(e) a committee,

(f) the Office, and

(g) the Director.

Regulations for purposes of data protection

33. The Commission may, with the consent of the Minister, for the purposes of this Act, prescribe by regulations the following:

(a) a form of consent to the processing of personal data and special categories of personal data to be completed by a data subject who makes an application under *section 43*;

(b) suitable and specific measures, including measures set out in section 36(1) of the Act of 2018, for the processing of personal data and special categories of personal data;

(c) where the processing involves data relating to the health of a data subject, additional measures to be taken to safeguard the processing of the data;

(d) the period of time during which the rights and obligations referred to in *section 32(1)* may be restricted under that provision;

(e) the period of time during which personal data or special categories of personal data may be processed.

Restriction of Freedom of Information Act 2014

34. (1) Without prejudice to any other exemption contained in the Freedom of Information Act 2014, that Act shall not apply to a record (within the meaning of that Act) relating to—

(a) the process of selecting and recommending persons for appointment or for nomination for appointment or election to judicial office under *Part 4*, or

(b) a consultation under *section 56(1)* or *57(5)*,

other than in so far as the record relates to the general administration of the Commission.

(2) *Subsection (1)* applies to a record held by the Commission, the Minister, the Minister for Foreign Affairs or the Government.

PART 3

Judicial Appointments Commission Office

Judicial Appointments Commission Office

35. (1) There shall be attached to the Commission an office to be known as the Judicial Appointments Commission Office (in this Act referred to as the "Office") which shall assist the Commission in the performance of its functions.

(2) The Office shall be under the management and control of the Commission and subject to the direction of the Director.

(3) The Commission may, with the consent of the Minister given with the approval of the Minister for Public Expenditure, National Development Plan Delivery and Reform, appoint such and so many persons to be members of the staff of the Office as it may determine.

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

Director of Judicial Appointments Commission Office

36. (1) The Minister shall request the Public Appointments Service to hold a selection process for the purpose of identifying and recommending a person whom it is satisfied is suitable for appointment as director (in this Act referred to as the "Director") of the Office—

(a) as soon as practicable after the coming into operation of this section, and

(b) thereafter, from time to time when the position of Director becomes vacant or the Commission anticipates it is to become vacant.

F1**[**(1A) The Director shall be a civil servant in the Civil Service of the State.**]**

(2) The Public Appointments Service shall, when requested to do so under *subsection (1)*, hold a selection process and recommend to the Minister such person or persons whom it is satisfied are suitable for appointment as Director.

(3) The Minister shall, from among the persons recommended by the Public Appointments Service under *subsection (2)*, appoint a person to be the Director.

(4) The Director may be removed from office by the Minister for stated reasons.

(5) The Director shall hold office for such period, not exceeding 5 years from the date of his or her appointment, as the Minister shall determine.

(6) Subject to *subsection (7)*, a Director whose term of office expires with the passage of time shall be eligible for reappointment by the Minister.

(7) A person who is reappointed by the Minister in accordance with *subsection (6)* shall not hold office for periods the aggregate of which exceeds 10 years.

(8) F2**[**...**]**

(9) The Minister may, pending the appointment of a Director following the holding of a selection process under *subsection (1)*, appoint a person to be the Director of the Office on an interim basis (in this subsection referred to as the "interim Director") and where the Minister does so, the interim Director shall perform all the functions assigned to the Director by or under this Act and a reference in this Act to the Director includes a reference to the interim Director.

Annotations

Amendments:

F1 Inserted (23.07.2024) by *Courts, Civil Law, Criminal Law and Superannuation (Miscellaneous Provisions) Act 2024* (30/2024), s. 23(a), commenced on enactment.

F2 Deleted (23.07.2024) by *Courts, Civil Law, Criminal Law and Superannuation (Miscellaneous Provisions) Act 2024* (30/2024), s. 23(b), commenced on enactment.

Functions of Director

37. (1) The Director shall—

(a) manage and control generally the staff, administration and business of the Office, and

(b) implement the policies and decisions of the Commission.

(2) The Director shall be responsible to the Commission for the performance of his or her functions and shall provide the Commission with such information, including financial information, in respect of the performance of the Director's functions as the Commission may require.

(3) The Commission may designate a member of staff of the Office to perform the functions of Director in the absence of the Director or where the position of Director is vacant and a member so designated shall in such absence or upon such position being vacant perform those functions.

Delegation of functions of Director

38. (1) The Director may, with the consent of the Commission in writing, delegate any of his or her functions to a specified member of staff of the Office and that member of staff shall be accountable to the Director for the performance of the functions that are so delegated.

(2) The Director shall be accountable to the Commission for the performance of functions delegated by him or her in accordance with *subsection (1)*.

(3) The Director may, with the consent of the Commission in writing, revoke a delegation made in accordance with *subsection (1)*.

PART 4

Recommendations for Appointment and for Nomination for Appointment or Election to Judicial Office

Chapter 1

Preliminary and General

Recommendations to be based on merit

39. (1) A decision by the Commission to recommend a person for appointment or for nomination for appointment or election to judicial office shall be based on merit.

(2) Subject to *subsection (1)*, where the function of selection and recommendation of persons for appointment to judicial office in the State falls to be performed, account shall be taken, to the extent feasible and practicable, of the objectives that the membership of the judiciary in each court should—

(a) comprise equal numbers of male and female members,

(b) reflect the diversity of the population of the State as a whole, and

(c) include a sufficient number of judges with a proficiency in the Irish language to meet the needs, identified by the Commission following consultations under *section 56(4)*, of users of each court with respect to proceedings being conducted in the Irish language.

Eligible person: qualification for appointment and for nomination for appointment or election to judicial office

40. (1) Subject to *subsection (2)*, a person is an eligible person where—

(a) in the case of the judicial office of Chief Justice, the President of the Court of Appeal and the President of the High Court, he or she is qualified for appointment in accordance with section 5 or 45A of the Act of 1961 in relation to the judicial office concerned,

(b) in the case of an appointment to the office of ordinary judge of the Supreme Court, ordinary judge of the Court of Appeal or ordinary judge of the High Court, he or she is qualified for appointment in accordance with section 5(2), (4), (5), (6) or (7) or 45A of the Act of 1961,

(c) in the case of an appointment to the office of judge of the Circuit Court, he or she is qualified for appointment in accordance with section 17(2), (2A), (2B), (2C) or (3) or 45A of the Act of 1961,

(d) in the case of an appointment to the office of specialist judge of the Circuit Court, he or she is qualified for appointment in accordance with section 17(4) of the Act of 1961,

(e) in the case of an appointment to the office of judge of the District Court, he or she is qualified for appointment in accordance with section 29(2) or (3), 35(1) or 45A of the Act of 1961,

(f) in the case of a nomination for appointment to be a judge of the Court of Justice, an Advocate General of the Court of Justice or a judge of the General Court, he or she is qualified for appointment in accordance with the requirements of the TFEU,

(g) in the case of nomination for election by the Parliamentary Assembly to be a judge of the European Court of Human Rights, he or she satisfies the criteria for office under Article 21 of the European Convention on Human Rights, and

(h) in the case of nomination for election to be a judge of the International Criminal Court, he or she is qualified having regard to the eligibility requirements of that Court set out in Article 36 of the Rome Statute.

