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CANADIAN JUDICIAL COUNCIL INQUIRIES AND INVESTIGATIONS BY-LAWS

As amended pursuant to the
By-laws amending the Canadian Judicial Council Inquiries and Investigations By-laws
adopted by Council pursuant to subsection 61(3) of the *Judges Act* and coming into force

14 October 2010

INTERPRETATION

1. The definitions in this section apply in these By-laws.

“Act” means the *Judges Act*. (*Loi*)

“Judicial Conduct Committee” means the committee of the Council established by the Council and named as such. (*comité sur la conduite des juges*)

CONSTITUTION AND POWERS OF A REVIEW PANEL

1.1 (1) The Chairperson or Vice-Chairperson of the Judicial Conduct Committee who considers a complaint or allegation made in respect of a judge of a superior court may, if they determine that the matter warrants further consideration, constitute a Review Panel to decide whether an Inquiry Committee should be constituted under subsection 63(3) of the Act .

(2) The Review Panel shall consist of three or five judges, the majority of whom shall be members of the Council, designated by the Chairperson or Vice-Chairperson of the Judicial Conduct Committee.

(3) The Review Panel may decide that an Inquiry Committee shall be constituted only in a case where the matter might be serious enough to warrant removal of a judge.

(4) If the Review Panel decides to constitute an Inquiry Committee, it shall send its decision to the Minister without delay, together with a notice inviting the Minister to designate members of the bar of a province to that committee in accordance with subsection 63(3) of the Act.

CONSTITUTING AN INQUIRY COMMITTEE

2. (1) An Inquiry Committee constituted under subsection 63(3) of the Act shall consist of an uneven number of members, the majority of whom shall be members of the Council designated by the Chairperson or Vice-Chairperson of the Judicial Conduct Committee.

(1.1) If the Minister does not designate any members to the Inquiry Committee within 60 days after receipt of the notice under subsection 1.1(4), the Chairperson or Vice-Chairperson of the Judicial Conduct Committee may designate additional members of the Council to the Inquiry Committee to complete its composition.

(2) The Chairperson or Vice-Chairperson of the Judicial Conduct Committee shall choose one of the members of the Inquiry Committee to be the chairperson of the Inquiry Committee.

(3) A person is not eligible to be a member of the Inquiry Committee if

(a) they are a member of the court of which the judge who is the subject of the inquiry or investigation is a member; or

(b) they participated in the deliberations of the Review Panel in respect of the necessity for constituting an Inquiry Committee.

INDEPENDENT COUNSEL

3. (1) The Chairperson or Vice-Chairperson of the Judicial Conduct Committee shall appoint an independent counsel, who shall be a member of the bar of a province having at least 10 years standing and who is recognized within the legal community for their ability and experience.

(2) The independent counsel shall present the case to the Inquiry Committee, including making submissions on questions of procedure or applicable law that are raised during the proceedings.

(3) The independent counsel shall perform their duties impartially and in accordance with the public interest.

COUNSEL TO THE INQUIRY COMMITTEE

4. The Inquiry Committee may engage legal counsel to provide advice and other assistance to it.

INQUIRY COMMITTEE PROCEEDINGS

5. (1) The Inquiry Committee may consider any relevant complaint or allegation pertaining to the judge that is brought to its attention.

(2) The independent counsel shall give the judge sufficient notice of all complaints or allegations that are being considered by the Inquiry Committee to enable the judge to respond fully to them.

6. (1) Any hearing of the Inquiry Committee shall be conducted in public unless, subject to subsection 63(6) of the Act, the Inquiry Committee determines that the public interest and the due administration of justice require that all or any part of a hearing be conducted in private.

(2) The Inquiry Committee may prohibit the publication of any information or documents placed before it if it determines that publication is not in the public interest.

7. The Inquiry Committee shall conduct its inquiry or investigation in accordance with the principle of fairness.

INQUIRY COMMITTEE REPORT

8. (1) The Inquiry Committee shall submit a report to the Council setting out its findings and its conclusions in respect of whether or not a recommendation should be made for the removal of the judge from office.

(2) After the report has been submitted to the Council, the Executive Director of the Council shall provide a copy to the judge, to the independent counsel and to any other persons or bodies who had standing in the hearing.

(3) If the hearing was conducted in public, the report shall be made available to the public.

JUDGE'S RESPONSE TO THE INQUIRY COMMITTEE REPORT

9. (1) Within 30 days after receipt of the report of the Inquiry Committee, the judge may make a written submission to the Council regarding the report.

(2) On the judge's request, the Council shall grant an extension of the time limit set out in subsection (1) if it considers that the extension is in the public interest.

10. If the judge makes a written submission regarding the inquiry report, the Executive Director of the Council shall provide a copy to the independent counsel. The independent counsel may, within 15 days after receipt of the copy, submit to the Council a written response to the judge's submission.

MEETINGS OF COUNCIL CONCERNING THE REMOVAL OF JUDGES FROM OFFICE

10.1 (1) The most senior member of the Judicial Conduct Committee who is eligible and available to participate in deliberations concerning a removal of a judge of a superior court shall chair any meetings of Council related to those deliberations.

(2) If no member of the Judicial Conduct Committee is eligible and available to participate in deliberations, the most senior member of the Council who is eligible and available shall chair the meetings related to those deliberations.

(3) A quorum of 17 members of the Council is required when it meets to deliberate the removal from office of a judge of a superior court.

(4) In the event of the death or incapacity of a member during the deliberations, the remaining members constitute a quorum.

(5) During deliberations of the Council concerning the removal from office of a judge of a superior court, the Chairperson may only vote in respect of a report of the Council's conclusions on the matter in the event of a tie.

(6) Meetings of the Council involving deliberations concerning the removal from office of a judge of a superior court may be held in person, by audio-conference or by video conference.

CONSIDERATION OF THE INQUIRY COMMITTEE REPORT BY THE COUNCIL

11. (1) The Council shall consider the report of the Inquiry Committee and any written submission made by the judge or independent counsel.

(2) Persons referred to in paragraph 2(3)(b) and members of the Inquiry Committee shall not participate in the Council's consideration of the report or in any subsequent related deliberations of the Council.

12. If the Council is of the opinion that the report of the Inquiry Committee is unclear or incomplete and that clarification or supplementary inquiry or investigation is necessary, it may refer all or part of the matter in question back to the Inquiry Committee with specific directions.

REPORT OF COUNCIL

13. The Executive Director of the Council shall provide the judge with a copy of the report of its conclusions presented by the Council to the Minister.

COMING INTO FORCE

14. These by-laws come into force on January 1, 2003.