

CANADIAN JUDICIAL COUNCIL INQUIRIES AND INVESTIGATIONS BY-LAWS

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*)

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.

(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, if any, of the Council in respect of the necessity for constituting the 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

(a) make a written submission to the Council regarding the report; and

(b) notify the Council that he or she wishes to appear in person before the Council, with or without counsel, for the purpose of making a brief oral statement regarding the report.

(2) If the judge is unable, for any reason beyond the judge's control, to meet the time limit set out in subsection (1), the judge may request an extension of time from the Council.

(3) The Council shall grant an extension if it considers that the request is justified.

10. (1) 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.

(2) If the judge makes an oral statement to the Council, the independent counsel shall also be present and may be invited by the Council to make an oral statement in response.

(3) The judge's oral statement shall be given in public unless the Council determines that it is not in the public interest to do so.

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 or oral statement 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.