(2) For the purposes of the Commission satisfying itself, in accordance with *section 46(1)(a)(i),* that a person is an eligible person—

(a) a reference in section 5(2)(a) of the Act of 1961 to immediately before such appointment shall be construed as a reference to immediately before the relevant date,

(b) a reference in section 5(2)(b) of the Act of 1961 to immediately before the appointment shall be construed as a reference to immediately before the relevant date, and

(c) a reference in section 45A(1) and (3) of the Act of 1961 to immediately before such appointment shall be construed as a reference to immediately before the relevant date.

(3) In this section—

"Parliamentary Assembly" means the Consultative Assembly established by Article 10 (ii) of the Statute of the Council of Europe done at London on 5 May 1949;

"relevant date" means the latest date on which an application under *section 43* may, in respect of a particular vacancy in a judicial office, be made.

Prohibition on canvassing

41. (1) An applicant shall not, in relation to the process of selection and recommendation (including any step that may be taken in consequence of such a recommendation) of persons for appointment or for nomination for appointment or election to the judicial office to which his or her application relates—

(a) canvass, or attempt to canvass, support for his or her application from any person involved in that process,

(b) attempt to improperly influence a decision of any person in that process,

(c) otherwise interfere with or compromise that process in any way, or

(d) procure or counsel another person, on his or her behalf, to engage in the conduct referred to in *paragraph (a)*, *(b)* or *(c)*.

(2) A person who contravenes *subsection (1)* shall be disqualified and excluded from the process and shall not be recommended for appointment or nominated for appointment or election, as the case may be, or appointed, to the judicial office concerned.

(3) A person who contravenes *subsection (1)* is guilty of an offence and is liable, on summary conviction, to a class A fine.

(4) In this section, a reference to improperly influencing a decision of any person in the process shall be construed as a reference to influencing such a decision other than by means of the taking of any legitimate steps in the process, the effect of which may be to influence another.

Chapter 2

Applications for recommendation for appointment and for nomination for appointment or election to judicial office and making of recommendations

Invitation to apply for vacancy in judicial office

42. (1) The Minister may request the Commission to make recommendations for appointment or for nomination for appointment to judicial office, as the case may be, where—

(a) a judicial office stands vacant, or

(b) he or she reasonably anticipates that there will be a vacancy in a judicial office.

(2) The Minister for Foreign Affairs may request the Commission to make recommendations for nomination for election to the judicial office of a judge of the European Court of Human Rights or a judge of the International Criminal Court, as the case may be, where—

(a) a judicial office of a judge of either of those Courts stands vacant, or

(b) he or she reasonably anticipates that there will be a vacancy in a judicial office of either of those Courts.

(3) The Commission shall issue an invitation, through means of advertisement, for the making of applications by persons who wish to be considered for selection and recommendation for appointment or for nomination for appointment or election, as the case may be, to judicial office—

(a) upon receipt of a request under *subsection (1)* or *subsection (2)*, or

(b) where the Commission anticipates there will be a vacancy in a judicial office.

(4) The Commission shall, in such form and manner as it considers appropriate, provide information to potential applicants, relevant to the judicial vacancy which is the subject of the invitation under *subsection (3)*—

(a) relating to the judicial selection statement, or

(b) where *subsection (2)(a)(ii)* or *(2)(b)(ii)* of *section 60* applies, relating to the procedures or requisite knowledge, skills and attributes, as the case may be, which are to apply in accordance with those provisions.

Applications for appointment or for nomination for appointment or election to judicial office

43. (1) Where an invitation is issued under *section 42* in relation to a judicial office, a person, including a person who holds judicial office or a relevant office holder, who wishes to be considered for selection and recommendation for appointment or nomination for appointment or election, as the case may be, to that office shall make an application to the Commission in such form, and accompanied by such supporting documentation, as is specified—

(a) in the statement of selection procedures, or

(b) where *section 60(2)(a)(ii)* applies, in the procedures determined by the Commission in accordance with that provision.

(2) An application for recommendation for appointment or for nomination for appointment or election to judicial office shall not be made to the Commission otherwise than pursuant to an invitation issued under *section 42*.

(3) In this section, "relevant office holder" means a judge or other office holder referred to in any of clauses (I) to (VII) of section 5(2)(b)(i) of the Act of 1961.

Information to accompany application under *section 43*

44. (1) Where a person makes an application under *section 43*, he or she shall—

(a) at the same time—

(i) confirm in writing that he or she consents to the Commission seeking information from a relevant person in accordance with this section, and

(ii) if a form of consent to the processing of personal data and special categories of personal data has been prescribed in accordance with *section 33*, furnish a signed form of such consent or, if no form stands prescribed at the time of making such application, confirm in writing that he or she consents to such processing,

and

(b) when requested to do so by the Commission, provide it with a declaration of consent (within the meaning of the National Vetting Bureau (Children and Vulnerable Persons) Act 2012) and any other

information which is required by the Commission to enable it to obtain a vetting disclosure in respect of the person.

(2) A person who refuses to comply with *subsection (1)* shall not be considered for recommendation for appointment or nomination for appointment or election, as the case may be, to the judicial office to which his or her application relates.

(3) The Commission may, having furnished a copy of the consents referred to in *subsection (1)(a)* to a relevant person, seek information from that person to verify—

(a) that an applicant is an eligible person,

(b) information contained in an application form submitted by the applicant, and

(c) supporting documentation provided in accordance with the requirements specified in a statement of selection procedures under *section 59(2)(b)*.

(4) A relevant person shall, when requested to do so by the Commission under *subsection (3)* and having received a copy of the consents referred to in that subsection, provide the information requested to the extent that the information is in his or her possession or power to procure.

(5) In this section, "relevant person" means—

(a) a body which has or had a regulatory role in respect of an applicant, including the Judicial Council, the Legal Services Regulatory Authority, the Law Society of Ireland, the General Council of the Bar of Ireland and the Honorable Society of King's Inns,

(b) an employer or former employer of the applicant, and

(c) a person who engages or engaged the applicant in a contract for the provision of services.

Application under *section 43* by member of Commission

45. (1) Where the person making an application under *section 43* is—

(a) the Chief Justice,

(b) the President of the Court of Appeal,

(c) a member of the Commission referred to in *section 9(1)(c)*, or

(d) the Attorney General,

he or she shall take no part in the performance by the Commission of the function of selection and recommendation of a person for appointment or for nomination for appointment or election, as the case may be, to the judicial office to which the application relates and, accordingly, shall not attend any meeting of the Commission held for the purpose of the performance of that function and, where the applicant is a member referred to in *paragraph (a)*, *(b)* or *(c)*, shall not cast a vote in relation to any decision falling to be made by it for that purpose.

(2) Where *subsection (1)* applies and the applicant is the Chief Justice or the President of the Court of Appeal, he or she shall be replaced as a member of the Commission by the person specified in *subsection (3)*—

(a) for the purpose of performing the function referred to in *subsection (1)*, and

(b) which person may attend any meeting of the Commission held for the purpose of the performance of that function and cast a vote in relation to any decision to be made by it for that purpose.

(3) The person referred to in *subsection (2)* is the next most senior judge who—

(a) ranks first in precedence, after the President of the Court of Appeal, in accordance with paragraphs (c) to (k) of section 9 of the Courts of Justice Act 1924,

(b) is not an applicant for the judicial office concerned, and

(c) is available to serve as a member of the Commission for the performance of that function.

(4) Where *subsection (1)* applies and the person making the application is a member of the Commission referred to in *section 9(1)(c)*, the Board of the Judicial Council (established under section 10 of the Judicial Council Act 2019) shall, subject to *subsection (5)*, nominate one of its members to be a member of the Commission—

(a) for the purpose of performing the function referred to in *subsection (1)*, and

(b) which member may attend any meeting of the Commission held for the purpose of the performance of that function and cast any vote in relation to any decision to be made by it for that purpose.

(5) A member of the Board of the Judicial Council shall, where he or she is making an application in respect of the same vacancy in a judicial office—

(a) take no part in the performance by the Board of the function of nomination referred to in *subsection (4)*, and

(b) shall not be nominated by the Board under that subsection to be a member of the Commission.

(6) The Minister shall appoint a person nominated under *subsection (4)* to be a member of the Commission for the purpose of performing the function referred to in *subsection (1)*.

Annotations

Amendments:

F3 Substituted by *Family Courts Act 2024* (48/2024), s. 63, not commenced as of date of revision.

Modifications (not altering text):

C1 Prospective affecting provision: subs. (3)(a) amended by *Family Courts Act 2024* (48/2024), s. 63, not commenced as of date of revision.

(a) ranks first in precedence, after the President of the Court of Appeal, in accordance with F3**[**paragraphs (c) to (ka)**]** of section 9 of the Courts of Justice Act 1924,

Consideration of applications and conditions for making of recommendation

46. (1) Subject to *section 60*, the Commission shall consider applications made in respect of a particular vacancy in a judicial office in accordance with the judicial selection statement and shall not recommend an applicant to the Minister or, if appropriate, the Minister for Foreign Affairs, for appointment

or for nomination for appointment or election, as the case may be, to judicial office unless—

(a) it is satisfied that the applicant—

(i) is an eligible person,

(ii) possesses the requisite knowledge, skills and attributes set out in that statement and is of sufficient merit for such recommendation,

(iii) is suitable on grounds of health to fulfil the duties of the judicial office concerned,

(iv) has complied with the requirements of *section 44(1)*, and

(v) has complied with the requirements of section 22 of the Act of 2001,

and

(b) the Commission has interviewed the applicant.

(2) An interview of an applicant shall, for the purposes of *subsection (1)(b)*, be conducted by a panel of the Commission and the panel shall comprise not fewer than 3 members, selected by the Commission, at least one of whom shall be a lay member and at least one of whom shall be a member of the judiciary.

Recommendation of persons to Minister for appointment to judicial office in the State

47. (1) The Commission shall, following its consideration of applications in accordance with *section 46*, recommend to the Minister—

(a) where there is one judicial office in the State to be filled in a court, 3 persons for appointment to that judicial office, and

(b) where there is more than one judicial office in the State to be filled in the same court, 3 persons and 2 additional persons for each second and subsequent vacancy for appointment to those judicial offices.

(2) Where the Commission cannot, whether by reason of the number of applicants or the operation of *section 46*, or both, as the case may be, recommend to the Minister the number of persons specified in *subsection (1)(a)* but can recommend a lesser number of persons to the Minister, it shall—

(a) recommend to the Minister that lesser number of persons, and

(b) at the same time as making that recommendation, set out in writing the reasons it is unable to recommend the number of persons specified in that subsection.

(3) Where the Commission cannot, whether by reason of the number of applicants or the operation of *section 46*, or both, as the case may be, recommend to the Minister the total number of persons required by the application of *subsection (1)(b)* but can recommend a lesser total number of persons to the Minister, it shall—

(a) recommend to the Minister that lesser total number of persons, and

(b) at the same time as making that recommendation, set out in writing the reasons it is unable to recommend the number of persons specified in that subsection.

(4) Where the Commission determines that it cannot, whether by reason of there being no applicants or the operation of *section 46*, recommend to the Minister any person for the vacancy in a judicial office concerned, it shall—

(a) inform the Minister of that fact, and

(b) at the same time, set out in writing the reasons it is unable to recommend any person.

(5) The Commission shall, at the same time as making a recommendation, or informing the Minister that it cannot make a recommendation, under this section forward the name of each person who made an application in respect of the vacancy concerned.

Recommendation of persons to Minister or to Minister for Foreign Affairs for nomination for appointment or election to judicial office outside the State

48. (1) The Commission shall, following its consideration of applications in accordance with *section 46* which relate to a vacancy in the judicial office of a judge of the Court of Justice, an Advocate-General of the Court of Justice or a judge of the General Court recommend to the Minister 3 persons for nomination for appointment to the office concerned.

(2) The Commission shall, following its consideration of applications in accordance with *section 46* which relate to a vacancy in the judicial office of a judge of the European Court of Human Rights or a judge of the International Criminal Court recommend to the Minister for Foreign Affairs 3 persons for nomination for election to the office concerned.

(3) Where the Commission cannot, whether by reason of the number of applicants or the operation of *section 46*, or both, as the case may be, recommend to the Minister or the Minister for Foreign Affairs the number of persons specified in *subsection (1)* or *(2)* but can recommend a lesser number of persons, it shall—

(a) recommend to the Minister or the Minister for Foreign Affairs, as the case may be, that lesser number of persons, and

(b) at the same time as making that recommendation, set out in writing the reasons it is unable to recommend the number of persons specified in the subsection concerned.

(4) Where the Commission determines that it cannot, whether by reason of there being no applicants or the operation of *section 46*, recommend any person for the vacancy concerned, it shall—

(a) inform the Minister or the Minister for Foreign Affairs, as the case may be, of that fact, and

(b) at the same time, set out in writing the reasons it is unable to recommend any person.

(5) The Commission shall, at the same time as making a recommendation, or informing the Minister or the Minister for Foreign Affairs, as the case may be, that it cannot make a recommendation, under this section forward the name of each person who made an application in respect of the vacancy in a judicial office concerned.

Notification to applicants of outcome of application

49. The Commission shall, at the request of a person who made an application under *section 43* in respect of a vacancy in judicial office, notify the person in writing—

(a) whether or not he or she was the subject of a recommendation to the Minister under *section 47* or to the Minister or the Minister for Foreign Affairs under *section 48*, as the case may be, and

(b) where no recommendation was made in respect of that vacancy, of that fact.

Statement and information to accompany recommendation under *section 47* or *48*

50. The Commission shall, in respect of each person whom it recommends to the Minister under *section 47* or to the Minister or to the Minister for Foreign Affairs, as the case may be, under *section 48*, provide to the Minister concerned—

(a) a statement setting out the reasons it is of the opinion that the person is suitable for appointment or for nomination for appointment or election, as the case may be, to the judicial office concerned,

(b) particulars of the person's education, professional qualifications, experience, character and, in the case of a recommendation under *section 47*, proficiency in the Irish language, and

(c) the results of the interview of the person conducted, in accordance with *section 46(2)*, by a panel of the Commission, and where applicable, the results of any other selection process conducted by the Commission in considering his or her application.

Appointments to judicial office in the State: recommended persons only to be considered

51. (1) In advising the President in relation to the appointment of a person to a judicial office in the State, the Government shall only consider for appointment those persons who have been recommended by the Commission to the Minister under *section 47*.

(2) The Government shall request the Commission to confirm, prior to advising the President in relation to the appointment of a person to a judicial office, that the person concerned is an eligible person.

Nominations for appointment or election to judicial office outside the State: recommended persons only to be considered

52. The Government shall, in nominating a person for appointment or election to a judicial office outside the State, consider for nomination only those persons who have been recommended by the Commission to the Minister or the Minister for Foreign Affairs, as the case may be, under *section 48*.

Vacation of certain judicial offices before appointment to judicial office in the State

53. A person who for the time being—

(a) holds judicial office outside the State,

(b) holds the office of judge of the International Court of Justice established under the Charter of the United Nations, or

(c) holds the office of judge of an international tribunal (within the meaning of section 2 of the International War Crimes Tribunals Act 1998),

shall vacate the office concerned before the President appoints the person to a judicial office in the State.

Publication of notice of appointment to judicial office

54. The Government shall cause notice of an appointment to judicial office in the State to be published in *Iris Oifigiúil*.

Statement to Houses of the Oireachtas

55. (1) Within 30 days after the end of each year, the Minister shall cause to be laid before each House of the Oireachtas a statement of appointments made or elections to judicial office during the previous year—

(a) by the President, and

(b) outside the State pursuant to nominations made by the Government.

(2) *Subsection (1)* shall not apply to appointments made or elections to judicial office before the coming into operation of this section.

(3) A statement under *subsection (1)* shall include—

(a) the name of each person appointed or elected to judicial office and the judicial office to which he or she was appointed or elected, as the case may be, and

(b) particulars of the education, professional qualifications and experience of each person appointed.

PART 5

Judicial Selection Statement: Statement of Requisite Knowledge, Skills and Attributes and Statement of Selection Procedures

Consultation and submissions or observations at request of Commission

56. (1) Without prejudice to *section 57(5)*, the Commission may, as it considers appropriate for the purpose of assisting it in the performance of its functions under this Part in so far as those functions relate to judicial offices in the State, consult with the President of the High Court, the President of the Circuit Court and the President of the District Court.

(2) The Commission may request submissions or observations, within such period as is specified in the request, from any person that it considers appropriate for the purpose of assisting it in the performance of its functions under this Part.

(3) The Commission shall, in the performance of its functions under this Part, consider the outcome of any consultation under *subsection (1)* and any submissions or observations received by it under *subsection (2)* within the period specified in the request referred to in that subsection which are relevant to the function concerned.

(4) The Commission shall, for the purpose of *sections 39(2)(c)* and *58(2)(a)(vi)*, consult with—

(a) the Courts Service about the needs of users of the courts with respect to proceedings being conducted in the Irish language and may, from time to time, request the Courts Service to produce a report about those needs, and

(b) the President of the High Court, the President of the Circuit Court or the President of the District Court, as the case may be, about the needs of users of the court of the President concerned in respect to proceedings being conducted in the Irish language in that court.

(5) The Courts Service shall comply with a request under *subsection (4)(a)*.

Judicial selection statement

57. (1) The Commission shall, in accordance with this section, publish a statement to be known as the "judicial selection (procedures and required competencies) statement" (in this Act referred to as the "judicial selection statement") which shall include—

(a) a statement of selection procedures, and

(b) a statement of requisite knowledge, skills and attributes.

(2) The Commission shall, as soon as practicable after the coming into operation of this section, prepare—

(a) subject to *section 58*, a draft statement of requisite knowledge, skills and attributes, and

(b) subject to *section 59*, a draft statement of selection procedures.

(3) The Commission shall, from time to time, prepare either or both of the following:

(a) subject to *section 58*, a revised draft statement of requisite knowledge, skills and attributes;

(b) subject to *section 59*, a revised draft statement of selection procedures.

(4) The Commission shall, in preparing a revised draft statement referred to in *subsection (3)* have regard to any recommendations made under *section 61*.

(5) In preparing the draft statements referred to in *subsections (2)* and *(3)*, the Commission shall consult with the President of the High Court, the President of the Circuit Court or the President of the District Court in relation to a statement in so far as the statement relates to judicial offices in the court of that President.

(6) In preparing the draft statements referred to in *subsections (2)* and *(3)*, the Commission may—

(a) avail itself of the advice and expertise of a consultant or adviser appointed by the Commission under *section 11(1)* to assist it in the performance of its functions, and

(b) engage in a public consultation or consult with such person or persons as it considers appropriate.

(7) The Commission shall provide the Minister, and the Minister for Foreign Affairs in so far as it relates to the judicial office of judge of the European

Court of Human Rights or the International Criminal Court, with a draft of each statement—

(a) pursuant to *subsection (2)*, within a period of 15 months from the date of coming into operation of this section, and

(b) pursuant to *subsection (3)*, as soon as practicable after the draft is prepared.

(8) The Minister may extend the 15 month period referred to in *subsection (7)(a)* by such further period, not exceeding 6 months, as he or she determines.

(9) The Minister, and the Minister for Foreign Affairs in so far as it relates to the judicial office of judge of the European Court of Human Rights or the International Criminal Court, shall provide his or her views (if any) to the Commission on a draft statement furnished under *subsection (7)* within 3 months of receipt of the draft statement.

(10) The Commission shall, within the period of time specified in *subsection (12)* and having taken into account the views (if any) of the Minister and, if applicable, the Minister for Foreign Affairs provided under *subsection (9)*—

(a) adopt a statement of selection procedures and a statement of requisite knowledge, skills and attributes,

(b) include both of those statements as adopted in the judicial selection statement,

(c) publish the judicial selection statement on its website, and

(d) on each occasion on which it adopts a revised draft statement of selection procedures or a revised draft statement of requisite knowledge, skills and attributes, or both, publish an update of the judicial selection statement on its website.

(11) Where an update of the judicial selection statement is published under *subsection (10)(d)* it shall, on publication, replace the previous judicial selection statement.

(12) The time period referred to in *subsection (10)* is—

(a) where the Minister and, if applicable, the Minister for Foreign Affairs, give their views in accordance with *subsection (9)*, as soon as practicable after receipt of those views but in any event no later than 3 months from the date of receipt of those views,

(b) where the Minister and, if applicable, the Minister for Foreign Affairs, indicate that they have no views, as soon as practicable after they so indicate but in any event no later than 3 months after those Ministers of the Government so indicate, or

(c) where the Minister and, if applicable, the Minister for Foreign Affairs, do not give any views, no later than 3 months after the expiration of the 3 month period referred to in *subsection (9).*

Statement of requisite knowledge, skills and attributes

58. *(1)* The requisite knowledge, skills and attributes for judicial office shall be set out in a statement of requisite knowledge, skills and attributes.

(2) Subject to *subsections (3)* and *(8)*, a statement of requisite knowledge, skills and attributes may—

(a) specify different requisite knowledge, skills and attributes by reference to—

(i) different judicial offices,

(ii) in the case of the judicial offices of judge of the Court of Justice, Advocate General of the Court of Justice or judge of the General Court—

(I) the requirements of the TFEU, and

(II) the criteria used by the panel, established under Article 255 of the TFEU, to assess candidates' suitability to perform the duties of the judicial office concerned,

(iii) in the case of the judicial office of judge of the European Court of Human Rights—

(I) Article 21 of the European Convention on Human Rights, and

(II) any recommendations, resolutions, decisions or guidelines of the Committee of Ministers concerning the selection of candidates for that judicial office,

(iv) in the case of the judicial office of judge of the International Criminal Court—

(I) Article 36 of the Rome Statute, and

(II) any recommendations, resolutions, decisions or guidelines of the Assembly of State Parties or its subsidiary organs concerning the selection of candidates for that judicial office,

(v) in the case of judicial offices in the same court, different classes of business in that court that it is reasonably anticipated a particular appointee to such office would deal with, and

(vi) the needs, identified by the Commission following consultations under *section 56(4)*, of users of the courts with respect to proceedings being conducted in the Irish language,

(b) specify, for the purposes of *subsection (3)(g)* and having regard to the matters referred to in *paragraph (a)*, that successful completion of a particular education or training programme or a particular standard of programme is required, and

(c) prioritise different requisite knowledge, skills and attributes by reference to the matters referred to in *paragraph (a)*.

(3) Without prejudice to the generality of *subsection (1)*, a statement of requisite knowledge, skills and attributes shall specify that an applicant will be required to demonstrate the following, namely that he or she:

(a) in the case of an applicant seeking—

(i) to be recommended for appointment to the office of ordinary judge of the Supreme Court, ordinary judge of the Court of Appeal or ordinary judge of the High Court, has the knowledge and experience specified in *subsection (4)*,

(ii) to be recommended for appointment to the office of ordinary judge of the Circuit Court or to the office of judge of the District Court, has appropriate knowledge and understanding of the functions, practice and procedure of the court to which the appointment concerned relates, and

(iii) to be recommended for nomination for appointment or election, has the knowledge and skills specified in *subsection (7)*;

(b) in the case of a barrister or solicitor, the basis for whose claim to be qualified for appointment to the judicial office concerned is a provision of section 5, 17 or 29 of the Act of 1961, in his or her practice as a barrister or solicitor, as the case may be, has demonstrated a high degree of professionalism, competence and probity;

(c) in the case of a legal academic, the basis for whose claim to be qualified for appointment to the judicial office concerned is section 45A of the Act of 1961, in his or her role as a legal academic and also in his or her practice as a barrister or solicitor, as the case may be, has demonstrated a high degree of professionalism, competence and probity;

(d) will be able, allowing for any appropriate training that may first be required, to deal with judicial business in branches of the law that may not have fallen within his or her previous area of knowledge as a practising barrister, practising solicitor, legal academic or holder of another judicial office, as the case may be;

(e) has an appropriate awareness of the practical considerations that affect the experience of lay participants in the court system, whether as a party to proceedings, as a witness or otherwise;

(f) has an appropriate awareness of the diversity of the population of the State as a whole and of any matters arising from such diversity that may require special consideration in proceedings before a court;

(g) has—

(i) if the applicant already holds judicial office, undergone judicial training or participated in an appropriate level of continuing professional development education or training programmes as a judge or relevant to the role of a judge, or

(ii) if the applicant does not hold judicial office, participated in continuing professional development education or training programmes relevant to the role of a judge or the area of law to which the appointment concerned relates.

(4) An applicant seeking appointment to the office of ordinary judge of the Supreme Court, ordinary judge of the Court of Appeal or ordinary judge of the High Court shall be required to demonstrate that he or she has—

(a) an appropriate knowledge of the decisions of the Supreme Court, the Court of Appeal and the High Court, and

(b) an appropriate knowledge of, and subject to *subsection (6)*, appropriate experience in, the practice and procedure of the court to which the appointment concerned relates.

(5) In determining whether the requirements of *paragraphs (a)* and *(b)* of *subsection (4)* are satisfied, the statement shall specify that regard shall be had, in particular, to the nature and extent of the practice of the person concerned in so far as it relates to his or her personal conduct of proceedings in the Supreme Court, the Court of Appeal and the High Court as either or both—

(a) a person advocating in proceedings or as a solicitor instructing counsel in proceedings, or both, or

(b) a person providing legal advice to another person on the conduct of such proceedings.

(6) A person who was appointed as a judge of the High Court, the Circuit Court or the District Court before 28 October 2014 shall not be required to demonstrate that he or she has appropriate experience of the practice and procedure of the Court of Appeal.

(7) An applicant seeking nomination for appointment or election to judicial office outside the State shall be required to demonstrate that he or she possesses—

(a) an appropriate knowledge, in relation to the court to which the vacancy in the judicial office concerned relates—

(i) of the decisions of the court, and

(ii) of the practice and procedure of that court,

(b) the language skills necessary for the vacancy concerned, and

(c) the ability to work as part of a team in an international environment in which multiple legal systems are represented.

(8) A statement of requisite knowledge, skills and attributes shall require an applicant for recommendation for appointment to judicial office in the State to give an undertaking in writing to the Commission that, if appointed to judicial office in the State, he or she will take such course or courses of training or education, or both, as may be required by the Chief Justice or the President of the court in which the vacancy in the judicial office concerned arises.

Statement of selection procedures

59. (1) The procedures for the selection of persons for recommendation for appointment and nomination for appointment or election to judicial office shall be set out in a statement of selection procedures.

(2) A statement of selection procedures shall specify—

(a) the form of application to be completed, for the purposes of *section 43*, by a person who wishes to be considered for selection for recommendation for appointment or for recommendation for nomination for appointment or election to a judicial office,

(b) the supporting documentation to be provided by an applicant, including in relation to the education, professional qualifications, experience and character of the applicant, and relating to his or her proficiency in the Irish language,

(c) that the applicant will be required, in accordance with *subsection (1)* of *section 44*—

(i) to consent to the Commission seeking information from a relevant person (within the meaning of that section) to verify the matters set out in *subsection (3)* of that section, and

(ii) when requested to do so by the Commission, to provide it with a declaration of consent and any other information required to enable it to obtain a vetting disclosure,

and

(d) for the purposes of establishing that applicants are suitable on grounds of health to fulfil the duties of the judicial office concerned as required by *section 46(1)(a)(iii)*—

(i) the supporting documentation to be provided by applicants to establish such suitability, and

(ii) that applicants may be required to undergo an independent medical examination for the purposes of establishing such suitability.

(3) A statement of selection procedures—

(a) may provide for the short-listing of applicants on the basis of the information contained in the applications received,

(b) shall include a statement of the objectives in *section 39(2)*, and

(c) shall—

(i) ensure that recognised best practice standards in recruitment processes for judicial and other related offices are adhered to,

(ii) subject to *section 46(2)*, set out procedures for the interview of applicants,

(iii) having regard to the requirements to be satisfied in respect of the vacancy or vacancies in judicial offices to be filled, set out any other tests, presentations, exercises or other methods of selection which are to form part of the selection process, and

(iv) set out the standard of communication to be engaged in between the Commission and applicants.

(4) A statement of selection procedures may specify different procedures by reference to—

(a) different judicial offices,

(b) in the case of—

(i) the judicial offices of judge of the Court of Justice, Advocate General of the Court of Justice or judge of the General Court, any requirements of the TFEU concerning the procedures for selection of candidates for those judicial offices,

(ii) the judicial office of judge of the European Court of Human Rights, any recommendations, resolutions, decisions or guidelines of the Committee of Ministers concerning the procedures for selection of candidates for that judicial office, and

(iii) the judicial office of judge of the International Criminal Court, any recommendations, resolutions, decisions or guidelines of the Assembly of State Parties or its subsidiary organs concerning the procedures for selection of candidates for that judicial office,

and

(c) in the case of the matters required to be demonstrated in accordance with *section 58(3)(a)*, whether or not an applicant already holds judicial office.

Transitional arrangement: no judicial selection statement

60. (1) *Subsection (2)* shall apply where, during the period commencing on the coming into operation of *section 46* and ending on the date of the publication of the first judicial selection statement under *section 57*, an invitation to apply for judicial office issues under *section 42*.

(2) For the purposes of *section 46*, the Commission shall—

(a) apply—

(i) where a statement of selection procedures is adopted under *section 57*, the procedures set out in that statement, or

(ii) where no such statement stands adopted, such procedures, consistent with *section 59*, as are determined by the Commission,

and

(b) require an applicant to possess—

(i) where a statement of requisite knowledge, skills and attributes is adopted under *section 57*, the requirements set out in that statement which are applicable to the judicial office to which the application of the applicant relates, or

(ii) where no such statement stands adopted, such requisite knowledge, skills and attributes, consistent with *section 58*, as are determined by the Commission.

Review by Commission and recommendations

61. (1) The Commission shall monitor and review—

(a) the implementation of this Act, including in particular—

(i) the practical operation and application of the judicial selection statement,

(ii) the qualifications and requisite knowledge, skills and attributes required for recommendation of persons for appointment and for nomination for appointment or election to judicial office,

(iii) the effectiveness of the procedures, set out in the statement of selection procedures, in achieving the objectives set out in *section 39(2)* in relation to membership of the judiciary in each court,

(iv) the effectiveness of the administrative support provided by the Office to the Commission, and

(v) the adequacy of the functions assigned to the Commission,

and

(b) international developments in the selection, recommendation and appointment of persons to judicial office, including any international instruments and conventions relevant to such selection, recommendation and appointment.

(2) The Commission may commission research into the qualifications and other requirements for recommendation of persons for appointment and nomination for appointment or election to judicial office.

(3) A review under *subsection (1)* shall be conducted not later than 2 years after the coming into operation of this section and, thereafter, from time to time as the Commission may determine.

(4) The Commission shall, following a review under *subsection (1)*, prepare a report of the findings of the review and set out such recommendations (if any) relating to the implementation of this Act as it considers appropriate.

(5) The Commission shall submit a report and recommendations prepared under *subsection (4)* to the Minister for his or her consideration.

(6) The Minister may, having considered a report and any recommendations submitted to him or her under *subsection (5)* and having consulted with the Minister for Foreign Affairs, provide his or her views to the Commission on the implementation of any of those recommendations and may identify other actions, arising from his or her consideration of the report and recommendations, for consideration by the Commission.

(7) The Commission shall report to the Minister on any implementation measures it takes in respect of recommendations made by it or in respect of actions identified by the Minister for consideration by the Commission under this section.

PART 6

Amendment of Act of 1961 and Other Enactments

Amendment of Courts of Justice Act 1936

62. The Courts of Justice Act 1936 is amended—

(a) in section 14, by the insertion of the following subsection after subsection (3):

"(4) In this section, 'practising barrister' has the same meaning as it has in the Legal Services Regulation Act 2015.",

and

(b) in section 51, by the insertion of the following subsection after subsection (3):

"(3A) In this section, 'practising barrister' has the same meaning as it has in the Legal Services Regulation Act 2015.".

Amendment of Act of 1961

63. The Act of 1961 is amended—

(a) in section 2, by the insertion of the following definition in subsection (1):

"'the Act of 2015' means the Legal Services Regulation Act 2015;",

(b) in section 5—

(i) in subsection (2), by the insertion of the following paragraph after paragraph (c):

"(d) A judge of the District Court who has served as such a judge for a period of not less than 2 years shall be qualified for appointment as a judge of the High Court.",

and

(ii) by the insertion of the following subsections after subsection (7):

"(8) Section 45A provides an additional basis for qualification for appointment as a judge of the Supreme Court, the Court of Appeal or the High Court.

(9) In this section, 'practising barrister' has the same meaning as it has in the Act of 2015.",

(c) in section 17, by the insertion of the following subsections after subsection (5):

"(6) Section 45A provides an additional basis for qualification for appointment as a judge of the Circuit Court.

(7) In this section, 'practising barrister' has the same meaning as it has in the Act of 2015.",

(d) in section 29, by the insertion of the following subsections after subsection (4):

"(5) Section 45A provides an additional basis for qualification for appointment as a judge of the District Court.

(6) In this section, 'practising barrister' has the same meaning as it has in the Act of 2015.",

(e) by the insertion of the following section after section 45:

"Qualification of certain legal academics for appointment and for nomination for appointment or election to judicial office

45A. (1) A person shall be qualified for appointment and for nomination for appointment or election to judicial office (within the meaning of the *Judicial Appointments Commission Act 2023*) where he or she—

(a) is for the time being—

(i) a legal academic of not less than 12 years' standing who has been employed as such for a continuous period of not less than 2 years immediately before such appointment, or

(ii) subject to subsection (4), the head of a faculty who within the period of 12 months prior to becoming the head of that faculty was either—

(I) a legal academic of not less than 12 years' standing (2 of which years shall have been continuous), or

(II) the head of another faculty of not less than 4 years' standing (2 of which years shall have been continuous),

(b) is a qualified barrister (within the meaning of the Act of 2015) or a solicitor who has not been struck off the roll of solicitors (within the meaning of the Act of 2015), and

(c) has practised as a barrister or solicitor for a continuous period of at least 4 years.

(2) For the purposes of subsection (1), a person is a legal academic where he or she is a permanent member of the academic staff of an educational establishment who—

(a) teaches one or more subjects in the field of law, or

(b) carries out, or supervises the carrying out, of research in one or more such subjects,

whether or not in conjunction with the carrying on by him or her of administrative duties relevant to that teaching, research or supervision.

(3) In computing, for the purposes of subsection (1)(a), the period of time that a person is required to have been a legal academic—

(a) a period of time, other than immediately before such appointment, served by a person as head of a faculty shall be deemed to be a period of time served by him or her as a legal academic, and

(b) a period of time spent by a person successively in employment as a legal academic in 2 or more educational establishments shall be aggregated.

(4) A reference to a person being, or having been the head of a faculty (including the reference to having been the head of another faculty) shall be construed as a reference to being, or having been, in an educational establishment, the dean, director or other overall head (by whatever name called) of a department, school or other faculty where the responsibilities of that person include the carrying on of the activities referred to in subsection (2).

(5) In this section—

'educational establishment' means—

(a) a university to which the Universities Act 1997 applies,

(b) a technological university (within the meaning of the Technological Universities Act 2018),

(c) the Honorable Society of King's Inns,

(d) the Law Society of Ireland, or

(e) an establishment, equivalent to one referred to in paragraphs (a) to (d), in a place outside the State.",

and

(f) in the Sixth Schedule—

(i) in paragraph 2, by the insertion of the following subparagraphs after subparagraph (4):

"(5) A person who is to be appointed, or who is appointed, a district judge who wishes to express an interest in being assigned by the Government under subparagraph (1), (2) or (4), or in being transferred by the Minister under subparagraph (3), as the case may be, to a particular district, may forward an expression of such interest to the President of the District Court.

(6) The President of the District Court shall forward any expression of interest received by him or her under subparagraph (5) to the Government or the Minister as appropriate.

(7) An expression of interest referred to in subparagraph (5) shall not be forwarded by the person expressing the interest, or by any person on his or her behalf, to any person other than the President of the District Court.",

and

(ii) in paragraph 3, by the insertion of the following subparagraphs after subparagraph (5):

"(6) A district judge who wishes to express an interest in a temporary assignment under any of the preceding subparagraphs to a particular district may forward an expression of such interest to the President of the District Court.

(7) An expression of interest referred to in subparagraph (6) shall not be forwarded by the district judge concerned, or by any person on his or her behalf, to any person other than the President of the District Court.".

Amendment of Courts Act 1973

64. Section 2 of the Courts Act 1973 is amended by the substitution of "practice as a barrister" for "practice at the Bar" in each place it occurs.

Amendment of Courts Act 1977

65. The Courts Act 1977 is amended—

(a) in section 2, by the insertion of the following subsections after subsection (7):

"(8) A person who is to be appointed, or who is appointed, a judge of the Circuit Court who wishes to express an interest in being assigned by the Government under subsection (2), (3), (5) or (6), or in being transferred by the Government under subsection (4), as the case may be, to a particular circuit, may forward an expression of such interest to the President of the Circuit Court.

(9) The President of the Circuit Court shall forward any expression of interest received by him or her under subsection (8) to the Government.

(10) An expression of interest referred to in subsection (8) shall not be forwarded by the person expressing the interest, or by any person on his or her behalf, to any person other than the President of the Circuit Court.",

and

(b) in section 2A, by the insertion of the following subsections after subsection (6):

"(7) A person who is to be appointed, or who is appointed, a specialist judge of the Circuit Court who wishes to express an interest in being assigned by the Government under subsection (2) or (4), or in being transferred by the Government under subsection (3), as the case may be, to a particular circuit, may forward an expression of such interest to the President of the Circuit Court.

(8) The President of the Circuit Court shall forward an expression of interest received by him or her under subsection (7) to the Government.

(9) An expression of interest referred to in subsection (7) shall not be forwarded by the person expressing the interest, or by any person on his or her behalf, to any person other than the President of the Circuit Court.".

Amendment of section 22 of Act of 2001

66. The Act of 2001 is amended by the substitution of the following for section 22:

"22. (1) The Judicial Appointments Commission shall not recommend a person under *section 47* or *48* of the *Judicial Appointments Commission Act 2023* for appointment or for nomination for appointment or election, as the case may be, to judicial office (within the meaning of that Act) unless the person has furnished to it the documents specified in subsection (2).

(2) The documents referred to in subsection (1) are—

(a) a tax clearance certificate issued to the person not more than 18 months before the date of the recommendation, and

(b) a statutory declaration made by the person not more than 3 months before that date to the effect that, at the time of the making of the declaration, the person is, to the best of his or her knowledge and belief, in compliance with the obligations specified in subsection (1) of section 25 and that nothing in subsection (2) of that section prevents the issue to him or her of a tax clearance certificate.".

Amendment of section 36 of Judicial Council Act 2019

67. The Judicial Council Act 2019 is amended by the substitution of the following section for section 36:

"36. The Minister may, with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform, determine the amount or amounts, for the purposes of expenditure by the Council in the performance of its functions, which shall from time to time be advanced by the Courts Service to the Council out of moneys provided to it by the Oireachtas.".

PART 7

Dissolution of Judicial Appointments Advisory Board and Related Provision

Amendment of section 36 of Judicial Council Act 2019

68. (1) The Judicial Appointments Advisory Board is dissolved.

(2) On the coming into operation of this section all records which, immediately before such coming into operation, were records of the Judicial Appointments Advisory Board shall be records of the Commission and shall, accordingly, be transferred to the Commission.

(3) Any legal proceedings pending immediately before the coming into operation of this section to which the Judicial Appointments Advisory Board is a party shall, on that coming into operation, be continued with the substitution in the proceedings of the Commission for the Board.

Status of certain recommendations made by Judicial Appointments Advisory Board

69. On and after the dissolution of the Judicial Appointments Advisory Board under *section 68*, no appointment to a judicial office shall be made pursuant

to a recommendation, made before that dissolution, by the Judicial Appointments Advisory Board under section 16 of the Act of 1995 in relation to that office.

SCHEDULE

The Commission

Section 8(2)

1. The Commission shall be a body corporate with perpetual succession and an official seal and shall have power to sue, and may be sued, in its corporate name and shall, with the consent of the Minister and the Minister for Public Expenditure, National Development Plan Delivery and Reform have the power to acquire, hold and dispose of land or an interest in land, and shall have the power to acquire, hold and dispose of any other property.

2. The seal of the Commission shall be authenticated by the signatures of—

(a) the chairperson or another member of the Commission authorised by it to act in that behalf, and

(b) the Director or a member of staff of the Office authorised by the Commission.

3. Judicial notice shall be taken of the seal of the Commission and any document purporting to be an instrument made by, and to be sealed with the seal of, the Commission shall, unless the contrary is proved, be received in evidence and be deemed to be such instrument without further proof.

4. Any contract or instrument which, if entered into or executed by an individual, would not require to be under seal, may be entered into or executed on behalf of the Commission by any person generally or specially authorised by the Commission in that behalf.

5. Where a member of the Commission or the Director is—

(a) nominated as a member of Seanad Éireann,

(b) elected as a member of either House of the Oireachtas or to be a member of the European Parliament,

(c) regarded pursuant to Part XIII of the Second Schedule to the Act of 1997 as having been elected to that Parliament, or

(d) is elected or co-opted as a member of a local authority,

he or she shall thereupon cease to be a member of the Commission or Director, as the case may be.

(2) Where a member of staff of the Office is—

(a) nominated as a member of Seanad Éireann,

(b) elected as a member of either House of the Oireachtas or to be a member of the European Parliament,

(c) regarded pursuant to Part XIII of the Second Schedule to the Act of 1997 as having been elected to that Parliament, or

(d) is elected or co-opted as a member of a local authority,

he or she shall thereupon stand seconded from that employment and shall not be paid by, or entitled to receive from, the Commission any remuneration or allowances in respect of the period commencing on such nomination, election or co-option, or when he or she is regarded as having been elected or co-opted, as the case may be, and ending

when such person ceases to be a member of either House, the Parliament or a member of the local authority, as the case may be.

(3) A person who is for the time being—

(a) entitled under the Standing Orders of either House of the Oireachtas to sit therein,

(b) a member of the European Parliament, or

(c) entitled under the standing orders of a local authority to sit as a member thereof,

shall, while he or she is so entitled as mentioned in *clause (a)* or *(c)* or is such a member as mentioned in *clause (b)*, be disqualified for membership of the Commission or for employment in any capacity by the Commission or the Office.

(4) In this paragraph—

"Act of 1997" means the European Parliament Elections Act 1997;

"local authority" means a local authority within the meaning of section 2 (as amended by Part 1 of Schedule 1 to the Local Government Reform Act 2014) of the Local Government Act 2001.

Number 33 *of* 2023

JUDICIAL APPOINTMENTS COMMISSION ACT 2023

REVISED

Updated to 1 January 2025

About this Revised Act

This Revised Act presents the text of the Act as it has been amended since enactment, and preserves the format in which it was passed.

Related legislation

Courts (Supplemental Provisions) Acts 1961 to 2023: this Act is one of a group of Acts included in this collective citation, to be construed together as one (*Judicial Appointments Commission Act 2023* (33/2023), s. 1(2)(a)). The Acts in this group are:

- *Courts (Supplemental Provisions) Act 1961* (39/1961), citation only
- *Courts (Supplemental Provisions) (Amendment) Act 1962* (18/1962), citation only
- *Courts (Supplemental Provisions) (Amendment) Act 1964* (9/1964), citation only
- *Courts Act 1964* (11/1964)
- *Courts (Supplemental Provisions) (Amendment) Act 1968* 3/1968
- *Courts (Supplemental Provisions) (Amendment) (No. 2) Act 1968* (21/1968), citation only
- *Courts Act 1971* (36/1971)
- *Courts Act 1973* (26/1973)
- *Courts Act 1977* (11/1977)
- *Oireachtas (Allowances To Members) and Ministerial, Parliamentary and Judicial Offices (Amendment) Act 1977* (29/1977), Part IV (ss. 10, 11), citation only
- *Courts Act 1979* (15/1979)
- *Courts Act 1981* (11/1981), citation only
- *Courts (No. 2) Act 1981* (31/1981)
- *Oireachtas (Allowances to Members) and Ministerial, Parliamentary and Judicial Offices (Amendment) Act 1983* (32/1983), in so far as it amends the collectively cited *Courts (Supplemental Provisions) Acts 1961 to 1981*, citation only
- *Courts Act 1985* (23/1985)
- *Courts Act 1986* (1/1986), citation only
- *Courts (No. 2) Act 1986* (26/1986) other than ss. 4 , 6, 7 and the First Schedule in so far as it relates to the law on intoxicating liquor
- *Courts (No. 3) Act 1986* (33/1986)
- *Jurisdiction of Courts and Enforcement of Judgments (European Communities) Act 1988* (3/1988) collective construction only of ss. 5-8, 11, 12, 14
- *Courts Act 1988* (14/1988)
- *Courts (No. 2) Act 1988* (34/1988)
- *Child Abduction and Enforcement of Custody Orders Act 1991* (6/1991), collective construction only insofar as it affects the jurisdiction or procedure of any court in the State

- *Courts Act 1991* (20/1991)
- *Courts Act 1991* (21/1991)
- *Courts (Supplemental Provisions) (Amendment) Act 1991* (23/1991), in so far as it amends or extends the *Courts (Supplemental Provisions) Acts 1961 to 1988*
- *Courts and Court Officers Act 1995* (31/1995)
- *Courts Act 1996* (26/1996)
- *Courts Act 1997* (6/1997)
- *Courts (No. 2) Act 1997* (43/1997), other than ss. 3, 9
- *Oireachtas (Allowances to Members) and Ministerial, Parliamentary, Judicial and Court Offices (Amendment) Act 1998* (5/1998), in so far as it amends or extends the collectively cited *Courts (Supplemental Provisions) Acts 1961 to 1998*
- *Jurisdiction of Courts and Enforcement of Judgments Act 1998* (52/1998), ss. 7-10, 13, 14, 16, 20A, 20E-20H, 20J, 20K, 20M
- *Courts (Supplemental Provisions) (Amendment) Act 1999* (25/1999) in so far as it amends or extends the collectively cited *Courts (Supplemental Provisions) Acts 1961 to 1998*
- *Courts (Supplemental Provisions) (Amendment) Act 2000* (15/2000) insofar as it amends the *Courts (Supplemental Provisions) Acts 1961 to 2000*
- *Protection of Children (Hague Convention) Act 2000* (37/2000), ss. 1, 3, 4, 6, 8, 11 and 12
- *Courts and Court Officers Act 2002* (15/2002)
- *Courts and Court Officers (Amendment) Act 2003* (36/2003), citation only
- *Courts and Court Officers (Amendment) Act 2007* (4/2007), citation only
- *Civil Law (Miscellaneous Provisions) Act 2008* (14/2008), ss. 9, 11-13, 20-23
- *Jurisdiction of Courts and Enforcement of Judgments (Amendment) Act 2012* (7/2012)
- *Public Service Pensions (Single Scheme and Other Provisions) Act 2012* (37/2012), ss. 65, 66, citation only
- *Courts and Civil Law (Miscellaneous Provisions) Act 2013* (32/2013), s. 17, citation only
- *Court of Appeal Act 2014* (18/2014), to the extent that it amends or extends the *Courts (Supplemental Provisions) Acts 1961 to 2013*
- *Choice of Court (Hague Convention) Act 2015* (38/2015), ss. 5-9
- *Courts Act 2015* (51/2015) citation only
- *Courts Act 2017* (8/2017)
- *Copyright and Other Intellectual Property Law Provisions Act 2019* (19/2019), s. 41
- *Civil Law (Miscellaneous Provisions) Act 2021* (14/2021), s. 8
- *Courts Act 2023* (12/1923), ss. 3, 4, 5, 6
- *Judicial Appointments Commission Act 2023* (33/2023), ss. 63-65

Courts of Justice Act 1924 to 2023: this Act is one of a group of Acts included in this collective citation, to be construed together as one (*Judicial Appointments Commission Act 2023* (33/2023), s. 1(2)(b)). The Acts in this group are:

- *Courts of Justice Act 1924* (10/1924)
- *Courts of Justice Act 1926* (1/1926)
- *Courts of Justice Act 1928* (15/1928)
- *Courts of Justice Act 1936* (48/1936)
- *Courts of Justice (District Court) Act 1946* (21/1946)
- *Courts of Justice Act 1947* (20/1947)
- *Courts of Justice (District Court) Act 1949* (8/1949)
- *Courts of Justice Act 1953* (32/1953)
- *Courts of Justice Act and Courts Officers (Superannuation) Act 1961* (16/1961), in so far as it amends or extends the previous Acts
- *Intoxicating Liquor Act 2008* (17/2008), s. 8(a) to the extent that it extends the previous Acts
- *Court of Appeal Act 2014* (18/2014), to the extent that it amends or extends the previous Acts
- *Copyright and Other Intellectual Property Law Provisions Act 2019* (19/2019), s. 40
- *Judicial Appointments Commission Act 2023* (33/2023), s. 62

Acts previously included in the group but now repealed are:

- *Courts of Justice Act 1927* (29/1927)

- *Courts of Justice Act 1928* (35/1928)
- *Courts of Justice Act 1929* (37/1929)
- *Courts of Justice Act 1931* (1/1931)
- *Courts of Justice (No. 2) Act 1931* (40/1931)
- *Courts of Justice Act 1959* (35/1959)

Annotations

This Revised Act is annotated and includes textual and non-textual amendments, statutory instruments made pursuant to the Act and previous affecting provisions.

An explanation of how to read annotations is available at www.lawreform.ie/annotations.

Material not updated in this revision

Where other legislation is amended by this Act, those amendments may have been superseded by other amendments in other legislation, or the amended legislation may have been repealed or revoked. This information is not represented in this revision but will be reflected in a revision of the amended legislation if one is available.

Where legislation or a fragment of legislation is referred to in annotations, changes to this legislation or fragment may not be reflected in this revision but will be reflected in a revision of the legislation referred to if one is available.

A list of legislative changes to any Act, and to statutory instruments from 1972, may be found linked from the page of the Act or statutory instrument at www.irishstatutebook.ie.

Acts which affect or previously affected this revision

- *Family Courts Act 2024* (48/2024)
- *Courts, Civil Law, Criminal Law and Superannuation (Miscellaneous Provisions) Act 2024* (30/2024)

All Acts up to and including *Family Courts Act 2024* (48/2024), enacted 13 November 2024, were considered in the preparation of this revision.

Statutory instruments which affect or previously affected this revision

- *Judicial Appointments Commission Act 2023 (Establishment Day) Order 2024* (S.I. No. 554 of 2024)
- *Judicial Appointments Commission Act 2023 (Commencement) (No. 2) Order 2024* (S.I. No. 553 of 2024)
- *Judicial Appointments Commission Act 2023 (Commencement) Order 2024* (S.I. No. 114 of 2024)

All statutory instruments up to and including *Health (Provision of Information for Health Examination and Treatment Service) Regulations 2024* (S.I. No. 750 of 2024), made 17 December 2024, were considered in the preparation of this revision.